



Public Safety Commission Meeting

February 16, 2023, 10:00

a.m.6100 Guadalupe, Building E

Austin, TX 78752

Summary

(This report represents a summary of events of the meeting, and is not necessarily complete nor an exact transcript of testimony.)

The Public Safety Commission convened as posted to consider and take formal action, if necessary, on the following agenda items:

I. CALL TO ORDER

10:00 am – Chairman Steven Mach called the meeting to order. In attendance: Chairman Steve Mach, Commissioners Steve H. Stodghill, and Commissioner Dale Wainwright, and Commissioner Nelda Blair. A quorum was present. Also present were Deputy Director Freeman Martin, Lieutenant Colonel Dwight Mathis, Lieutenant Colonel Jeoff Williams and General Counsel Phil Adkins.



II. INVOCATION

Chaplain Ferman Carpenter gave the invocation.

III. PLEDGES

A Trooper led the meeting in the Pledge of Alliance and the Texas Pledge of Allegiance.

IV. APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes from the December 15, 2022, Public Safety Commission Meeting. The motion passed.

V. PRESENTATIONS

(The DPS Public Information Office provided the following report from today's meeting; we are not able to provide photos for many of these awards.)

February 2023 Public Safety Commission Awards Presentations

DEPARTMENTAL SERVICE AWARDS:

The following employees will be presented a certificate in recognition of their **30 years of service** and accomplishment with the Texas Department of Public Safety:

- Teresa Diefenbach, THP
- Angela Kimbrough, DLD
- Chad Pernicka, CID

The following employees will be presented a certificate in recognition of their **35 years of service** and accomplishment with the Texas Department of Public Safety:

- Richard Fernandez, THP
- Bonnie Fisher, CID
- Vester Roney, THP

MEDAL OF MERIT:

Scott Hewitt, THP

Since 2015, Sergeant Scott Hewitt has been a member of the State Crash Reconstruction Team. Additionally, he is responsible for reviewing all Department fleet crashes and is a core instructor of the Transportation Code. As a Highway Patrol Trooper, he identified the need for uniformed enforcement of the Texas Transportation Code and proper application of contributing factors by law enforcement in crash investigations throughout the State of Texas.

The volume and scope of these topics can make it difficult for officers to understand and accurately apply to real world scenarios. Sergeant Hewitt's vision was to ensure every effort was made to create a system of uniformity, allowing all officers to better serve the citizens of this State. Undertaking the monumental task to create and develop a user-friendly resource to assist with uniform interpretation and application of the Transportation Code, Hewitt created a 278-page document titled "Field Enforcement Guidance," which contains a listing of commonly utilized Transportation Code arrest titles. In addition, Sergeant Hewitt went on to create an additional 130-page document titled "Contributing Factors in Crash Investigation Guidance" to assist officers with the uniform application and use of contributing factors in crash reporting and directly correlated each of these back to the Transportation Code guide. This guide addresses every possible contributing factor which could be present in a crash, along with examples, diagrams, and explanations of their use or their non-applicability under certain conditions.

Sergeant Hewitt is also responsible for authoring a corresponding 8-hour TCOLE accredited course of instruction, which has been presented to thousands of Texas law enforcement officers through THP In-Service, First Line Supervisor Training, Crash Special Topics courses, and to numerous other Texas police agencies.

The tireless, forward-thinking, and dedicated efforts of Sergeant Scott Hewitt are in keeping with the finest traditions of the Department. He is hereby awarded the Medal of Merit.

LIFESAVING AWARD:

Roy Lytle, TOD
Joshua Delagarza, THP
Antonio Rico, THP



(Pictured left to right: Sgt. Scott Hewitt; Sgt. Roy Lytle; Trooper Joshua DeLaGarza)

On December 14, 2022, while attending a DPS fitness unit workout in a state parking garage, a state employee suffered a medical emergency. After becoming aware of the emergency, Sergeant Roy Lytle approached and assessed the subject, determined he was having a seizure, and rolled him onto his side. Another class participant cried out for assistance which resulted in the response of Troopers Joshua Delagarza and Antonio Rico. As they arrived, the subject stopped breathing and no longer had a pulse. Sergeant Lytle rolled the subject onto his back and secured AED pads in order to analyze the subject's heart function. The AED recommended a shock be administered, and after this was completed by Sergeant Lytle, Trooper Rico began CPR compressions while Trooper Delagarza coordinated with EMS and prepared his DPS unit to transport the patient if necessary. Trooper Rico continued chest compressions until the subject began breathing on his own and a faint pulse was detected. Trooper Delagarza directed Austin/Travis County EMS to the location, and upon arrival, EMS personnel took charge of medical treatment and transported the patient to the hospital where he was monitored and analyzed for the cause of the medical incident.

In recognition of their decisive and professional response to a life-threatening situation resulting in the saving of a life, Sergeant Roy Lytle and Troopers Joshua Delagarza and Antonio Rico are hereby awarded the Lifesaving Award.

VI. PUBLIC COMMENT

(Members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must complete a Public Comment Registration Card located at the entry. Should a member of the public bring an item to the Commission for which the subject was not posted on the agenda of the meeting, state law provides that the Commission may receive the information but cannot act upon it at the meeting. The Commission may direct staff to contact the requestor or request that the issue be placed on a future agenda for discussion.)

Chairman Mach said that there were no cards submitted for Public Comment.

VII. DIRECTORS REPORT

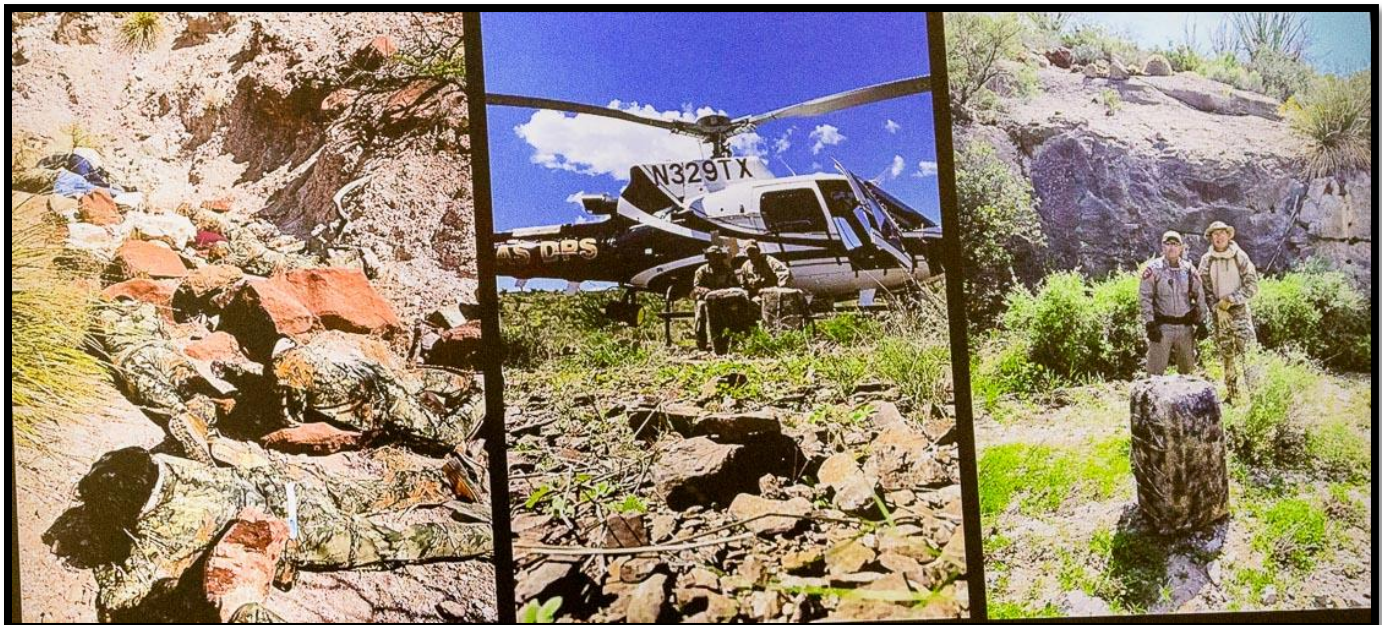
A. Operation Lone Star

Director McCraw said that his Operation Lone Star update would focus on the Aviation Operations Division's activities in support of OLS.

B. Case Update: Aviation Operations Division in Support of Operation Lone Star – Big Bend

Director McCraw asked Chief Tim Ochsner and another representative from the DPS Aviation Operations Division to discuss their involvement in helping to secure the Texas border and to protect the lives of many individuals.

The Aviation Operations Division of the Texas Department of Public Safety has been an integral part of Operation Lone Star from its inception in March of 2021. Anyone who has traveled across Texas to El Paso has an idea of the vastness of our state, and nowhere in the state is it more remote and undeveloped as it is along our border with Mexico. They began by showing a video, giving a glimpse at the magnitude of the job of watching and protecting the border. Crossings are no longer isolated to the few common crossing areas in the Rio Grande Valley. Much of the Aviation Division's time is spent in searching remote areas and interdicting smuggling operation. As a part of that work, the aviation troopers often encounter life-saving situations where illegal crossers have been abandoned by their coyotes and are left in the harsh desert environment that covers so much of our border.



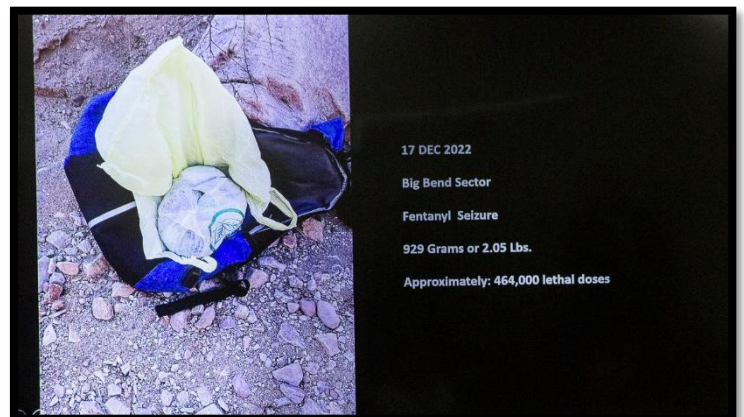
They also spend much of their time confiscating large quantities of drugs as they are smuggled into Texas for distribution throughout the U.S. and beyond.



They pointed out seeing other drugs such as fentanyl in poly-loaded bundles, perhaps to disguise them as the less deadly marijuana and therefore not be immediately recognized as the threat that it represents. This is a new twist that they hadn't seen until recently. The seizure at right was found on a large, private ranch in an extremely remote area.

They also pointed out that the then DPS Sgt. James Morris has been one of the key heroes in the Aviation Division's personnel, who was recognized last year at this time with the William P. Clements – Excellence Award.

They showed another video highlighting some of the accomplishments credited to now Lieutenant Morris. The video included many testimonials from his colleagues and chain of command.





More recently, Sgt. Morris was honored on national television for his excellent heroism.



Lieutenant James Morris and his wife were in attendance, and he received a standing ovation for his service.



VIII. NEW BUSINESS

A. Final Determination in Contested Cases – consideration and possible action on Proposals for Decision:

1. SOAH Docket No. 405-22-07255.PSB – Ariel Allen
2. SOAH Docket No. 405-22-07451.MVI – Ernesto Bastard



General Counsel Phil Adkins discussed the details of each of these two SOAH contested cases and reported that SOAH had found in favor of the DPS's cases and he asked for a final determination from the Commission.

A motion was made by Commissioner Blair to approve the final determination on agenda items VII. 1 and 2. The motion was seconded by Commissioner Wainwright. With no further discussion, the motion passed.

B. Report, discussion, and possible action on the following rule proposals for publication to receive public comment:

1. Proposed amendments to 37 TAC Section 27.1, concerning Right of Review

Chief Michelle Farris, Crime Records Division discussed the details of the Right of Review rule changed and asked that it can be posted in the Texas Register for review and comments.

A motion was made by Commissioner Wainwright and seconded by Commissioner Stodghill to post the rule proposal in the Texas Register for public review and comment. The motion passed.

C. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

This item was handled in Executive Session.

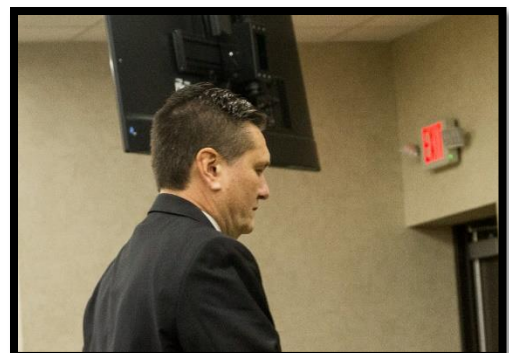
IX. ONGOING BUSINESS

A. Discussion and possible action regarding Compassionate Use Program



Chief Wayne Mueller, Regulatory Services Division, reported that since announcing the re-opening of the application process for new licensing for Compassionate Use distribution facilities, they have received 57 applications so far. He also pointed out that they sent out notifications of the re-opening of the application process to 36 entities that had applied for licenses during the initial application process but have not received any interest

from these 36 entities. Chief Mueller stated that it is worth



pointing out that while DPS is still evaluating what we feel is the proper and adequate number of licenses that should be added, it is very unlikely that it will be anywhere near the 57 that have applied for licensing. He felt that this should be stated in that they are receiving feedback that that could be the case.

Chief Mueller also stated that they had formed the Compassionate Use Program Working Group that the Commission had requested and named 10 members to sit on that panel. However, one of the selected members asked to resign due to scheduling conflicts. So nine members have met, primarily to become acquainted with each other and to lay out their purpose. The formal committee is taking this challenge very seriously. Chief Mueller also stated that he has reached out to a consultant who has had experience with other states involvement in Compassionate Use programs but has not had that meeting yet.

Chief Mueller said that they will be reviewing the applications and that hopefully within the next 60 days or so (perhaps in April) they will also have more direction from the Texas Legislature which is currently meeting on what they want from this program.

Lt. Colonel Jeoff Williams added that he is very pleased to have a diverse and dedicated Working Group and looks forward to their recommendations. It is important that we are not just seeing this issue through our own eyes.

Chairman Mach asked if he understood correctly that none of the 36 original applicants who did not get an initial license had not responded. Chief Mueller confirmed this. Chairman Mach said that it may be possible that some in the 57 new applications may be from those original 36 who have changed the name of their entity. Chief Mueller stated that that was certainly possible.



Commissioner Wainwright asked for clarification that the 57 current applicants do not include the original 36 applicants. Chief Mueller confirmed this and stated that if any of those 36 prior applicants wish to re-submit their original applications that DPS was requiring updates and some additional information to complete their re-submitted application.

B. Report, discussion and possible adoption of the following previously published rule:

1. Proposed amendments to 37 TAC Section 16.1, concerning General Requirements

Chief Sherri Gipson asked that the proposed amendment be posted on the Texas Register for public review and comment.

A motion was made by Commissioner Blair and seconded by Commissioner Wainwright to post the proposed rule amendment in the Texas Register. The motion passed.

C. Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

Director McCraw said that with the retirement of RenEarl Bowie, he would like to propose the promotion of Major Walt Goodson to Chief of the Training Operations Division.



A motion was made and seconded to approve the promotion of Walt Goodson to the Chief of the Training Operations Division. The motion passed.

Director McCraw also asked for an organizational structure change, that moves Human Resources Operations (with the exception of Equal Employment Office - EEO). EEO will be moved to the Office of Inspector General.

A motion was made by Commissioner Blair and seconded by Commissioner Wainwright to approve Director McCraw's proposed organizational chart changes. The motion passed.

- D.** Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated)

This item was discussed in Executive Session.

X. REPORTS

- A.** Commission member reports and discussion
- B.** Finance Report
- C.** Chief Auditors Office
- D.** Division status reports on activities and action

There were no additional Reports.

XI. CONSENT ITEMS

All of the following items may be enacted with one motion. These items are typically self-explanatory or have been previously considered by the Commission. There will be no separate discussion of these items unless a commissioner so requests.

- A.** Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024:
Special Rangers: Alfred John Alejos, Kevin Lee Arnold, Michael Lee Bortz, RenEarl Bowie, Richard Clay Brown, Joseph Robert Cannon, Agapito Lira Cantu, Jean Marie Dark, Reagan Vollie Droddy, Christopher David Earnest, Gilbert Flores, Norma Linda Garza-Jennings, James Lon Griffey, Jr., Todd Austin Hester, Mickey Lynn Hubert, Alfonso Lorenzo Jarero, Marvin Gale Jenkins, Eduardo Jimenez, Mark Markelle Lancaster, Dennis Dwayne Redden, Fernando Ramon Roza, Robert Milton Skelton, Jeffrey Dale Sones, Ronald Everett Stanfield, Kellye Michelle Turner, and Dennis Keith Westerman; and Special Texas Rangers: Chance Leon Collins and Jeffrey James Vajdos

Director McCraw asked Lt. Colonel Mathis if there were any concerns regarding the consent item. Lt. Colonel Mathis responded "no".

B. Donations:

1. Additional donation items, as needed

There were no donations discussed at today's meeting.

XII. ITEMS FOR FUTURE AGENDA

Chairman Mach asked the Commissioners to get any items for future meetings that they would like added to the agendas to either Chief Counsel Phil Adkins or to Sophie Yanez.

XIII. DATE FOR FUTURE MEETING

The regular Public Safety Commission meeting is scheduled for April 20, 2023. Discharge hearings will be scheduled for April 21, 2023.

The next PSC Meeting is scheduled for Thursday, April 20, 2023.

XIV. ADJOURN INTO EXECUTIVE SESSION

(If required) to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the director's action of discharging employees as identified in this agenda; ongoing criminal investigations

Chairman Mach adjourned the meeting to Executive Session at 11:31am.

XV. ADJOURN

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items:

Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney
Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties, discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071 Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations Government Code Sec. 551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the government body in negotiations with a third person Government Code Sec. 551.073 Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person

