

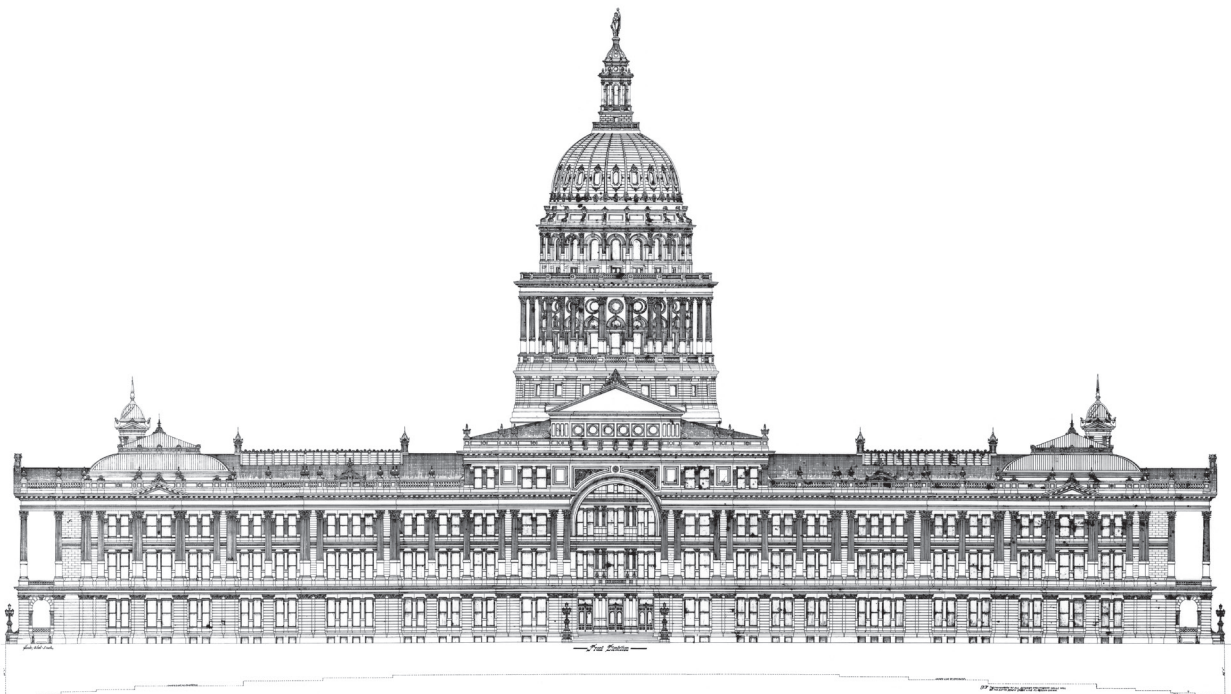


INTERIM REPORT

TO THE

82ND TEXAS LEGISLATURE

House Committee on
PUBLIC SAFETY
January 2011



**HOUSE COMMITTEE ON PUBLIC SAFETY
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2010**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
82ND TEXAS LEGISLATURE**

**TOMMY MERRITT
CHAIRMAN**

**COMMITTEE CLERK
KIRBY J. PORTLEY**



Committee On
Public Safety

January 10, 2011

Tommy Merritt
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Public Safety of the Eighty-First Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-Second Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tommy Merritt", written over a horizontal line.

Tommy Merritt, Chairman

A handwritten signature in black ink, appearing to read "Stephen Frost", written over a horizontal line.

Stephen Frost, Vice-Chairman

A handwritten signature in black ink, appearing to read "Lon Burnam", written over a horizontal line.

Rep. Lon Burnam

A handwritten signature in black ink, appearing to read "Phil King", written over a horizontal line.

Rep. Phil King

A handwritten signature in black ink, appearing to read "Eddie Rodriguez", written over a horizontal line.

Rep. Eddie Rodriguez

A handwritten signature in black ink, appearing to read "Joe Driver", written over a horizontal line.

Rep. Joe Driver

A handwritten signature in black ink, appearing to read "Barbara Mallory Caraway", written over a horizontal line.

Rep. Barbara Mallory Caraway

A handwritten signature in black ink, appearing to read "Tryon D. Lewis", written over a horizontal line.

Rep. Tryon Lewis

A handwritten signature in black ink, appearing to read "Hubert Vo", written over a horizontal line.

Rep. Hubert Vo

Stephen Frost
Vice-Chairman

Members: Joe Driver, Lon Burnam, Barbara Mallory Caraway, Phil King, Tryon D. Lewis, Eddie Rodriguez, Hubert Vo

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INTRODUCTION

At the beginning of the 81st Legislature, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed nine members to the House Committee on Public Safety: Tommy Merritt, Chairman; Stephen Frost, Vice-Chairman Stephen Frost, Joe Driver, Lon Burnam, Phil King, Eddie Rodriguez, Barbara Mallory Caraway, and "Judge" Tryon Lewis.

Pursuant to Rule 3, section 27, the Committee maintains jurisdiction over all matters pertaining to:

1. law enforcement;
2. the prevention of crime and the apprehension of criminals
3. the provision of security services by private entities; and
4. the following state agencies: the Commission on Law Enforcement Officer Standards and Education; the Department of Public Safety, the Texas Forensic Science Commission, the Polygraph Examiners Board, the Texas Private Security Board, the Commission on State Emergency Communications, and the Crime Stoppers Advisory Council.

HOUSE COMMITTEE ON PUBLIC SAFETY

INTERIM STUDY CHARGES

1. Study the recruitment and retention practices that the Department of Public Safety currently employs and make recommendations on how to make improvements. Specifically, examine the current officer shortage in Texas and the effect it is having on the state's public safety.
2. Investigate best practices to process concealed hand gun licenses in order to alleviate backlog and make recommendations for implementation, if appropriate.
3. Monitor the Driver Responsibility Program and consider methods for overall improvement of the program.
4. Study the statutory definition, duties, and authority of a Texas peace officer.
5. Evaluate the effectiveness of state operations at controlling drug-related crimes and other violence along the Texas-Mexico border. Joint Interim Charge with House Committee on Border and Intergovernmental Affairs
6. Monitor the agencies and programs under the committee's jurisdiction.

CHARGE 1

Study the recruitment and retention practices that the Department of Public Safety currently employs and make recommendations on how to make improvements. Specifically, examine the current officer shortage in Texas and the effect it is having on the state's public safety.

BACKGROUND

The Department of Public Safety (DPS) is recognized as the preeminent law enforcement agency in the state. Most recently, there has been a significant need for more qualified applicants in order to fill the vacancies within the Texas Highway Patrol Division (THP) and the Criminal Investigations Division. The Committee helped direct DPS to identify methods to increase the number of motivated men and women who apply to become a Texas trooper.

VACANCIES

The Department of Public Safety (DPS) is experiencing a vacancy rate in the commissioned peace officer ranks at a historic level. At the current rate of retirement of approximately more than 200 officers per year, the Department could face upwards of more than a thousand commissioned peace officer vacancies over a five-year period beginning in 2011.

Due to budget constraints, the Department is planning only two recruit training schools for calendar year 2011 – one that begins in January, and another that begins in September. These schools are limited to sixty candidates who wish to become state troopers. Considering the usual attrition rate of fifteen students per school for candidates who do not complete the curriculum, the DPS training academy is expected to graduate ninety new state troopers for 2011. At this rate, DPS will never be able to fill its vacant peace officer positions and it will continue to lose ground as officers retire from the Department.

External factors that have the most impact on the Department's recruiting and retention efforts are primarily driven by economic reasons. Hiring competition from such public sector organizations as municipal police departments, as well as hiring competition from the private sector, throw up a financial roadblock to the Department's ability to attract and retain qualified law enforcement officers.

In a study of how DPS peace officer salaries stack up with those paid by key big-city police departments in Texas, the State Auditor found that maximum salary rates for the state trooper line positions at DPS would need to increase by 16.0 percent to match the average maximum pay of the local Texas law enforcement departments included in the Auditor's study. Maximum salary rates for senior-level law enforcement positions at DPS would need to increase by a range of 14.1 percent to 19.8 percent to match the average maximum pay of the local Texas law enforcement departments.

Compounding this challenge is the Department's move toward increased hiring qualifications, training, and performance standards at a time when other law enforcement agencies are paying more but requiring less. The Department's agency strategic plan for 2011-2015 determined that new technologies and specialized skill sets needed to support the investigative, intelligence, and patrol operations of the Department calls for employees with increased high-tech skills.

DELOITTE REPORT

The 2008 Deloitte Report to the Department of Public Safety highlighted the need for a comprehensive human resources department which would handle topics ranging from employee complaints to recruiting. Before the human resources division was established, DPS had no legitimate strategy in place to attract, maintain, and promote the best people [*The Texas Department of Public Safety: Management and Organizational Structure Study*, Deloitte (2008)]. DPS created a comprehensive horizontal organizational chart to better aid with organization and accountability in accordance with the Deloitte recommendations. The Department of Public Safety summarily has created a human resource division headed by a Deputy Assistant Director and created six regional commanders to address personnel needs on a full time basis. Later, the Department transferred the recruiting function to Education, Training, and Research.

PUBLIC SAFETY COMMISSION

Over the course of several meetings throughout 2009, the Public Safety Commission called upon DPS leadership to initiate plans to improve trooper recruitment and facilitate a recruiting initiative that would engage the community.

The Department of Public Safety leadership moved forward to address ways in which they could advertise to improve applicant numbers. DPS responded by purchasing several recruiting vehicles to serve as moving advertisements, as well as developing the first ever recruiting video that is posted on the Department's website (www.txdps.com).

The Public Safety Commission exposed a fundamental problem concerning the physical readiness test and the time in which it is administered. The test is administered when applicants submit their applications, yet applicants are allowed to start the actual course without any re-test or updated physical statistics. A substantial part of attrition has been accredited to many potential troopers reporting out of shape and not physically prepared even after passing the initial physical readiness test. Many commission members expressed grave concern about the time between administering the physical readiness test, application submission, and troopers reporting. This is a significant reason for the high attrition rate amongst recruits.

Dating back to the first recruit class of 2009, the Department of Public Safety has an attrition rate of roughly 22% in regards to the recruit school. The recruit attrition rate has primarily been attributed to competition with other police agencies. Many commissioned peace officers, especially those with local law enforcement experience, enter the Department of Public Safety, complete the recruit program, or leave the program early, with no commitment to the DPS mission. Trooper academy graduates are allowed to leave and return to previous employment at their leisure. Furthermore, recruits may complete the trooper program, then take the DPS training and subsequently follow employment opportunities at higher paying federal agencies or urban municipal police departments.

DEPARTMENT OF PUBLIC SAFETY INITIATIVE

During the 81st legislative session, the Department of Public Safety followed legislative initiative of the House of Representatives and, under the leadership of Speaker Straus, implemented six regional recruiters. These recruiters are now able to actively seek out the best talent pool. Furthermore, the Department of Public Safety created a recruiting vehicle to appeal to the younger generation. This mobile advertisement can reach a new demographic who previously did not see DPS as a great career path.

Prior to the 81st legislative session, the efforts of the Department of Public Safety were not competitive with local law enforcement agencies in terms of salary, resources dedicated to recruiting, and overall recruiting effort. Many local law enforcement agencies indicated that they employ regional recruiters to travel continuously throughout the country, attending various career fairs and visiting high schools as well as colleges. DPS lagged behind the steady recruiting efforts of its municipal counterparts. Also, police departments from larger cities indicated that a lack of guaranteed location was one of the primary factors resulting in diminished recruiting numbers for DPS.

The most noteworthy change to recruiting was the implementation of a trooper preferred duty station system. The Department of Public Safety now allows troopers to declare their top three priority locations and they are guaranteed to be placed in one of those three. The added benefit is also seen by a new self-recruiting method. Local supervising commanders and recruiters who know of open positions in their units are now able to actively recruit worthy candidates to join the recruit school knowing that they will be able to address a need in their unit upon graduation. This regionalism method now allows hard working troopers the opportunity to stay with their families and not have to relocate to unexpected areas.

The Department of Public Safety also returned the trooper school to an 18 week course. This was a highly publicized change that reverted the course from a burdensome 27 week course to the previous 18 week course. At an April 7th interim committee hearing, the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) assured the Committee that officers would still be fully trained. Troopers are not losing the core training necessary to protect the state. Troopers still graduate as a basic certified officer and will undergo a half year period in the trooper trainer program (in which they ride along with a veteran trooper to learn the intricacies of life on the road). There is a matrix found in Appendix C detailing basic, intermediate, and advanced certification. Courses that were removed from the program were ancillary courses, such as the courses explaining the DPS Credit Union Course and 401K classes. DPS also added an active shooting course to the training regimen. After graduation from the DPS academy, and depending on education level, troopers will receive intermediate certification after a number of hours served and after the required training. *See Appendix F.*

The Department of Public Safety also implemented an advanced trooper trainee program for licensed experienced peace officers. The advanced program was meant to last from seven to nine weeks and enabled quality officers to transfer into DPS. They went through the same six month

long accompaniment with a field training officer, and received the essential DPS specific training.

Previously, troopers were mandated to receive a substantial part of intermediate level training prior to graduation, but they would still have to wait for intermediate certification according to the chart listed in Appendix C.

Due to dwindling numbers, DPS has eliminated the advanced trooper trainee program. The Department should analyze measures in which to re-implement this revolutionary program.

DEFERRED RETIREMENT OPTION PLANS (DROP)

One tool the Department can use to retain its veteran workforce is a deferred retirement option plan – known as a DROP. A DROP is a special account that could be created within the Employees Retirement System of Texas (ERS) to allow active employees to accumulate funds to be disbursed upon their termination from employment as a way to keep experienced employees working in critical functions for as long as possible.

The most common DROP, usually referred to as a “forward” DROP, allows employees who are eligible for retirement to sign a binding agreement to leave employment after completing specified periods of service – usually one to five years. At the end of the DROP period, employees receive their usual monthly benefits based on age, salary, years of service, and the plan formula in effect on the date of entry into the DROP, but also receive a lump-sum payment equal to their monthly benefits accumulated from the date of entry into the DROP until their actual termination date. Because the lump-sum payments are subject to federal withholding requirements, some DROPs allow the lump sum to be paid over a period of time to ease the tax burden on plan participants.

DROPs offer an incentive for commissioned officers to keep working as a way to retain veteran officers. In testimony and written materials submitted by the Texas Department of Public Safety Officers Association (DPSOA), DPS can expect a savings that would accrue for not having to hire new troopers because of the DROP. Total commissioned vacancies at the end of calendar year 2010 will be approximately 400. Assuming five years of attrition at 5%, the Association believes the Department will need to replace a total of 1400 commissioned employees over a five year span from January 1, 2011, through December 31, 2015. Currently, DPS is funded at \$2.5 million annually for training recruits. The cost associated in today’s dollars to train a recruit is \$27,133 per recruit. The five-year cost to train the 1400 recruits is approximately \$37,986,200. Funding to do this training would fall short by \$25,486,200 over the five years.

DPSOA estimated that 50% of those eligible commissioned DPS officers who could participate in the DROP would enter the program. The DROP could reduce the number of commissioned officers needed from 1400 over the next five years to 700, which reduces training costs to \$18,993,100. After offsetting the \$9,000 difference in salary between a senior trooper and a trooper recruit for the 18-week training period, the savings is still \$12,693,100 (C3>20yrs = \$500 weekly more than C1) over the five year period.

CONCLUSION

The Department of Public Safety testified their high standards lead to a lesser number of applicants than municipal peace officer departments; however, the Committee wants an increase in the number of applicants without a sacrifice in quality for the state's top law enforcement organization.

The competition for well qualified applicants with other law enforcement agencies will remain a challenge for DPS. In fact, commissioned personnel salaries are not competitive and average salaries are lower than salaries at every major metropolitan law enforcement agency. Even with the changes, the Department is still having difficulty in addressing the nearly 400 trooper vacancy.

RECOMMENDATION

1. The committee recommends the Department of Public Safety continue to focus on its most important asset its people, specifically the troopers who are the face of the organization, and that the Legislature should facilitate this process by appropriating funds to pay trooper salaries in accordance with the Auditor's findings.

2. The Department of Public Safety should analyze ways to ensure troopers have a commitment to remain with the agency a certain number of years. DPS should consider non-competition clauses in their employment agreements or additional methods such as covenants not to compete to ensure troopers stay with the organization for a desired term period.

3. The Department of Public Safety should employ more advertisement mediums, specifically radio commercials, and DPS should research cost effective measure of recruiting advertisement during sporting events and other major popular events.

4. Texas law should be amended to accommodate a DROP. Legislation to authorize a DROP will require careful consideration of important actuarially sustainable design factors and should be passed by the Legislature with a firm commitment to clearly defined goals. In doing so, the DROP can become an excellent management tool in helping the Department of Public Safety fulfill its human resources needs.

CHARGE 2

Investigate best practices to process concealed hand gun licenses in order to alleviate backlog and make recommendations for implementation, if appropriate.

BACKGROUND

The 74th Legislature established the concealed handgun license program with the passage of Senate Bill 60 in the 74th Legislature. The article strictly defined who may apply for licenses, the application process, training required, and venues in which concealed handguns are permitted. Concealed handgun provisions are primarily found in Texas Government Code section 411.171 passed in 1995 with the first license being issued after January 1, 1996. Tex. Gov't Code § 411.171 (West 2010).

Currently a concealed handgun license (hereafter referred to as a "CHL") is administered through the Texas Department of Public Safety (DPS), specifically through the Regulatory Services Division. A non-refundable application and license fee of \$140 is assessed to new applicants, and reduced fees are available for veterans of United States Armed Services, senior citizens, retired peace officers, judges, district attorneys, current military personnel and indigent applicants. An original CHL license is valid for a four-year period and expires on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance. CHL renewals are valid for five years and expire on the license holder's birth date. Texas Government Code § 411.177 mandates that DPS issue CHLs within 60 days of receipt of a complete application or issue a statement to the applicant explaining the delay. Government Code Section 411.185 also requires DPS to issue a renewal license or notify the applicant in writing of their denial within 45 days of receiving the application.

Second amendment rights are important to citizens of Texas, and CHL applicants have increased each year since the initial date issuance date of January 1, 1996. The demand for CHL's in Texas led to over 104,868 new and renewal applicants in 2008 and over 139,271 in 2009. The Regulatory Services Division received an unprecedented number of applications in the first months of 2009. The following list contains average number of applications received per month itemized by year:

<u>Year</u>	<u>Applications per Month</u>
2005	5,350
2006	6,879
2007	7,302
2008	8,739
2009	11,605

Source: Texas Department of Public Safety

During the first quarter of 2009, the Department of Public Safety experienced a 75 percent increase in applicants which led to a peak backlog of almost 14,000 applications, resulting in an average 16 weeks wait for applicants in the summer of 2009. Much public outcry was made of the immense applicant backlogs and DPS officials worked with several members of the Legislature to alleviate the backlog. DPS informed the House Committee on Public Safety (Committee) that the backlog would be eliminated as of December 1, 2009. Also the Committee submitted a memorandum to the Speaker of the Texas House Representatives reaffirming the information. See Appendix D.

CURRENT STATUS

Implementing Temporary Employees

In January 2007, the Department of Public Safety first contracted for 12 temporary employees to assist with the increase in applications and additionally adding only one full time equivalent (FTE) or permanent employee. While overtime has been authorized since the beginning of the program for current employees, DPS only utilized it after 2007. In 2008 and 2009, DPS included 30 temporary positions to assist with the CHL backlog. During a 2010 DPS Commission meeting Deputy Director Brad Rable indicated that currently 50 temporary employees were being used.

During the 81st Legislative Session

Members of the Committee sent several letters to the Department of Public Safety leadership to inquire as to why the backlog was not being solved. One issue addressed by the Legislature during the 81st Session in House Bill 2730 now allows non-commissioned personnel to perform field investigations so that the troopers may focus on their primary duties of patrolling the roadways. However, DPS failed to fully address the problem of mailing CHLs within 60 days. After several meetings with DPS officials necessary procedures were implemented to ensure statutory compliance.

April 7, 2010 Interim Hearing

The Committee discussed how the Department of Public Safety alleviated the backlog and ways to ensure that such grievances do not occur in the future.

A panel consisting of the Department of Public Safety Executive Director, Colonel Steve McCraw; Deputy Director Brad Rable; Assistant Director of the DPS Regulatory Services Division, RenEarl Bowie; and Deputy Assistant Director of Regulatory Services Division, Wayne Mueller offered testimony describing the procedures taken to overcome the delays.

Deputy Director Rable stated that the department is now processing applications at 23 days, well under the statutory requirement of 60 days. Mr. Rable also stated DPS employs an internal policy requiring renewals to be mailed out in 40 days and new applicants by at least 55 days, to allow five days for mailing.

Members of the Committee thanked the Department of Public Safety for solving this significant problem. DPS assured the committee that the backlog issue was solved.

July 25, 2010 Department of Public Safety Commission Meeting (Austin, TX)

The Department of Public Safety currently saw a small spike in applications from 3824 to 5363 from May 31, 2010 through June 30, 2010. This resulted in a total of only 150 CHLs being mailed out over 55 days. DPS reported to the governing commission that the CHL issue will be monitored closely. DPS staff is personally contacting customers while they also addressed a small automation issue involving fingerprints. They fully expect levels to return to normal.

The Department of Public Safety issued 3,538 CHLs from June 30, 2010 to July 31 2010, although 304 applications were mailed out over 55 days (August 19, 2010 Department of Public Safety Commission Meeting). There was a slight problem with fingerprints which was addressed by DPS Regulatory Services Division employees. Also as of August 24, 2010, CHL applicants may access the DPS website to download the application forms instead of waiting to receive the application packet in the mail, shortening the time of receiving a CHL.

SUMMARY

The backlog occurred due to an unexpected influx in applications, which DPS was unable to accommodate using the outdated manual process at the time. Through new leadership at DPS and by following the recommendations of the Legislature, DPS has reduced the backlog largely by utilizing an electronic background check process. The total backlog was reduced cumulatively statewide and was not focused on specific areas of the state.

The Department of Public Safety no longer uses troopers to do background checks and now employs a fully automated background check process. Through legislative oversight, the Department eliminated the renewal applicant backlog by simplifying the renewal process by no longer requiring the immaterial resubmission of fingerprints and new photos.

The efforts of the Department of Public Safety along with strict legislative oversight led to an elimination of the large backlog of 2008-2009.

RECOMMENDATIONS

1. The Committee is optimistic that the progress made will continue and we will add to the more than 400,000 CHL applicants and nearly 2,000 CHL instructors.
2. The Committee acknowledges that the Department of Public Safety has made tremendous progress towards streamlining the concealed handgun license application process. However, the Committee will continue to monitor the CHL process and encourages DPS to reduce the number of temporary employees used by the RSD and use existing non-commissioned full time equivalents.

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3. The Committee looks forward to the Department of Public Safety fully implementing the online application process. The Committee recommends DPS implement a system which allows an applicant (new or renewal) to complete an application online and a process that will include data verification. Thus will allow electronic verification of the necessary information provided by the applicant, including a full five years of residence and employment history.

CHARGE 3

Monitor the Driver Responsibility Program and consider methods for overall improvement of the program.

BACKGROUND

The Texas Driver Responsibility Program was created with the passage of House Bill 3588, 78th Legislature (2003). Texas Driver Responsibility Act, 78th Leg., R.S., ch. 1325. The Driver Responsibility Program was created to help address a \$9.9 million budget deficit. It was also intended to be a program designed to encourage more responsible behavior and accountability for those drivers who cause human damages through the imposition of penalties, fines and surcharges. The legislation established a system which assigned points to moving violations classified as Class C misdemeanors and applies surcharges to offenders based upon the type of offense and the time period in which the citation was received. The legislation also created the Designated Trauma Facility and EMS Account No. 5111.

Surcharges

A surcharge is an administrative fee charged to a driver based on the convictions reported to their driving record. Two criteria determine if a surcharge will be assessed: point system (normally assessed for moving violation over 10% of the posted speed limit) and conviction based surcharges (such as driving while intoxicated (DWI), driving while license invalid (DWLI), etc.). The Texas Department of Public Safety assesses a surcharge when the driver accumulates a total of six points or more on their record during a three-year period. The surcharge assessment will be reviewed annually. If driver record continues to reflect six or more points during the three-year period, the surcharge will be assessed. Therefore, drivers may be required to pay for one or more years if six or more points continue to accumulate on the driver record. The driver is required to pay a \$100 surcharge for the first six points and \$25 for each additional point, plus a 4% administration fee to the the Municipal Service Bureau vendor who administers the program.

Annual Surcharges for Certain Convictions

Drivers who receive a conviction for driving while intoxicated (DWI) or DWI-related offense or failure to maintain financial responsibility, or driving while license invalid, will pay an annual surcharge for a period of three years from the date of conviction. No points are placed on driver records for these offenses because the fine is automatic on the first offense.

A first-time driving while intoxicated conviction results in a \$1,000 surcharge, paid annually for three years. A second-time DWI results in a \$1,500 surcharge, paid annually for three years. All charges are cumulative.

A conviction for driving while a license is invalid or failure to maintain financial responsibility, results in a surcharge of \$250, paid annually for three years. A driver who is convicted of driving without a valid license receives a \$100 per year surcharge for three years.

Surcharges are in addition to all other reinstatement fees required for other administrative actions and do not replace any administrative suspension, revocation, disqualification or cancellation action that results from these same convictions.

Particularly problematic, DWI defendants who lose their license and insurance may also continue to drive illegally. In the unfortunate event that they harm someone, the Driver Responsibility Program could make it less likely they will have insurance to cover the damages. Drunk drivers routinely have the highest surcharges; they are also most likely to fail to pay and thus could potentially end up illegally unlicensed and uninsured.

Issues with the Driver Responsibility Program

The Driver Responsibility Program has had a devastating effect upon drivers whose licenses are subject to surcharges under the Program, and has generated increases in county governments spending due to expanding jail rosters and misdemeanor court dockets.¹ Recent estimates indicate that 1.2 million Texas drivers currently hold suspended licenses due to nonpayment of DRP surcharges. Many of these individuals continue to drive without valid licenses and are subject to prosecutions and even more surcharges for driving illegally and failure to maintain financial responsibility for their vehicle, because drivers without valid licenses are ineligible to obtain insurance.² Another issue is the notification process was not always reliable because of address issues. For instance, Texas drivers who do not update their address on their Texas Driver's License upon moving are not being notified of their outstanding fines. Deliberate noncompliance is another concern. During these tough economic times some citizens are willfully disregarding payment. Currently, there are \$1.1 billion in surcharges that have not been paid.

Modifications

In 2007, Senate Bill 1723 provided the Department of Public Safety the tools to increase collections and payment options for those persons assessed surcharges. Act of May 24, 2007, 80th Leg., R.S., ch. 573. The bill authorized the Texas Department of Public Safety to negotiate additional collection contracts, including more extensive collection techniques, make payments of certain surcharges more feasible for low-income drivers through the use of installment plans, and periodic amnesty programs. Tex. Trans. Code § 708.157 (West 2007). The bill also provided for additional consequences for the nonpayment of certain surcharges and provided incentives for bad drivers to change their behavior through a reduction in surcharges or the number of years a surcharge is collected.³

House Bill 2730, the Texas Department of Public Safety's Sunset Bill, required fundamental changes to the agency's mission and operations. The Legislature changed discretionary language which had granted DPS the authority to establish an Indigency Program into a legislative mandate and defined the terms of a court-operated Indigency Program. Specifically, House Bill 2730 created two Indigency Programs. Section 6 directed the Department of Public Safety to create an Indigency Program beginning by September 1, 2009, and Section 15 outlined the terms of an Indigency Program that is to be administered by Texas courts beginning in September 2011. The legislation provides for judges to waive fees for those indigent clients as determined by the Court.

This includes taxpayers who provide a copy of their income tax receipt or their wage statement which shows an income below 125% of the poverty line and taxpayers who receive certain forms

of government assistance. The alternative program will allow drivers who have defaulted on DRP payments in the past, to pay reduced surcharges owed or a flat rate to eliminate their past surcharge debt. *See* Act of May 31, 2009, 81st Leg., R.S., Ch. 1146, Sec. 6.10, eff. September 1, 2009. *See also* Act of May 31, 2009, 81st Leg., R.S., Ch. 1146, Sec. 15.05, eff. September 1, 2011.

The Public Safety Commission did not adopt administrative rules necessary to implement the legislative directive and did not meet the statutory deadline for creation of its own Indigency Program. *See* Act of May 31, 2009, 81st Leg., R.S., Ch. 1146, Sec. 6.10, eff. September 1, 2009. *See also* Appendix E.

In August 2009, a Petition for Rulemaking and Public Hearing, regarding the Driver Responsibility Program, was submitted to the Public Safety Commission. The petition for rulemaking also proposed language for Amnesty and Incentive Programs, which the Department of Public Safety has discretion to administer pursuant to Tex. Transp. Code §708.157. The Public Safety Commission voted to deny the petition in August 2009, but directed staff to draft its own Indigency Program rules. A first set of Department of Public Safety drafted indigency rules was not published until March 5, 2010. In response to public comments on the draft rules, the Department of Public Safety invited members of the Legislature and advocacy groups who had expressed interest in the Driver Responsibility Program or submitted public comments on the proposed rules, to participate in a working group that issued a set of recommendations to be used by the Department of Public Safety staff in drafting new proposed rules to replace staff's initial draft rules. The Texas Public Safety Commission approved proposed changes to the Driver Responsibility Program, July 15, 2010.

New draft proposed rules were published in the Texas Register on August 6, 2010. 37 Tex. Reg. § 15.163 (2010) (to be codified at 37 Tex. Admin. Cod § 15.163) (Dep't of Pub. Safety).

The proposed amnesty program:

- Will apply to individuals who have been in default, and the Department of Public Safety will determine the time in default for each amnesty period;
- Reduced amount will be 10 percent of total surcharges owed, not to exceed \$250;
- Will rescind suspension for those who receive amnesty while payments are being made.

The proposed Indigency Program:

- Will apply to individuals at or below 125 percent of poverty level, or with a debt-to-income ratio of at least 50 percent using a sworn affidavit;
- Reduced amount will be 10 percent of total surcharges owed, not to exceed \$250
- Will rescind suspension for those who receive indigency while payments are being made

The proposed incentive program:

- Individuals will pay a reduced amount if all three years are paid in full
- Reduced to 50 percent if paid within 30 days after notice

-
- Reduced to 60 percent if paid within 60 days after notice
 - Reduced to 70 percent if paid within 90 days after notice or reduced payments for continued compliance
 - First year, pay 100 percent
 - Second year, reduced by 50 percent
 - Third year, reduced by 75 percent

The Texas Public Safety Commission adopted the proposed changes to the Driver Responsibility Program rules during the October 21, 2010, meeting. The adopted rule will be published in the Texas Register as a final rule in November, and will consist of the following reduction programs:

The Amnesty program:

- Will apply to individuals who have been in default, and the Department will determine the time in default for each amnesty period
- Will reduce amount to 10 percent of total surcharges owed, not to exceed \$250
- Will rescind suspension for those who receive amnesty while payments are being made

The Indigency Program:

- Will apply to individuals at or below 125 percent of poverty level, using a sworn affidavit
- Will reduce amount to 10 percent of total surcharges owed, not to exceed \$250
- Will rescind suspension for those who receive indigency while payments are being made

The Incentive program will apply to individuals above 125 percent and below 300 percent of poverty level, using a sworn affidavit. Individuals will pay a reduced amount if all three years are paid in full:

- Pay 50 percent if paid within 30 days after notice
- Pay 60 percent if paid within 60 days after notice
- Pay 70 percent if paid within 90 days after notice

OR

Reduced payments for continued compliance

- First year, pay 100 percent
- Second year, reduced by 50 percent
- Third year, reduced by 75 percent

The programs will be phased in over several months, with the Amnesty program being implemented during tax season. The Indigency Program will be implemented immediately after the Amnesty period ends. The Incentive program will be evaluated for implementation.

CHARGE 4

Study the statutory definitions, duties, and authority of a Texas peace officer.

BACKGROUND

The definition of a Texas peace officer has been a highly debated issue among the criminal justice community. To date there is no substantive definition of a Texas peace officer. There are several places in statute where the duties of a peace officer are referenced, but nowhere is the subject adequately addressed.

Article 2.12 of the Texas Code of Criminal Procedure is the statute that provides the most comprehensive explanation of a Texas peace officer.

Art. 2.12 in part reads:

The following are peace officers:

- (1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (2) constables, deputy constables, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (3) marshals or peace officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices

The statute then enumerates airport security commissioned by cities of a certain population, investigators of the Texas Medical Board, officers commissioned by the board of managers of the certain hospital districts of large cities, and many more entities that may commission peace officers.

Chapter 1701 of the Texas Occupations Code details the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) requirements for a citizen to obtain a peace officer license and the required training needed. Only individuals first licensed through TCLEOSE maybe commissioned by an entity with commissioning authority. Generally, the applicants must be at least 21 years old, unless honorably discharged from the military after at least two years of service or the individual has obtained over 60 hours of college credit (Tex. Occ. Code § 1701.309 (West 2010)).

Applicants must also pass certain criminal and psychological background checks, exhibit weapons proficiency, and pass a licensing exam. According to TCELOSE, potential peace officers undergo 618 hours of training at a state accredited training academy, and must continue training once licensed.

In Texas there are three distinct categories of a Texas peace officer. A peace officer may obtain basic, intermediate, or advanced peace officer certification. Intermediate and advanced peace officer certifications require years of experience and training subject to the chart found in Appendix C. In Texas there are only three types of peace officers: full time peace officers, part-time peace officers, and reserve law enforcement officers and they all must complete a required number of TCLEOSE training. *See* Appendix C.

In order to become a commissioning authority, a legislative proposal granting that authority must be passed with the exception of counties and certain cities granted constitutional authority. After statutory permission is granted a potential commissioning authority must apply to TCLEOSE for an agency number. All commissioning authorities, even those with only one commissioned officer, are mandated to obtain a TCLEOSE agency number.

HEARING

August 10, 2010 Interim Hearing

Many members of the law enforcement community testified before the Committee expressing concerns about potential issues that could arise with changing the definition of a peace officer versus the benefits that may be achieved by amending the definition.

Timothy Braaten

Texas Commission on Law Enforcement Standards and Education (TCLEOSE)

Timothy Braaten, Executive Director of TCLEOSE, testified on the statutory authority of certain Texas peace officers. The investigators of the Texas Medical Board and railroad peace officers have limited statutory authority to ensure they serve their intended purpose. Investigators of the Texas Medical Board are only permitted to enforce the subtitle of the Texas Occupations Code that they come under but they may not carry a firearm and may not enforce the power of arrest. Also railroad peace officers are prohibited from issuing citations and their jurisdiction is generally limited to enforcing crimes committed only on their property (Tex. Code of Crim. Proc. art. 2.121(b) (West 2010)).

Mr. Braaten explained in detail the authorities in Texas that may appoint peace officers and how many peace officers each agency has. He then stated only 14 other entities who commission peace officers gain their license under different legal definitions than Art. 2.12 of the Texas Code of Criminal Procedure. Although certain entities are limited in their duties they all must undergo full TCLEOSE training to meet the minimum standards for a peace officer in the state of Texas. Tex. Occ. Code § 1701.251 (West 2010).

Tom Gaylor
Texas Municipal Peace Officers Association (TMPA)

Tom Gaylor, Deputy Executive Director of TMPA, testified on the need of accountability for all law enforcement agencies regardless of whether they are private or public entities. TMPA looked to address the need for all peace officers to have the same authority and qualifications instead of the current multi-faceted approach. TMPA looks to clarify the definition of a peace officer and addressing more than "who are peace officers" with a more concise definition. *See* Tex. Code of Crim. Proc. art. 2.12; *See also* Tex. Occ. Code § 1701.001(b).

TMPA believes all peace officers should be able to interdict crimes with full authority to make arrests and carry the necessary firearms to protect the safety of all citizens. They do not believe local governance of agencies should be limited or changed, but that the different definitions found in various codes should be simplified to a clear and concise definition. TMPA addressed concerns regarding proposed changes and indicated that private institutions would not be limited in their ability to commission peace officers and many agencies would not have to alter their commissioning authority.

Chris Jones
Combined Law Enforcement Association of Texas (CLEAT)

Chris Jones, Deputy Executive Director of CLEAT, testified on the strength of the peace officer statute as it stands today and the need for the different categories of peace officers in Texas. Mr. Jones addressed the need of agencies working together without different classification of officers. Mr. Jones pointed out the provisions in Art. 2.13 that define duties and powers of a peace officers. *See* Texas Code of Crim. Proc. art. 2.13(a), (b)(4).

CLEAT has a concern with deferring governmental authority to private organizations, whether it be limited or outright authority to employ peace officers. They would not want to limit entities that may already commission peace officers, but would not want to spread the breadth of the current statute any further.

CLEAT also expressed concern about the reporting practices of private institutions. The Texas Open Meetings Act does not apply to private corporations who employ peace officers. CLEAT wants to ensure that all private law enforcement work toward the good of the public despite fiduciary interest.

Ron Hickman**Constable Legislative Committee, Justices of the Peace & Constables Association (JPCA)**

Constable Hickman testified concerning officers with specific authority. He also spoke to the increase in professionalism of law enforcement in the state. County law enforcement officials are well aware of the public concern and confusion over the definition of a peace officer and JPCA will work with the citizens to ensure that public misunderstandings are reduced.

John Chancellor**Texas Police Chiefs Association**

John Chancellor, on behalf of the Texas Police Chiefs Association testified over ensuring that all agencies that currently employ peace officers maintain the authority to do so. Many entities such as, independent school districts, employ peace officer agencies as a cost benefit to the city and the Police Chiefs Association believes contracting officers will be much more burdensome on municipalities.

RECOMMENDATIONS

1. The Committee recommends all concerned parties to work with the sample legislation proposed during our April 7, 2010 Interim Hearing to reach an agreement on the definition of a peace officer.
2. The Committee has concerns with expanding the definition of a peace officer in Texas and this should be addressed during future legislative sessions.
3. The Committee feels the definition of a peace officer should be thoroughly examined to ensure all peace officers operate on the same level of excellence necessary to protect the residents of Texas.
4. According to testimony, there are certain non-governmental entities who commission peace officers and who are not subject to the Texas Public Information Act. This may limit the disclosure of agency policies and the Committee believes this should be addressed during the 82nd Legislative Session.

CHARGE 5

Evaluate the effectiveness of state operations at controlling drug-related crimes and other violence along the Texas Mexico border. *Joint Interim Charge with House Committee on Border and Intergovernmental Affairs.*

BACKGROUND

It would be impossible to provide a fair evaluation of state operations at controlling drug-related crimes and other violence along the border without reference to and consideration of the ongoing armed struggles among rival criminal organizations in Mexico and the simultaneous efforts of the Mexican federal government to reduce the power and effectiveness of these organizations. The high murder rate and elevated fears of violent crime in Mexican cities are well known. The Mexican army has been obliged to take over the policing of numerous districts and cities because the federal and local police have been too thoroughly corrupted by organized crime to be an effective force. The army has also engaged in direct combat with the gangs. Colonel Steve McCraw, Director of the Texas Department of Public Safety, has claimed that the current drug wars in Mexico are worse than Colombia's experience in the threat of violence to the government of Mexico.⁴ In Mexico, people have lost trust in local government and local officials in many places. The takeover of the majority of government institutions in Mexico by organized crime is a real risk and the prevention of such a takeover is central to the national interests of the United States and Mexico.

Security and geopolitical concerns are important and the establishment of a stable and less corrupt Mexico is a direct and vital interest. A large part of the extra stake Texas has in the outcome relates to the scope of its cross border trade. A significant part of the economy of Texas border cities is the revenue generated from sales of goods and services to Mexican citizens who visit border cities and purchase American clothes to take back. Another Texas concern is the personal interests of the human beings who reside and have family in both countries. Texans have had to face threats of violence to family members living in areas where cartels are active.⁵ Parents in towns along the border also must face the risk that their children will be recruited to work for a drug smuggling organization.⁶ The Committees received testimony that border gangs were interested in recruiting children on the Texas side of the border, as young middle school age children, to assist in smuggling and distribution of drugs. Perhaps the most insidious and politically important risk that arises from the situation in Mexico is the potential deterioration of our own legal and political institutions due to corruption generated by the drug cartels. Nate Blakeslee's article on the border in the August 2010 Texas Monthly recounts the recent arrest of the police chief of Sullivan City, who was charged with being on the payroll of both the Gulf Cartel and the Zetas gang. The city manager, interviewed about the matter, states that the cartels have always had men in Sullivan City, and that they have men in all the towns of the Rio Grande Valley.⁷ It is the Committees' view that physical violence is by no means the only threat Texas has to fear from the drug cartels. The risk that our citizens and officials will be lured into their criminal activity is just as grave.

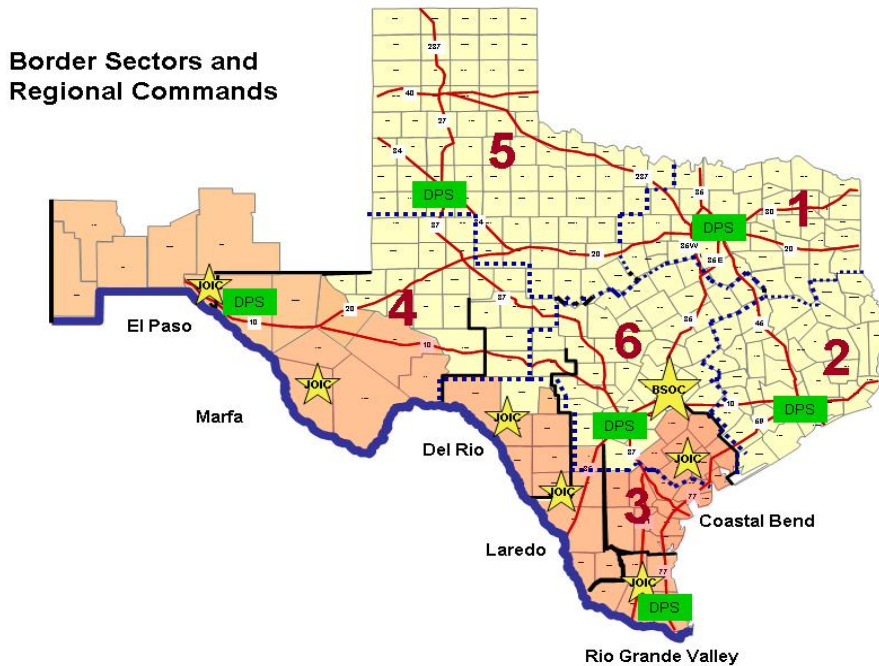
In response to drug related crime and other violence along the Texas-Mexico Border, several operations have been enacted by the state to enhance security in the border region. In November of 2009, Speaker Joe Straus tasked the Committee, along with Border and Intergovernmental Affairs with evaluating the effectiveness of these state operations. The Committee formally met on April 29, 2010 at the McAllen convention center to evaluate border violence and drug-related crimes in a joint hearing with the Committee on Border and Intergovernmental affairs.

Operation BORDER STAR is a long term commitment by the State of Texas to border security that synchronizes the actions of federal, state, local, and tribal law enforcement agencies in a unified effort.

More specifically, Operation BORDER STAR serves to coordinate the efforts of state, federal, and local law enforcement capabilities to particular areas of the border region as well as develop and provide access to systems that will facilitate border security information sharing, intelligence analysis, planning, decision-making, and interagency coordination by establishing shared situational awareness and understanding of evolving security environments. Operation BORDER STAR also provides state resources in the form of grant funding to aid law enforcement agencies in procuring equipment and for overtime operations.

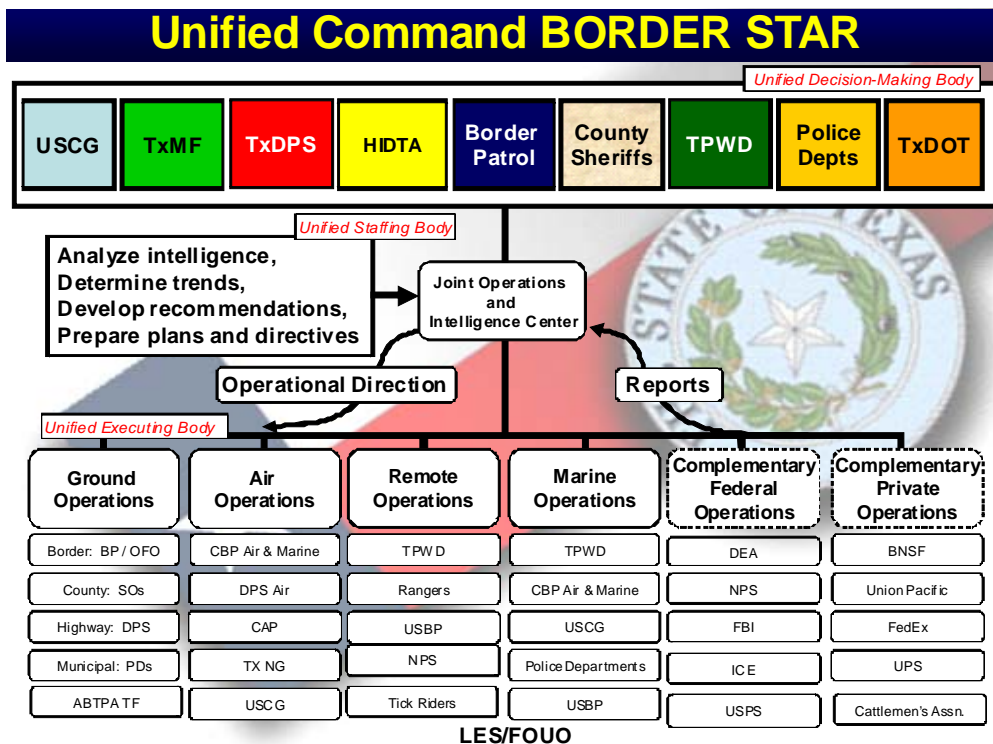
This effort combines committed agencies to a Unified Command structure for each border area sector. Unified Commands are created for a designated sector, consisting of multiple jurisdictions with multi-agency involvement in order allow agencies with different legal, geographic, and functional authorities and responsibilities to work together effectively without affecting any individual agency's authority, responsibility, or accountability.

The State of Texas is divided into 6 border sectors and regional commands:



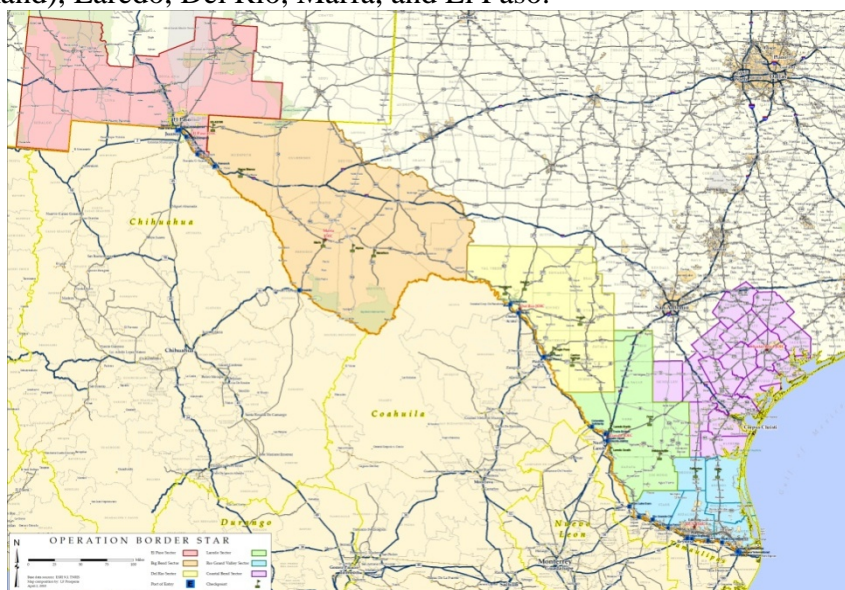
Source: Texas Department of Public Safety

Operation BORDER STAR's Unified Command Structure is illustrated below:



Source: Texas Department of Public Safety

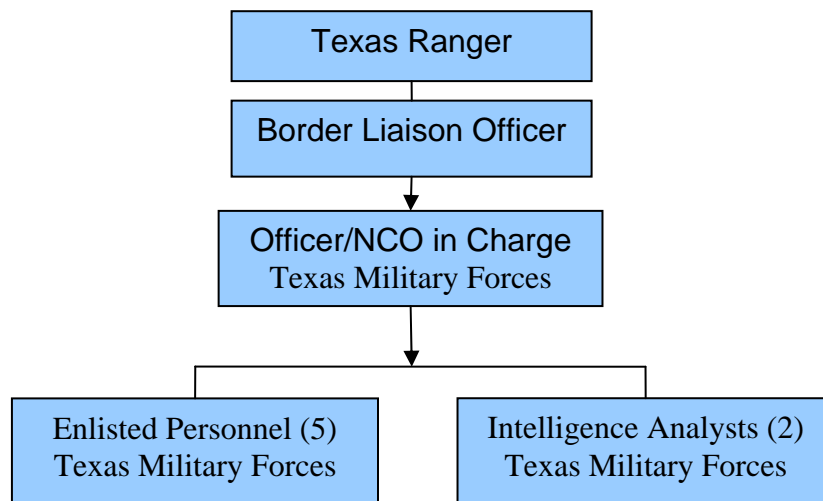
The six Unified Commands are located along the Texas-Mexico Border and Gulf of Mexico. They are located in Victoria (Coastal Bend Unified Command), Edinburg (Rio Grande Valley Unified Command), Laredo, Del Rio, Marfa, and El Paso.



Source: Texas Department of Public Safety

The Unified Commands are supported by Joint Operation Intelligence Centers (JOICs), which serve as a coordination and control node that promotes interagency communication and information sharing, analyzes situational developments, offers recommendations for decision as necessary, and coordinates actions directed through consensus of the Unified Command.

An organizational chart for the Joint Operations and Intelligence Center is below:



Source: Texas Department of Public Safety

Operation Border Star Joint Operation Intelligence Centers exercise primary responsibility for intelligence efforts in its sector; support and enhance interagency unity of effort within the Unified Command; serve as a clearinghouse for data collection and dissemination; prepare and disseminate a Common Operating Picture to its law enforcement agencies; receive and post friendly law enforcement force deployment data; prepare and disseminate Situation Reports and weekly operational assessments to sector Sheriff's offices, police departments, and other participating agencies; coordinate and prioritize air mission requests and assets within the sector; facilitate Unified Command teleconferences; provide real-time actionable information to members of the Unified Command, and develop options and recommendations for consideration by the Unified Command.

These centers are staffed 24 hours a day, 7 days a week, and are capable of maintaining capacity for extended operations.

The state has also created the Texas Ranger Reconnaissance Teams. These teams are highly trained and specialized units, capable of providing a varying spectrum of options and capabilities in order to safeguard the public and interdict criminal activity.

BORDER SECURITY COUNCIL REPORT

The Border Security Council was created by Senate Bill 11 of the 80th Legislature to advise the governor on the allocation of state homeland security funds. The council issued its initial report in September 2008 after a series of public hearings and meetings.⁸ The general findings in this report include the following:

Powerful and ruthless Mexican crime cartels dominate the U.S. drug and human smuggling business, and they use former military commandos and transnational gangs to support their operations on both sides of the border.

The citizens who live in the smuggling corridors along the border suffer the daily consequences of smuggling-related violence, burglary, vandalism and trespassing.

Drug and human smuggling organizations victimize illegal aliens in search of economic opportunities in the U.S.

A porous Texas-Mexico border threatens every region in the state and the nation.

An unsecured border provides potential terrorists and their supporters an opportunity to the U.S. undetected.

The federal government has not yet sufficiently staffed and equipped the Border Patrol to secure the Texas-Mexico border between ports of entry.

Border Security operations require substantial coordination, hard work and sacrifice by dedicated local and state law enforcement officers, Customs and Border Protection and other federal agencies, such as the U.S. Coast Guard. The Council found that an exceptional level of coordination and cooperation among the local, state and federal law enforcement community is essential for success.

The federal government has not sufficiently staffed and equipped the Office of Field Operations at the ports of entry to prevent smuggling at the ports of entry, nor have they provided for the secure and efficient movement of people and commodities to and from Mexico.

Until the federal government is able to secure the border, the State of Texas has an obligation to work closely with its local and federal partners to acquire and maintain operational control of the Texas/Mexico border.

The Texas Border Security Strategy established in February 2006 has been successful in reducing crime and enhancing border security.

The Border Security Council report recommends that because increased funding for border operations has led to a decrease in crime, the state should sustain funding for border operations at the state level. The report also recommends that in order to remain eligible for state funds, law local law enforcement agencies must cooperate with state led border operations and share information and intelligence with state, local and federal counterparts, as well as support the JOICs. In addition, the report makes the following policy recommendations:

Border security operations should include increased inspections to curtail the smuggling of cash, stolen vehicles and weapons to Mexico.

The state should expand its use of technology to include implementation of the Virtual Border Neighborhood Watch Program, expand radio interoperability, and fully implement the Texas Data Exchange in the border region.⁸

The Border Security Council report to the governor is only two years old and, in the opinion of the Committee, most of its findings are still valid. The Committee also agrees with the recommendations of the report, in particular its suggestion that the state concentrate more of its efforts on interdiction of guns and money going south to Mexico. This is an area in which Texas may be able to avoid some of the jurisdictional difficulties that arise in immigrant smuggling cases.⁹ Also, local police can provide intelligence and extra manpower in the efforts to find these south bound smugglers, where no amount of effort is likely to be too great. In fact, the primary disagreement the committee would have with the council is that the Committee would prefer to emphasize the local manpower aspects of the state response and de-emphasize the more military-style and equipment oriented responses. Texas would be better served by extra police time than by helicopters with night vision goggles. This recommendation is based on near unanimous testimony from local police and other officials heard by the committee.

SUMMARY

State expenditures to enhance state capabilities in intelligence recon, intelligence sharing, and coordination most likely address both of these areas, with the advantage easiest to see in border patrol. In the most recently completed biennium, the Legislature appropriated \$110 million for border security. That amount was increased to \$118.6 million by the 81st Legislature for the current biennium. In the most recent appropriations bill, almost \$22 million was allocated to increased patrols, investigations and overtime for law enforcement in border areas along with approximately \$9 million for state police officers assigned to local border security. Others have been for military style hardware and equipment, such as helicopters, and increased body armor. The effectiveness of these expenditures at controlling drug-related crimes and other violence is more difficult to determine.

The Committee also heard testimony regarding the Border Prosecution Unit. The Border Prosecution Unit is a new entity, created in 2010, and is designed to provide additional resources to the 16 district attorneys along the border to investigate and prosecute crimes committed by and for organized criminal cartels. The amount of funding is modest at \$1.7 million, which is to be managed and allocated by El Paso County. It is too early to assess this program's effectiveness, but it seems to the committee to be addressing precisely the concerns that ought to

be addressed. The benefits of a program of this nature are the additional deterrence derived from the increased likelihood of punishment and the increase in public confidence which arises when people see criminals investigated, caught, prosecuted and punished.¹⁰

With regard to the effectiveness of additional police man hours, the testimony from police chiefs along the border indicates that the funds spent by the state to provide for overtime and other police functions have been helpful and are greatly appreciated. Overtime alone, however, has proved to be of limited usefulness, due primarily to physical limitations on the officers. Additional manpower may be a better solution and may avoid some inefficiencies associated with paying overtime. Customs and Border Protection seems to have come to a similar conclusion in June 2010 when it prohibited further overtime for its agents while at the same time requesting additional agents.¹¹

There is no doubt that border security remains a top concern as the State enters the 82nd Legislative Session. It appears to the Committees, based on testimony, research, and the compilation of this report, that the response of Texas to border threats has been mixed. The response has included both enhancements to local law enforcement and direct increases to border patrol and interdiction with state personnel. In our view, efforts to shore up and expand local police presence as well as help prosecute violent and drug related crimes are directly responsive to the problems that exist in the area. These efforts are successful, appropriate to undertake, and furthermore, these efforts to increase the ability of local law enforcements to react to these threats ought to be continued in the future.

CHARGE 6

Monitor the agencies and programs under the committee's jurisdiction.

**COMMISSION ON LAW ENFORCEMENT OFFICER
STANDARDS AND EDUCATION**

The Texas Commission on Law Enforcement Officer Standards and Education

Executive Director

Timothy Braaten

HISTORY

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) is a state agency created by an act of the 59th Legislature. Senate Bill 236, which became effective on August 30, 1965, did not appropriate any funds for the operations of the Commission. Original funding was provided from private foundations and federal grants. This act provided for a voluntary program to improve law enforcement proficiency. In 1967, the 60th Legislature included the Commission in the Appropriations Act and funded an executive director and three staff members. Since then, the Commission has grown in staff and responsibilities.

The Sunset Commission, in 2008-2009, reviewed the Commission, and House Bill 3389 was passed in the 81st Legislature to continue the Commission until 2021.

The composition of the Commission is defined by Section 1701.051. The Commission is governed by nine commissioners. The governor appoints the commissioners, who are separated into three categories. Three must be chief administrators of law enforcement agencies, which include sheriffs, constables and chiefs of police. Three must be persons licensed by the Commission and two of whom must be peace officers in non-supervisory positions with a law enforcement agency when appointed by the governor. Three must be private citizens with no direct connection with the field of law enforcement. These nine members are voting members of the Commission. The members are appointed for six-year terms with one member from each category going off the Commission each two-year period. The appointment of these members is subject to the review and consent of the Senate.

The governor designates one of the appointees as presiding officer of the Commission. The presiding officer serves at the pleasure of the governor. The Commissioners elect the assistant presiding officer and secretary from the remaining eight appointed members.

The Commission is empowered by legislation to create rules for the administration of Chapter 1701, Occupations Code, and related statutes.

Sec. 1701.151. General Powers of Commission; Rulemaking Authority.

The commission may

- (1) adopt rules for the administration of this chapter and for the commission's internal management and control;
- (2) establish minimum standards relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as an officer, county jailer, or public security officer;

(3) report to the governor and legislature on the commission's activities, with recommendations on matters under the commission's jurisdiction, and make other reports that the commission considers desirable;

(4) require a state agency or a county, special district, or municipality in this state that employs officers or county jailers to submit reports and information;

(5) contract as the commission considers necessary for services, facilities, studies, and reports required for:

- (A) cooperation with municipal, county, special district, state, and
- (B) federal law enforcement agencies in training programs; and

(6) conduct research and stimulate research by public and private agencies to improve law enforcement and police administration.

The Legislature authorized forty-six Full Time Equivalent (FTE's) or employees that handle the Commission's statutory charges: As of August 1, 2009, these employees oversee 2,595 law enforcement agencies with 110,452 active licenses, 299 training providers, and 97,626 licensees.

Licensing Requirements

In 1969, the 61st Legislature amended the original act so that all peace officers would be required to be certified by the Commission prior to appointment, with an effective date of September 1, 1970. This certification requirement also authorized the Commission to establish minimum requirements for certification. There are, however, exceptions to the requirement for licensing. The exceptions are law enforcement officers elected under the Texas Constitution.

In 1979, the 66th Legislature required the Commission to certify county jailers. The statute provided for a one-year temporary certification for jailers to receive the required basic jail training.

In 1983, the 68th Legislature enacted SB 155 requiring the Commission to prescribe the content of examinations and conduct examinations for each license issued by the Commission.

In 1987, the 70th Legislature enacted authority for the appointment of public security officers. These are persons employed or appointed as armed security officers by the state or by a political subdivision of the state, but not security officers employed by private security companies that contract with the state or a political subdivision of the state to provide security services for the entity.

In 1987, the 70th Legislature required Commission to adopt rules providing for the accreditation of telecommunicator training programs and acknowledgement or certification of telecommunication operators (1701.405). This also required that a telecommunicator complete the required training, Basic Telecommunications Certification Course, within one year of the date of appointment. Agencies with twenty or fewer employees or agencies that do not perform

24-hour law enforcement services were exempted. Telecommunicators are not issued a license, but receive an acknowledgement letter from Commission.

In 1997, the 75th Legislature amended Section 511.0092(f)(2) of the Government Code to require that employees of counties, municipalities, and private vendors who operate a contract to hold federal prisoners and prisoners from jurisdictions other than Texas must be licensed by Commission. These jailers must meet the same requirements as county jailers.

Statutory Restrictions

Section 1701.153 states that the Commission shall set reporting standards and procedures for the appointment and termination of officers and county jailers. It also provides that the chief administrative officer of a law enforcement agency is responsible for compliance with the reporting standards and procedures prescribed by the Commission.

Section 1701.301 states that a person may not be appointed to serve as an officer, county jailer, or public security officer unless the person holds an appropriate license issued by the Commission. Section 1701.551 establishes a criminal penalty for violation of 1701.301.

Section 1701.303 specifically requires that a law enforcement agency or governmental entity must file the application for a person to be issued a license from the Commission. An individual cannot apply for such license.

Section 1701.306 prohibits the Commission from issuing a license to an officer or county jailer unless the person has undergone a psychological and emotional health examination, been screened for any trace of drug dependency or illegal drug use, and undergone a physical examination. Commission rule 217.1(a)(11) and (12) requires that these examinations must be conducted within 180 days of the date of appointment.

Section 1701.312 specifically disqualifies a person from being licensed as an officer, public security officer, or county jailer if the person has ever been convicted of a felony offense. A felony conviction exists if the person has ever been adjudged guilty of a felony offense under the laws of Texas, another state, or the United States. For example, a person is convicted if they were adjudged guilty of a felony and then the judge suspended the sentence and placed the person on probation. The key phrase is “adjudged guilty” or “found guilty.” If the court’s judgment and sentence contains this language, it is considered to be a conviction, and the person is disqualified from licensing. A pardon for innocence restores a person’s privilege to be licensed.

Continuing Education for Licensees

Once an individual is licensed there are required training course(s) that must be completed in order to keep the license active. The 77th Legislature (2001) modified the continuing education requirements established by the 74th Legislature (1995). The revised statute continued the 40-hour continuing education requirement each 24-month training unit for peace officers, but shifted the requirements for the mandatory courses to only once in the 48-month training cycle

beginning September 1, 2001. The 81st Legislative Session added a course requirement for the two-year unit and amended the training cycle course requirement which begins September 1, 2009.

A 24-month training unit for continuing education begins on September 1st of each odd-numbered year and ends on August 31st of the next odd-numbered year (for example: September 1, 2001 to August 31, 2003). A 48-month training cycle is composed of two 24-month training units beginning September 1, 2001. The Commission mails notices of impending non-compliance before the end of the current training unit and cycle.

Section 1701.351 requires each peace officer licensee to complete 40 hours of continuing education training each 24-month unit, and a course on state and federal law updates. Section 1701.352, identifies specific topics that must be included as a part of the 48-month training cycle.

Topics for those holding a BASIC PEACE OFFICER Certificate or no certificate are:

1. Civil Rights,
2. Racial Sensitivity,
3. Cultural Diversity;
4. Crisis Intervention Techniques; and
5. Recognition and documentation of cases that involve:
 - a. Child Abuse,
 - b. Child Neglect,
 - c. Family Violence,
 - d. Sexual Assault, and
 - e. Issues Concerning Sex Offender Characteristics

Those holding an INTERMEDIATE PEACE OFFICER Certificate or higher do not have specific courses (other than the legal update course) (new requirement).

During the 79th Legislature, House Bill 1473, required individuals licensed as peace officers for more than two years to complete a Commission developed training program on “de-escalation and crisis intervention techniques.” This course must be completed not later than September 1, 2009. This training cannot be delivered via distance education.

Previous legislative required training includes courses on: Asset Forfeiture (not later than September 1, 2002), Racial Profiling (not later than September 1, 2003), and Identity Theft (not later than September 1, 2005).

Each individual that is only licensed as a reserve officer, jailer, or public security officer must complete the cultural diversity part of the training in the 48-month training cycle, including the following topics:

1. Civil Rights,
2. Racial Sensitivity, and

3. Cultural Diversity

The Commission's Cultural Diversity course covers the civil rights, racial sensitivity, and cultural diversity issues.

The Commission's Special Investigative Topics course covers the investigative topics of: child abuse and child neglect; family violence; sexual assault; and issues concerning sex offender characteristics.

If an agency head determines that the investigative topics are inconsistent with an officer's assigned duties, Section 1701.352 allows for alternative training to be provided in order to meet the 40-hour requirement. The chief administrator must notify the Commission that an officer will be completing training other than the investigative topics.

Section 1701.352 of the Occupations Code requires that a person appointed to their first supervisory position in law enforcement must complete a training program on supervision issues as part of their 40-hour continuing education program within two years of their appointment to the supervisory position. The New Supervisor Course also contains cultural diversity and investigative topics to meet the requirements for the 48-month training cycle in which the course was completed.

Disciplinary Actions on Licensees

Section 1701.501 provides that the Commission may establish procedures for the revocation of licenses, suspensions of licenses, and reprimands to licensees, or adopt other necessary enforcement procedures for a violation of Chapter 1701, Occupations Code, or a Commission rule. Commission rules 223.15 and 223.19 contain provisions for these actions.

Commission rules 211.27, 211.28, and 211.29 require the reporting of an arrest, charge, or indictment for a criminal offense above the grade of Class C misdemeanor by the licensee, arresting agency, and appointing agency. The licensee is also required to provide the Commission with final disposition documents within 30 days of the effective date of the disposition.

Professional Achievement Awards

Each year, the Commission accepts nominations for the annual Law Enforcement Achievement Awards provided for in Section 1701.401 of the Occupations Code. HB 1492 of the 81st Legislative Session amended 1701.401(f) to allow the Commission to present awards relating to not more than a total of 20 incidents and accomplishments.

Created in 1989, the awards are presented to selected peace officers, reserve peace officers, jailers, or custodial officers who are licensed by the Commission. To be eligible for an award, nominees should exceed the normal expectations of job performance through acts of valor, public service, or professional achievement.

The nominations must be submitted by an elected official of the state, an elected official of a political subdivision, an administrator of a law enforcement agency, or a person holding a current license issued by the Commission.

The awards program is conducted in the state capitol in May each year. Nomination packets are available on the Commission website under “Forms & Applications.”

Texas Peace Officer's Memorial

The Memorial, which was authorized by the 71st Legislature in 1989 and dedicated on May 10, 1999, is a monument of honor and remembrance to Texas peace officers and correctional officers who have died in the line of duty. The Commission was charged with the responsibility of ensuring that each of the officers is recognized appropriately for their service and ultimate sacrifice. The monument contains the names of officers who have been killed in the line of duty since the commissioning of the first Texas peace officers.

The Memorial stands at the west wall of the Sam Houston State Office building on the northeast quadrant of the capitol grounds. The Commission continues to accept contributions for the maintenance of the monument and, unfortunately, for the addition of names.

State Flag Distribution

Section 1701.161 requires the Commission, when requested by next of kin of a deceased peace officer, to provide a state flag without charge, if the peace officer was a current or former Texas peace officer.

A letter and a certificate from the Governor of Texas accompany the flag, as does a letter from the Executive Director of the Commission.

HOUSE COMMITTEE ON PUBLIC SAFETY
TEXAS HOUSE OF REPRESENTATIVES
August 10, 2010

Tommy Merritt
Chairman

Texas Commission on Law Enforcement Officer Standards and Education
Timothy A. Braaten, Executive Director

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TYPES OF PEACE OFFICERS

Definition of the different designations of peace officer is found in the Government Code, Title 6, Subtitle A, Chapter 614, Subchapter H.

- Full time peace officer
- Part time peace officer
- Reserve law enforcement officer

TCLEOSE recognizes three types of active and appointed peace officers

Full time peace officer as defined in the Government Code, 641.121(1)

- (1) "Full-time peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law, who:
 - (A) works as a peace officer on average at least 32 hours per week, exclusive of paid vacation; and
 - (B) is compensated by this state or a political subdivision of this state at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the state or political subdivision

Part-time peace officer as defined in the Government Code, 641.121(3)

- (3) "Part-time peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law, who:
 - (A) works as a peace officer on average less than 32 hours per week, exclusive of paid vacation; and
 - (B) is compensated by this state or a political subdivision of this state at least at the federal minimum wage and is entitled to all employee benefits offered to a peace officer by the state or political subdivision.

Reserve law enforcement officer as defined in the Government Code, 641.121(4)

- (4) "Reserve law enforcement officer" has the meaning assigned by Section 1701.001, Occupations Code.

Four types of governmental entities entitled to appoint Reserves:

County Sheriff	Local Government Code, Section 85.004	Article 2.12 (1) CCP
Constable	Local Government Code, Section 86.012	Article 2.12 (2) CCP
Municipal	Local Government Code, Section 341.012	Article 2.12 (3) CCP
Water District	Water Code, Section 60.0777	Article 2.12 (15) CCP

ALL OTHERS ARE NOT AUTHORIZED TO HAVE RESERVE FORCES.

Code of Criminal Procedure (CCP) 2.12	TCLEOSE Agency Type	Departments	Distinct Licensees
(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;	Sheriff	254	16,913
(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;	Constable	683	4,784
(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;	City Marshal	67	335
(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code; (13) municipal park and recreational patrolmen and security officers; (22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;	Municipal	833	39,042
(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety; (6) law enforcement agents of the Texas Alcoholic Beverage Commission; (9) officers commissioned by the General Services Commission; (10) law enforcement officers commissioned by the Parks and Wildlife Commission; (14) security officers and investigators commissioned as peace officers by the comptroller; (17) investigators commissioned by the Texas Medical Board; (20) investigators employed by the Texas Racing Commission; (21) officers commissioned under Chapter 554, Occupations Code (Board of Pharmacy); (23) investigators commissioned by the attorney general under Section 402.009, Government Code; (24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code (Lottery Commission); (25) an officer employed by the Department of State Health Services under Section 431.2471, Health and Safety Code; (28) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code; (29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and 61.0931, Human Resources Code; (30) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code; (31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code; (32) commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code; (34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; (35) investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code;	State of Texas	20	6,129

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;	County Attorney	60	183
(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;	District Attorney	124	878
(7) each member of an arson investigating unit commissioned by a city, a county, or the state; (27) officers commissioned by the state fire marshal under Chapter 417, Government Code; (33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code; (36) the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.	Fire Marshal	217	1,062
(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;	College	90	2,141
(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;	ISD	168	2,129
(11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves; commercial air carriers; (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;	Air Port	8	383
(15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;	Water District	9	66
(16) officers commissioned by a board of trustees under Chapter 54, Transportation Code (Harbor and Port Facilities);	Port Authority	5	122
(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;	Hospital	6	227
(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;	County Park Ranger	1	3
(26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;	District Court	17	29
Government Code (GC)	TCLEOSE Agency Type	Departments	Distinct Licensees
<i>Bailiffs as Peace Officers GC 53.0071, Bailiffs Deputized GC 53.007, Investigator – County Courts GC 41.109, Statutory Probate Court - GC 25.0025, Witness Coordinator – Jefferson County - GC 75.504</i>	<i>County Court</i>	11	14

LIMITED AUTHORITY

(17) investigators commissioned by the Texas Medical Board

Occupations Code 154.057

(c) The board may commission investigators as peace officers to enforce this subtitle. An investigator commissioned as a peace officer under this subsection may not carry a firearm or exercise the powers of arrest.

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code

451.108

(d),(e) a peace officer has all the powers, privileges, and immunities of peace officers in the counties in which the transit authority system is located, provides services, or is supported by a general sales and use tax . . .

452.110

(c) A peace officer commissioned under Subsection (b), except as provided by Subsection (e), has all the rights, privileges, obligations, and duties of any other peace officer in this state while on the property under the control of the authority or in the actual course and scope of the officer's employment.

(23) investigators commissioned by the attorney general under Section 402.009, Government Code;

402.009

The attorney general may employ and commission peace officers as investigators for the limited purpose of assisting the attorney general in carrying out the duties of that office relating to prosecution assistance and crime prevention.

(25) an officer employed by the Department of State Health Services under Section 431.2471, Health and Safety Code;

431.2471

(a) The department may employ a peace officer to administer and enforce this chapter.

(28) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

701.104

(a) The commissioner may:

(1) employ investigators as necessary to enforce this chapter

(29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and 61.0931, Human Resources Code;

61.0931

(a) The commission may employ and commission apprehension specialists as peace officers for the purpose of apprehending a child under Section 61.093.

(30) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;
Government Code 493.019

The inspector general may appoint employees who are certified by the Commission on Law Enforcement Officer Standards and Education as qualified to be peace officers to serve under the direction of the inspector general and assist the inspector general in performing the enforcement duties of the department.

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code
Occupations Code 1701.160

The commission may commission certified peace officers as investigators employed by the commission for the limited purpose of assisting the commission in administering this chapter.

(32) commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code - 1701.061(f) was repealed by HB 2730 in the 81st Session

(35) investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code
141.055

(a) The commission may employ and commission investigators as peace officers for the purpose of investigating allegations of abuse, neglect, and exploitation in juvenile justice programs and facilities under Section 261.405, Family Code.

Active Agencies
Peace Officer Count

	departments	distinct licensees
Air Port	8	383
City Marshal	67	335
College	90	2,141
Constable	683	4,784
County Attorney	60	183
County Court	11	14
County Park Ranger	1	3
District Attorney	124	878
District Court	17	29
Emergency Services District	4	5
Fire Marshal	217	1,062
Hospital	6	227
ISD	168	2,129
Municipal	833	39,042
Port Authority	5	122
Sheriff	254	16,913
State of Texas	20	6,129
Water District	9	66

THE DEPARTMENT OF PUBLIC SAFETY

LEADERSHIP

Public Safety Commission

Allan B. Polunsky, Chairman

Carin Marcy Barth, Member

Ada Brown, Member

John Steen, Member

C. Tom Clowe, Jr., Member

Executive Director

Col. Steve McCraw

Deputy Director of Law Enforcement

Lamar Beckworth

Deputy Director of Services & Chief Information Officer

Valerie Fulmer

MISSION

To Protect and Serve Texas

GOALS

Combat Terrorism and Crime

Enhance Public Safety

Strengthen Statewide Emergency Management

Provide World-Class Services

VALUES

Integrity: Demonstrating honesty, openness, and respect in all we do.

Teamwork: Working together within the Department and with other agencies to achieve common objectives.

Accountability: Seeking and accepting responsibility for our actions and results.

Excellence: Striving to be the best and continually improving our performance.

MOTTO

Courtesy, Service, Protection

AGENDA
Public Safety Commission Meeting
November 30, 2010 9:30 a.m.
Criminal Law Enforcement Auditorium
6100 Guadalupe, Bldg E
Austin, TX 78752

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

- I. CALL TO ORDER**
- II. APPROVAL OF MINUTES**
- III. 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)
- IV. DIRECTOR'S REPORT**
- V. NEW BUSINESS**
 - A.** Discharge appeal hearing and possible action regarding DPS employee Filiberto Montes
 - B.** Report, discussion and possible action regarding proposed new rule 37 Tex. Admin. Code, Section 15.49 concerning the requirement of proof of domicile before the issuance of a non-commercial driver license or identification certificate
 - C.** Report, discussion and possible action regarding proposed new rule 37 Tex. Admin. Code, Section 16.15 concerning the requirement of proof of domicile before the issuance of commercial driver license
 - D.** Discussion and possible action to adopt policies regarding the division of responsibilities between the commission and the director and staff of the department as provided under Government Code 411.0042
 - E.** Review of pending contract renewals
 - a. In-Car Mobile Video Systems for Texas Highway Patrol vehicles (Enforcement Video, L.P.)
 - b. American Association of Motor Vehicle Administrators Network/CDL Service for the Driver License Division (AAMVA)
 - c. Blanket order for mail service and postage for presort and bar-coding of first class mail (Pitney Bowes Presort Services)
- VI. 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

VII. ONGOING BUSINESS

Reports, discussion and possible action regarding the following:

- A.** Report, discussion and possible action in search to retain new General Counsel
- B.** Committee report on 28-day work cycle and Overtime and Compensatory Time policy
- C.** Discussion and possible action regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team
- D.** Update report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071
- E.** Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar
- F.** Report, discussion and possible action on the Fiscal Year 2011 Operating Budget
- G.** Report, discussion and possible action regarding purchases using seized funds

VIII. REPORTS

- A.** Commission member reports and discussion
- B.** Finance Report
- C.** Audit & Inspection Report
- D.** Division status reports on activities and action

IX. CONSENT ITEMS

- A.** Discussion and possible action on appointments of and renewals of Special Rangers and special Texas Rangers Pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024
- B.** Discussion and possible action on proposed rules for publication:
 - 1.** Proposed new Rule 1.44, 37 TAC Sec. 1.44, regarding Legislative Leave Pool
 - 2.** Proposed amendments to Rule 15.163, 37 TAC Sec. 15.163, regarding Indigency, Incentive and Amnesty Programs
- C.** Discussion and possible action on adoption of proposed rules for publication:
 - 1.** Proposed new Rules 1.281 – 1.284, 37 TAC Secs. 1.281 – 1.284, regarding Negotiated Rulemaking Policy
 - 2.** Proposed amendments to Rule 4.37, 37 TAC Sec. 4.37, regarding Acceptance of Out-of State Commercial Vehicle Inspection Certificate
 - 3.** Proposed amendments to Rules 14.32, 14.33, and 14.36, 37 TAC Secs. 14.32, 14.33, and 14.36, regarding School Bus Driver Safety Training Program
 - 4.** Proposed amendments to Rules 14.52 and 14.54, 37 TAC Secs. 14.52 and 14.54, regarding School Bus Safety Standards

X. ITEMS FOR FUTURE AGENDA

XI. DATE FOR FUTURE MEETINGS

XII. 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 governmental 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

AGENDA
Public Safety Commission Meeting
October 21, 2010 9:30 a.m.
Criminal Law Enforcement Auditorium
6100 Guadalupe, Bldg E
Austin, TX 78752

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

- I. CALL TO ORDER**
- II. APPROVAL OF MINUTES**
- III. 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)
- IV. DIRECTOR'S REPORT**
- V. NEW BUSINESS**
 - A.** Discharge appeal hearing and possible action regarding DPS employee Derrick Jeter
 - B.** Report, discussion and possible action regarding Public Safety Communications Bureau consolidation plan
- VI. 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
- VII. ONGOING BUSINESS**

Reports, discussion and possible action regarding the following:

 - A.** Report, discussion and possible action on search to retain new General Counsel
 - B.** Discussion and possible action regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team
 - C.** Committee report on 28-day work cycle and Overtime and Compensatory Time policy
 - D.** Update report, discussion, and possible action by the Commission regarding modification and transformation of the DPS organizational structure approval of personnel placements and salaries pursuant to Government Code chapter 411, Secs. 411.005, 411.006 and 411.0071
 - E.** Update report, discussion and possible action regarding the status of building safety and security at the DPS campus on North Lamar
 - F.** Report, discussion and possible action on the Fiscal Year 2011 Operating Budget
 - G.** Report, discussion and possible action regarding purchases using seized funds

-
- H. Update Report, discussion and possible action regarding recruitment - including comparable recruit schools i.e.: Texas Parks & Wildlife and Austin Police Department

VIII. REPORTS

- A. Commission member reports and discussion
- B. Finance Report
- C. Audit & Inspection Report
- D. Division status reports on activities and action

IX. CONSENT ITEMS

- A. Discussion and possible action on the Director's Action of discharging probationary employee Krystle Salgado
- B. Discussion and possible action to recognize Chuck and Aaron Norris as Honorary Texas Rangers
- C. Discussion and possible action on proposed rules for publication:
 - 1. Proposed new Section 1.291, 37 TAC Sec. 1.291, regarding Technology Policy
 - 2. Proposed amendments to Section 6.11 and Section 6.12, 37 TAC Sec. 6.11 and Sec. 6.12, regarding Eligibility and Application Procedures for Concealed Handgun Licenses
 - 3. Proposed amendments to Sections 6.71 – 6.73, 6.78, 6.83, 6.84, and 6.87, 37 TAC Secs. 6.71 – 6.73, 6.78, 6.83, 6.84, and 6.87, regarding Certified Handgun Instructors
 - 4. Proposed repeal of Section 6.89, 37 TAC Sec. 6.89, regarding Proficiency Certificates for Concealed Handgun Licenses
 - 5. Proposed new Section 28.191, 37 TAC Sec. 28.191, regarding Sexual Assault Evidence in Cases Without Law Enforcement Reporting
 - 6. Proposed new Chapter 37, Section 37.1 and Section 37.2, 37 TAC Sec. 37.1 and Sec. 37.2, regarding Sex Offender Registration
- D. Discussion and possible action on adoption of proposed rules for publication:
 - 1. Proposed repeal of Section 15.163, 37 TAC Sec. 15.163, regarding Indigency, Incentive and Amnesty Programs and proposed new Section 15.163, 37 TAC Sec. 15.163, regarding Indigency, Incentive and Amnesty Programs.
 - 2. Proposed new Sections 27.141 – 27.144, 37 TAC Secs. 27.141 – 27.144, regarding Federal Firearms Disabilities
 - 3. Proposed new Chapter 36, Sections 36.1 – 36.21, 37 TAC Secs. 36.1 - 36.21, regarding Metals Registration

X. ITEMS FOR FUTURE AGENDA

XI. DATE FOR FUTURE MEETINGS

XII. 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 governmental 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

TEXAS FORENSIC SCIENCE COMMISSION

BOARD MEMBERS

The Honorable John Bradley, Presiding Officer
Williamson County District Attorney
405 MLK Box 1
Georgetown, Texas 78626
Appointment Date: 9/29/2009
Appointment Expiration: 9/01/2011
Appointed by: Governor

Dr. Gary Adams
College of Veterinary Medicine
Texas A&M University
College Station, Texas 77843-4461
Appointment Date: 3.08.2006
Appointment Expiration: 9.01.2011
Appointed by: Lt. Governor

Dr. Arthur Jay Eisenberg
University of North Texas
Health Science Center
3500 Camp Bowie Blvd.
Fort Worth, Texas 76107
Appointment Date: 10/30/2006
Appointment Expiration: 9/01/2012
Appointed by: Attorney General

Lance Evans
Evans, Daniel, Moore & Evans
115 West Second #202
Fort Worth, Texas 76102
Appointment Date: 10/9/2009
Appointment Expiration: 9/01/2011
Appointed by: Governor

Dr. Norma Farley
Chief Forensic Pathologist in Hidalgo and Cameron Counties
Valley Forensics, PLLC
200 S. 10th Street
McAllen, Texas 78501
Appointment Date: 9/29/2009
Appointment Expiration: 9/01/2011
Appointed by: Governor

Dr. Stanley R. Hamilton
The University of Texas
M.D. Anderson Cancer Center
Division of Pathology & Laboratory Medicine
1515 Holcomb Blvd. - Unit 085
Houston, Texas 77030
Appointment Date: 3/08/2006
Appointment Expiration: 9/01/2011
Appointed by: Lt. Governor

Dr. Jean Hampton
College of Pharmacy & Health Sciences
Texas Southern University
3100 Cleburne
Houston, Texas 77004
Appointment Date: 3/08/2006
Appointment Expiration: 9/01/2011
Appointed by: Lt. Governor

Dr. Sarah Kerrigan
Forensic Science Program
Sam Houston State University
Box 2525/1003 Bowers Boulevard
Huntsville, Texas 77341
Appointment Date: 12/01/2007
Appointment Expiration: 9/01/2012
Appointed by: Attorney General

Dr. Nizam Peerwani
Office of the Chief Medical Examiner, Tarrant County
200 Feliks Gwozdz Place
Fort Worth, Texas 76104
Appointment Date: 12/14/2009
Appointment Expiration: 9/01/2011
Appointed by: Governor

MISSION

The mission of the FSC is to strengthen the use of forensic science in criminal investigations and courts by:

- developing a process for reporting professional negligence or misconduct
- investigating allegations of professional negligence or misconduct
- promoting the development of professional standards and training
- and recommending legislative improvements.

THE POLYGRAPH EXAMINERS BOARD

The Polygraph Examiners Board was abolished by Senate Bill 1005 which transferred the regulation of polygraph examiners from the Polygraph Examiners Board to the Department effective as of May 13, 2009.

TEXAS PRIVATE SECURITY BOARD

BOARD MEMBERS

The Honorable John E Chism, Chairman

The Honorable Howard H Johnsen, Vice Chairman

The Honorable Mark L. Smith, Secretary

The Honorable Stella Caldera, Board Member

The Honorable Patrick Patterson, Board Member

The Honorable Charles E Crenshaw, Board Member

The Honorable Doris F Washington, Board Member

PURPOSE

The Texas Department of Public Safety, Private Security Bureau regulates the private security industry in the state of Texas. State regulations for this industry include licensing private security companies and registering individuals employed by those licensed companies.

The Private Security Bureau was created in 1969 as the Texas Board of Private Investigators and Private Security Agencies. In 1998, the Agency was renamed the Texas Commission on Private Security. The Commission became associated with the Texas Department of Public Safety in September 2003, and the Commission was abolished and reestablished as the Department's Private Security Bureau in February 2004.

The Private Security Bureau employs licensing and investigations staff internally at the TXDPS headquarters in Austin, TX, as well as field investigators located throughout the state. The Bureau's investigators, who are commissioned peace officers, investigate both criminal and administrative violations of the Texas Occupations Code, Chapter 1702 and related administrative rules.

The Private Security Bureau is associated with the Private Security Board which is a seven member board appointed by the governor. The Private Security Board was established to hear appeals by applicants under the Private Security Act. In addition, the Board devises rules for the administration of the Act.

The Licensing section handles original and renewal applications for Private Security companies and their employees. Private Security companies may apply for a license and private security employees may apply for a registration. It is important to note that individuals cannot independently apply for a Private Security Registration without being employed by a licensed Private Security company. The Licensing section staff is responsible for:

-
- the receipt of applications
 - review of the application, fees and supplemental documentation
 - determination of eligibility based on Texas Occupation Code, Chapter 1702
 - issuance or denial of Private Security Company licenses or Individual registrations

The Investigation section handles consumer complaints, alleged criminal activity and administrative violations. The Investigation staff consists of civilian employees and commissioned peace officers. The civilian Investigations section staff is responsible for:

- processing consumer complaints
- reviewing all applicant criminal history background checks
- acceptance, denial, revocation or suspension of licenses and registrations
- setting hearings

COMMISSION ON STATE EMERGENCY COMMUNICATIONS



COMMISSION ON STATE EMERGENCY COMMUNICATIONS

TO PROTECT AND ENHANCE PUBLIC SAFETY AND HEALTH

333 Guadalupe Street ★ Suite 2-212 ★ Austin ★ Texas 78701-3942

August 12, 2010

Mr. Kirby Portley
Committee Clerk
House Committee on Public Safety
EXT E2.146
P.O. Box 2910
Austin, TX 78768-2910

Dear Mr. Portley,

In response to your request to Mr. Brock Logan, I am pleased to provide you with this summary of major activity at the Commission on State Emergency Communications (CSEC) since the close of the last legislative session:

ENHANCE 9-1-1 Act Grant Program. The CSEC submitted an application for Federal grant funds¹ and was awarded \$5,390,760.71 to implement the first stage of the migration path as laid out in the agency's Next Generation 9-1-1 Master Plan. The grant project entails the implementation of a state level Emergency Services Internet-protocol (IP) network (ESInet) that will interconnect IP capable Public Safety Answering Points (PSAPs) and allows for the receipt and delivery of traditional wireline calls. The grant funded project will leverage the state network deployed for NG9-1-1 to integrate voice radio dispatch communications through Radio over Internet-Protocol (RoIP). The grant program requires the grant project to be completed by September 30, 2012. No federal funding will be available to sustain its operation after completion of the grant project.

Work is in progress to complete the grant project within the required time. The CSEC has included a request in its Legislative Appropriations Request (LAR) for funding to sustain the network after the grant project is completed.

HB 1093. Prior to being amended, Health and Safety Code, Chapter 777, directed the Commission on State Emergency Communications (CSEC) and the Department of State Health Services (DSHS) to jointly administer the poison control network consisting of six poison control centers across Texas. House Bill 1093 (HB 1093) modified Health and Safety Code, Chapter 771, State Administration of Emergency Communications

¹ Grant funds were made available to 9-1-1 entities pursuant to the federal *Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004*, and the federal implementing regulations in 47 C.F.R. §§ 400.1 – 400.10.

and Chapter 777, Regional Poison Control Centers, to transfer, on May 1, 2010, all functions and activities relating to regional poison control centers to CSEC.

All milestones relating to the turnover have been completed and the transfer occurred as required on May 1, 2010.

Sunset Review. As required by Health and Safety Code Section 771.032, the CSEC is under review by the Sunset Advisory Commission during the 2010-2011 Biennium. The Staff Report has been issued and the Sunset Advisory Commission met on May 26, 2010 and made decisions on the two issues presented in the Staff Report.

Issue 1. Texas has a continuing need for the Commission on State Emergency Communications, although the Commission lacks adequate tools to oversee an evolving 911 system.

Recommendations

- 1.1 Continue the Commission on State Emergency Communications for 12 years.
- 1.2 Authorize the Commission to coordinate the development and implementation, and provide ongoing management of an interconnected state-level 911 network.
- 1.3 Require the Commission to establish an advisory committee for the development, implementation, and management of the various aspects of the State's NG911 system.
- 1.4 Apply the standard Sunset across-the-board requirement for the Commission to develop a policy regarding negotiated rulemaking and alternative dispute resolution.

The Sunset Advisory Commission adopted recommendation 1.1. Adopted 1.2 with modification changing the language in the recommendation from "911 network" to "IP emergency communications network" to allow the network to be used for other emergency communications, such as radio interoperability, instead of limiting it to only NG 911 service. Also adopted 1.3 and 1.4.

Issue 2. The Commission lacks the flexibility and sufficient measures necessary to evaluate and best structure the Texas Poison Control Network.

Recommendations

- 2.1 Remove references to the number, names, and locations of Texas' poison control centers from statute.
- 2.2 Require the Commission to evaluate TPCN's current structure, determine any necessary changes, and report its findings to the Legislature.
- 2.3 The Commission should maintain internal program-related performance measures for TPCN.

Recommendation 2.1 was not adopted. Adopted recommendation 2.2 as modified to make it a management action rather than a statutory recommendation, and to direct the Commission to conduct the evaluation and report its findings to the Legislature by February 7, 2011. Also adopted recommendation 2.3.

A copy of the Summary from the Sunset Advisory Commission's *Commission Decisions* is attached.

Budget Reduction. The Legislative Budget Board notified the CSEC that the target amount of savings for the 2010-2011 biennium 5% reduction was \$7,102,754. The CSEC submitted a plan to meet that target and sent a letter to State Leadership on April 20, 2010, requesting an exception for the CSEC from the 5% reductions. On May 18, 2010, the CSEC was notified by the Legislative Budget Board that the CSEC reductions had been adjusted. The adjustment of reductions by \$2,594,587, left a net total agency reduction of \$4,508,166, or 3.17% of the agency's 2010-2011 budget.

The 2010-2011 biennial reductions are summarized as follows:

- 9-1-1 Program – \$2,726,797 in equipment replacement; and \$690,618 in network operations. No staff reductions.
- Poison Control Program – \$304,239 in Regional Poison Control Center operations; and \$126,805 in the poison network. No staff reductions required, but two call taker positions at the regional poison control call centers that are currently vacant will remain unfilled.
- Agency Operations – \$37,500 from delay in hiring of Poison Program personnel; \$416,500 in professional service contracts avoided; \$39,262 in travel; \$76,000 in 9-1-1 public education; and \$90,446 in other CSEC office operating expenses.

Mr. Kirby Portley
CSEC Summary
August 12, 2010
Page 4

We look forward to continuing to work with the Committee on Public Safety during the upcoming session.

Sincerely,


Paul Mallett
Executive Director

Summary

Currently, the State has a limited role in the provision of 911 service. The Commission on State Emergency Communications (Commission) provides 911 service to about one-third of Texans in mostly rural areas of the state. Emergency Communications Districts and Municipal Emergency Communications Districts provide 911 service to the rest of the state. The Commission's role is further limited to the delivery of emergency calls and does not include the answering of the call or dispatch of emergency services.

Additionally, the State's current 911 system, designed to support home-based, analog phones, is not keeping pace with evolving digital communications technologies. Today, the public expects to be able to reach a 911 operator by making a phone call as well as by sending a text, video, or instant message. In response to these needs, a new 911 system, called Next Generation 911 (NG911), is evolving in Texas and throughout the country. In Texas, local emergency communications entities are beginning to develop and implement regional digital 911 networks, but a state-level network is needed to provide secure and reliable interconnectivity among the networks. However, no one entity is directly responsible for the development, implementation, and management of the state-level network.

No state entity is responsible for developing an interconnected, digital 911 system.

The Sunset review of the Commission identified the need for the development of a state-level network and found the Commission lacks clear authority and direction to do this. Further, while the Commission's initial efforts in planning for this network are commendable, the State needs to ensure the Commission has access to additional technical expertise to effectively execute and manage the network. The recommendations in this report help address these concerns by making the Commission accountable for the coordinated development, implementation, and management of the State's digital 911 network, and ensuring it has access to needed expertise and stakeholder input to carry out this responsibility.

While the timing of the Commission's Sunset review presented an opportunity to address changes to the State's 911 system, it imposed some limitations in evaluating the State's poison control network. The Texas Poison Control Network (TPCN) consists of six regional interconnected call centers that provide poison information to the public and healthcare professionals through a toll-free number, as well as educational programs and poison-related research. Because full administration of TPCN does not transfer to the Commission until May 1, 2010, timing was not optimal for a full review of the program. Recognizing the State's need for agencies to reduce costs, the transfer of TPCN presents an opportunity to position the Commission to fully evaluate and determine the most cost-effective and efficient structure for the network to meet the State's needs.

The following material summarizes the Sunset staff's recommendations to address the Commission's lack of adequate tools to provide the highest quality 911 and poison control services to the state.

Issues and Recommendations

Issue 1

Texas Has a Continuing Need for the Commission on State Emergency Communications, Although the Commission Lacks Adequate Tools to Oversee an Evolving 911 System.

The State's 911 system provides a critical, life-saving function in times of individual crisis or major disaster. The Commission on State Emergency Communication's role in the provision of 911 service is limited to rural areas of the state not covered by Emergency Communications Districts or Municipal Emergency Communications Districts. While this mix of state and local 911 service provision works well for the state, evolving digital technology necessitates the creation of a statewide, interconnected 911 system, called Next Generation 911.

Although the Commission has started planning for the establishment of and transition to this system, it does not currently have the authority or the expertise available to fully implement a statewide NG911 emergency communications system. Continuing the Commission and statutorily authorizing it to coordinate the development, implementation, and management of the statewide NG911 system with an advisory committee will give it the legitimacy and expertise necessary to successfully implement the system. Local entities would continue to answer emergency calls and dispatch responders.

Key Recommendations

- Continue the Commission on State Emergency Communications for 12 years.
- Authorize the Commission to coordinate the development and implementation, and provide ongoing management of an interconnected state-level 911 network.
- Require the Commission to establish an advisory committee for the development, implementation, and management of the various aspects of the State's NG911 system.

Issue 2

The Commission Lacks the Flexibility and Sufficient Measures Necessary to Evaluate and Best Structure the Texas Poison Control Network.

The Texas Poison Control Network consists of six regional poison control call centers that provide poison information to the public and healthcare professionals through a toll-free number. Currently the Commission on State Emergency Communications and the Department of State Health Services jointly administer TPCN. However, full administration of the network transfers to the Commission on May 1, 2010.

Since the network was in transition, Sunset staff performed a limited review of TPCN and found designating the six call centers in statute limits the Commission's ability to determine the most effective structure for the network once it transfers. Also, maintaining the network's internal performance

measures would help the Commission better evaluate both the individual centers and the network overall to determine how to best administer TPCN.

Key Recommendations

- Remove references to the number, names, and locations of Texas' poison control centers from statute.
- Require the Commission to evaluate TPCN's current structure, determine any necessary changes, and report its findings to the Legislature.
- The Commission should maintain internal program-related performance measures for TPCN.

Fiscal Implication Summary

These recommendations could have a fiscal impact depending on how they are implemented, and therefore, cannot be estimated at this time.

- *Issue 1* – The Commission, through its legislative appropriations request, and the Legislature, through appropriations decisions, will set the pace for actual development and implementation of the NG911 system.
- *Issue 2* – Depending on the Commission's evaluation results, cost savings could eventually result by restructuring TPCN.

CRIME STOPPERS ADVISORY COUNCIL



The Honorable Tommy Merritt
Chair, Committee on Public Safety
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

August 3, 2010

Dear Chairman Merritt:


I appreciate the opportunity to update the House Committee on Public Safety on the important work of the Texas Crime Stoppers Council.

The Texas Crime Stoppers Council oversees the certification of approximately 140 adult Crime Stoppers programs and numerous Campus Crime Stoppers programs located throughout the State of Texas. Through the cooperative efforts of certified Crime Stoppers programs and local law enforcement, Texas has apprehended close to 120,000 criminals, resulting in one billion dollars in property recovered and narcotics seized since the first program began in 1978 in El Paso.

The success of the Crime Stoppers program is found in its simplicity. Crime Stoppers programs are all independent non-profits. Local Crime Stoppers programs in Texas receive support from the Texas Crime Stoppers Council, which is located in the Criminal Justice Division (CJD), Office of the Governor. The Council consists of five members appointed by the Governor. They represent law enforcement, local program boards, and the media. Established under Chapter 414, Government Code, the Council makes rules governing the operation of local programs that seek certification from the state and helps these programs operate effectively through grants, training, and technical assistance. Chapter 414 charges the Texas Crime Stoppers Council with certifying all local Texas Crime Stoppers programs that receive and expend court fees. Under Articles 37.072 and 42.12, Code of Criminal Procedure, certified Crime Stoppers programs are eligible to receive court fees. Additionally, certified Crime Stoppers programs are eligible to apply for grant funding through the Crime Stoppers Assistance Fund via CJD. The larger success of certified Crime Stoppers programs is dependent on this funding.

Representative Merritt, it has been a deep privilege for me to serve Texas as Chair of the Texas Crime Stoppers Council and I am happy to report that the Crime Stoppers program in Texas is a working success which is helping to keep Texas communities and schools safe.

Sincerely,


Nelda Garcia, Chair
Texas Crime Stoppers Council
Officer of the Governor
Criminal Justice Division



Texas Crime Stoppers Council

Senate Bill 85 and Senate Bill 149, 71st Legislature, Regular Session signed into law by Governor Clements in 1989, charged the Texas Crime Stoppers Council with certifying all local Texas Crime Stoppers programs that plan to receive and expend court generated fees, under the provisions of these two bills. [...] In June 1981, House Bill 1681, 67th Legislature, Regular Session, created the Texas Crime Stoppers Council, which operates within the Criminal Justice Division of the Governor's Office. Five members appointed for four-year terms by the Governor, with the advice and consent of the Senate, comprise the council. At least three council members must have participated in local Crime Stoppers programs.

The Council is charged with the following responsibilities:

- a. Advise and assist in the creation of local Crime Stoppers programs.
- b. Foster the detection of crime and encourage persons through the program or otherwise, to come forward with information about criminal activity.
- c. Encourage the news media to promote local Crime Stoppers programs and to inform the public of the functions of the Council.
- d. Assist local Crime Stoppers programs in channeling information reported to those programs concerning criminal activity to appropriate law enforcement agencies.
- e. Certification of local Crime Stoppers programs.

The priority goal of the council is to encourage the continued expansion and creation of additional local Crime Stoppers programs statewide and to assist these programs in the successful solution of felony crimes.

Texas Crime Stoppers Council Members

- Nelda L. Garcia, Chair, Ben Bolt, Texas
- Officer Jorge E. Gaytan, Vice Chair, Instructor, Houston Police Department Academy
- Emerson F. Lane, member, Beaumont, Texas
- Chief W. Randy McDaniel, Chief Deputy, Montgomery County Sheriff's Department, Conroe, Texas
- Katherine Cabaniss, Executive Director, Houston Crime Stoppers

The Council meets quarterly and when required in order to conduct state business.

Reference: http://www.thetexascrimestoppers.org/resource_library/SOP-MAR2010.pdf
<http://www.thetexascrimestoppers.org/>
<https://cid.tamu.edu> 2009 Texas Crime Stoppers Council Annual Report Public Policy Research Institute



Texas Crime Stoppers Council

2009 - 2010 Accomplishments

- **Texas Ten Most Wanted Fugitives**, a cooperative program of the Texas Crime Stoppers Council and the Texas Department of Public Safety, now offers up to \$50,000 to tipsters and guarantees anonymity.
- **Texas Ten Most Wanted Sex Offenders** list was reinstated in July 2010. Since reinstatement, there have been 6 arrests as of August 3, 2010. This is a cooperative program with the Texas Crime Stoppers Council and the Texas Department of Public Safety.
- Continued partnership with the Texas Department of Public Safety, Texas Parent Teachers Association, Texas Association of School Administrators, and Texas Association of School Boards, Texas Police Chiefs' Association and the Texas Sheriffs' Association.
- Several new multi-county Crime Stoppers programs have been formed throughout Texas.
- Increased Campus Crime Stoppers programs in Texas schools, from middle schools to colleges and universities.
- The Texas Crime Stoppers program is a proven savings and value to Texas taxpayers for crimes prevented, lives saved, property protected, and **health-care costs avoided**; especially considering the amount of money invested via grant funding, court fees, and the thousands of volunteer hours donated. The rate of return value to Texas taxpayers by the Crime Stoppers program is massive as **zero tax dollars are used** to fund the community and school-based Crime Stoppers programs.

Reference: http://www.thetexascrimestoppers.org/resource_library/SOP-MAR2010.pdf
<http://www.thetexascrimestoppers.org/>
<https://cjd.tamu.edu> 2009 Texas Crime Stoppers Council Annual Report Public Policy Research Institute



2009 Texas Crime Stoppers Council Annual Report						
	Suspects Arrested	Offenses Cleared	Rewards Paid	Property Recovered	Narcotics Seized	
TOTAL	6185	8579	\$2,081,213	\$3,070,230.40	\$49,984,108	
2009 Texas Crime Stoppers Campus Programs						
	Administrative Discipline	Offenses Cleared	Rewards Paid	Stolen Property	Illegal Drugs	Weapons
TOTAL	1745	2480	\$112,607	\$37,015	\$19,941	128
Statewide Statistics Since Inception as Reported by Program						
	Suspects Arrested	Offenses Cleared	Rewards Paid	Property Recovered	Narcotics Seized	
TOTAL	113,903	521,399	\$26,284,155.00	\$182,312,837.56	\$798,938,346.41	
<p><i>Since inception of the first Crime Stoppers program in El Paso in 1978, in cooperation with local law enforcement, the Texas Crime Stoppers programs statewide have successfully retrieved one billion dollars in property recovered and narcotics seized.</i></p>						

Reference: http://www.thetexascrimestoppers.org/resource_library/SOP-MAR2010.pdf
<http://www.thetexascrimestoppers.org/>
<https://cid.tamu.edu> 2009 Texas Crime Stoppers Council Annual Report Public Policy Research Institute

2009 Texas Crime Stoppers Council Annual Report

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Since inception of the first Crime Stoppers program in El Paso in 1978, in cooperation with local law enforcement, the Texas Crime Stoppers programs statewide have successfully retrieved one billion dollars in property recovered and narcotics seized.

TEXAS CRIME STOPPERS COUNCIL

August 5, 2010

#1 Criminal Justice Drive
Conroe, Texas 77301

AGENDA

Notice is hereby given that a Regular Meeting of the Texas Crime Stoppers Council will be held on the 5th day of August, 2010, beginning at 1:00 p.m. at #1 Criminal Justice Drive, Conroe, Texas 77301. If you require auxiliary aids, services, or materials in an alternate format, please contact the Crime Stoppers Council at least five business days before the meeting. Phone: (512) 463-1784; FAX: (512) 475-1467; E-MAIL: bbosarge@governor.state.tx.us. TDD Relay Texas: 1-800-relay-VV (for voice), 1-800-TX (for TDD).

- I. Call to Order and Roll Call
- II. Introductions
- III. Public Comment (limited to two minutes per person)
- IV. Action Item: Approval of Minutes from May 27, 2010, Council meeting
- V. Action Item: Vote on Initial Certification for new programs, Coppell Crime Commission Crime Stoppers, Coppell, and Guadalupe County Crime Stoppers
- VI. Action Item: Vote on Continuing Certification of Crime Stoppers programs; the following programs that were tabled at the May 27, 2010, Council meeting may be considered for Continuing Certification: McCulloch County Crime Stoppers; Falls County Crime Stoppers; Brazoria County Crime Stoppers; Deaf Smith County Crime Stoppers; Lavaca County Crime Stoppers; and Mainland Communities Crime Stoppers.
- VII. Action Item: Consider changes to training requirements for Initial and Continuing Certification of Crime Stoppers programs
- VIII. Action Item: Recommend topics for discussion at the "Council Listening Sessions" to be held at the Annual Conference in Abilene in October; these listening sessions will provide local program board members and coordinators with an opportunity to address issues of concern to them
- IX. Chair Report: To include the following items: Review plans to honor certified Crime Stoppers programs that have been operating for 25 or more

years; participation at Crime Stoppers USA Conference to be held in San Antonio; and Council booth at Annual Conference in Abilene in October

- X. Director's Report: To include the following items: Texas Top 10 Most Wanted Fugitives apprehended and rewards paid; hotline operations move at DPS; establishment of Texas Top 10 Most Wanted Sex Offenders list and apprehensions; staff activities; fiscal year 2011 Crime Stoppers Assistance Fund grants; training contract with Texas State University-San Marcos; risk assessment audit of Texas Crime Stoppers staff activities by the Office of the Governor; working with local programs on new IRS regulations affecting non-profit corporations; participation at Annual Texas PTA Conference in Austin in July; participation at Sheriffs' Association of Texas Annual Conference in Fort Worth in July; technical assistance to programs; and on-going projects
- XI. Report from Crime Stoppers Training Program, Texas State University-San Marcos: To include the following items: Evaluations of training programs held since the May 27, 2010, Council meeting; upcoming courses; update on program and registration for the Annual Conference in Abilene in October; participation in exhibits; location of the 2012 Annual Campus Conference; and estimated costs for updating the on-line courses
- XII. Schedule next meeting
- XIII. Adjourn

APPENDIX

APPENDIX A

**DPS Public Safety Commission
October 30, 2009 Meeting**

Graduation Totals for Previous Three Years

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u> <u>projected</u>
<u>Graduation Date</u>				
Applicants	2460	1148	1139	1554
Started School	265	283	261	240
Graduated	230	233	212	189
Attrition	174	263	187	180
# of Graduates Funded by Legislature	100	100	100	100
# of Graduates Funded by Variance	130	133	112	59
Approximate Cost of Unfunded Graduates	\$3,250,000	\$3,325,000	\$2,800,000	\$1,475,000
Graduates funded by border appropriation				30

*Source: Texas Department of
Public Safety*

APPENDIX B

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
Academy Orientation, Registration, and Rules	1	*
Addresses by Director's Staff & Chiefs	1	*
ALERRT Training	17	*
Ammunition/OC Spray Issuance	18	*
Arrest, Search, & Seizure	3	
Civil Procedures (Civil Process and Liability)	8	
Code of Criminal Procedures, Texas	5	
Commercial Vehicles	11	
Communication & Problem Solving		
- Basic Communication	1	
- Interpersonal Communication	5	
- Problem Solving & Critical Thinking	1	
- Effective Speaking (Public Speaking)	1	
- Police Vocabulary	1	
Completing Employment Forms	1	*
Completing Insurance Forms	1	*
Concealed Handgun Law	8	*
Criminal Investigation (Basic)		
- Booking Procedures	11	
- Case Preparation (Case Management 2 hrs)	12	
- Courtroom Demeanor and Testimony	11	
- Criminal Justice Systems	1	
- Examination	12	
- General	11	
- Interview and Interrogation	11	
- Introduction	11	
- K-9 Procedures	12	
- Security, Searching, and Diagramming	11	
- Victim's Rights	7	
- Building Clearing	12	
- Evidence and Footprints	12	
Crisis Intervention Training	8	
Critical Incidents	7	
Cultural Diversity	2	
Driver License Law		*
- Definitions: Laws & Rules	9	*
- Driving While License Invalid (DWLI)	9	*
- Exam and Review	9	*
- Fileable Offenses	9	*
- Fraudulent Documents	9	*
- Occupational License	9	*
- Provisional and MDR: MAB & CDL Phys. Req.	9	*
- Suspensions/BTR/ Probation	9	*
Driving		

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
- Vehicle Dynamics/Driver Assumptions	10	
- How to See Folder Preparation	10	
- Field	11	
- How to See -The Smith System	10	
- Orientation	10	
- Pursuit Issues	11	
- Stinger Spikes/Stop Sticks	10	
Drugs		
- Drug Identification	2	
- Health and Safety Code	2	
- Exam	2	
DWI/SFST	13	
Emergency Communications		
- Emergency Communications (10+ 6 Practical)	6	
- In-car computer training	6	
- TCIC/NCIC	6	
Equal Employment Office (EEO) Training	1	*
Family Violence	7	
Firearms		
-Issue/Familiarization	1	
-Range Orientation	5	
-Pistol, Rifle, & Shotgun Training/Qualification	5	
First Aid: Emergency Medical Assistance	1	
Fitness/Wellness/Stress Management		
- Fitness & Wellness (Classroom)/Exam	1	
- Stress Management	1	
General Stores Equipment Issuance	1	*
General Stores Uniform Issuance	13	*
Graduation	18	*
Graduation Practice/Photos with Director	18	*
Hazardous Materials	14	
History & Organization of the DPS	1	*
Internal Affairs	1	*
Juvenile Issues	4	
Juvenile Issues (Gangs)	4	
Laptop Computer Use	1	*
Marching (Facing Movements/Formation/etc)	1	*
Maintenance (TCLEOSE Re-Test)	18	*
Manual/Vocabulary Handout	1	*
Mechanics of Arrest/ACT		
-Asp Baton	10	
-Introduction	1	
-Handcuffing	9	
-OC Spray (Inert/Classroom/Exam)	13	

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
-OC Spray (LIVE Practical)	13	
-Scenario Exercises	17	
-Tactical Simulation Drill (Incl. Debrief & Re-Test)	17	
-Self-Defense	1	
Patrol Procedures (Includes Foot Pursuits)		
- Crowd Control (Management)	14	
- Low Light Training	17	
- Profiling	14	
- Practical Application	17	
- Criminal Interdiction	14	
- General (Consular Notification, 7-Step, Policies)	14	
Payroll Information	1	*
Penal Code, Texas	9	
Physical Training (Including PRT)	1	*
Physical Training - Orientation	1	*
Portraits (Bleachers/Patrol Unit)	18	*
Professional Police Approaches	2	
Professionalism and Ethics	2	
Report Writing	13	
Spanish (Basic)	7	
TCLEOSE State Licensing Exam	16	
TCLEOSE Review	16	*
Ten General Orders	1	*
Terrorism - Law enforcement Countermeasures		
- Response to Terrorist Bombings	3	
- Understanding and Combating Terrorism	3	
- Weapons of Mass Destruction (#55027)	3	
Texas Alcoholic Beverage Commission	10	
Texas Intel Center	3	*
Traffic		
-Basic Radar Operations	13	
-Crash Investigations		
-Introduction	17	
-Crash Reporting	18	
-Direction of Force	17	
-Expert Testimony	18	
-Gathering Evidence	18	
-Lamp Examination	15	
-Police Math	17	
-Police Photography	16	
-Practical Problems in Speed Computation/Yaw-marks	18	
-Scale Diagram	18	
-Simulated Collision Investigation	18	
-Traffic Collision Investigation & Exam	18	

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
-Traffic Scene Management	18	
-Traffic Template	18	
-Transportation Code	21	
United States and Texas Constitutions	4	
Use of Force		
- Concepts	10	
- Concepts (Communications Skills)	11	
- Examination	11	
- Law	10	
-Pre-Incident Indicators	10	
Victims of Crime	11	
Worker's Compensation	1	*

*Red Status Bar indicates grouping of subjects under TCLEOSE Required Topic Headings or DPS required blocks.

Asterisk * denotes DPS Courses only

DELETED COURSES

Aircraft	1 Hour
Amber Alert	1 Hour
Asset Seizure & Forfeiture	2 Hours
Bicycle Law & RR Crossing Safety	2 Hours
Intermediate Child Abuse	23 Hours
CitiStreet 401K/457	1 Hour
Classroom Notebooks/Notetaking	2 Hours
Collision Investigation	4 Hours
Intermediate Criminal Investigation	35 Hours
Criminal Law Enforcement Division	1 Hour
DPS Museum	1 Hour
Division of Emergency Management	1 Hour
DPS Credit Union	1 Hour
Dress For Success	1 Hour
DL Examinations--Written/Vision	2 Hours
Driving Test Restrictions	1 Hour
DL Fees/ID Cards	1 Hour
Instructor Permits	2 Hours
Probation Appeals	1 Hour
Field Notetaking	2 Hours
Firearms & Explosives Recognition	4 Hours
HEAT Program	1 Hour
Intermediate Identity Theft	4 Hours
Incident Command	2 Hours
Introduction of Training Staff	1 Hour

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
Movie Night	2 Hours	
Office Of OAI	1 Hour	
PSAT	1 Hour	
PIO	1 Hour	
Texas Ranger Museum	1 Hour	
Intoxilyzer	38 Hours	
Legal Traffic Stops/Racial Profiling Intermediate	2 Hours	
Intermediate Use of Force	4 Hours	
ADDITION OR REDUCTION OF COURSE HOURS		
Arrest, Search & Seizure	(-3) Hours	
Building Clearing	(+2) Hours	
Commercial Vehicles	(-1) Hour	
Concealed Handgun Law	(-2) Hours	
Crash Reporting	(+1) Hour	
Scale Diagram	(-2) Hours	
Booking Procedures	(-1) Hour	
Case Preparation/Management	(-1) Hour	
Criminal Interdiction	(-6) Hours	
General Investigation	(+3) Hours	
Evidence & Footprints	(+2) Hours	
Criminal Justice Systems	(-1) Hour	
Cultural Diversity	(+1) Hour	
DL Suspension/BTR/Probation	(-1) Hour	
Driving	(-2) Hours	
Firearms	(-44) Hours	
ALERRT/Simuntion/Tactical Training	(+22) Hours	
Stinger Spikes/Stop Sticks	(-1) Hour	
Drug Identification	(-4) Hours	
Emergency Communications	(-2) Hours	
EEO Training	(-2) Hours	
Family Violence	(+1) Hour	
First Aid: EMS	(-8) Hours	
General Stores Uniform Issuance	(-2) Hours	
GraduationPractice/Photos With Director	(-1) Hour	
Hazardous Materials	(-1) Hour	
Laptop Computer Use	(-1) Hour	
Marching	(-1) Hour	
Handcuffing	(-3) Hours	
Penal Code	(-2) Hours	
Physical Training	(-31.5) Hours	
Professionalism & Ethics	(-3) Hours	

DPS 18 WEEK TROOPER ACADEMY

COURSE	WEEK	NOTES
Report Writing	(-6) Hours	
Spanish (Intermediate)	(-32) Hours	
TCLEOSE (Re-Test)/Recruit Maintenance	(+3) Hours	
Patrol Procedures	(-18) Hours	
Transportation Code	(-10) Hours	
US & Texas Constitution	(+1) Hour	
Worker's Compensation	(0.5) Hour	
ABSORPTION OF COURSE HOURS		
Fingerprinting now included with		(General Investigation)
Dormitory Rules & Regulations now included with		(Academy Orientation)
History of the DPS now included with		(Organization of the DPS)
Internal Affairs (Complaint Process) now included with		(IA Firearms Investigation)
Police Vocabulary now included with		(Comm. & Problem Solving)

APPENDIX C

TEXAS COMMISSION ON LAW ENFORCEMENT

OFFICER STANDARDS AND EDUCATION

6330 U.S. Highway 290 East, Suite 200

Austin, Texas 78723

Phone: (512) 936-7700

<http://www.tcleose.state.tx.us>

**Peace Officer Proficiency Certification Requirements Chart
Commission Rules § 221.1 and 221.3**

Basic Peace Officer Proficiency Certificate 221.3(a)

Requires (listed items)

an active license or appointment 221.(a)(2)

1 year of service

AND

Course(s)

1999 Personnel Orientation by Department (if licensed on or after 06/01/1998)

3722 Peace Officer Field Training (if licensed on or after 06/01/2004)

Intermediate Peace Officer Proficiency Certificate 221.3(b)

Requires (listed items)

an active license or appointment 221.(a)(2)

Basic Peace Officer Certificate

Specific Intermediate Courses (if Basic Peace Officer Proficiency Certificate was issued after 01/01/1987)

Intermediate Courses - Must complete all courses or equivalents (approved equivalents are listed)

2105 Child Abuse Prevention and Investigation

2106 Crime Scene Investigation

2107 Use of Force

2108 Arrest, Search, and Seizure

2109 **OR** 2110 Spanish for Law Enforcement

3277 Identity Crimes

3255 Asset Forfeiture

3256 Racial Profiling

OR

3257 Combined Asset Forfeiture and Racial Profiling

AND

1 of these 4

3840 CIT Train the Trainer

3841 Crisis Intervention Training

3842 Basic Peace Officer CIT Component (as of 09/01/2005)

4001 Mental Health Peace Officer Training

Additional Course Requirements beginning 9/1/2009

1 of these 8

3232 Special Investigative Topics

3264 Special Investigator Certification Course

3265 Special Investigator Train-the-Trainer Course

3740 Chief's Continuing Education

3742 Newly Elected Constable Course

3743 Continuing Education for Constables

3737 New Supervisor's Course (first time supervisor only)

3780 New Chief's Course

OR All 3 of these

- 3261 SAFVIC Module 1
- 3262 SAFVIC Module 2
- 3263 SAFVIC Module 3

OR All 4 of these

- 3224 Child Abuse Web with Exercises
- 3214 Family Violence Web w/ Exercises
- 3254 Sex Offender Characteristics Web with Exercises
- 3244 Sexual Assault Web with Exercises

AND

1 of these 7

- 3939 Cultural Diversity
- 394 Cultural Diversity Web with Exercises
- 3737 New Supervisor's Course (first time supervisor only)
- 3740 Chief's Continuing Education
- 3742 Newly Elected Constable Course
- 3743 Continuing Education for Constables
- 3780 New Chief's Course

PLUS

Hours	Education	Service (years)
400		8
800		6
1200		4
2400		2
	Associate's	4
	Bachelor's or higher degree	2

Advanced Peace Officer Proficiency Certificate 221.3(c)

Requires (listed items)

an active license or appointment 221.(a)(2)

Basic Peace Officer Certificate

Intermediate Peace Officer Certificate

Crisis Intervention Training (if Intermediate Peace Officer Certificate issued before (09/01/2005)

1 of these 4

- 3840 CIT Train the Trainer
- 3841 Crisis Intervention Training
- 3842 Basic Peace Officer CIT Component (as of 09/01/2005)
- 4001 Mental Health Peace Officer Training

PLUS

Hours	Education	Service (years)
800		12
1200		9
2400		6
	Associate's	6
	Bachelor's or higher degree	5

Master Peace Officer Proficiency Certificate 221.3(d)

Requires (listed items)

an active license or appointment 221.(a)(2)

Basic Peace Officer Certificate

Intermediate Peace Officer Certificate

Advanced Peace Officer Certificate

PLUS

Hours	Education	Service (years)
1200		20
2400		15
3300		12
4000		10
	Associate's	12
	Bachelor's	9
	Master's	7
	Doctorate/JD	5

APPENDIX D

COMMITTEE ON PUBLIC SAFETY

TEXAS HOUSE OF REPRESENTATIVES
P.O. BOX 2910 • AUSTIN, TEXAS 78768-2910
CAPITOL EXTENSION E 2.146 • 512-463-0133

TOMMY MERRITT
CHAIRMAN



STEPHEN FROST
VICE CHAIRMAN

July 22, 2009

The Honorable Joe Straus
Room CAP 2W.13
P.O. Box 2910
Austin, TX 78768

Dear Speaker Straus:

Regarding your inquiry about the status of the concealed handgun license (CHL) backlog and for an update on the computer virus that infected Department of Public Safety (DPS) computer systems this April, Rep. Joe Driver, Rep. Hubert Vo, and I met with DPS staff in my Capitol office on July 2 for a briefing.

Brad Rable and Bryan Lane assured us that DPS eradicated the Conficker virus shortly after infection and began implementing new personnel policies regarding computer usage and improved computer security measures as part of a comprehensive risk management plan to minimize future threats.

The CHL backlog has generated an increasing public outcry and DPS has struggled to process the unprecedented spike in applications. Wayne Mueller explained that with the new temporary employees and efforts to automate processes and improve efficiencies, DPS would commit to clear the backlog by December 1. Rhonda Trumble offered improved lines of communication and an increase in the regularity of updates.

I anticipate a strong and productive working relationship with DPS during the interim especially with regard to the CHL issue. Please find attached two documents that Mr. Mueller provided at the briefing describing the current CHL issue and prospects for the future.

Sincerely,

Tommy Merritt

cc: Chairman, Allan Polunsky
Steve McCraw
Members of the House Committee on Public Safety

MEMBERS:
JOE DRIVER LON BURNAM PHIL KING HUBERT VO TRYON D. LEWIS
BARBARA MALLORY CARAWAY EDDIE RODRIGUEZ

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

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www.txdps.state.tx.us



STEVEN C. McCRAW
DIRECTOR
LAMAR BECKWORTH
DEPUTY DIRECTOR



COMMISSION
ALLAN B. POLUNSKY, CHAIR
C. TOM CLOWE, JR.
ADA BROWN
JOHN STEEN
CARIN MARCY BARTH

September 8, 2009

Rep. Tommy Merritt
Chairman
House Public Safety Committee

Dear Chairman Merritt,

As you are well aware the Texas Department of Public Safety has been unable to keep up with the demand for concealed handguns licenses and as a result there has been a significant backlog, violating the time limit as dictated by statute, which as we discussed is unacceptable. In order to achieve the level of performance expected by the legislature the system will be entirely redesigned and automated. We are now using an automated process to conduct criminal background checks rather than diverting highway patrol resources to conduct these checks monthly.

I am pleased to report to you that, as of this week, the backlog has been substantially reduced. This means that for now, all completed CHL applications that have been submitted to the Department will be processed within the statutory turnaround time of 60 days. Also, this week over 9100 CHL licenses will be mailed.

Please find attached a letter I recently sent to police chiefs and sheriffs requesting their assistance in the process redesign.

I look forward to working with you on this and other important issues affecting the state of Texas.

Sincerely,

Steven C. McCraw
Director
Texas Department of Public Safety

cc: Rep. Stephen Frost
Rep. Lon Burnam
Rep. Joe Driver
Rep. Phil King
Rep. Tryon Lewis
Rep. Barbara Mallory Caraway
Rep. Eddie Rodriguez
Rep. Hubert Vo

EQUAL OPPORTUNITY EMPLOYER
COURTESY • SERVICE • PROTECTION

APPENDIX E

April 6, 2009

To the Director of the Department of Public Safety and members of the Public Safety Commission:

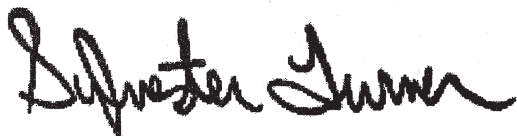
I'm writing in regards to the new requirement in DPS' Sunset bill that the agency institute an Indigency Program for the Driver Responsibility surcharge and implement new payment schedules for drivers who owe the surcharge.

It has come to my attention that there may be some confusion about the Indigency Program's effective date because the requirement to implement the program was included in two different parts of the bill, Section 6 and Section 15. The effective date for Section 15 is not until 2011, but the effective date for Section 6 is the same as the rest of the bill - Sept. 1, 2009. As the author of the amendments to the bill creating these provisions, I wanted to clear up any possible confusion. Section 6 of the Sunset bill requires DPS to implement an Indigency Program by Sept. 1, 2009. Section 15 lays out specific criteria that program must meet by 2011 and articulates details of new billing schedules which must be in place by that time.

The purpose of making the effective date 2011 in Section 15 was to provide flexibility as DPS implements the new program, but please make no mistake: Section 6 of the Sunset bill requires implementation of some sort of Indigency Program by Sept. 1, 2009. The canons of legislative interpretation do not allow the agency to construe the requirements of Section 6 as meaningless. The Public Safety Commission *must* create an Indigency Program by Sept. 1, 2009, and that program must meet the specifications in Section 15 by Sept. 1, 2011.

In closing, let me reiterate that the Commission has had full authority since 2007 to implement any Indigency, Amnesty, or Incentive programs that it chooses for the Driver Responsibility surcharge, thanks to authorization from SB 1723, which was approved by the 80th Texas Legislature. Under the Sunset bill, the agency continues to retain that authority between now and the effective date in Section 15. In fact, the Public Safety Commission has full authority to implement Section 15 immediately if it chooses, but if you delay, the law will require its implementation in just two short years.

Respectfully,



Sylvester Turner
State Representative, District 139

APPENDIX F

Presented to:
House Committee on Public Safety



Texas House of Representatives
April 7, 2010

618-HOUR BASIC PEACE OFFICER COURSE
(revised March 2008)

In accordance with Commission regulations, the Basic Peace Officer Course shall consist of a minimum of 618 classroom hours and shall include, but not be limited to, the subjects set forth below. This is the recommended sequence for teaching the course. Academies may change the sequence, if necessary.

#	SUBJECT	HOURS
	Introduction and Orientation	2
1.	Fitness and Wellness, and Stress Management	14
2.	Professional Policing	10
3.	Professionalism and Ethics	8
4.	U.S. & Texas Constitutions, Bill of Rights, and Criminal Justice System	12
5.	Multiculturalism and Human Relations	12
6.	Code of Criminal Procedure	16
7.	Arrest, Search, and Seizure	24
8.	Penal Code	40
9.	Traffic	68
10.	Intoxicated Driver and SFST	24
11.	Civil Process	8
12.	Alcoholic Beverage Code	4
13.	Health and Safety Code – Controlled Substances Act	8
14.	Family Code – Juvenile Issues	10
15.	Written Communications	16
16.	Spanish	16
17.	Force Options	24
18.	Mechanics of Arrest	40
19.	Firearms	40
20.	Emergency Medical Assistance	16
21.	Emergency Communications	12
22.	Professional Police Driving	32
23.	Communication and Problem Solving	16
24.	Patrol/Consular Notification	42
25.	Victims of Crime	10
26.	Family Violence and Related Assaultive Offenses	20
27.	Crisis Intervention Training (CIT) and Mental Health Code	24
28.	Hazardous Materials Awareness	6
29.	Criminal Investigation	44
	<u>Including:</u> Introduction, General, Protection of and Crime Scene Search, Interviewing Techniques, Booking Procedures, Courtroom Demeanor and Testimony, Case Management	
TOTAL HOURS		618

ENDNOTES

¹ See, e.g., "Texas Legislative Budget Board, Texas State Government Effectiveness And Efficiency: Selected Issues And Recommendations" (2007), available at <http://www.lbb.state.tx.us/>.

² Individuals whose licenses are suspended are unable to maintain liability insurance unless they are able to have their license reinstated within 20 days of obtaining insurance for their vehicle. Many individuals are unable to pay all of the fees associated with reinstatement of their licenses as they are insured.

³ Senate Bill 1723, 80th Legislature (Texas 2007) (effective September 1, 2007).

⁴ Devonia Smith, "Clinton vs Obama on national security: Mexico 'insurgency' an 'increasing threat.'" *See* www.examiner.com (September 15, 2010).

⁵ Nate Blakeslee, "Near/Far", Texas Monthly, August 2010 (relating to the lack of "spillover violence" in urban areas, official corruption, drug legalization and the human aspects of the drug wars).

⁶ *Id.* Additionally, the joint Committees heard testimony from Customs and Border Protection agents regarding a program the agency executes named Operation Detour. The agency shows video material to high school students in a "scared straight" type effort to convince students that the risks of becoming involved with drug trafficking organizations are substantial and not worth the reward. The Customs program arose out of the recognition that a number of young U.S. students had in fact been recruited to conduct a range of tasks for Mexican drug gangs.

⁷ *Id.*

⁸ The Texas Data Exchange is a system that compiles law enforcement incident records and other non-intelligence criminal justice information into a central state repository for sharing across jurisdictional lines. The information is available for law enforcement and criminal justice purposes. Access to the Texas Data Exchange is provided by the Texas Department of Public Safety to authorized users at no cost to the local agency. Available at www.txdps.state.tx.us.

⁹ The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has agents along the border and has recently set up teams concentrating on the efforts of Mexican cartel operations to purchase guns in the United States and smuggle them into Mexico, primarily through Laredo. These teams will be set up in Dallas, Oklahoma City, Atlanta, Las Vegas and Miami as well as the border cities of Sierra Vista, Arizona and Brownsville. *See* Selk, Avi "ATF setting up teams in Dallas, 6 other cities to stanch flow of guns to Mexico," Dallas Morning News (September 21, 2010).

¹⁰ The council was a blue ribbon commission whose members included Cameron county Judge Carlos Cascos, DPS former chairman Robert Braxton Holt, former Secretary of State Phil Wilson, Brewster County Judge Val Beard, Fred Burton of STRATFOR, Hudspeth County Judge Becky Dean Walker, TCEQ chairman Buddy Garcia, Maverick County Sheriff Tomas Herrera, trucking company president Scott McLaughlin, Victoria County Sheriff T. Michael O'Connor and DPS Commission chairman Allan Polunsky. The full report of the Border Security Council is available at www.governor.state.tx.us.

¹¹ Seper, Jerry "Reduced overtime stymies Border Patrol", Washington Post (June 23, 2010) (takes the opposite side of the argument and concludes that the reduced overtime will hurt enforcement operations). *See also*, Longmire, Sylvia Mexico's Drug War Blog (June 25, 2010) at http://borderviolenceanalysis.typepad.com/mexicos_drug_war/2010/06/index.html (discusses the article and provides a more nuanced understanding).