
**HOUSE COMMITTEE ON LAW ENFORCEMENT
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2008**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
81ST TEXAS LEGISLATURE**

**JOE DRIVER
CHAIRMAN**

**COMMITTEE CLERK
CANDACE HARGENRADER**



Committee On
Law Enforcement

January 13, 2009

Joe Driver
Chairman

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

The Honorable Tom Craddick
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 Law Enforcement of the Eightieth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-first Legislature.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe L. Driver".

Joe Driver, Chairman

A handwritten signature in black ink, appearing to read "T.R. Latham".

Thomas Latham, Vice-Chair

A handwritten signature in black ink, appearing to read "Alma W. Allen".

Dr. Alma Allen, CBO

A handwritten signature in black ink, appearing to read "Stephen Frost".

Stephen Frost

G.E. "Buddy" West

A handwritten signature in black ink, appearing to read "Hubert Vo".

Hubert Vo

A handwritten signature in black ink, appearing to read "Solomon Ortiz, Jr.". The signature is stylized and includes a small flourish at the end.

Solomon Ortiz, Jr.

Thomas Latham
Vice-Chairman

Members: Dr. Alma Allen, G.E. "Buddy" West, Stephen Frost, Hubert Vo, Solomon Ortiz, Jr.

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INTRODUCTION

At the beginning of the 80th Legislature, the Honorable Tom Craddick, Speaker of the Texas House of Representatives, appointed seven members to the House Committee on Law Enforcement. The committee membership included the following: Chairman Joe Driver, Vice-Chairman Thomas Latham, CBO Dr. Alma Allen, G.E. "Buddy" West, Stephen Frost, Hubert Vo and Solomon Ortiz, Jr.

Pursuant to House Rule 3, section 38, the Committee has jurisdiction over all matters pertaining to:

- law enforcement;
- the prevention of crime and the apprehension of criminals;
- the provision of security services by private entities; and
- 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 LAW ENFORCEMENT

INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

During the interim, the Speaker charged the Committee with the following issues:

1. Study the qualifications and standards necessary to be designated a police agency.
2. Monitor the impact of current Texas laws banning the carrying of firearms by holders of concealed carry licenses on the premises of educational institutions.
3. Study the funding of Texas 9-1-1 and poison control systems and the requirement to transition Texas 9-1-1 systems to the next generation of technology to meet future expectations for emergency communication systems.
4. Review the current requirements for receiving a Texas driver's license or ID card to determine whether they should be more stringent in order to prevent a criminal or terrorist from fraudulently obtaining an official form of Texas identification. *(Subcommittee with the House Committee on Defense Affairs & State-Federal Relations and the House Committee on Transportation)*
5. Monitor the report issued by the Independent Investigator for the Houston Police Department Crime Laboratory and Property Room, the independent panel review of certain criminal convictions prompted by the conclusions of this report, and the implementation by the City of Houston of any reforms recommended in this report. Also, monitor other urban crime laboratories and their compliance with state laws regulating their functions. *(Joint Interim Charge with the House Committee on Urban Affairs)*
6. Monitor the agencies and programs under the committee's jurisdiction.

CHARGE 1

Study the qualifications and standards necessary to be designated a police agency.

BACKGROUND

Currently, the Code of Criminal Procedure, Chapter 2, Article 2.12, lists thirty five separate definitions of “who is a peace officer”. When defining who is a peace officer the Code of Criminal Procedure also references entities that have authority to commission peace officers. The authority to commission peace officers is given in separate enabling statutes and can be found in over 10 different codes.

The Occupations Code, Chapter 1701, outlines the educational and background requirements to be a peace officer in the state of Texas. An individual must be of a certain age, pass a criminal and psychological background check, be proficient in use of weapons, knowledgeable of the laws of the state, complete over 610 hours training at a state accredited police officer training academy, and agree to comply with continuing education requirements before qualifying for a peace officer license. Once a license is granted by the state through the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) an individual is then eligible to be commissioned by an entity with commissioning authority.

With the exception of counties and certain cities that are granted constitutional authority, in order to become a commissioning authority a legislative proposal granting that authority must be passed into law. Once statutory permission is granted the entity must then submit a one page application to TCLEOSE requesting an agency number. The regulations affecting commissioning authorities are limited to few and are in regard to jurisdiction and scope of peace officer authority.

Commissioning authorities include but are not limited to state agencies, educational institutions, state boards, municipalities, counties, state commissions, political subdivisions of the state, county hospital districts, transit authorities, courts, harbor or port facilities, the commissioner of insurance, and emergency services districts.

Practically speaking, once given commissioning authority through statute, the entity may then create a police department or law enforcement agency and then retain and govern licensed peace officers.

The Code of Criminal Procedure, Chapter 2, Article 2.12 has been amended approximately 46 times since 1965. Most of the 35 groups of officers that are defined by this section of code are allowed to carry weapons while one group is prohibited and another is allowed only by “board permission.” In some cases the officer’s jurisdiction and powers are statutorily limited. In other cases, the powers, duties, privileges, immunity, jurisdiction and liability of peace officers is not specified.

Some of the commissioning authorities are governmental bodies as defined by Section 552.003 of the Government Code and are therefore subject to the Public Information Act (PIA), others are not. A Texas Attorney General’s opinion dated May 25, 2007 (OR2007-06582) declares that at least one commissioning authority is not a “governmental body” and therefore is not subject to

the Public Information Act. The AG opinion allows the “system”, which operates a police department, to conceal records, including police officer behavior and discipline, crime statistics, internal investigations, criminal charges, and all records in relationship to the police department. Public confidence in police and police departments is quickly eroded when the actions of the department or the officer are withheld from the community they serve.

The statutory proliferation of commissioning entities has subsequently created many new classes of peace officers and law enforcement agencies alike. TCLEOSE data reflects 15 state agencies, boards or commissions have police departments, over 54 colleges and universities have police departments, 21 MUDs, 6 different airport police departments, 7 different transit authority police departments, 5 different harbor or port police departments, 200 ISDs, 7 different hospitals districts, 63 separate courts and district attorneys, and over 400 one person police departments, none of which share statutory requirements for qualifications or management of a police department.

The community trust of the statutorily created police department rests solely on the training and qualifications of the commissioned police officer. The department has no baseline qualifications, no training requirements, no requirement for an elected governing body, and no direct responsibility to the citizens. Because the departments have little or no accountability, change is difficult to institute, problems may be hidden, and professionalism within the ranks and the administration may become elusive.

Lack of minimum standards for a commissioning entity creates poor service delivery, inconsistent application of law, fertile environment for corruption, training imbalances, and low citizen expectations.

HEARING

The following testimony was provided during the hearing on June 23, 2008.

Timothy Braaten

Texas Commission on Law Enforcement Officer Standards and Education

Timothy Braaten, Executive Director of TCLEOSE stated that he often receives inquiries regarding the procedures for creating a police agency. Currently, in order for TCLEOSE to set up commissioning authority they require:

An "Application for Law Enforcement Agency Number" which includes the following:

- \$1,000 non-refundable fee
- Proposed agency information
- Chief administrator information
- Documentation authorizing the creation of a law enforcement agency:
 - o Cite an applicable statutes providing legislative authority OR
 - o A certified copy of documents containing action from the governing body (Municipal Code/Ordinance, School District Resolution), and minutes from the meeting approving the ordinance

-
- Inquires if the governing body has an operating budget for the first-year
 - Inquires if the chief administrator is a full-time paid position
 - Inquires if the entity has a 24/7 phone service (per Government Code requirements)
 - requesting governmental body information

In addition to the application, TCLEOSE also supplies the government body requesting an agency number with a list of essential elements (Appendix A) that they could consider prior to establishing a police department. These materials are currently for advisory purposes only, and no feedback is required.

Executive Director Braaten reported to the committee that as of April 21, 2008, there are 2,555 law enforcement agencies with active licenses that TCLEOSE regulates.

James McLaughlin
Texas Police Chiefs Association

Chief James McLaughlin (ret.) representing the Texas Police Chiefs Association (TPCA) testified that there about 11,000 cities/municipalities within the state. Some of these cities are general law, while others are home rule. Texas has police departments of varying sizes. They range from one-man police departments to police departments as large as Houston. About 80% of our cities have less than 10 officers, so the majority of them are small.

TPCA performed an inquiry to determine what other states stipulated in regards to requirements for setting up a police agency. Surprisingly, there are very few requirements for a police department in other states. Chief McLaughlin provided the committee members with Minnesota's requirements as an example (Appendix B).

The TPCA believes that it is an issue of local control. It is the governing body's decision on whether or not they decide to have a police department, but acknowledges that it would be comforting to have basic policies and procedures in place so that the state and public knows that they are an authorized and legitimate police agency.

Chief McLaughlin also mentioned the following certification processes for law enforcement agencies:

- **The Commission on Accreditation for Law Enforcement Agencies (CALEA)** was formed in 1979 and provides an international accreditation process for law enforcement agencies. The Texas Police Chiefs Association supports the Accreditation process for those agencies that wish to become CALEA accredited. However, the Accreditation process has up to 459 standards depending on agency size and complexity and is more expensive. Many agencies also find the Accreditation process is more administratively burdensome. For this reason, many Texas cities do not participate.
- **The Law Enforcement Recognition Program** is a voluntary process where police agencies in Texas prove their compliance with over 150 Texas Law Enforcement Best Practices. These Best Practices were carefully developed by Texas Law Enforcement

professionals to assist agencies in the efficient and effective delivery of service and the protection of individual's rights. So far there are approximately 45 agencies in this program. This is a state program not funded by the state, but part of state government. It is operated by the Texas Police Chiefs Association Foundation.

Tom Gaylor
Texas Municipal Police Association

Deputy Executive Director Tom Gaylor testified that the majority of the standards in place in Texas right now are focused on the officer themselves. In a highly mobile and transit society such as we have today, a person drives through many communities potentially receiving many differing levels of police service. The Texas Municipal Police Association (TMPA) believes that some of the commissioning agencies ought to bear more responsibility for maintaining professionalism across the state.

He stated that currently the International Association of Chiefs of Police has a package that is called accreditation and that many of the agencies in Texas seek to achieve that accreditation, however, it is costly. If the International Association of Chiefs of Police believes that there should be certain policies, procedures, and accountability in place, then perhaps the state of Texas should look at applying those same standards to all agencies across the board - agencies already in existence and those created in the future.

Gaylor expressed concern at how simple the procedure to obtain an agency number from TCLEOSE is. He is also concerned that there is no check to determine whether or not these governing bodies fully understand the consequences for operating a police department, if they have the resources or the facilities to maintain a department, or if they even know what that entails.

In many cases TMPA has taken note that new agencies limit their officer's arrest authority or the ability to carry a firearm. TMPA's position is that if a person is a licensed peace officer then they need to be a fully functioning peace officer. They should be able to make arrests and protect the community just like any other peace officer of the state. In summary, TMPA believes that a citizen or a visitor in the state of Texas should get the same level of police service from the Red River to the Rio Grande.

Gaylor volunteered a detailed list of what the committee might consider while drafting their recommendations. In regards to when a governing body applies for an agency number, TMPA believes that the body should produce the following:

- Demonstrate a need. Consider why your area needs a police department when there are already 15 concurrent jurisdictions that could cover your area?
- Describe their funding sources. Is it solid and secure so that you can pay a living-wage to a peace officer? Do these wages promote professionalism in your department?
- Provide a list of the physical resources available to the officers. Will the potential agency consider issuing uniforms, bullet-proof vests, duty weapons, and all the

equipment that a peace officer needs? Gaylor noted that it is an unfair burden on the officer if they are forced to use their paycheck on expensive equipment to do their job and keep it in operating condition.

- Describe the physical facilities in which the dept will operate. Do they have communications abilities? Do they have a relationship with someone to house their prisoners?
- Stipulate certain basic policies. Such as: Use of force, vehicle pursuit, professional conduct of officers, domestic abuse arrests, response to missing persons, supervision of part-time or reserve officers, impartial policing.
- Description of the administrative structure. Who governs the dept? Is it an elected official? An elected body? Who is the leadership of the department so we know who to hold accountable if there is a failure in the department's performance? What political entity should be liable for future legal action.

Gaylor's response to the issue of local control was when you are dealing with someone who has the authority to deprive a citizen or a visitor of their liberty, take them into custody, incarcerate them and push them into the criminal justice system - the state has already recognized that those people should have certain standards and they have implemented those standards on the peace officers themselves. He believes it is now time for the state to consider the agency that commissions those peace officers should also have standards of professionalism.

Bobby Arriola
Self, Law Enforcement Officer

Officer Arriola currently works for the Farris Police Department. He wanted to discuss the issue of licensing private employers to commission peace officers. His testimony focused around an event that occurred while he was working for a hospital police department in September 2006.

He stated that while he was on duty, he was called to the emergency room parking lot regarding a fight between 2 brothers. Both of the brothers resisted, but were taken into custody. Once in custody, one of the brothers started speaking in a vulgar manner and tried to intimidate some of the officers at the central campus. There was excessive bodily force used against this prisoner.

Officer Arriola testified that he was given an order to file fictitious felony charges against the man. He also noted that the videotape that normally recorded that room, suddenly stopped working that night. Within a week after he reported these occurrences to his supervisors, he was released from duty. When he requested documents regarding the prisoner and the incident, he was denied access. He cited an Attorney General letter ruling (OR2007-06582) that stated since the hospital is a non-profit medical corporation, with it's own police department that has officers commissioned under section 51.214 of the Education Code (Sec. 51.214. SECURITY OFFICERS FOR MEDICAL CORPORATIONS IN CERTAIN MUNICIPALITIES), and that the department is supported solely by private funds, that they are not a governmental entity subject to the Public Information Act. Therefore, all reports, including Officer Arriola's personnel file, were deemed as corporate documents and not subject to open record requests.

Officer Arriola concluded his testimony by expressing his strong concern that the way Texas currently allows commissioning authority - it has inadvertently created a situation where a police department is not held accountable to citizens.

Jeff Ward
Interim Chief - San Antonio ISD Police Department

The San Antonio ISD Police Department is a 70-man force. They are a full service department that includes a detective unit, gang unit, secure evidence, patrols, etc. They were recently listed as one of the "Top 5" by TCLEOSE for their training records and the amount of training they give. Chief Ward made it clear that they are a governmental agency - they report to elected officials, which is the San Antonio ISD Board.

Chief Ward is also the President of the Texas Association of School District Police. In 1985 ISDs were originally granted the authority to have police departments. In the 73rd Legislature (1994), the authority was clarified as to what services an ISD police department could perform, as well as their stipulated jurisdiction.

He also shared Officer Arriola's concern regarding governmental authority given to private institution but was unable to provide any recommendations.

Rodney Ramsey
Self, Attorney in Waxahache, TX

Mr. Ramsey assisted Officer Arriola in his case against his previous employer. He expressed interest in testifying regarding recent Attorney General Opinion that Officer Arriola referenced earlier in the day.

When the request for public information from the hospital was refused, Mr. Ramsey investigated as to why. He discovered that some hospitals obtain their commissioning authority through statutes or state constitution by way of hospital districts which are not considered governmental entities that were subject to the act.

Therefore the certified peace officers (given authority under either the Health and Safety Code, Education Code, and/or Government Code) in these facilities are operating under corporate governance.

A hospital, or any entity for that matter, that is not interpreted as a governmental entity severely limits the citizens' or employees' (past or present) rights to open records under the open records act. This in turn limits whistleblower action if something happens or an individual discovers some wrongful activity.

Police departments that are constitutionally or statutorily established, those that recognize that they are a governmental entity - answer to a governmental board under our representative form of government where they have citizens they are responsible to. Under the corporate governance

they answer to the corporation, and a corporation is held to a different standard than a governmental entity or an elected official.

In conclusion, Mr. Ramsey feels no police department should be a private or corporate police force thereby defeating the safeguards that have been established and recognized over the years in the state of Texas. All police departments with the full authority of arrest power and the right to remove an individual citizens constitutional rights needs to be answerable as a governmental entity.

RECOMMENDATIONS

The committee recommends that the legislature pass legislation that incorporates the following suggestions:

Any entity seeking commissioning authority must provide the following information to the Texas Commission on Law Enforcement Officer Standards and Education for review and approval.

- Demonstrate a need for department (“need” may be defined by TCLEOSE rule with legislative intent considered)
- Describe funding sources
- Provide list of physical resources available to officers. (weapon, uniform, vehicle, on board computer system, etc.)
- Describe physical facilities from which the department will operate. Facilities must include, but are not limited to: secure evidence room, dispatch area, public area, etc.
- Copy of agencies policies covering:
 - Use of force
 - Vehicle pursuit
 - Professional conduct of officers
 - Domestic abuse arrest
 - Response to missing persons
 - Supervision of part-time officers
 - Impartial policing
- Describe administrative structure
- Display knowledge of Occupations Code - Chapter 1701. LAW ENFORCEMENT OFFICERS
- Proof of liability insurance

In regards to the issue raised regarding governmental authority given to private institutions - the committee recommends that this issue be closely researched and examined during the 81st Legislative Session and perhaps establish a future interim charge addressing this sole issue.

CHARGE 2

Monitor the impact of current Texas laws banning the carrying of firearms by holders of concealed carry licenses on the premises of educational institutions.

BACKGROUND

The tragic school shootings that occurred at Virginia Tech and other educational institutions around the country during the last legislative session sparked a debate in the media and among Texas lawmakers on the general issue of campus safety, as well as the more specific topic of state law that currently limits the possession of firearms on school campuses. It is this more specific issue area that the Speaker tasked this committee with studying over the interim.

TEXAS LAW

There are a number of existing statutes in Texas that affect the policy area this committee has been charged with examining.

Section 46.03(a)(1) of the Texas Penal Code prohibits the possession or carrying of a firearm on the physical premises of a public or private school or educational institution, on any grounds or building upon which an activity sponsored by a public or private school or educational institution is being conducted, or on a passenger transportation vehicle of a school or educational institution. An exception is made in cases where a person receives written authorization from the school or educational institution, or written regulations permit such possession or carrying of a firearm. In this Section, “premises” means “building or portion of a building” and does not include driveways, walkways or parking areas. It is *not* a defense to prosecution that an individual possessing or carrying a firearm in these circumstances has been issued a valid license to carry a concealed handgun by the Texas Department of Public Safety (hereafter referred to as a “Concealed Handgun Licensee” or “CHL”).

Section 46.035(b)(2) of the Penal Code creates an offense for a Concealed Handgun Licensee to intentionally, knowingly or recklessly carry a handgun on the premises where a high school, collegiate or professional sporting event or interscholastic event is taking place, unless the CHL is a participant in the event and a handgun is required to be used in the event. The definition of “premises” is also limited in this Section to “building or portion of a building.”

Section 37.125(a) of the Texas Education Code creates an offense for a person to intentionally exhibit, use or threaten to exhibit or use a firearm in a manner intended to cause alarm or personal injury to another or to cause damage to school property in or on a property or parking area owned by a public or private school, or on a school bus. The committee addressed amendments to this Section in House Bill 2112 last session, which was subsequently passed by the 80th Legislature and became law on September 1, 2007.

Texas law does not prohibit the possession of firearms within “school zones”. Instead, Section 46.11 of the Penal Code increases the punishment to the next highest category of offense for a crime committed within 300 feet of the premises of a school or where a school function is taking place.

FEDERAL LAW

The Federal Gun-Free School Zones Act, 18 U.S.C. Section 922(q), prohibits the possession of firearms within 1,000 feet of a school, but provides for a number of exceptions, including law

enforcement officers acting in their official capacities, the possession of firearms in motor vehicles or on private property not part of school grounds, and for concealed carry permit holders licensed by the state in which the school is located. (Note that the term “school” in federal law applies to elementary and secondary-level educational institutions; the law is silent on postsecondary educational facilities.)

OTHER STATE LAWS

States take a wide range of approaches in addressing the issue of firearms possession on school grounds. Some regulate the possession of handguns by concealed carry license holders less stringently than the possession of firearms by non-licensees in these areas. Others impose different restrictions on firearms possession based on the type of campus: elementary or secondary schools versus postsecondary educational institution grounds. And some state laws are silent on the topic altogether. For the purposes of this report, we will list state laws affecting the possession of firearms by concealed carry permit holders on college and university campuses, which most closely follows the focus of and direction taken by committee members and witnesses who participated in the interim hearing.

Twenty-three states with concealed carry laws do not prohibit the possession of firearms by licensees on college and university campuses – Alabama, Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Virginia, Washington and West Virginia. However, in many of these states, postsecondary educational institutions impose bans on the possession of firearms through administrative regulation; this was the case in the Commonwealth of Virginia and at Virginia Tech. While a license holder may not be committing a crime by bringing a firearm onto the property, he or she could risk dismissal from a position with the institution (in the case of an employee), suspension or expulsion from the school (in the case of an adult student), or forcible removal from the property (in the case of a visitor).

Twenty-four states expressly forbid the possession of firearms by licensees on the campuses of postsecondary institutions – Arizona, Arkansas, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wyoming. As mentioned before, many public and private institutions in these states have administrative policies in place which ban the possession of firearms, in addition to restrictions in law.

Illinois and Wisconsin have no legal provision for concealed carry, and Vermont does not require a person to be licensed to carry a firearm.

RECENT ACTIONS BY STATES

Utah is the only state to recently address the issue of firearms possession by concealed carry license holders on college and university campuses. In 2006, the Utah Supreme Court struck down a University of Utah ban, affirming the Legislature’s sole authority under the state firearms preemption law to regulate gun possession in such cases. The Utah Legislature subsequently

passed legislation prohibiting public universities from enacting their own restrictions on the carrying of firearms by licensees (although provisions were included to allow dormitory residents to request non-licensees as roommates and to permit administrators to designate “firearm free” areas for certain scheduled demonstrations and presentations.)

The American Legislative Exchange Council, a national organization comprised of state lawmakers and private sector industry and trade association members, adopted model legislation in 2008 entitled the “Campus Personal Protection Act”. The model bill removes state restrictions on the possession of firearms by valid concealed carry license holders on college and university campuses and preempts the authority of public and private institutions to adopt administrative rules or regulations to prohibit such activity. A copy of that bill is attached and may provide a starting point for drafting legislation to be introduced in the 81st Legislature.

HEARING

As mentioned before, the members of the committee and witnesses who participated in the interim hearing focused primarily on how current Texas laws impact the possession of firearms by Concealed Handgun Licensees (CHLs) on the campuses of postsecondary educational institutions in the state.

Those appearing as witnesses or offering written testimony *against* changing Texas law to allow the possession of firearms on college and university campuses included the president of the Texas Association of College and University Police Administrators (who also serves as the Chief of Police for Rice University). A representative from the Texas Association of School District Police stressed to the committee that the group opposed allowing concealed carry on elementary and secondary school campuses, but did not take a position on the issue as it pertained to postsecondary educational institutions.

Representatives from the campus law enforcement community expressed strong concerns about arming a large number of college students who may lack the maturity and judgment that must accompany having a CHL. Additional concerns about other common aspects of college life – drinking and drug usage, the emotional stress of studies and living away from home for the first time – were raised. They also raised hypothetical questions about how officers could distinguish between a legally-armed CHL and a violent attacker when responding to a crime-in-progress or mass shooting scenario. Lastly, a comparison was drawn between the significant training peace officers receive and the 10-15 hour classroom requirement that civilian CHLs must successfully complete in order to qualify for an original license.

Those appearing as witnesses or offering written testimony and information in support of changing Texas law to allow Concealed Handgun Licensees to carry on college and university campuses included: faculty members from community colleges in North Texas and the Houston area; individual students from different campuses across Texas, as well as members of the group Students for Concealed Carry on Campus; a DPS-approved Concealed Handgun Instructor; the Chief of Police for the San Marcos Police Department (home of Texas State University); and representatives from the Texas Concealed Handgun Association, the Texas State Rifle

Association and the National Rifle Association.

Proponents of such a change pointed out that CHLs, as a population, are remarkably law-abiding and responsible. According to the Texas Department of Public Safety, between September 1, 2006-August 31, 2007, more than 90,000 licenses were issued and only 422 (less than ½ of 1 %) were revoked for any reason. They argued that amending the law would not likely result in a large number of college students being armed. An applicant for a CHL must be 21 or older (except for military personnel), which would weed out most underclassmen. And according to DPS, between September 1, 2006-August 31, 2007, just 5% of the more than 90,000 of licenses issued were to individuals between the ages of 21-25.

Supporters further pointed out that at 11 U.S. universities which currently allow concealed carry on campus – all nine Utah public schools, Colorado State University, and Blue Ridge Community College in Virginia – there have not been any incidents of gun violence or accidents by license holders. Concerns were presented regarding police response time to a crime-in-progress (11 minutes at Virginia Tech) and the often-small ratio of campus peace officers to student population (25 licensed/commissioned police officers and 4 security guards covering 285 acres and 7,000 students at Rice University, which operates its own police department.) They argued that a CHL is a civilian personal protection option, and that licensees do not wish to – nor should they be – trained in the same manner as police officers.

RECOMMENDATIONS

Texas' concealed carry law has been in effect for over a dozen years, and statistics show that Concealed Handgun Licensees have amassed an impressive track record of law-abiding and responsible behavior over that time period. The committee does not believe that eliminating a geographical boundary beyond which they cannot currently go legally armed – in this case, college and university campuses – will suddenly transform them into dangerous and irresponsible individuals. Moreover, we do not believe that campuses will become overwhelmed by a new population of armed students: the minimum age requirements established in law serve to limit the number of adult students who would actually qualify for a license. And again, statistics provided to the committee indicate that individuals who fit into the age group most closely associated with the typical adult college student account for a very small fraction of the CHL population overall.

We strongly support the efforts of campus peace officers to keep our college and university grounds safe, but we realize that police simply cannot be everywhere at all times. Law-abiding Texans who visit, live or work on college and university campuses deserve the same legal option to protect themselves that exists almost everywhere else in the Lone Star State for CHLs. We are confident that campus police officers can learn to successfully carry out their duties and peacefully co-exist with civilian CHLs in their jurisdictions, just as their counterparts in other departments have done for years.

It is the recommendation of this committee that the 81st Legislature adopt legislation to lift the bans currently in place in Texas Penal Code Sections 46.03 and 46.035 to allow valid Concealed

Handgun Licensees to possess handguns on the campuses of public and private colleges and universities in the State of Texas. Language should be included that preempts the authority of these postsecondary educational institutions to adopt policies imposing administrative bans on said campuses, which would have effect of circumventing the intent of the aforementioned legislative proposal. It is the opinion of the committee that these institutions should continue to retain some authority to regulate the possession of firearms by CHLs in certain on-campus housing and athletic event venues, leaving specifics to the will of the Legislature.

CHARGE 3

Study the funding of Texas 9-1-1 and poison control systems and the requirement to transition Texas 9-1-1 systems to the next generation of technology to meet future expectations for emergency communication systems.

BACKGROUND

9-1-1 Program

In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that a single number be established for reporting emergencies. In 1968, the telephone industry agreed on the digits 9-1-1 as the universal emergency number. The Commission on State Emergency Communications (CSEC) was created by the 70th Texas Legislature in 1987 to implement and administer 9-1-1 services throughout the state.

Poison Control Program

Created in 1993 by Texas Senate Bill 773, the Texas Poison Control Network (TPCN) is a cooperative effort among the six Texas Regional Poison Centers, the Commission on State Emergency Communications (CSEC), and the Texas Department of State Health Services (DSHS). The CSEC is the funding and administrative agency for all activities relating to the TPCN. The DSHS disseminates grant funds to the six Regional Poison Centers:

- Texas Panhandle Poison Center, Northwest Texas Healthcare System, Amarillo
- North Texas Poison Center, Parkland Hospital, Dallas
- West Texas Regional Poison Center, R.E. Thomason General Hospital, El Paso
- Southeast Texas Poison Center, The University of Texas Medical Branch at Galveston
- South Texas Poison Center, University of Texas Health Science Center at San Antonio
- Central Texas Poison Center, Scott & White Memorial Hospital, Temple

The mission of the TPCN is to reduce the morbidity, mortality, and costs associated with poisonings. This goal is accomplished by educating the citizens of Texas to prevent poisonings. In addition, it is achieved through proper response to telephone inquiries (by hospitals and police) when a poisoning emergency arises. The TPCN is accessible through the toll-free number: 1-800-222-1222.

9-1-1 Fees and Surcharge Remittance

Funding of emergency communication services in Texas is authorized by Health and Safety Code (771 & 772). There are three funding sources (the Equalization Surcharge, the 9-1-1 Service Fee, and the Wireless 9-1-1 Service Fee) which are collected from customers and remitted by their service providers.

All collections of the Equalization Surcharge and the Wireless 9-1-1 Service Fee are remitted on a monthly basis to the Texas Comptroller of Public Accounts. Collections of the 9-1-1 Service Fee are remitted based on a customers' physical (in some cases billing) address. Collections from customers within the boundaries of a RPC or COGs are remitted to the Comptroller; those within an ECD are remitted to the District; and those within a 9-1-1 Municipality are remitted to the Municipality. Pursuant to the Health and Safety Code (771.074), neither the Equalization Surcharge nor the 9-1-1 Service Fee or 9-1-1 Wireless Service Fee may be imposed on or collected from the state or the federal government.

Descriptions of the fees are as follows:

Equalization Surcharge: The Equalization Surcharge is imposed upon each customer receiving intrastate long-distance service in the amount of 1.0 % of the charges for intrastate long-distance service and is remitted by the service providers to the Texas Comptroller of Public Accounts. Funding from this dedicated source was initially intended for use by CSEC to augment 9-1-1 service fee funding in less populated areas. Revenues from this surcharge have been used for several biennia to fund emergency medical services (EMS), trauma care systems, etc. to the Department of State Health Services and UTMB through legislative appropriations. The costs for all these programs, as well as CSEC's 9-1-1 and Poison Control Programs will continue to grow, and the deficits must be taken out of the equalization surcharge balance in the state treasury.

9-1-1 Service Fee: The 9-1-1 Service Fee is a monthly fee imposed on each local exchange access line. Remittance of the 9-1-1 Service Fee is generally determined by the physical location of the customer's telephone. In the case of a customer receiving interconnected VoIP service that is "nomadic" and can be accessed from any broadband connection, the site for determining the 9-1-1 Service Fee is the customer's billing address. The 9-1-1 Service Fee is set at \$0.50 per month in areas served by an RPC and is remitted to the Texas Comptroller of Public Accounts. The 9-1-1 Service Fee varies in areas served by a District or Municipality and is remitted directly to each entity. The RPCs (or COGs) are responsible for coordinating the assignment of residents that live in the region to the appropriate 9-1-1 entity. During the hearing on June 24, 2008, Executive Director Paul Mallett testified to the Law Enforcement Committee that the 9-1-1 service fee generates the bulk of funding for program and is currently a stable source of revenue.

Wireless 9-1-1 Service Fee: The Wireless 9-1-1 Service Fee is imposed on each wireless telecommunications connection in an amount equal to \$0.50 fee per month and is remitted to the Texas Comptroller of Public Accounts by the service providers. During the hearing on June 24, 2008, Executive Director Paul Mallett testified to the Law Enforcement Committee that although this fee is a growing revenue source (usually grown at 11-12%), however this year it slowed to a 5-6% growth rate. He speculated that it perhaps is because the wireless market has reached saturation.

CURRENT STATUS

The Commission on State Emergency Communications (CSEC) imposes an Equalization Surcharge on each customer receiving intrastate long-distance service as directed by Health and Safety Code section 771.072, including customers in areas served by an emergency communication district. Telecommunications service providers are required to collect the surcharge from their customers and remit the amount collected to the Texas Comptroller of Public Accounts (CPA) which is then deposited to Account 5007. The CSEC sets the rate of the surcharge, subject to a legislative upper limit of 1.3% of the charges for intrastate long distance service. The current rate is set at 1.0%. Funding from this dedicated source was initially

intended for use by the CSEC to augment 9-1-1 service fee funding in less populated areas.

Since the inception of the surcharge, changes in the telecommunications industry have resulted in reduced charges for intrastate long distance calls and an uneven application of the surcharge, particularly in instances where service providers offer “free long-distance.” As a result, surcharge revenue is declining despite an increase in intrastate long-distance calls. These changes have caused the equalization surcharge amounts collected to decline while the CSEC's other funding source, emergency service fee revenue, continues to grow about 8% per year.

In addition to funding the CSEC programs, equalization surcharge revenues have been used for several biennia to fund emergency medical services and trauma care systems, and emergency medical dispatch pilot projects, through appropriation of approximately \$1.8 million per fiscal year to the Department of State Health Services and \$75,000 per fiscal year to the University of Texas Medical Branch. Needs for all these programs, as well as CSEC's 9-1-1 and poison control programs, will continue to grow and if funding cannot be enhanced, service levels could be reduced.

While equalization surcharge revenue receipts are declining, the needs of the 9-1-1 and poison control programs will continue to grow. For example, poison control call takers are required to be doctors, pharmacists or registered nurses. These professions are in high demand and are well compensated by large retail pharmacy chains, hospitals and clinics. It is very difficult for poison control centers to recruit and retain qualified personnel at salary levels that do not keep pace with competing health care employers.

9-1-1 and Poison Program Equalization Surcharge Funding

The majority of the equalization surcharge funds collected are appropriated to the CSEC to support 9-1-1 service and the Texas poison control program. The rate had been previously set at 0.6% and was raised to 1% during FY 2007 in order to provide additional contingent revenue for both the 9-1-1 service and the Texas poison control program. Any further increase to the current surcharge amount of 1.0% are not politically palatable, nor is the revenue stream sustainable with more and more citizens opting to use bundled service in lieu of long distance services to which the equalization surcharge has been traditionally applied.

9-1-1 Program

Each regional planning commission is required by Section 771.056 of the Health and Safety Code to develop a biennial regional plan for the establishment and operation of 9-1-1 services throughout the region that the regional planning commission serves. From the revenue received from the surcharge, a rate of not more than 0.5% has been appropriated to the CSEC for regional planning commissions and other public agencies designated by the regional planning commissions for use in carrying out their regional plans. The bulk of funding to carry out those plans comes from 9-1-1 service fees, but a significant portion comes from surcharge fees.

Poison Control Program

The amount derived from the application of the equalization surcharge, a rate of not more than 0.8%, has been appropriated to the CSEC to fund poison control operations. The majority of

funds appropriated to the CSEC for the poison control program are transferred to the Department of State Health Services (DSHS) and subsequently granted by that agency to the six regional poison control centers. Surcharge is the only source of state funding for the poison control program. During the hearing on June 24, 2008, Executive Director Paul Mallett testified to the Law Enforcement Committee that the Poison control program is a very effective program and a very cost effective program as well. He estimates that for every \$1 spent on this program, \$7 is saved in emergency care expenditures.

Non-CSEC Programs Funded by Equalization Surcharge

For several biennia, the DSHS has been directly appropriated approximately \$1.8 million per fiscal year for emergency medical services and trauma care systems, and the University of Texas Medical Branch at Galveston (UTMB-G) receives a direct appropriation of \$75,000 per fiscal year for East Texas Health Education Centers to support the regional emergency medical dispatch (EMD) resource center pilot program.

Equalization Surcharge Appropriations

FY 2008-2009 appropriations of equalization surcharge funds from Account 5007 (in millions), as passed by the 80th Legislature.

AGENCY	FY 2008	FY 2009	TOTAL
CSEC (9-1-1 & Poison Control)	\$ 18.03	\$ 20.74	\$ 38.77
DSHS (EMS/Trauma)	\$ 1.82	\$ 1.82	\$ 3.64
UTMB-G (EMD Pilot)	\$ 0.07	\$ 0.07	\$ 0.15
TOTAL	\$ 19.92	\$ 22.63	\$ 42.56
Comptroller BRE	\$ 19.20	\$ 19.40	\$ 38.60

Needs for all of these programs will continue to grow and if surcharge revenue does not grow with those needs, statewide poison control services and 9-1-1 services in less populated areas will be negatively impacted.

SOLUTIONS

Workshop on Equalization Surcharge

On April 8, 2008, the CSEC staff held an Equalization Surcharge Workshop, at the William P. Hobby Building in Austin, regarding the ability of the equalization surcharge to maintain a consistent level of 9-1-1 service across the state and support a viable poison control program. Stakeholders in attendance included representatives from regional planning commissions, emergency communication districts, poison control centers, the Department of State Health Services, and telephone companies. Written comments were also requested and accepted through April 18, 2008.

The workshop attendees overwhelmingly concluded that the current equalization surcharge

funding mechanism will be insufficient to maintain current levels of 9-1-1 and poison control program services. The following potential options for addressing the expected shortfalls in the equalization surcharge were discussed at the workshop.

Option 1: Changing Equalization Surcharge from a percentage of intrastate long distance charges to a flat rate fee.

- a. For wireline or equivalent service, Equalization Surcharge could be modified to a flat rate of up to ten cents per month on each line.
- b. For wireless service, up to ten cents of the fifty cents per month currently imposed by the Emergency Services Fee for Wireless Telecommunications Connections could be deemed to be Equalization Surcharge and deposited to the Equalization Surcharge Account. To compensate for the reduced wireless service fee funding, the requirement to reimburse wireless service providers for reasonable expenses should be eliminated.
- c. The actual amount of the Equalization Surcharge could be set by the CSEC to meet the funding requirements for the appropriations from the Equalization Surcharge account.

This option would result in additional taxes or fees that would increase the cost of telecommunication services. Telecommunication taxes in Texas are the seventh highest such taxes in the nation, making up 18.46% of a consumers bill. In addition, telecommunication taxes disproportionately hit lower-income families harder than upper-income families when taxes are measured as a percentage of income. Because the current 9-1-1 fees have generated a surplus in the 9-1-1 fund such that any additional increase in fees or taxes do not seem warranted. Statutory changes could be made to allow for CSEC to be able to appropriate the funds as needed (see below recommendations).

Option 2: Reduce or eliminate significant appropriation of Equalization Surcharge for purposes other than the 9-1-1 and poison control programs.

A \$1.8 million reduction in appropriated annual funding from Account 5007 to the Department of State Health Services (DSHS) for emergency medical services (EMS) and trauma-related funding would result in a net \$3.6 million biennial savings which could be redirected to 9-1-1 and poison control programs and result in reducing the effective Equalization Surcharge rate required to meet appropriations. The DSHS receives other trauma-related funding in excess of \$55 million per year out of the (1) Permanent Fund for EMS & Trauma Care Account No. 5046, (2) Trauma Facilities, Trauma Care Systems Account No. 5108 and (3) Designated Trauma Facility and EMS Account No. 5111. The Biennial Revenue Estimate for Account No. 5111 is \$197.3 million in total receipts for the current biennium, so sufficient dedicated funding should be available for EMS/trauma purposes.

Additionally, the following measures could be applied to improve the effectiveness and efficiency of the 9-1-1 and poison control programs:

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1. The CSEC should be granted authority to apply existing 9-1-1 and Equalization Surcharge fees to all devices and services that can access dedicated 9-1-1 service.
 2. Statutory language that currently limits the use of 9-1-1 funds should be expanded to permit use in the implementation of additional emergency communications technology provided 9-1-1 service delivery is not adversely impacted.
 3. The CSEC should be given rulemaking authority to update definitions and terms used in 9-1-1 related statutes.
 4. The Public Utility Commission should be authorized to resolve disputes related to emergency communications interconnection and interoperability.

RECOMMENDATIONS

It is clear that the make up of the current revenue stream cannot sustain the 9-1-1 and poison control programs. Therefore the Committee will continue to work with the Commission on finding possible solutions through changes in statute.

The Commission on State Emergency Communications will undergo Sunset review during the 2010 – 2011 biennium. If a viable resolution to the revenue stream issue is not found during the 81st Legislative session, then the House Committee on Law Enforcement will present the findings of this report to the Sunset Advisory Commission in hopes that it may assist them in finding a solution.

CHARGE 4

Review the current requirements for receiving a Texas driver's license or ID card to determine whether they should be more stringent in order to prevent a criminal or terrorist from fraudulently obtaining an official form of Texas identification.

*(Subcommittee with the House Committee on Defense Affairs & State-Federal Relations
and the House Committee on Transportation)*

BACKGROUND

When the Texas Driver License Program was first implemented in 1935, its sole purpose was to ensure that an individual had been instructed on the traffic laws and regulations and thus had the capability to operate a motor vehicle safely. It was never intended to be used as a credentialing document, a primary identifier. Over the years it has taken on an ever-increasing role as a form of identification for the purposes of travel and economic transactions, thus making the necessity of a sound process for obtaining a license more crucial.

HEARING

On May 21st, 2008, the House Committee on Law Enforcement met with the House Committee on Transportation and the House Committee on Defense Affairs & State-Federal Relations met to study current licensing practices and create potential legislative remedies that could be implemented to strengthen and enhance homeland security. Chief Judy Brown of the Department of Public Safety Driver License Division and Director Steve McCraw of the Governor's Office of Homeland Security provided the following information to the committees:

REEXAMINATION

The investigation into the terrorist attacks on the United States in 2001 revealed that all but one of the hijackers acquired some form of identification document, through fraudulent means, and used these "legitimate" forms of ID to assist them in boarding commercial flights and other necessary activities which lead up to the attacks. In response to these findings, many states began to re-examine their policies for issuing driver licenses (DLs) and identification (ID) cards. Measures to strengthen homeland security and maintain highway safety were adopted including: fraudulent document recognition training, strengthening applicant identity requirements, and limiting the validity period of DLs and ID cards to the period of lawful presence for non-citizens.

REAL ID - FINAL RULE

The REAL ID Act of 2005 Final Rule can be viewed online on the Federal Register site, which can be found at: <http://www.gpoaccess.gov/fr/>

The REAL ID Act of 2005 is a nationwide effort intended to prevent terrorism, reduce fraud, and improve the reliability and accuracy of identification documents that states issue. The Act requires that a REAL ID be used for official purposes, as defined by Congress, such as accessing a federal facility, boarding federally-regulated commercial aircraft, entering nuclear power plants, and such other purposes as established by the Secretary of Homeland Security.

Provisions contained in the REAL ID Act of 2005 require certain state standards and procedures for issuing DLs and ID cards if they are to be accepted as identification documents by the federal government.

The Final Rule provided the Secretary of Homeland Security with the authority to grant states an extension of the Act's May 11, 2008 compliance date. A state's failure to issue Real ID compliant DLs or ID cards by this date, or obtain an approved extension, will result in a state's

DLs or ID cards not being accepted to access federal facilities, board federally-regulated commercial aircraft, enter into nuclear plants and for any other purpose that the Secretary of Homeland Security has determined.

Under the Final Rule, Texas requested, and has been granted, an extension for implementation of the Real ID Act to December 31, 2009. This extension allows the Texas Department of Public Safety (DPS) to adequately review the final Real ID regulations and assess its fiscal impact to the DL program. In addition, the extension would provide necessary time for the Texas Legislature to consider approval and funding for the Act in 2009.

The Final Rule takes into consideration the operational burdens on states. If the state can certify a certain level of compliance, DHS will extend the enrollment time period to replace all DLs or ID cards to December 1, 2017. After December 1, 2017, federal agencies will not accept any state-issued DL or ID card for official federal purposes unless such cards have been issued by states that have certified to DHS their full compliance with this rule.

RE-VERIFICATION PERIOD

A mandatory re-verification period will require all applicants for a renewal or duplicate DL or ID card to appear in-person at the DL office and to provide acceptable identification documents prior to issuance of a Real ID DL or ID card. States will be required to re-verify identification documents at each renewal period, resulting in continued costs to the state.

Current staffing levels and hours of operation will not be sufficient to process the increased number of applicants. In addition, wait-times in the DL office will be significantly impacted as a result of the increase in issuance requirements, specifically to review ID documents and perform online verification queries.

LAWFUL PRESENCE REQUIREMENT

All DL or ID card applicants will be required to provide evidence that they are either a citizen of the U.S. or lawfully residing in the U.S. Non-U.S. citizens legally residing in the U.S. may be issued a “Temporary DL or ID card” and the card must clearly indicate that it is “temporary” and include an expiration date that coincides with the authorized period of stay in the U.S., not to exceed one year.

CARD SECURITY FEATURE

The Final Rule requires states to include a DHS-approved security marking on each Real ID driver license or identification card and non-conforming DL or ID card issued which reflects the card’s level of compliance with the Rule.

OPERATIONAL CHALLENGES

Staffing and facilities will be challenged to manage Real ID, as the regulations will increase visits to DL offices during the initial re-verification period as alternate issuance methods (Internet, mail and telephone renewals) will be discontinued. Consequently, the Driver License Division will require additional staff, facilities, training and equipment to implement Real ID. This will include extended work hours and/or additional workdays to effectively manage the

regulations without significantly inconveniencing the public. System enhancements will be necessary, including development, expansion and deployment of several online verification systems as well as modifications to numerous business processes to meet the requirements of the Act. Texas will see a significant impact to DL office operations and budget constraints due to higher volumes of online queries to verification systems.

Accordingly, costs associated with Real ID will be significant. DPS estimates that over \$129 million will be needed during the implementation biennium.

THE BANAI CASE

In 2006, the Texas Department of Public Safety discovered incidents of fraudulent activity that involved immigrants falsifying documentation to obtain a Texas DL in an attempt to avoid immigration laws. This particular incident has since been referred to as "The Banai Case."

A man by the name of Isaac Banai utilized the DPS' DL system to market a DL "vacation". He advertised in foreign newspapers to foreign residents of the United States, primarily in New York and New Jersey. For a small fee he would bring them to the state of Texas. Once in Texas, Banai educated them on the necessary requirements to pass the Texas DL test and take them to a DL office. These individuals would apply for a DL and exploit a loophole in a DPS rule. The applicants would bring a foreign passport with a visa and would pull off the immigration document, the I-94 that indicated they were in expired status, and would present the now "valid" immigration document to DPS. The DPS rule only indicated that they had to have a valid immigration document; there was no mention of verifying the I-94 or any other supporting documentation. Further, each of these applicants used a hotel as their residence address.

The Driver License Division processed some 398 of those individuals. The foreign residents immediately returned to New York or New Jersey with a valid Texas DL to either use or exchange for their current state DL.

CURRENT EFFORTS BY THE DEPARTMENT OF PUBLIC SAFETY

In response to the Banai case, DPS has changed the DL process to close the exposed loophole, tightened the administrative rules, and processed an administrative rule that indicated that the applicant must have had at least one year on their immigration status application, and have at least six months remaining in order to obtain a DL.

The Department cancelled all of the licenses connected with the Banai case. The Department coordinated with Immigration and Customs Enforcement (ICE) to prohibit the utilization of these DLs as identification. ICE has taken measures that will cause notification when and if any of these individuals request a change to their immigration status.

The Department has tightened the rule to request a Texas residence address. In the Banai case, the applicants had given the address of a hotel as their residence address. The new rule eliminates the opportunity to use a hotel address and allows DPS to assign a more severe penalty to the applicant if they try to use a hotel as their residence.

Texas has a more stringent identification policy than other states. There have been incidents in the past where individuals were able to obtain a license from another state, bring the license to Texas and utilize the rule by using the out-of-state license as a secondary document to obtain a Texas form of ID. Therefore, in an effort to close all the loopholes administratively, DPS has taken the out-of-state license down a notch. Instead of using the out-of-state license as a secondary document when applying, DPS has moved it down to a supporting document. This puts a little more validity with regards to what an applicant has to provide to DPS in order to obtain a document in the state of Texas.

DRIVER LICENSE RE-ENGINEERING

In late July 2008, there were several changes to the Driver License Division (DLD) and the DL itself. In addition to the addition/clarification of the I-94 requirement, DPS is considering hiring additional FTEs for the DLD to facilitate address searches and verifications as well as processing DL applications.

As of September 2008, the DLD believed that the new DL system would be ready near the beginning of 2009 and that the current technology and equipment, employed by the department for DL production, would be capable of printing the additional field containing the supplemental expiration date on the DL through a work-around. There was no word as to whether DPS has solved the issue of the new DL program being cost prohibitive. However, the reengineering project is being built so that the new architecture and application foundation will allow for a much quicker and easier transition to REAL ID specifications, if it is indeed passed.

To reduce the potential for fraudulent activity related to the DL issuance process, the Department has programmed the following safeguards into the New DL System (DLS), which is scheduled for implementation during the fall of 2008.

- User authentication (password) is required to log into the new DLS and includes role-based authorization based for specific functions. The protected password must be changed periodically.
- A log/audit trail of all system activity that occurs within the DLS will be stored and archived. The log will include user identification and date and time of the activity.
- Automatic DLS log-off after a specified period of time.
- Rules will systematically validate data prior to submission rather than allowing invalid entries that are found through manual edit verification after transaction is logged.
- DL employees will use one-to-one photo comparison feature at the time of issuance to compare the newly collected photograph to the previous photo on file.
- Photographs of original applicants for a DL and ID will be compared each night against the entire file of 21 million photographs. Suspicious issuance activity will be reported for further investigation and cause licenses to be held until resolution.
- The thumbprint collection procedure has been enhanced to include quality checking software that ensures a quality print is collected.
- Imaging identification and application documents and the use of electronic forms will provide valuable documentation to identify and reduce potential fraud.

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- The DLS will update most data in near real-time. This provides within seconds of entering information, records will be updated and will prevent applicants from “office shopping” in an effort to commit fraud.
 - The DLS will be a Web-based system; therefore, computers will replace the current mainframe terminals (CRTs) and a new image capture system will be utilized in the Driver License Division. This state-of-the-art equipment will provide enhanced reliability and software to ensure quality images.
 - The DLS will display all information related to a person’s record. If a person has both a DL and ID, both numbers will be displayed under the person’s name, which will eliminate the possibility drivers having a license with a clear status and an identification card with adverse driver history and will prevent maintaining different addresses on DL and ID cards.
 - All DL and ID card issuances, including temporary receipts, will contain a photograph.
 - Supervisor reports will be generated based on transactions that may indicate suspicious activity.

In addition, facial recognition technology will be introduced to the issuance process with the development of the Image Verification System which will provide the ability to perform one-to-one comparisons of facial images collected at the time of issuance in the DL office to the most recent image on file in order to prevent identity theft.

Further, a new DL and ID card format which will include many new state-of-the-art card security features that will make alteration and counterfeiting of the card extremely difficult to successfully achieve will be introduced in the fall of 2008.

SUNSET ADVISORY COMMISSION SUGGESTED CHANGES

Currently, commissioned officers are performing business functions rather than law enforcement functions. A budgetary increase would allow DPS to hire individuals to fulfill the numerous business functions that the department has been assigned over the years. In addition, the Public Safety Commission wants to utilize the recommendation of the Sunset Advisory Commission staff, which is to civilianize the DLD and make it more consumer oriented. As a result, this would include removing commissioned officers from the administration side only, not from the various office locations for reasons of security.

RECOMMENDATIONS

1. The committees have determined that the current requirements for receiving a Texas DL or ID card should be more stringent and loopholes of known issues should be closed using appropriate rule-making abilities through DPS, as well as suggested legislation during the upcoming 81st Legislative session.
2. The Department of Public Safety has developed, and the committees support, the following list of legislative initiatives for safeguarding DLs and ID cards in Texas:

LEGISLATIVE INITIATIVES

- Require lawful presence in the United States to obtain a Texas Driver License (DL) or Identification Card (ID).
- Limit the validity of the issuance to the period of lawful presence or for one year for those without a fixed term of stay.
- Prohibit alternate renewal methods for licenses issued with an immigration status.
- Define residency and amend the definition of domicile to enhance residency requirement. Utilize the residency and domicile definitions for all applicants for any type of issuance – DL, commercial driver license (CDL) or ID.
- Amend Transportation Code to allow operation of a motor vehicle in this state for up to 90 days and create an affirmation by a new resident that the person has been in the state for a minimum period of 60 days and intends to remain a resident of this state.
- Require that application for an original CDL, DL or ID must be made in the county of the applicant's residence. If there is no DL office in the county of residence, original application may be processed in a contiguous county.
- Authorize denial of issuance for inability to verify address.
- Delete requirement to accept an offender identification card or similar form of identification issued to an inmate by Texas Department of Criminal Justice (TDCJ) as satisfactory proof of identity.
- Create a new section in the Texas Transportation Code that will enable the State to more easily prosecute individuals, under §7.02 of the Texas Penal Code, who aid and abet those who violate Chapters 521 and/or 522 of the Texas Transportation Code.
- Enhance penalties for providing inaccurate address information on an application for a DL, CDL or ID and penalties for failure to update address information with the intent to fraudulently retain a Texas DL, CDL or ID.
- Create an affirmative duty for operators and owners of mail box sites, motels, other temporary housing/lodging locations, and other businesses of a similar nature to report DLs and CDLs being mailed to their place of business to persons who do not actually reside at those locations.

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3. The committees recommend that the legislature and DPS examine the possibility of closing the gap with regards to citizens being able to hold a DL and an ID card. It would be more efficient from a law enforcement and security aspect to only allow one card to be issued.
 4. The Act and the Final Rule published by the Department of Homeland Security (DHS) on January 29, 2008 will have significant implementation challenges with legislative, operational, technological and fiscal limitations. It is recommended that the committee continue to closely monitor these challenges.

CHARGE 5

Monitor the report issued by the Independent Investigator for the Houston Police Department Crime Laboratory and Property Room, the independent panel review of certain criminal convictions prompted by the conclusions of this report, and the implementation by the City of Houston of any reforms recommended in this report. Also, monitor other urban crime laboratories and their compliance with state laws regulating their functions.

(Joint Interim Charge with the House Committee on Urban Affairs)

BACKGROUND

History of Crime Lab Investigation

In November 2002 allegations surfaced that the forensic work performed by the Houston Police Department Crime Laboratory had been faulty and unreliable. This faulty and unreliable work was entered as evidence in cases that convicted men of crimes that they did not commit such as rape and murder and called into question the integrity of the judicial system in Houston. The problems that lead to this shoddy work mainly involved poor documentation, misrepresentation of lab results, analytical and interpretive errors, and flawed laboratory practices. In 2003 as a response to these discoveries the House Committee on General Investigation and Ethics lead an investigation into the Crime Lab.

Final Report of the Independent Investigator for the Houston Police Department Crime Laboratory and Property Room

In April 2005 the City of Houston commissioned an independent investigation of its Crime Lab under the direction Michael Bromwich. In June 2007 Mr. Bromwich released the Final Report of the Independent Investigator for the Houston Police Department Crime Laboratory and Property Room. The investigation focused on three central elements:

Historical Operations of the Crime Lab

In order to find the root causes of the crime lab's inefficiencies, the investigation reviewed the historical practices of the laboratory prior to their accreditation. Major problems found through the independent investigation primarily involved the serology and DNA sections of the lab but also extended to the controlled substances division. Firearms, trace evidence, toxicology, and questioned documents received positive, though not perfect, reviews. According to the report the primary causes for the Crime Lab's failures were:

- Lack of support, resources, and funding for the crime lab by the City of Houston and Houston PD.
- Ineffective management within the Crime Lab.
- Lack of adequate quality control and quality assurance.
- Isolation of the DNA/Serology Section.

Serology Incarceration Cases

The investigation reviewed 850 serology cases that were handled by the Crime Lab between 1980 and 1992 in order to determine which convicted inmates' cases were detrimentally compromised by the lab's shoddy work and thus eligible for DNA testing. The investigation discovered that in many of those cases the lab failed to perform genetic marker testing such as ABO typing and enzyme testing, tests that would have strengthen the validity of the evidence. If the tests were performed properly and consistently it would have helped the prosecution's conviction efforts or would have helped exonerate innocent suspects. Based on their findings Bromwich made the following recommendations:

- Determine if evidence currently exists and can be located in cases in which evidence tested positive for blood or semen but without ABO typing, ABO testing was

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- performed but no comparison to known reference samples was made, DNA analysis performed contemporaneously by an outside lab failed to include the suspect and cases containing major issues with reliability.
- The District Attorney's office and HPD should notify the prisoners whose cases fall into one of the mention categories.
 - If evidence can be located the prisoner should be notified of the existence of the evidence and that DNA testing can be performed at no cost to the prisoner.
 - Harris County and the City of Houston should appoint a special master to review the complete investigative, prosecutorial, appellate, and post-conviction habeas record of the major serology cases identified.

Review of the current operations and recommendations

The independent investigation was broadened to review the Houston Crime Lab's progress after accreditation by ASCLD/LAB in 2006. They reviewed all the current functions of the Crime Lab which include:

- Management of the Current Crime Lab has improved due to Chief Harold Hurtt's priority of rebuilding the Crime Lab and the hiring of the new lab director Irma Rios. Mr. Bromwich made the following recommendations:
 - Funding of the Crime Lab should at least stay at current levels and adjusted for inflation.
 - The current QA/QC manager should be provided a quality staff person.
 - A new information system should be implemented.
- Current work performed in the Crime Lab and Mr. Bromwich made the following recommendations:
 - Biology Section should retain a qualified outside consultant for technical reviews. The case manager should focus on establishing the priority cases and managing case assignments and create training program focused on statistics training.
 - In the Controlled Substances Section the manager is spread too thin and should be given help.
 - Firearms Section should fill the two vacant positions.
 - HPD should take advantage of their underutilized Question Documents Section which performs high quality work.

They also reviewed the Property Room and made the following recommendations:

- HPD should develop standard evidence procedures specifically for all types of forensic evidence and require that evidence be submitted to one central location, rather than several units.
- A new evidence tracking system should be implemented that includes complete seamless integration with all of the existing evidence tracking systems and the software vendor and HPD should be held accountable for the creation.

HPD Crime Lab Cheating Accusations and Subsequent shutdown in late January of 2008

Despite the improvements cited in the Bromwich Report the Crime Lab found itself in controversy again. In January 2008 the Crime Lab was accused of cheating on the proficiency exam portion of the ASCLD accreditation process. Vanessa Nelson, the DNA Section Chief, was accused of giving answers on how to handle a semen search and shortly after the accusations she resigned. As a consequence of her resignation the DNA Section of the Crime Lab was forced to close until they could hire her replacement because the DNA Section cannot operate without a leader. After this was discovered it was revealed that in September 2007 Ms. Nelson reported to Internal Affairs that "Since August 21, the section has reported a sample switch, lost evidence, lost paperwork and two incidences of contamination." Other employees also told Internal Affairs that there were attempts to misrepresent the chain of custody after some evidence was lost. These allegations were alarming considering the tremendous progress the Crime Lab had made.

HEARING

The following testimony was provided during the hearing on August 20, 2008.

Irma Rios

The Houston Police Department Crime Lab Director

In her testimony she informed the committees of the current status of the Crime Lab, the status of the Independent Investigator's recommendations, various aspects of the Crime Lab's Quality Assurance Program, the commitment from the City of Houston, and Houston Police Department's plan for the future of the Crime Lab.

Report and Recommendations

In September 2004, HPD Chief of Police Harold Hurt announced that HPD would seek an independent review of the Crime Lab and Property Room. Mr. Michael Bromwich, Former Inspector General of the U.S. Department of Justice headed the investigative team. For two and a half years the Crime Lab was under audit. Over 3,500 cases were reviewed (the review period was 15 years prior to the DNA/Serology Section closure in 2002). There was an extensive report released in June 2007, and a summary of the recommendations was put on the website in August 2007 (*those reports can be viewed at: <http://www.hpdlabinvestigation.org>*). According to Ms. Rios over 135 recommendations were made by the Bromwich investigation and currently about 90% of them were either implemented, or in the process of being implemented. Of these recommendations, the HPD chose not to implement the following four:

- There was a decision made not to appoint a special master to review the 180 serology cases but instead appoint Christopher Downing and Robert Wycoff to review the cases.
- They decided to use range DNA to input and type rather than specify target DNA as recommended. The report also recommended that HPD modify the outer limit to when a reference sample should be collected (*just only for six to nine months*). HPD was

following the DPS' recommendation of an outer limit of 5 years for a comparison of reference.

- The firearms microscopes were not relocated from open air spaces to cubicles to maximize space. HPD had an architect find an alternative solution. The architect designed a facility that is about 1 million square feet - it will house the Crime Lab, the Command Center as well as other investigative units.
- The recommendation of a transfer of the distance determination from the firearms section to the trace section was not followed because Ms. Rios reasoned that since they had very few cases, it did not make sense to do the transfer of that particular discipline.

Crime Lab Accreditation and Quality Assurance Program

According to legislation, crime labs were required to be accredited by September 2005. The HPD Crime Lab was accredited in May 2005 in all areas except DNA as it was not operating at that time. By 2006 the DNA section received provisional accreditation and by June 2007 all areas were accredited that were operating. This made it the largest accredited lab in the nation.

Since then they have maintained consultants for the Crime Lab including in the Trace evidence and DNA Sections, as well as the Firearms Section. Therefore, they have individuals with decades of experience assisting them as they bring in a fairly young team as well as some of the more experienced managers. The inexperience of the new staff members appears to be their only limitation at this time.

Commitment from the City of Houston

The City of Houston has increased the budget for the Crime Lab by 25%, helping to alleviate its budget shortfalls and has allowed the Crime Lab to create an additional twelve positions for FY09. They have also received quite a few grants as they build capacity in the different areas of the lab. In addition they have a commitment from the District Attorney's office of 2 million dollars towards the purchase of new DNA processing equipment.

Processing Evidence and Eliminating Backlogs

HPD Crime Lab's caseload has increased 30% over previous years in firearms and controlled substances - they receive about 2,000 narcotics cases per month. HPD has undertaken a number of different initiatives that has also increased their caseload. For instance, the recovery of weapons at the scene or unlawful carrying and they are successful programs in hitting the database. If the caseload remains at the same rate or increases, the Crime Lab will need additional positions in the next 10 years.

HPD continually looks at better ways to process evidence. The goal is eliminate backlogs and expand DNA testing. Typically DNA testing is used for violent offenses such as rape and murder. They plan to expand the testing to property crimes in the near future.

In order to begin examining on how to eliminate backlog problems, HPD had looked to the London Crime Lab and used its practices as base a model for the new Crime Lab operations.

Ms. Rios chose the London Crime Lab as a model because of their experience in DNA testing since the mid 1980's. The London Crime Lab has eliminated its backlogs by using automation and assembly lines (as opposed to processing a case from start to finish). The HPD is currently in discussions with the London Crime Lab for a diagnostic review. HPD hopes that London's Crime Lab will give them a roadmap to increase the sample output and improve the quality, less manual handling by using robotics, and increase redundancy to ensure accurate results. It was also stated that HPD plans to have two assembly lines for DNA testing - one for property crimes, one for violent offenses and then a priority case team for urgent testing needs.

Currently the turnaround time for case processing is 6 to 9 months (sometimes a year on the larger homicide cases) due to the backlog at the lab (since the DNA Section was closed for a 6 months), although Ms. Rios's goal is to have processing limited to 30 days from start to finish.

DNA Lab Closure

Ms. Rios also discussed the six month closure of the DNA Lab because of the loss of a manager. It was closed, as stated in the background and overview portion of this report, after accusations of incorrect administration of the proficiency exam of the accreditation. This led to the resignation of the Technical Manager of the DNA Section. An Internal Affairs Investigation was launched in August 2007 and it was determined that there was no issue over the quality assurance, but rather a question of sound judgment. After the resignation of the Technical Manager, the lab was forced to close as it did not have adequate supervision under Quality Assurance standards. Although the DNA Lab was closed, the Lab kept its accreditation, and the DNA Section was re-opened in June 2008 when a new Technical Manager was hired.

Property Room Update

In the report there were some recommendations made regarding the need for a new Record Management System. The Property Room has started to implement a new Evidence Management System that addresses the chain of custody concerns. It utilizes a barcode database system in order to track evidence and chain of custody. There is also a Laboratory Information Management System that HPD is currently assessing vendors for software. They have a fairly large grant to help them implement the Lab Information Management System software - target date for its completion is the end of 2008.

There is a new Property Room in the process of being built and is expected to be completed December 2008. There had been issues in the past with evidence that turned up missing. The new property room being built will have additional safety and security features. There is already an increase in security in the current Property Room, as well as enhanced procedures in place.

Robert "Bob" Wicoff and Christopher Downing Co-counsel on the HPD Crime Lab Review Panel (Serology Section)

Background and Purpose

In June 2007, the Independent Investigator, Michael Bromwich, came out with his final report regarding the HPD Crime Lab. In the report the Bromwich Commission identified 180 serology cases (spanning from the early '80s up until the early '90s) which had serious or major problems

in the testing that was conducted by the HPD Crime Lab Review Panel. The District Court Judges of Harris County appointed Mr. Wycoff and Mr. Downing (both are criminal defense attorneys in Houston) late last year (October 2007) to conduct a review of these old cases. Their goal was to determine if the scientific problems that were found in the Crime Lab's work then translated into problems with criminal convictions that resulted.

Processing the Cases

Since October 2007, Mr. Wycoff and Mr. Downing have been reviewing these cases, all of which are murders and sexual assaults. They are attempting to move the cases through a process, the first being categorized into 1 of 2 steps. Either suggest that new DNA testing be done to see if new DNA testing would let them know if an innocent person was convicted, or simply closing the case out if it is apparent to them that notwithstanding problems with the lab there was no way it could have compromised the conviction. The attorneys speculated that closing the case out was the course of action for about 90% of the cases - many of which resulted in heavy sentences and involved were guilty pleas. Research into the cases that originated in the '80s showed that most of the individuals involved were still in prison. These cases by-and-large were not compromised by any of the lab's mistakes. They have filed 10 DNA motions on these cases, but unfortunately many of these cases no longer have any evidence left to test. So, there is no way they will ever know if the lab mistakes resulted in a compromised conviction. There was 1 DNA motion that was filed that re-testing was conducted and they are awaiting the results.

They started with 180 cases - there were names that were removed from this list because people had already been executed, or the inmates did not want to pursue an investigation. This process started through teleconferencing with all the inmates affected and asked them if they wanted to pursue this investigation. That left about 156 cases.

They are about 40-50% through the case review process. They have received a lot of assistance from undergraduate students and primarily law students from around the state who can do a certain part of this review through either a volunteer basis, or the judges have given them access to paid interns this summer. They mentioned having a lot of cooperation from the District Attorney's office in Harris County. In addition, they meet once a month with Judge Bacon (retired) who has been appointed to oversee their progress.

They are currently preparing exhaustive memorandums on each of these remaining cases. These memorandums are in various states of completion. These memorandums will include basic facts about the case, any specifics so if anyone wants to they can look up the case, summary of the lab problems as reported by Bromwich, and then their conclusion as to whether or not those problems resulted in case that should be re-tested or closed.

To clarify - as they undertook this effort, they started with nothing but the inmate's name. From there they had to accumulate all the data that was associated with the trial (from the court records, offense report, appellate records, transcripts, etc.), conduct a review of what happened in the case, and ultimately to express in layman's terms what the lab error is. Then derive if it played a role in the case, knowing what we know about the error, did it compromise the verdict, and if the evidence was known to the parties in the beginning would it have made a difference.

There is a presumption when you hear of a lab error that you assume the error was made favorable to the defense - they found in some cases it was not. The Bromwich report made mention that many probative findings were not reported. In some cases this failure to report findings would have solidified a case against a defendant. They are at a complete loss as to why they would not report findings such as that. In some cases they are unable to determine the role that the information would have played in the result - if that is the case they go back to the inmate and ask if they are claiming innocence. If so, they will conduct a test if evidence is left available to test.

They plan to make a sanitized version of all the memorandums available for public consumption. They are targeted to complete the review this time next year (August 2009).

Lessons Learned

To some level prosecuting a person is not a "team sport". There has to be a certain degree of individuality on the part of the Judge, Defense, Prosecutor and the Police Department. Some of those disciplines have acted as team players when they should be critical of each other.

There is an inevitable "case hardening" (the assumption of validity of evidence/testing) that can occur in any party when you see the same "players" over and over again. Scrutiny is a key component of the criminal justice system - the results should have been questioned more. Had it been an environment where the work product had been scrutinized more closely - this problem would have been caught earlier.

A key piece of evidence are the Lab Bench Notes. They are hand written notes created by a Lab Technician as they perform testing - no one ever saw them, they were never asked for, they were never produced. Had they been produced - questions may have arisen that would have stopped this problem earlier. They have started amongst the Harris County District Judges to request these Lab Bench Notes as part of their discovery orders - it should be a part of standard procedure.

The Defense and Prosecution are not always trained to ask the right questions when faced with forensic/DNA evidence.

RECOMMENDATIONS

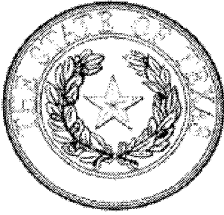
1. The Committee is optimistic that the progress made to the Houston Crime Lab will continue.
2. The Committee acknowledges that the Houston Police Department has made tremendous progress towards making it a world class lab. However, the Committee will continue to monitor the Crime Lab and encourages the City of Houston to consider moving the Crime Lab to a regional administrator in order to deter any unforeseen future deviations from today's progress towards a fair and unbiased judicial system.

CHARGE 6

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

TCLEOSE

COMMISSION ON LAW ENFORCEMENT
OFFICER STANDARDS AND EDUCATION



**House Law Enforcement Committee
Joe Driver – Chairman**

June 23 – 24, 2008

INTERIM BRIEFING PACKET



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



Mission

The mission of the Texas Commission on Law Enforcement Officer Standards and Education is to establish and enforce standards to encourage that the people of Texas are served by highly trained and ethical law enforcement and corrections personnel.

Philosophy

The Texas Commission on Law Enforcement Officer Standards and Education conducts agency business with fairness and conviction. We approach our responsibilities to all people of Texas with a deep sense of purpose and commitment. We believe in a state where we look to our laws for justice and equity, where laws are enforced by well-qualified persons with the highest standards of ethics and accountability.



Agency Goals

Goal 1 To create new incentives and opportunities for law enforcement career oriented individuals to demonstrate required competence and to grow in their profession.

Objective 1-1 Contribute to a continuing reduction in the threat of crime in Texas by ensuring the competency of new and existing law enforcement professionals.

Outcome Measures:

- Percent of licensed peace officers obtaining proficiency certificates
- Percent of jailers obtaining proficiency certificates
- Percent of telecommunicators obtaining proficiency certificates

Strategy 1-1-1 Issue licenses and certificates to individuals who demonstrate required competencies

Output Measures:

- Number of new licenses issued to individuals
- Number of licenses reactivated
- Number of individuals examined
- Number of certifications issued

Efficiency Measures:

- Average licensing cost per individual license issued
- Average cost per exam administered

Explanatory Measures:

- Total number of individuals licensed (active but not appointed)
- Total number of individuals licensed (appointed)
- Pass rate for the licensing examination

Strategy 1-1-2 Manage development, delivery and quality of law enforcement training and education

Output Measures:

- Number of Commission approved courses maintained
- Number of new Commission approved courses developed

- Number of law enforcement personnel attending Commission training
- Number of POSEIT continuing education courses taken

Efficiency Measures:

- Average cost per on-site academy evaluation

Explanatory Measures:

- Total number of training academies licensed

Goal 2 To develop and implement programs designed to contribute to the reduction of licensee misconduct

Objective 2-1 Reduce the per capita incidence of licensee misconduct in Texas within the provisions of statutes and rules that govern the Commission.

Strategy 2-1-1 Revoke licenses, suspend licenses or reprimand licensees for violations of statutes or Commission rules

Outcome Measures:

- Number of complaints resolved
- Number of individuals with training deficiencies / training violations identified

Efficiency Measures:

- Average time for complaint / case resolution
- Average cost per complaint / case resolved

Explanatory Measures:

- Jurisdictional complaints / cases received
- Number of licenses revoked
- Number of licenses suspended
- Number of licenses surrendered
- Number of licenses cancelled
- Number of reprimands issued

Strategy 2-1-2 Deploy field services agent to provide timely and effective personal consultation and to reduce the need for regulatory sanctions

Output Measures:

- Number of on-site academy evaluations conducted
- Number of individuals with training deficiencies / training violations identified
- Number of state flags presented to Texas peace officers
- Number of administrative rule violations yearly

Efficiency Measures:

- Average cost per on-site academy evaluations
- Average cost per agency to have a Field Service Agent available
- Average cost per licensee to have a Field Service Agent available

Explanatory Measures:

- Number of agencies audited for training deficiencies or rule violations
- Number of site visits by Field Service Agents
- Number of face-to-face contacts by field Service Agents
- Number of people attending Commission sponsored seminars

Goal 3

Indirect Administration

Objective 3-1

Provide efficient and effective indirect administration at the lowest possible cost

Strategy 3-1-1

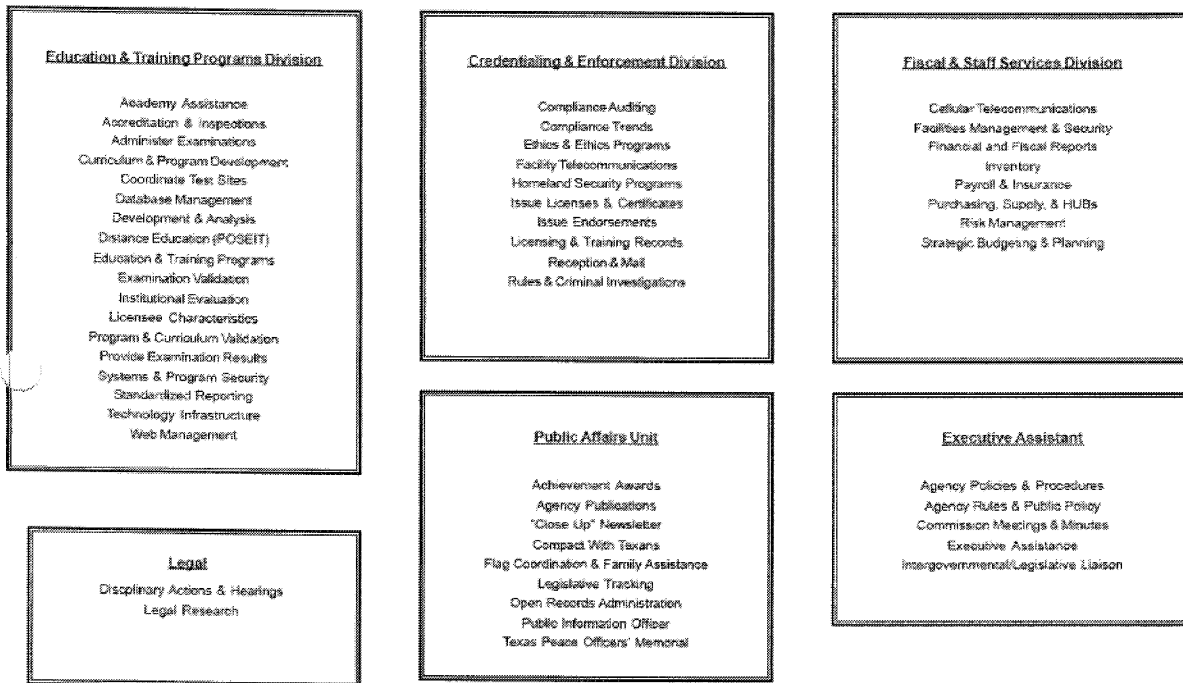
Perform ancillary, supportive administrative and executive services, and effectively assist in achieving the mission of the Commission

Output Measures:

- Total number of cases researched for the Texas Peace Officer's memorial
- Total number of Texas state flags presented to Texas peace officers
- Total number of nominations for the Achievement Awards
- Total number of phone calls received during a reporting period



TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION
ORGANIZATIONAL CHART - DUTIES



06/11/08



General Data as of April 21, 2008

- 2555 Law enforcement agencies with active licensees
- 87,118 Licensees – Some hold dual licenses:
 - 26,487 Jailers
 - 70, 155 Peace Officers
- During Fiscal Year 2007, 13,547 new licenses were issued:
 - 4,564 Jailers
 - 5,081 Peace Officer
 - 3,902 Temporary Jailers
- During Fiscal Year 2008, 34,383 Proficiency Certificates were provided and issued.
 - 16,000 Peace officer in the following categorized:
 - 3,357 Basic
 - 3,885 Intermediate
 - 3,648 Advance
 - 5,110 Master
 - 10,634 Jailers in the following categories:
 - 1,668 Basic
 - 3,629 Intermediate
 - 3,397 Advanced
 - 1,940 Master
 - 5,423 Telecommunicators in the following categories:
 - 3,232 Basic
 - 1,112 Intermediate
 - 877 Advanced
 - 466 Telecommunicator Operators
 - 414 Temporary Telecommunicator Operators
 - 2,326 Other proficiency certificates
- F-5 Separation Reports are an issue you will recall
 - FY2005 – 16,705 were submitted
 - FY2006 – 16,065 were submitted
 - FY2007 – 16,126 were submitted
 - 138 F-5 Separation Reports have been appealed – or one in every 335 submitted
- Training – 04/21/08
 - 7 Academic Providers

102 Academies
191 Contract Providers
300 Training Facilities in Texas

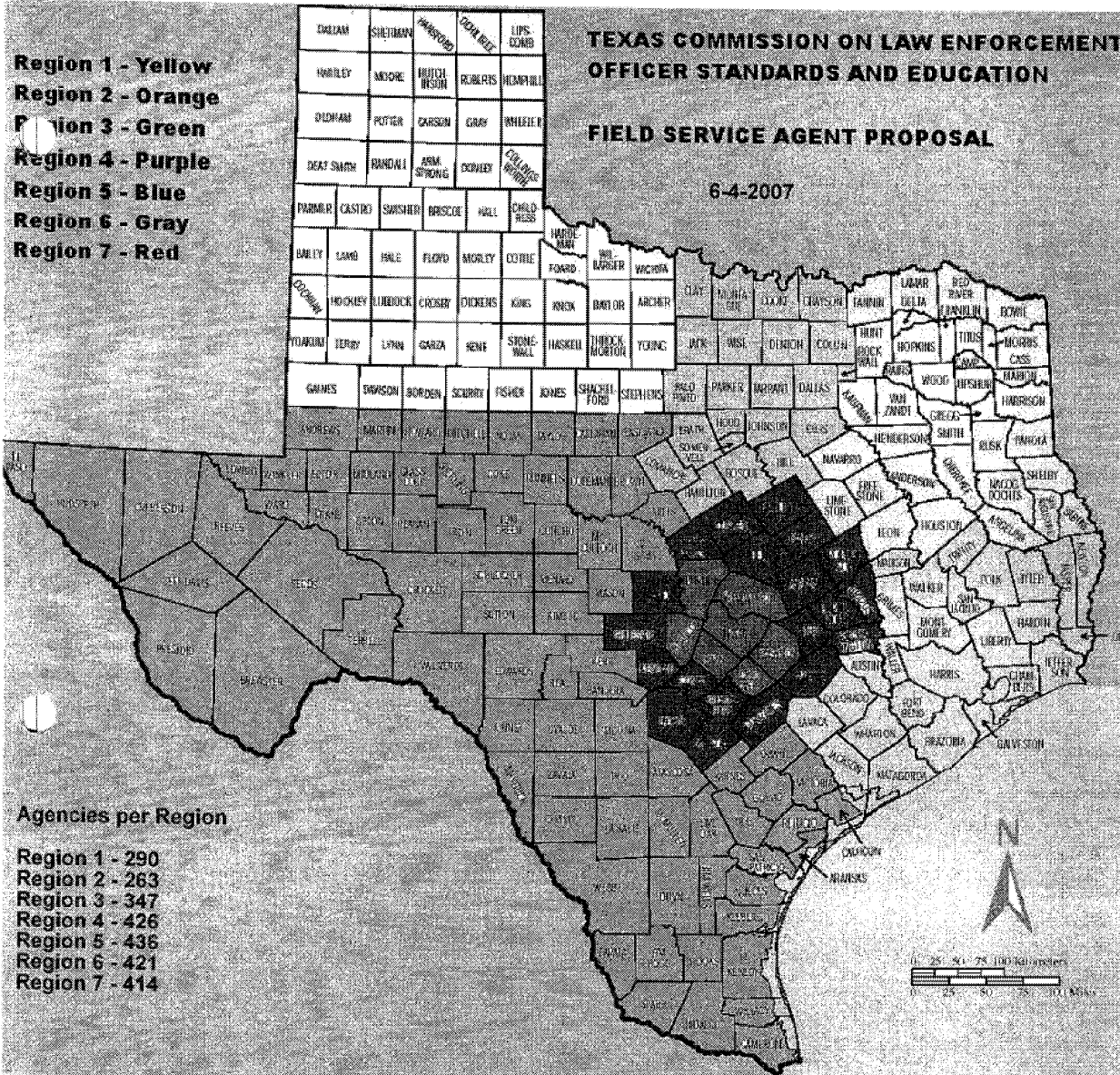
- In Fiscal Year 2007, 239,482 hour of distance learning was recorded on the TCLEOSE POSEIT System. Since inception 2,226,106 hours have been recorded.
- During Fiscal Year 2007, TCLEOSE opened 556 misconduct cases. We closed without action 194. 316 were referred for appropriate disciplinary action.
- * TCLEOSE is presently under review by the Sunset Commission. The sunset report is expected in August and the Public Hearing is scheduled for September 23rd and 24th.
- * Attached is a Field Service Map.
- During the first non months of fiscal year 2008 Field Service Agents have produce the below statistics.
 - 12,546 Field Service Contacts
 - 1,002 Agency Audits
 - 109 Law Enforcement Special Events Attended
 - 3,854 Persons Attending Seminars
- Reports from across Texas reflect very favorably on the field assistance provided by the Field Service Agents.
- * **Questions?**

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

FIELD SERVICE AGENT PROPOSAL

6-4-2007

- Region 1 - Yellow**
- Region 2 - Orange**
- Region 3 - Green**
- Region 4 - Purple**
- Region 5 - Blue**
- Region 6 - Gray**
- Region 7 - Red**



Agencies per Region

- Region 1 - 290**
- Region 2 - 263**
- Region 3 - 347**
- Region 4 - 426**
- Region 5 - 436**
- Region 6 - 421**
- Region 7 - 414**

DEPARTMENT OF PUBLIC SAFETY

Colonel Thomas Davis of the Department of Public Safety provided updates and responded to questions regarding the following topics during his testimony on June 23, 2008:

- Fire at the Governor's mansion
- Department of Public Safety involvement at the Yearning For Zion Ranch of the Fundamentalist Church of Jesus Christ of Latter Day Saints in Eldorado, Texas
- Border Star Operations
- Department of Public Safety Training Academy
- Sunset Advisory Commission process
- Loss of Highway Patrol Trooper James Scott Burns on April 29, 2008
- Concealed Handgun License delays and fingerprinting issues

TEXAS FORENSIC SCIENCE COMMISSION

TEXAS FORENSIC SCIENCE COMMISSION

TIMELINE

2005 – HB 1068 Passed – Creating Texas Forensic Science Commission

Early 2006 – Initial Appointments Made By Governor and Attorney General

Summer 2006 – Initial Meeting of Commission (7 members) – Funding Issues Discussed

Spring 2007 – Funding Received for TFSC - \$500,000 for biennium with additional administrative funding approved (approximately \$54,000)

Fall 2007 – Debbie Benningfield resigns as Chair of TFSC; Sam Bassett agrees to act as Interim Presiding Officer

October 2007 – First meeting of TFSC – Post-Funding; Austin, Texas

December 2007 – Second meeting of TFSC – Houston, Texas

Late 2007/Early 2008 – Appointment of Dr. Sarah Kerrigan and Aliece Watts; Sam Bassett and others re-appointed by Governor; Bassett appointed Presiding Officer of TFSC

February 2008 – Third meeting of TFSC – Dallas, Texas

April 2008 – Fourth meeting of TFSC – Austin, Texas – Approval for staff hiring, office established; Reporting Process/Complaint Form Approved; Hiring of staff approved

June 2008 – Leigh Tomlin begins as Paralegal for TFSC; Meeting in Austin, Texas

Website established and on line; Preliminary approval to commence investigations

TEXAS FORENSIC SCIENCE COMMISSION - AGENDA

June 20, 2008 - 9:30 A.M.

**Omni Southpark Hotel
4140 Governor's Row, Austin, Texas
(512) 448-2222**

During this meeting, the Commission may consider and take action on the following items:

9:30 A.M. – OPENING COMMENTS (Bassett)

APPROVAL OF MINUTES FROM APRIL MEETING

STAFFING (Bassett) – Introduction of Leigh Tomlin

WEBSITE (Kerrigan)

Update on Progress with Timetable
Domain name/timeframe
Telephone Number

PHYSICAL OFFICE FOR TFSC (Kerrigan, Davidson, Tomlin)

Office update – Equipment, Etc.
Physical address for TFSC

REMINDER - COMMISSION MEMBER TRAINING/ISSUES (Bassett)

Personal Financial Statements
Open Records/Open Meetings Act Training

PUBLIC INFORMATION ACT/OPEN MEETINGS ACT ISSUES

Discussion and feedback concerning issues raised at last meeting
“Whistleblower,” Disclosure of Investigations, Etc.
Feedback from Attorney General Staff, if any

LETTERS TO COMPLAINANTS (Bassett)

Review draft of letter – summary disposition
Review draft of letter – investigation proceeding
Other letter(?) – status unknown

NOON – LUNCH (Provided)

DISSEMINATION OF INFORMATION ABOUT TFSC (Bassett, Kerrigan)

Notices to Professional Publications, Labs
Letter to Labs
Voluntary Compliance Ideas
Dissemination to Labs, TCDLA, TCDA, Others

DISCUSSION OF COMPLAINTS RECEIVED

INNOCENCE ROUNDTABLE, May 8, 2008 (Bassett)

GOVERNOR'S BUDGET MEETING (Watts)

**SCHEDULING/LOCATION FOR FUTURE MEETINGS &
AGENDA FOR FUTURE MEETINGS**

CLOSING DISCUSSION/QUESTIONS/COMMENTS – ADJOURN

**Texas Forensic Science Commission
Minutes from April 11, 2008 Meeting in Austin, Texas**

Members Present: Kerrigan, Watts, Bassett, Hamilton, Adams, Levy and Hampton

Members Absent: Natarajan, Eisenberg

(2 representatives from the AG's office also attended in lieu of Barbara Deane; SHSU staff member Christie Davidson was also present. Ed Colfax and Gabriel Oberfield also attended)

The minutes from the February 2008 meeting were approved with some amendments.

Dr. Kerrigan reported that progress toward setting up our website is progressing nicely. The domain name www.fsc.state.tx.us has been secured and the staff at SHSU is working to deal with "load balancing" issues among other issues to get the website up and running. It was discussed that we have the funds to purchase our own server, if necessary, and that will be conveyed to SHSU staff. Apparently, the email address to be used to contact the Commission will be fsc@shsu.edu but that will be finalized by the next meeting.

Christie agreed to work with SHSU staff toward purchasing a regular computer, scanner, printer and facsimile machine. She will report on this at the next meeting and/or will pass this along to our paralegal/administrator, Leigh Tomlin, before the next meeting.

We should also have a phone number operational by June, 2008 for the Commission.

Drs. Hamilton and Hampton reported that they had interviews with two (2) potential applicants in Huntsville in May. Their strong recommendation was for the Commission to approve making an offer to Leigh Tomlin as they felt she was by far the strongest candidate. The Commission unanimously approved an offer to hire Ms. Tomlin at a \$36,432 per annum salary. June 1st should be her starting date.

There was discussion regarding the complaint form and issues of "whistleblower" concern. This discussion centered around the issue of the requirement of possible disclosure to the public of complaints and repercussions which might be suffered by complainants. The AG's office representatives agreed to look into this issue and determine if there were any exceptions known to the Public Information Act which might protect a "whistleblower" in this context. It was discussed generally that it was unlikely that this situation might be an exception to the PIA.

Amendments to the Complaint Form and to the letter to be sent to complainants requesting that they complete form were discussed and approved unanimously. Bassett agreed to draft a proposed letter to be sent to those persons who are the authors of complaints which are summarily dismissed as well as those we decide to investigate. The drafts of these letters will be discussed, corrected and hopefully completed in June.

There was a discussion of “complaint processing” and other issues. The Commission discussed that we would soon be moving into the “investigatory” stage of our statutory duties later in 2008.

Alan Levy and Gabriel Oberfield initiated a discussion regarding the use of definitions and decisions/standards about what the TFSC will elect to investigate. Duties and limitations were discussed.

Oberfield and Colfax discussed their correspondence to the Commission regarding issues of definitions for “professional negligence.” There was follow up discussion and a sense that not every laboratory error would constitute negligence or professional misconduct.

There was a discussion of a federal grant which may or may not apply to the Commission and Mr. Oberfield agreed to follow up on this and disseminate information to the Commission members.

The Commission unanimously approved letterhead for TFSC.

Dr. Kerrigan agreed to draft a letter to be sent to accredited laboratories disseminating information regarding the existence of TFSC and its duties/availability.

Bassett agreed to draft a notice to be posted in the State Bar Journal, Voice for the Defense and TDCAA publications.

Kerrigan reported that Irma Rios of the Houston Crime Lab might be willing to participate in a voluntary inclusion of the TFSC notice on her lab reports.

Members were told to review existing complaints and be prepared to discuss at the meeting on June 20th with regard to those that might warrant investigation and those that will not warrant investigation

There was discussion on public access to deliberations and discussions regarding complaints being investigated as well as accessibility to investigative records. The AG’s office representatives agreed to provide us with advice on these issues at the next meeting. There was further discussion about the sensitivity of these investigation and professional reputation(s) of those involved.

The next meeting for the Commission is to be held in Austin on June 20, 2008, beginning at 9:30 a.m.

The meeting following the June meeting shall take place on August 15, 2008 in Houston.

POLYGRAPH EXAMINERS BOARD

Frank DeTucci, Executive Officer and Alan Sheppard, the Presiding Officer of the Polygraph Examiners Board provided the following information during their testimony on June 23, 2008:

Mr. DeTucci and Mr. Sheppard suggested the following changes:

- A continuing education program implemented in their profession. Currently the enabling statute states that continuing education is voluntary. Rulemaking changes within the board was attempted, but as it conflicted with the permissive nature of the statute, it was dropped.
- The Polygraph Examiner's Board should be granted inspection authority, as well as funding for investigator positions to perform those inspections.
- A statute change allowing for the GSR component of the polygraph instrument to be added to the regulation of the cardio and respiratory patterns.
- Updates in fee caps. The current statute dates back the 1980's. The legislature made changes in their fees based on the appropriations act, however it was not updated in statute - this has caused some confusion.

Both Mr. DeTucci and Mr. Sheppard expressed concern regarding the Sunset Advisory Commission recommendation that the Polygraph Examiners Board be abolished and that their functions be placed under the Texas Department of Licensing and Regulation. The board and profession is opposed to that. They argued that a board with a vested interest in and integral knowledge of the profession could respond more expediently than a commission that had jurisdiction over many professions.

TEXAS PRIVATE SECURITY BOARD

TEXAS DEPARTMENT OF PUBLIC SAFETY

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

512/424-2000

www.txdps.state.tx.us



THOMAS A. DAVIS, JR.
DIRECTOR

DAVID MCEATHRON
ASST. DIRECTOR



COMMISSION
ALLAN B. POLLINSKY, CHAIR
C. TOM CLOWE, JR.
ELIZABETH ANDERSON
CARIN MARCY BARTH

Private Security Bureau – Information for House Law Enforcement Committee Meeting 6/23/08

During the 80th Legislative Session, House Bill 2833 was enacted, which made multiple revisions to the Private Security Act (Chapter 1702, Occupations Code). These revisions have assisted the Department in efficiently and effectively administering and enforcing the Act. The following statistics reflect some of the activities performed by the Private Security Bureau during FY 2007 and part of FY 2008:

Unlicensed Activity Investigations (FY 2007)

Operating with an expired license: 44
Operating with a suspended license: 910
Operating without a license: 280

Unlicensed Activity Investigations (1st quarter FY 2008)

Operating with an expired license: 33
Operating with a suspended license: 806
Operating without a license: 70

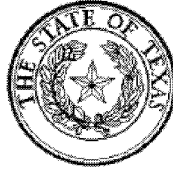
Licenses Issued (FY 2007)

Company: 4,766
Individual: 107,416
School: 178

Licenses Issued (Through 3rd quarter FY 2008)

Company: 5,977
Individual: 112,136
School: 188

EQUAL OPPORTUNITY EMPLOYER
COURTESY • SERVICE • PROTECTION



TEXAS DEPARTMENT OF PUBLIC SAFETY

**RESPONSE TO
SUNSET ADVISORY COMMISSION
STAFF REPORT**

JUNE 9, 2008

Issue 6

Key Elements of the Private Security Bureau's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.

Recommendations for Statutory Changes:

6.1 Authorize the Bureau to license by endorsement to streamline the licensing process and reduce regulation.

DPS management agrees with this recommendation.

6.2 Apply Occupations Code, Chapter 53 to the Private Security Act to provide flexibility and fairness in licensing applicants with criminal histories.

DPS does not agree with this recommendation.

Due to the sensitive nature of the professions of individuals licensed under the Act and their potential effect on the safety of the citizens of Texas, they should be held to a higher standard than other types of license holders. Further, we do not believe that allowing the consideration of extenuating circumstances would result in more fairness to applicants. Rather, this would create the possibility of similarly situated applicants being treated differently based on the personal sentiments of the decision makers as has happened in the past with this program.

6.3 Authorize the Bureau to require jurisprudence examinations for all security licensees.

While DPS has no objection to this recommendation, there will be some resource issues if the Department is required to give an examination to all applicants and process the results of the examinations; however, this can be mitigated to some extent by specifying the manner in which the examination shall be given (such as requiring online testing). Further, we believe the regulated professions will object to this recommendation. Even a small examination fee will increase the cost of doing business for regulated companies, many of whom are very small operations. Also, many of the regulated professions have a substantial difficulty attracting and retaining job applicants, and any additional licensing requirements will exacerbate the problem.

6.4 Require appeals of Board actions to district civil court under the substantial evidence rule.

DPS management agrees with this recommendation.

6.5 Prohibit Board members from being involved in both the investigation of complaints and the determination of disciplinary action.

DPS management agrees with this recommendation.

6.6 Increase the amount of the Board's administrative penalty authority, and require the Private Security Board to recommend an administrative penalty matrix in rule for adoption by the Public Safety Commission.

While DPS has no objection to this recommendation, we believe the regulated professions will object to the increase. Until the most recent legislative session, when HB 2833 raised the maximum administrative penalty to \$500 per violation per day, the maximum penalty was only \$200, so this would be a significant change. Even if the recommendation is enacted, it is unlikely that we would impose a penalty of \$5,000 for a violation except in the most serious of circumstances.

6.7 Authorize Board members to receive reimbursement for travel expenses.

DPS management agrees with this recommendation.

6.8 Allow the Private Security Board to recommend fee levels.

While DPS has no objection to this recommendation, we believe the regulated professions will object. It also has the potential to create at least the appearance of a conflict of interest for Board members who are also members of the regulated professions.

It is more appropriate for the Legislature to set fee levels, however fees should be reappropriated to fund the program, thus allowing the agency some flexibility to address any increase in demand for licensure.

Issue 7

Texas Has A Continuing Need to Regulate the Private Security Industry Through the Private Security Bureau.

Recommendations for Statutory Changes:

7.1 Remove the separate Sunset date for the Private Security Board, continuing the Private Security Act and the Board.

DPS management agrees with this recommendation.

Recommendations for Management Action:

7.2 Prohibit PSB troopers from having outside employment as security officers.

DPS management does not agree with this recommendation.

We believe that the Department's policy regarding secondary employment is sufficient to ensure no misuse of authority occurs. Further, PSB investigators, and all DPS employees, may only work secondary employment in fields that do not require licensing under the Private Security Act. To exclude PSB investigators from secondary employment in other fields just because they are also open to licensed individuals would place them in a detrimental position compared to all other identically ranked DPS troopers, as well as all other full-time law enforcement officers in the state, although they are required to meet the same standards and have identical training. We believe this would make it more difficult for the Department to attract qualified individuals for the investigator positions and would be detrimental to the program.

COMMISSION ON STATE EMERGENCY COMMUNICATIONS

- Agency Monitoring



9-1-1 Program

- Highlights
 - On track to complete Wireless Phase II this biennium
 - Began planning for Next Generation 9-1-1
 - Received permission to include strategy for implementation of NG9-1-1 in agency strategic plan

Poison Control Program

- Highlights
 - New telecommunications network performing well
 - DSHS received Public Health Emergency Preparedness (PHEP) grant to provide surge capacity
 - CSEC implementing
 - Received funding for new call takers and salary increase

Key Performance Measures

Measure	2008 Target	Thru 2 nd Qtr
Percentage of time Wireline Automatic Location Identification is operational	100%	100%
Number of PSAPS with Wireless Automatic Number Identification	347	346
Number of PSAPS with Wireless Automatic Location Identification	271	234 Note 1
Percentage of time Texas Poison Control Network is operational	100%	100%
Number of Poison Control calls processed statewide	364,000	193,633 53.2%

Note 1: 275 through June 19

CRIME STOPPERS ADVISORY COUNCIL

Crime Stoppers Advisory Council Overview 2007 - 2008

Goals:

- Assist local Crime Stoppers programs throughout the state in accordance with Chapter 414, Texas Government Code.
- Provide Crime Stoppers Assistance Fund grants to eligible local Crime Stoppers programs for training and technology.
- Establish a Crime Stoppers presence within Texas counties including school campuses.
- Reduce workplace violence and thefts through by developing a liaison program with major corporate enterprises.
- Increase safety for staff, inmates and visitors within Texas prisons through the Crime Stoppers "Behind the Walls" Program.
- Operate a state Crime Stoppers hotline that assists the Department of Public Safety in the apprehension of the Texas Top Ten Most Wanted Fugitives.
- Assist the Office of the Attorney General in its efforts to develop safe schools and to educate the public about elder abuse;
- Educate law enforcement, school administrators and criminal justice system officials about Crime Stoppers.

On-Going Projects:

- Establish new Crime Stoppers programs and increase the capacity of smaller programs.
- Contract with Texas State University to provide Crime Stoppers training and technical assistance to local programs.
- Plan curricula for all training programs and conferences and develop Standard Operating Procedures for local programs.
- Administer Basic Crime Stoppers Course and Basic Campus Crime Stoppers Course.
- Certify local Crime Stoppers programs.
- Collect quarterly statistics from local Crime Stoppers programs including number of tips received, number of crimes solved in various categories, and amount of rewards paid.
- Develop liaison program with major Texas-based corporations to address workplace violence.

Accomplishments 2007-2008:

- Presented various Campus Crime Stoppers, Basic Crime Stoppers, and other program related classes throughout the state.
- Reimbursed Fairbanks, Alaska, Crime Stoppers \$1,000 for assisting in paying a reward to an informant who called the Texas Crime Stoppers Hotline to report a Texas Top Ten Most Wanted Fugitive.
- Conducted the 20th Annual Conference in Wichita Falls.
- Developed four large regional Crime Stoppers organizations serving areas that did not have active programs to more effectively use resources, including: Bluebonnet Area Crime Stoppers, Hill Country Area Crime Stoppers, Clear Fork Crime Stoppers, and Eastex Crime Stoppers.
- Certified four new programs in 2007-08 and recertified 94 programs.
- Developed a protocol to be used by courts and Community Supervision and Corrections Departments to distribute court fees when there is more than one certified Crime Stoppers program operating within a District Court's jurisdiction.

Texas Crime Stoppers

Resources

Texas Crime Stoppers Training

Texas State University-San Marcos
601 University Drive
San Marcos, TX 78666
Toll-free 866-220-4357
512-245-0571
Fax 512-245-2851
<http://www.crimestoppers.txstate.edu>

Provides Training and Technical Assistance to Crime Stoppers organizations and the general public.

Available on-line

- Training Schedule
- Certification Information
- 501(c)(3) Tax Exempt Links
- Non-profit Corporation Information
- Sample Forms: bylaws, operating procedures, articles of incorporation, etc.
- Sample Publicity: Public Service Announcements, "Crime of the Week"
- Video Clips
- Training - Internet Basic Course and Internet Campus Course
- Directory of Crime Stoppers Organizations

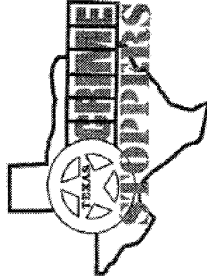
To speak with a person

- Texas Crime Stoppers Training office
- Texas Crime Stoppers Advisory Council
- Training courses and conferences
- Local community programs, visit the website for directory information

Campus Programs

Texas Crime Stoppers programs operate on middle school, high school, and college and university campuses, either with student-led boards of directors or through administration by the community program. These programs have been very successful in helping campuses curb violence, prevent the sale and abuse of drugs, and warn school officials and local police about pending violence on the campuses and at school athletic events. When establishing a campus Crime Stoppers program, it is important that the board, school officials, local law enforcement, and any existing local Crime Stoppers programs work together. Since 1978, campus-based Crime Stoppers programs have alerted police to 1,325 weapons in Texas schools. Campus Crime Stoppers programs help ensure a safer learning environment for all students.

GOT CRIME?



LET TEXAS CRIME STOPPERS HELP YOU SOLVE IT!

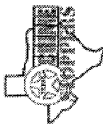
*This brochure is provided by the Criminal Justice Division,
Office of the Governor, State of Texas*

Stopping crime is every citizen's responsibility.

Texas Crime Stoppers

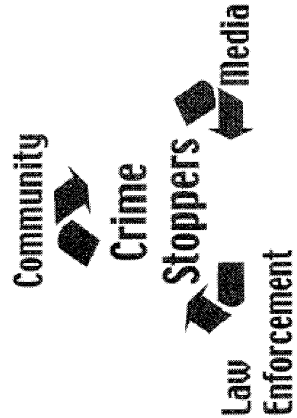
What is Crime Stoppers?

Crime Stoppers is a civilian, nonprofit organization established within a community. It operates a hotline to receive anonymous tips about fugitives or criminal activity.



The program began in 1976 in Albuquerque, New Mexico. A local police officer teamed up with the media to gain the community's attention on a recent crime. They televised a reenactment of the crime and offered a cash reward for information. People with information could call a hotline anonymously to provide Crime Stoppers with information leading to the arrest and indictment of the person responsible. It worked.

Crime Stoppers is based on the idea that "someone other than the criminal has information that can solve a crime." It breaks down the largest obstacles in getting people to provide information – fear and apathy. By offering a safe, anonymous reporting method, it gives people an alternative way to provide information about crimes and pays them a cash reward when the information leads to an arrest, conviction, or disciplinary action. Crime Stoppers accomplishes this by having a solid partnership with law enforcement, the media, the community, and dedicated volunteers who serve as the board.



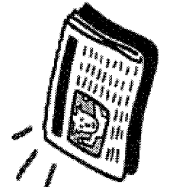
How Does Crime Stoppers Work?

Local Crime Stoppers programs function as tax exempt 501(c)(3) non-profit organizations. Currently there are over 150 non-profit, state certified and hundreds of campus Crime Stoppers programs operating in Texas.

As a non-profit organization, a local Crime Stoppers program operates with a board of directors. The board is responsible for day-to-day operations, fundraising, and publicity. It also reviews, authorizes, and pays rewards for tips. The board works in conjunction with law enforcement and media to investigate tips and publicize crimes. Law enforcement receives the anonymous tips and forwards them for investigation. The media helps Crime Stoppers maintain a visible profile in the community with reenactments, public service announcements, and newspaper articles.



The board, media, and law enforcement play an integral role in educating the community about Crime Stoppers - its program and unsolved crimes. All three must work together to create a safe community.



Local Crime Stoppers programs can become certified by the Texas Crime Stoppers Advisory Council, which functions under the Texas Government Code, Chapter 414, and operates out of the Office of the Governor.

Once a program is certified, it is eligible to receive up to \$50 from each convicted felon who is placed on probation. This money must be used to pay rewards.

Why Do We Need Crime Stoppers?

Crime Stoppers reduces and deters crime, provides anonymity, and reduces the threat of retaliation in our communities and schools. And Crime Stoppers is a big help to law enforcement in preventing and solving crimes, especially those crimes where leads have run out, where evidence is needed, or where witnesses can identify the suspects to help bring about their arrests. Since the first Texas Crime Stoppers program was established in El Paso in 1978, local Crime Stoppers programs throughout the state have compiled an impressive record:

- 88,753 suspects arrested
- 106,880 offenses cleared
- \$13,851,377 in rewards paid
- \$96,966,374 worth of property recovered
- \$504,231,419 worth of narcotics seized

The Texas Crime Stoppers Advisory Council

Local Crime Stoppers programs in Texas receive support from the Crime Stoppers Advisory Council, which is located in the Criminal Justice Division, Office of the Governor, in Austin. The Council consists of five members appointed by the Governor. They represent law enforcement, local program boards, and the media. Established under Chapter 414, Texas 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.

Where Do I Get More Information?

For more information about establishing a local Crime Stoppers program or assistance with an existing program, contact Texas Crime Stoppers at 866-220-4357 or visit our website at: <http://www.crimnestoppers.txstate.edu>.

Texas Crime Stoppers

Resources

Texas Crime Stoppers Training
Texas State University-San Marcos
601 University, Canyon Hall
San Marcos, TX 78666
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2006 Texas Crime Stoppers Statewide Statistics

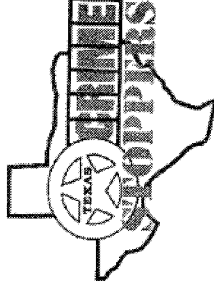
Campus programs (public schools, universities)

1,615 suspects arrested
2,732 cases cleared
1,615 administratively disciplined
\$168,121 value of property recovered
\$29,760 value of narcotics seized
235 weapons seized

Community programs

5,148 suspects arrested
6,571 cases cleared
\$3,277,092 value of property recovered
\$29,242,367 value of narcotics seized

GOT CRIME ON YOUR CAMPUS?



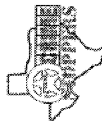
LET TEXAS CRIME STOPPERS HELP YOU SOLVE IT!

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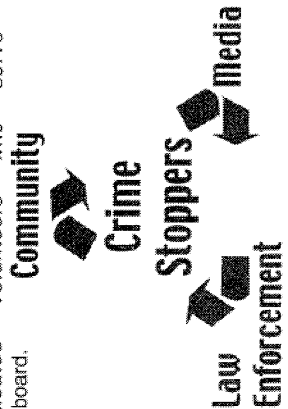
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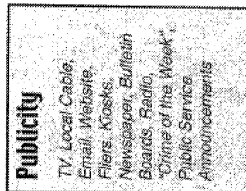
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As a non-profit organization, a local Crime Stoppers program operates with a board of directors. The board is responsible for day-to-day operations, fundraising, and publicity. It also reviews, authorizes, and pays rewards for tips. The board works in conjunction with law enforcement and media to investigate tips and publicize crimes. Crime Stoppers programs receive anonymous tips and forwards them to law enforcement for investigation. The media helps Crime Stoppers maintain a visible profile in the community with reenactments, public service announcements, and newspaper articles.



The board, media, and law enforcement play an integral role in educating the community about Crime Stoppers - its program and unsolved crimes. All three must work together to create a safe community.

Why Start a Campus Program?

Crime Stoppers reduces and deters crime, provides anonymity, and reduces the threat of retaliation. Start a Crime Stoppers program at your college or university to create a safer learning environment with an organization run by the campus community for the campus community. Stopping crime is every citizen's responsibility.

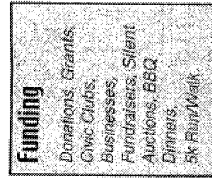
How Do I Start a Campus Program?

When establishing a campus Crime Stoppers program, it is important that the board, university officials, local law enforcement, and any existing local Crime Stoppers programs work together. Resources are available on a college or university campus, including criminal justice, marketing, mass communications, and other departments to fill the media, publicity, and fundraising needs of the program.



To start a campus program

- Contact the student organization office
- Work with university and law enforcement officials
- Organize a student board
- Write bylaws and operating procedures
- Set up the hotline
- Publicize
- Fundraise
- Attend training



APPENDIX

APPENDIX A

Considerations for Establishing a Police Department^[i]

Introduction:

Prior to applying to establish a police department, a town or city should consider several essential elements necessary for the successful operation of a police department. Among these are:

1. Conduct a “Needs Assessment” to determine if starting a police department is the most cost-effective and practical solution. Among the things to consider in the assessment process are:
 - Consider current or existing police services
 - Determine the demand for police services (crime trends, calls for service, etc.)
 - The town or city’s plans for projected or future growth
 - Community needs, desires, expectations, and support for various options
 - Fiscal resources and the impact of funding a new department on other city/county services
 - Existing resources (e.g., facilities, vehicles) that might be made available to a new Department
 - Determine the impact on other components of the criminal justice system (establishing a police department will require changes in relationships and potentially, changes in procedures with the courts, prosecutor’s office, jail, community corrections (probation, parole), and defense attorneys (e.g., public defenders). In some jurisdictions, the new work generated by the new department may significantly affect the workload of these other agencies.
2. Determine the level of citizen support (not just political support) for creating and operating the department, and a commitment for seeing the process through, and funding.
3. Consider all available options for meeting the community’s policing needs, including alternative ways to provide all or selected policing services, as well as resources available to the jurisdiction that might be converted for use by a new police department (e.g., cars, equipment, physical facilities).

Essential Elements:

1. Authorization: A town or city must demonstrate that they the legal authority to establish a police department, with the required documentation (i.e., city council resolution, etc.).
2. Budget: Provide confirmation that the town or city has a budget that will support the operation of a police department. This will include salaries, benefits for personnel, vehicles, physical facilities and annual operating costs. The budget should be established, not projected on income to be gathered from traffic fines, and include start-up costs as well as the cost of sustaining the department..
3. Chief of Police: A Chief of police is necessary to manage the police department, and be responsible for its operation. A Chief of Police, prior to being appointed to the position should be licensed as a Texas peace officer, be a full-time employee of the town or city (work at least 32 hours a week and be compensated at or above the federal minimum wage).
4. Number of Officers: The town or city must limit the number and classification of officers who they wish to appointed. All appointments must be approved by the town or city governing body.
5. Relationships with other Criminal Justice Entities: There must be agreements (in the form of Memorandums of Understanding, Contracts, etc.) with the county sheriff, jail facilities, district and county attorney, juvenile justice facilities, etc. for operations.
6. 24/7 Operations: When a town or city establishes a police department, the citizens expect to contact the police department when they have a complaint or emergency. It is essential that a town or city establish or make arrangements for twenty-four hour a day, seven-days a week coverage. This may be done locally or through arrangements with the county sheriff's department or constable's department.
7. Facilities: A police department must have physical facilities from which to operate. The functions of a police department require a location to administer the agency, maintain records and files as well as other daily business.
8. Evidence Room: During the course of operations, a police department will collect certain items that need safekeeping. This may be in the form of evidence gathered in a criminal investigation as well as found property. The department must have a secure facility or location to properly secure these items.

-
9. Radio Communications: A police department must have adequate radio communications. Mobile and portable radios are essential for operational communications between officers and a dispatch center. The agency does not necessarily need it's own dispatch center with 24/7 operation if they contract with a county sheriff or other law enforcement entity for communications services.
 10. Vehicles: A police department should have marked police vehicles for patrol functions.
 11. NCIC/TCIC: A police department must have the ability and authorization to conduct inquiries for wanted persons, stolen vehicles and articles and other information through the National Crime Information Center and the Texas Crime Information Center that is maintained by the FBI and Texas Department of Public Safety.
 12. Records Management: Departments must have the ability to manage records such as official logs, calls for service, crime reports, etc. many of which must be made available for release through open records requests.
 13. Ability to Comply with State and Federal regulations: There are state licensing requirements for officers appointed and employed by a police department as well as comply with federal regulations, i.e., report UCR (Uniform Crime Report) data to the FBI, etc..
 14. Municipal Court: Ordinance violations filed by a police department should be filed in a Municipal Court in the jurisdiction where the department is established.

Current list of Peace Officers in Texas and their legislative authority

Officers authorized by the Texas Constitution

Constable - Article V, Section 18
Sheriff - Article V, Section 23

Officers authorized by the Government Code (GC)

Bailiffs as Peace Officers - Selected counties - GC 53.0071
Bailiffs Deputized - GC 53.007(b)

Department of Public Safety

Texas Ranger - GC 411.022(a)
Special Rangers - GC 411.023(a)
Special Texas Rangers - GC 411.024(a)
Highway Patrol - GC 411.031
Capitol Complex Police - GC 411.062(a)

Enforcement Officers - TDCJ - GC 493.019

Fire & Arson Investigators - State Fire Marshal - GC 417.006

Fire & Arson Investigators - Municipalities - GC 419.021(3)(A)

Investigator - County Courts GC 41.109(a)
Statutory Probate Court - GC 25.0025(a)

Investigator – Criminal District Attorney – GC Chapter 44

Investigator – District Attorney – GC Chapter 43

Investigators - Attorney General - GC 402.009

Officers -Texas Department of Criminal Justice - GC 493.019

Peace Officer - Appellate Courts - GC 53.091(a)
Supreme Court
Court of Criminal Appeals
Each Court of Appeals

Security Officers and Investigators- Texas Comptroller of Public Accounts - GC 404.043

Security Officers or Investigators - Lottery Commission - GC 466.020(b)

Witness Coordinator - Jefferson County - GC 75.504(c)

Officers authorized by the Local Government Code (LGC)

City Marshal

Type A General Law Municipality - LGC 341.021(e)

Type B General Law Municipality - LGC 341.022(b)

Deputy City Marshal

Type A General Law Municipality - LGC 341.021(b)

Police Officer

Type A General Law Municipality - LGC 341.001(b)

Type C General Law Municipality - LGC 341.002

Home Rule Municipality - LGC 341.003

Reserve Law Enforcement Officers with a permanent peace officer license may also be considered as peace officers - LGC 341.012(h)

Police Reserve Force - LGC 341.012(a)

Special Park Police Officer - Municipal Park Police - LGC 306.040(a)(2)

County Fire Marshal - LGC 352.011(a)

County Park Ranger - LGC 351.084(a)

Deputy Constable - LGC 86.011(a)

Reserve Deputy Constables with a permanent peace officer license may also be considered as peace officers - LGC 86.012(b)

Deputy Sheriff - LGC 85.003(a)

Reserve Deputy Sheriffs with a permanent peace officer license may also be considered as peace officers - LGC 85.004(b)

Reserve Deputy Constable - LGC 86.012(a)

Reserve Deputy Sheriff - LGC 85.004(a)

Officers authorized by the Health and Safety Code (HSC)

Fire Marshals & Investigators - Emergency Service Districts - HSC 775.031(c), 775.036(g), 775.101(a), 775.105,

Peace Officer - Texas Department of Health - HSC 431.2471(a)

District Peace Officers - Selected hospital districts - HSC 281.057(a)

Officers authorized by the Education Code (EC)

Campus Peace Officers - State institutions of higher education and public technical institutes - EC 51.203(a)

Peace Officer - Forest Service - EC 88.103

Peace Officers & Security Personnel - School Districts - EC 37.081(a)

Security Officers - Private institutions of higher education including private junior colleges - EC 51.212(a)

Security Officers - Medical Corporations - EC 51.214(a)

Officers authorized by other Statutes

Apprehension Specialists - Texas Youth Commission - Human Resources Code (HRC) 61.0931(a)

Inspectors General Texas Youth Commission - HRC 61.0451(d)

Inspectors and Representatives - Alcoholic Beverage Commission - Alcoholic Beverage Code (ABC) 5.14

Investigators - Texas Department of Insurance
Insurance Code (IC) 701.104(a)(2)

Investigators - Commission on Law Enforcement - Occupations Code (OC)
1701.160

Investigators - Commission on Private Security - OC 1702.061(f)

Investigators - Medical Board - OC 154.057(c)

Investigators Texas Juvenile Probation Commission
HRC 141.055

Investigator - Texas Racing Commission - Vernon's Texas Civil Statutes (VTCS)
Art. 179e, Article 11, Section 11.01(a)

Peace Officer - Metropolitan Rapid Transit Authority - Transportation Code (TC)
451.108(a)

Peace Officer - Political Subdivision Airport - TC 23.002(a)

Peace Officer - Regional Transportation Authority - TC 452.110(b)

Officers authorized by other Statutes (continued)

Peace Officer - State Board of Pharmacy - OC 554.010(a)

Port Security Officers - Port Authority - TC 54.053(9)

Officers - State Board of Dental Examiners - OC 254.013

Railroad Police Officers - Code of Criminal Procedure (CCP) 2.121

Texas Parks and Wildlife Department

Game Wardens - Parks and Wildlife Code (PWC) 11.019

Deputy Game Wardens – PWC 11.020

Special Game Wardens - PWC 11.021

Peace Officer - Water District - Water Code (WC) 49.216(a)

Reserve Peace Officer - Water District - WC 49.216(b)

Peace Officer – Navigation District – WC 60.77(b)

Reserve Peace Officer – Navigation District – WC 60.775(a)

^[i] Resource: U.S. Department of Justice, Community Oriented Policing publications

APPENDIX B

ESTABLISHING A POLICE DEPARTMENT

The following information must be provided to the POST Board in order to be recognized as a police department:

1. A certified copy of the minutes of the meeting at which the governing body authorized a police department.
2. Copies of the agency's policies covering:
 - Use of Force and Deadly Force MN§ 626.8452
 - Vehicle Pursuit MN RULES 6700.2701
 - Allegation of Misconduct MN RULES 6700.2200
 - Professional Conduct of Officers MN§ 626.8457
 - Response to Missing Children MN§ 626.8454
 - Domestic Abuse Arrests MN§ 629.342
 - Community Notification LAWS OF MN Ch. 408
 - Criminal Conduct on School Buses MN§ 169.4581
 - Operating Without Lights MN§ 169.541
 - Supervision of Part-time Officers MN RULES 6700.1100
 - Impartial Policing MN§ 626.8471
 - Plan for documenting Use of Force Training
 - Plan for Emergency Vehicle Operation/Pursuit Driving Training.
3. The name of the licensed peace officer that will perform the duties of the Chief Law Enforcement Officer (CLEO), for the Department.
4. Personnel Notification Forms for all appointed peace officers employed by the agency including the Chief Law Enforcement Officer. The designated CLEO must sign these forms.
5. A sworn statement from the CLEO affirming that all appointed peace officers have received the required use of force training prior to working their first shift. It must be added that each officer must receive use of force training on an annual basis, and the CLEO must maintain documentation of such training as required by MN§ 626.8452.
6. A copy of the bond or certificate of insurance for liability coverage for the maximum liability amounts set forth in MN§ 626.04
7. An Originating Arresting Agency number (ORI) assigned by the Bureau of Criminal apprehension. Contact the BCA at (651) 603-0120.

Submitted by the Texas Police Chiefs Association

APPENDIX C - Letters from Members

TEXAS HOUSE OF REPRESENTATIVES



CAPITOL OFFICE:
P.O. Box 2910
Austin, Texas 78768-2910
512.463.0744

STATE REPRESENTATIVE
DR. ALMA A. ALLEN
DISTRICT 131

DISTRICT OFFICE:
10101 Fondren, Suite 500
Houston, Texas 77096
713.776.0505 Fax: 713.776.1490

January 9, 2009

The Honorable Joe Driver
Chairman, House Committee On Law Enforcement
P.O. Box 2910
Austin, Texas 78768

Dear Chairman Driver,

Thank you for your hard work and due diligence in putting together the House Committee on Law Enforcement's 2008 Interim Report. I have reviewed the charges, the hearing notes and the recommendations of the report. Although I agree with most of the report, I would like to register a few objections.

Charge #2

Monitor the impact of current Texas laws banning the carrying of firearms by holders of concealed carry licenses on the premises of educational institutions.

While I understand that Concealed Handgun Licensees are generally law abiding citizens, it concerns me that they are not trained to handle hostile situations. The current issue of allowing concealed handguns on the premises of educational institutions is preceded by the unfortunate tragedies that occurred on the campus of Virginia Tech and other campuses around the country. Such occurrences are delicate situations. Peace officers are trained to assess hostile situations, and are better equipped to avoid unintended consequences, such as the accidental shooting of an innocent bystander, among other things. The training that a civilian receives is not comparable to that of a peace officer.

Charge #4

Review the current requirements for receiving a Texas driver's license or ID card to determine whether they should be more stringent in order to prevent a criminal or terrorist from fraudulently obtaining an official form of Texas identification.

Although I understand the need for stronger requirements, it is important that the changes are cost effective, avoid unnecessary inconveniences, and do not single out legal immigrant residents without justification.

Additionally, the report suggests the deletion of the requirement to accept an offender identification card as satisfactory proof of identity. While the current standards of the offender identification card are not adequate, I would suggest that the standards be strengthened, rather than eliminating the identification card requirement all together.

Thank you, and I look forward to serving with you in the 81st legislative session.



Alma A. Allen
State Representative, District 131

SOLOMON P. ORTIZ JR.

CAPITOL OFFICE:
(512) 463-0484
(512) 463-7834 FAX
P.O. BOX 2910
AUSTIN, TX 78768-2910



DISTRICT OFFICE:
(361) 991-0047
FAX (361) 991-0625
5959 S. STAPLES, SUITE 222
CORPUS CHRISTI, TX 78413

HOUSE OF REPRESENTATIVES

January 9, 2009

The Honorable Joe Driver
Chairman, House Committee on Law Enforcement
P.O. Box 2910
Austin, TX 78768-2910

Dear Chairman Driver,

I read the committee's interim report and, though I endorse the majority of the recommendations, I must take exception to the recommendations regarding Charge 4, which deals with the requirements for receiving a Texas driver's license or ID card. While I understand the need to strengthen the requirements in order to prevent fraud and identity theft, we must make sure that any changes made are cost effective and do not unnecessarily inconvenience Texans.

Also, we must take care not to single out our legal immigrant residents without justification. Texas has a long international border, a globally integrated economy, and a large international student population. Legal immigrants strengthen our state economically, culturally, and intellectually, and we must not discourage them from visiting, studying, and investing here.

Thank you for you and your staff's hard work on the interim report. I appreciate your efforts and look forward to working with you during the 81st legislative Session.

Yours for a better Texas,

A handwritten signature in cursive script that reads "Solomon".

Solomon Ortiz, Jr.
State Representative, District 33



State Capitol, Room E2.304
P.O. Box 2910
Austin, TX 78768-2910
512- 463-0568
Fax: 512-463-0548

HUBERT VO
STATE REPRESENTATIVE
DISTRICT 149

Houston Office
7474 South Kirkwood
Suite 202
Houston, TX 77072
281- 988-0212

January 12, 2009

The Honorable Joe Driver
House Chairman
Committee on Law Enforcement
P.O. Box 2910
Austin, TX 78768

Dear Chairman Driver,

I have two comments on the House Committee on Law Enforcement 2008 Interim Report. In regards to Item 2, I feel that each institution reserves the right to decide if concealed handguns are allowed. On Item 4, I was not invited to be a part of the committee hearing and did not have the opportunity to listen to the testimonies. I respectfully request the right to have a debate on Item 4 if it comes up in committee during the legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read "Hubert Vo", written in a cursive style.

Hubert Vo