



INTERIM REPORT

to the 85th Texas Legislature



HOUSE COMMITTEE ON
HOMELAND SECURITY AND PUBLIC SAFETY



DECEMBER 2016

**HOUSE COMMITTEE ON HOMELAND SECURITY AND PUBLIC SAFETY
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2016**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
85TH TEXAS LEGISLATURE**

**LARRY PHILLIPS
CHAIRMAN**

**COMMITTEE CLERK
COURTNEY REID**



Committee On
Homeland Security and Public Safety

December 5, 2016

Larry Phillips
Chairman

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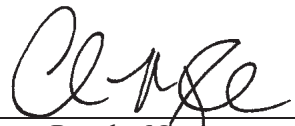
The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

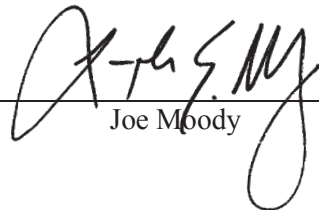
The Committee on Homeland Security and Public Safety of the Eighty-fourth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-fifth Legislature.

Respectfully submitted,



Larry Phillips, Chair

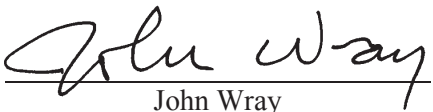

Poncho Nevarez,
Vice Chair

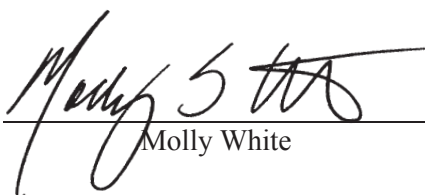

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OVERVIEW OF CHARGES AND COMMITTEE MEMBERSHIP

The House Committee on Homeland Security and Public Safety was appointed by The Honorable Joe Straus, Speaker of the Texas House of Representatives in February 2015. Larry Phillips was named chair of the committee and Poncho Nevárez was named vice-chair. Committee membership also included: DeWayne Burns, Tony Dale, Eric Johnson, Will Metcalf, Joe Moody, Molly White, and John Wray. The Committee was charged with studying and making recommendations regarding homeland security and public safety agencies and programs in the State of Texas. Specifically the committee was charged as follows:

1. Review the functions of the Texas Division of Emergency Management and the state's natural disaster preparedness planning efforts to determine their effectiveness at addressing a growing range of threats. Identify best practices to ensure coordination between municipalities, counties, and state agencies.
2. Review the current penalties for operating a commercial motor vehicle that is in violation of state or federal safety standards. Evaluate the role of state and local law enforcement agencies in enforcing commercial motor vehicle standards, and make recommendations to ensure the safety of the traveling public.
3. Monitor the implementation of the "two steps, one sticker" program as it relates to passenger vehicles, commercial vehicles, light duty trailers, and other vehicles. Recommend measures to ensure an efficient transition to this system and improve the ease of use for consumers.
4. Review the process of dissemination by public entities of criminal records containing incomplete or inaccurate information, assess options for the subjects of such records to correct the misinformation specifically as it interferes with their ability to obtain employment, and determine the need for greater regulations over this process. (Joint charge with the House Committee on Government Transparency & Operation)
5. Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 84th Legislature, including legislation that expanded the ability to carry handguns openly and on the campuses of institutions of higher education and legislation that allows for the compassionate use of certain medically prescribed oils for intractable disorders. In conducting this oversight, the committee should:
 - a. consider any reforms to state agencies to make them more responsive to Texas taxpayers and citizens;
 - b. identify issues regarding the agency or its governance that may be appropriate to investigate, improve, remedy, or eliminate;
 - c. determine whether an agency is operating in a transparent and efficient manner; and
 - d. identify opportunities to streamline programs and services while maintaining the mission of the agency and its programs.

The committee monitored and reviewed the release of campus policies as they were developed and posted by Texas' public universities as HB 937 ("campus carry") went into effect in August of 2016. The committee further reviewed and heard testimony on the Department of Public Safety's (DPS) regulations for implementing SB 339, which relates to the manufacture and distribution of medically prescribed, low-THC cannabis; at the writing of this report those rules were still in development. In interim hearings the committee also reviewed the Driver Responsibility Program, trauma care funding, teen driver safety, and received regular updates on border security. In September 2016 the committee traveled to Brownsville, Texas for an opportunity to study the impact of the "border surge" on communities in the affected region. In addition to hearing testimony from several state agencies and organizations the committee also received invaluable public testimony from local law enforcement and individuals that work and reside in Brownsville and nearby communities.

Recommendations

Continue to monitor DPS activity along the border and the impact of border security operations on the local communities and the public safety of all Texans.

Identify ways to support local law enforcement, particularly in areas affected by the DPS border surge.

Secure funding for Texas Parks and Wildlife Department (TPWD) to acquire resources necessary to carry out their day-to-day operations and patrols along the Texas coast.

**TEXAS DIVISION OF EMERGENCY MANAGEMENT AND
DISASTER PREPAREDNESS PLANNING**

Committee Action

On March 29, 2016 the committee met to review the functions of the Texas Division of Emergency Management and the state's natural disaster preparedness planning efforts to determine their effectiveness at addressing a growing range of threats. Invited testimony was provided by the following: Stephen Carlton for Orange County, Texas; Eric Epley for Texas EMS Trauma & Acute Care, Southwest Texas Regional Advisory Council, and the Texas Emergency Medical Task Force; David Kelly for North Central Texas Council of Governments; Nim Kidd for Texas Department of Emergency Management, Texas Department of Public Safety; Molly McFadden for North Central Texas Council of Governments, and Ryan Peabody for Orange County, Texas.

Background

After many decades of operating as a separate organization under the Governor's Office, which is responsible for directing homeland security, and protecting Texans affected by disasters and emergencies, the Texas Division of Emergency Management (TDEM) was designated an operating division of the Texas Department of Public Safety in 2005. Legislation passed during the 81st session of the Texas Legislature in 2009 formally changed the name of the organization to the Texas Division of Emergency Management.¹

TDEM is responsible for carrying out a comprehensive all-hazard emergency management program for the State of Texas.² TDEM assists cities, counties, and state agencies in responding to and recovering from emergencies and disasters. Their purview includes pre and post-disaster mitigation of known hazards to reduce their impact; preparedness activities, such as emergency planning, training, and exercises; provisions for effective response to emergency situations; and recovery programs for major disasters. Chapter 418 of the Texas Government Code (see Appendix A) lays out an extensive set of specific responsibilities assigned to the Division including:

Emergency Planning: TDEM maintains the State of Texas Emergency Management Plan and other specialized state plans. It also adopts standards for local emergency management plans, reviews those plans, and maintains a database of planning accomplishments.

Training: TDEM conducts an extensive emergency management-training program for local and state officials and emergency responders.

Public Education & Information: TDEM provides threat awareness and preparedness educational materials for the public, and also provides emergency public information during disasters.

Hazard Mitigation: TDEM administers a number of pre and post-disaster programs to eliminate or reduce the impact of known hazards.

Response: TDEM coordinates mobilization and deployment of state resources to respond to major emergencies and disasters

Disaster Recovery: TDEM administers disaster recovery programs for individuals and for local governments, state agencies, schools, hospitals, and other public entities.

TDEM Sections and Resources

TDEM's responsibilities are carried out by staff in six sections of the division. These divisions are designed around a cycle of emergency management that consists of systems, resources, and activities designed to assist a community in preventing, preparing for, responding to, recovering from and mitigating the effects of all hazards:

Finance and Administration

The Finance and Administration section of TDEM provides business services for the Division, including financial management, purchasing, resource management, accounting, and auditing. It also handles payments to grantees for authorized projects for a number of assistance programs, including hazard mitigation and disaster recovery grants.

Operations

The Operations section manages and staffs the Jack Colley State Operations Center (SOC), located at DPS Headquarters in Austin. The SOC, which operates 24/7, serves as the state warning point and primary control facility and coordinates over 3,000 incidents per year. The SOC is a coordination and communications hub, allowing personnel to gather, evaluate, and distribute critical information, and to respond in the event of a natural or human-made emergency or disaster. An extensive communications network allows operations staff to send and receive information to and from regional stations; monitor threats and provide information on emergency incidents to local, state, and federal officials; and coordinate state emergency assistance to local governments.

The Operations Section also oversees the Field Response Section and implements the Amber Alert Program for missing children, the Silver Alert Program for missing senior citizens, and the Blue Alert Program for individuals who have harmed law enforcement officers.

Preparedness

The Preparedness section administers a statewide emergency management all-hazards preparedness program that includes five units:

Exercise Unit: Provides support to local jurisdictions, regional and state level agencies, and Voluntary Organizations Active in Disaster (VOAD) to design, conduct and evaluate emergency exercises at all levels.

Plans Unit: Develops and maintains state-level emergency plans, promotes state standards for local emergency management plans, assists cities and counties in developing emergency plans, and reviews more than 2,000 local plan documents each year to ensure compliance with state and federal planning standards and requirements.

Technological Hazards Unit: Enhances the emergency preparedness and response capabilities of communities to technological hazards throughout Texas. Technological hazards include industrial pollution, nuclear radiation, toxic wastes, dam failures, transportation accidents, factory explosions, fires, and chemical spills.

Training Unit: Manages and delivers a curriculum of emergency management and hazardous materials training for state and local emergency responders, regional officials, and volunteer groups active in disasters.

Continuity of Operations (COOP) Unit: Develops, communicates and maintains DPS' COOP strategy and continuity procedures; facilitates COOP training workshops for federal, state and local government organizations; develops continuity policy and procedures.

Field Response

The TDEM Regional State and District Coordinators (Appendix B) are the Division's field response personnel stationed throughout the State. In addition to carrying out emergency preparedness activities they also coordinate emergency response operations.

TDEM District coordinators are the division's field response personnel stationed throughout the state. They have a dual role as they carry out emergency preparedness activities and also coordinate emergency response operations. In their preparedness role, they assist local officials in carrying out emergency planning, training, and exercises, and developing emergency teams and facilities. They also teach a wide variety of emergency management training courses. In their response role, coordinators deploy to incident sites to assess damage, identify urgent needs, advise local officials regarding state assistance, and coordinate deployment of state emergency resources to assist local emergency responders.

State Coordinators oversee the team of district coordinators to provide support to local jurisdictions. State coordinators are assigned to the DPS regions, which encompass the Disaster Districts and the Capitol Area.

Recovery

The Recovery Section assesses damage with local and federal agencies, prepares disaster declaration requests for the Governor's signature, and deploys staff to the affected area to coordinate the overall recovery process.

Mitigation

TDEM's Mitigation Section maintains the State Hazard Mitigation Plan, reviews local mitigation plans, and provides hazard mitigation training for local officials. Mitigation staff also administers programs that provide Federal grant funding for cities, counties, and other governmental entities to carry out local and regional hazard mitigation programs.

Councils, Committees and Local Resources

Committees, subcommittees, and meetings serve as the mechanism for much of the coordination between TDEM and municipalities, counties, and state agencies.³ These forums are a means through which TDEM provides service and support for local officials and receives feedback on their needs, opportunities and successes. TDEM staff, their local counterparts, and key stakeholders are able to develop working partnerships in these forums and to share information regarding emergency preparedness that enhances coordination, efficiency, and organizational continuity when disasters do occur.

The Emergency Management Council

The state Emergency Management Council is composed of 32 state agencies, the American Red Cross, and the Salvation Army (see Appendix C). Its purpose is to advise and assist the Governor in all matters relating to disaster mitigation, emergency preparedness, disaster response, and recovery.

During major emergencies, representatives of the Council assemble at the SOC to coordinate response operations and deployment of state resources. When local governments experience an emergency for which their own resources are too limited to provide an adequate response, they will request state assistance. The member agencies of The Council are appointed because they have a legal responsibility, expertise, or resources needed for a specific emergency response function.

Disaster District Committee

The state's regional emergency management organizations, called disaster districts, serve as the initial source of state emergency assistance for local governments. The local Texas Highway Patrol commander serves as the Chairman of each District. Disaster District Committees, consisting of state agencies and volunteer groups that have resources within the District's area of responsibility, assist the Disaster District Chair in identifying, mobilizing, and deploying personnel, equipment, supplies, and technical support to respond to requests for emergency assistance from local governments and state agencies. Disaster District chairs may activate and commit all state resources in their area of responsibility to aid requesters. An exception is the activation of the National Guard or State Guard, which requires prior approval by the Governor. If the resources of a Disaster District are inadequate to provide the type or quantity of assistance that has been requested, the request for assistance is forwarded to the State Operations Center for state-level action.

Local Emergency Officials & Organizations

Within each city or county it falls to the Mayor and/or County Judge to organize emergency preparedness and disaster response on the most local level. Local emergency management and homeland security responsibilities include threat identification and prevention activities; emergency planning; providing or arranging training for local officials and emergency responders; planning and conducting drills and exercises; carrying out public education relating to known hazards; designing and implementing hazard mitigation programs; coordinating emergency response operations during incidents and disasters; and carrying out recovery activities in the aftermath of a disaster.

Local emergency management and homeland security organizations may be structured in a variety of ways, including sharing resources across counties or municipalities. Administratively, they may fall under the umbrella of the Mayor or County Judge's staff, be included as part of the local fire department or law enforcement agency, or as a stand-alone office or agency. Responsibilities for both emergency management and homeland security may be shared by one office or agencies, or addressed independently. Authority for the day to day management of local homeland security and emergency management duties can be delegated to an emergency management coordinator.

Regional Advisory Councils

The Department of State Health Services regulates EMS and trauma systems in Texas. DSHS designates a Regional Advisory Council (RAC) to develop, implement, and monitor a regional emergency medical services (EMS) trauma system plan to facilitate trauma system networking within its Trauma Service Area (TSA) or group of TSA's.⁴ There are 22 RAC's in Texas (Appendix D) all working to coordinate care for the benefit of patients. RAC membership may include hospitals, physicians, nurses, EMS providers, rehabilitation facilities, dispatchers, as well as other community groups and stakeholders. Because the membership varies, the structure of each RAC is different, but they share the same objectives:

- Develop and implement a regional EMS/trauma system plan
- Provide public information and education about prevention of trauma and a trauma system
- Provide a forum for EMS providers and hospitals to address trauma service area issues
- Network with other regional advisory councils
- Document and report trauma system data that meets trauma service criterion

Governor's EMS and Trauma Advisory Council (GETAC) & Disaster/Emergency Preparedness Committee

DSHS also oversees a 15 member council to advise and make recommendations on the rules and standards for emergency medical services and trauma system development.⁵ Known as the

Governor's EMS and Trauma Advisory Council (GETAC), the council is comprised of members appointed by the governor. Each member represents a different role in the EMS and trauma system, including a fire chief, a trauma surgeon or nurse, a rural trauma facility representative, an EMS educator, an emergency physician, a private EMS provider, and EMS medical director, a representative of the EMS air medical community, an urban trauma facility representative, a county-level EMS provider, a pediatrician, and an EMS volunteer.

The GETAC mission is "to promote, develop, and maintain a comprehensive EMS/trauma system that will meet the needs of all patients and that will raise the standards for community health care by implementing innovative techniques and systems for the delivery of emergency care for the entire population."

The council has ten standing committees: Air Medical, Cardiac Care, Disaster/Emergency Preparedness, Education, EMS, Injury Prevention, Medical Directors, Stroke, and Trauma Systems. Each committee is comprised of up to 11 members. Appointees are selected by an annual application review process with the GETAC Council Chair and the standing committee chair, selecting new members from a pool of applicants. Meetings are held quarterly and adhere to Open Meeting Act guidelines.

The Disaster/Emergency Preparedness Committee is currently chaired by the executive director of the Southwest Texas Regional Advisory Council. The committee is made up of first responders, emergency management, hospital representatives, RAC's and other interested stakeholders. Reports from other health and medical responders, as well as new ideas are discussed. The committee makes strategic suggestions to the full council, as appropriate. Recent topics of discussion include regional disaster response coordination efforts, the impacts of high-consequence infectious disease on the preparedness community, and coordinated efforts to train citizens to act as "stop the bleed" first-responders mass casualty situations.

Related Legislation from the 84th Session

HB 120, Flynn

Authorized the TDEM to use appropriated funds to purchase food and beverages for Division of Emergency Management personnel who are activated to provide services in response to a disaster and unable to leave or required to remain at their assignment areas due to the disaster.

HB 1666, D. Bonnen

Amended the Civil Practice and Remedies Code to provide that emergency personnel are only liable for damages they caused during a training exercise to prepare for responding to emergencies to the same extent that these persons would be liable for causing damages in responding to an actual emergency.

HB 2358, Lucio III, Anderson, et al.

Exempted out-of-state business entities from certain obligations if their business in Texas was limited to disaster- or emergency-related work during a disaster response period.

HB 2827, Phillips

Amended Government Code to expand the definition of "homeland security activity" to include activities relating to fire or medical emergencies to ensure that federal disaster relief may be sought for the provision of fire or medical emergency services.

SB 378, Rodriguez

Added a licensed social worker or a retired social worker to the definition of "volunteer health care provider" under the Texas Charitable Immunity and Liability Act of 1987 in order to protect social workers serving as emergency response volunteers from civil liability.

SB 904, Hinojosa

Created a sales tax holiday for certain emergency preparation supplies and hurricane-proofing materials.

SB 1465, Watson

Amended Government Code chapter 418.025 to allow the Governor to declare limited-purpose disasters. Amended the Government Code chapter 418.043 to require, subject to the availability of funds, the TDEM to establish and operate a search and rescue task force in each field response region to assist in search, rescue, and recovery efforts before, during, and after a natural or man-made disaster.

Recommendations

- Continue to strengthen resources for mayors and county judges to respond quickly in times of disaster, keeping in mind the perspective that "all disasters are local."
- Encourage all agencies and stakeholders to continue to identify ways to make disaster response services and communication more seamless.
- Further build upon HB 120 to be able to provide, at the discretion of the TDEM Director, food or drink for any personnel not able to leave their assignment area in times of emergency.

**COMMERCIAL MOTOR VEHICLE STANDARDS &
ENFORCEMENT**

Committee Action

On May 25, 2016 the committee met to review the current penalties for operating a commercial motor vehicle that is in violation of state or federal safety standards. Special consideration was given to the role of state and local law enforcement agencies in enforcing commercial motor vehicle standards. Testimony was given by the following: John Esparza for Texas Trucking Association, Bill Harbeson for Texas Department of Motor Vehicles, Victor Longoria for Aggregate Transporters Association of Texas, Chris Nordloh for Department of Public Safety - Texas Highway Patrol Commercial Vehicle Enforcement Division. The posting for this hearing encouraged all those interested in providing testimony on this charge to contact the committee. No municipalities, counties, or local law enforcement agencies expressed an interest in providing testimony.

Background

Under the Texas Transportation Code §644.101 (Appendix E) certain municipalities and counties are authorized to apply for certification to conduct commercial motor vehicle inspections and issue citations. The program was established in 1997 and currently 70 local police and sheriff departments (Appendix F) have been granted this authority by the Legislature, a total of 286 certified Officers/Deputies. In order to be certified, local law enforcement must enter into a memorandum of understanding (MOU) with DPS, which establishes procedures, including training, for the certification of municipal police officers, sheriffs, and deputy sheriffs to conduct commercial motor vehicle inspections under this chapter.

Officers certified under this program do not need probable cause to stop and inspect a commercial motor vehicle. With officers in numerous cities and counties certified to make these safety inspections truck drivers in Texas report being stopped multiple times a day.⁶ In 2015, DPS had to revise its MOU (Appendix G) with local authorities to address what was perceived as excessive enforcement by some agencies. In May of 2016 at least one city police department responded to complaints about its over-frequent commercial vehicle safety inspection stops by putting parameters in place to limit the number of citations an officer was able to issue without written justification in the inspection report. Some believe there may be a financial incentive behind both the frequent number of inspection stops and the number of citations issued.

Provisions in the Transportation Code §644.102 stipulate that the monies collected from the fines associated with the citations can be retained by the city or county to recover their costs of enforcement. In each fiscal year a county or municipality may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the municipality's actual expenses for enforcement. A municipality or county sends to the comptroller the proceeds of all fines that exceed this limit, and the comptroller then deposits the remaining funds to the credit of the Texas Department of Transportation. It is up to the local authority to determine and report its cost of enforcement. In contrast, when DPS tickets a truck driver for a violation a portion of the money generated by fines stays in the county in which the ticket was issued.

Since 1997 the comptroller's office has received a total of \$569,960.09 in excess motor carrier fines from 9 cities. Most of the cities and counties collecting these fines have never remitted any

money back to the state (see Appendix H).

Recommendations

Ensure that commercial motor vehicle enforcement is being conducted for public safety purposes and work with the State Comptroller's office to ensure that collected penalties are properly remitted.

Require objective criteria as a demonstration of need to accompany requests for local authorities to be granted CMV enforcement.

“TWO STEPS, ONE STICKER”

Committee Action

On March 29, 2016 the committee met to monitor the implementation of the “Two Steps, One Sticker” program relating to passenger vehicles, commercial vehicles, light duty trailers, and other vehicles. Invited testimony was given by the following: RenEarl Bowie for the Texas Department of Public Safety; John Esparza for the Texas Trucking Association; Les Findeisen for the Texas Trucking Association; and Jeremiah Kuntz for the Texas Department of Motor Vehicles.

Background

HB 2305, passed by the 83rd Legislature, required that the state’s vehicle inspection sticker be discontinued and replaced with a program where eligibility for a vehicle registration sticker is dependent upon passing a vehicle safety inspection and any required emissions inspections. The program, now known as “Two Steps, One Sticker,” became effective March 1, 2015 and moved into the final phase of implementation on March 1, 2016. A vehicle registered in Texas must now pass inspection no earlier than 90 days before its registration expires in order to renew its registration.

Texas Department of Motor Vehicles (TxDMV) partnered with the Department of Public Safety (DPS) and the Texas Commission on Environmental Quality (TCEQ) for the transition. Together the agencies established a method for verifying vehicle inspection status that is based on how insurance is electronically verified at the time of registration. All inspection data is required to be entered into the DPS inspection database so the system allows for the TxDMV’s Registration and Title System (RTS) to securely and automatically query the inspection database electronically verify a vehicle’s inspection status at the time of registration. In the case that the electronic verification fails, customers may present a hard copy of the vehicle inspection report (VIR), which all individuals are provided as proof of inspection at the time of inspection and the county officer can manually verify the inspection and renew the registration.

Public and Stakeholder Outreach

The most recent stakeholder education efforts have highlighted the 90 day inspection requirement.⁷ The original campaign, which utilized a combination of print, electronic, web-based media and radio was expanded to include digital billboards and website ads on news, weather, traffic and auto-related websites. Posters promoting the program have been hung in convenience stores and gas stations statewide. TxDMV also partnered with “Community Impact,” a local periodical in 30 communities across Texas.

The TxDMV Contact Center experienced a 28% increase in calls with the implementation of “Two Steps, One Sticker.” TxDMV was prepared to respond to the increased call volume and was successful in servicing those calls. A consumer survey reported an overall customer satisfaction rating of 91% with 88% of respondents rating the service as “excellent.”

Registration renewal notices sent to all customers statewide reminding them of their registration expiration date include informative inserts explaining the new inspection requirement. TxDMV has also continued to maintain a presence on social and traditional media to promote program awareness. The “Two Steps, One Sticker” website has been updated with new content and an interactive tool to help motorists determine their 90 day inspection window.

TxDMV continues to engage various partner agencies and organizations such as the Tax Assessor-Collectors Association of Texas, Texas Independent Auto Dealers Association, Texas Auto Dealers of Texas, Texas State Inspection Association, and the Texas Trucking Association to educate these groups about how the new program impacts their members and their business operations. Outreach efforts to these groups have included numerous webinars, educational articles in their trade publications, and customizable press releases to assist the tax assessor-collectors with their own public outreach efforts.

Electronic Verification

Overall the implementation of the electronic verification inspection program has been successful. DMV data show that only about 3 percent of all registrants required a manual verification of their vehicle inspection at the time of vehicle registration.⁸ In the instances where the electronic verification failed it was often due to no record of inspection being found in the database. Reasons for the absence of a record in the database included:

- Failure to obtain a passing inspection prior to renewal.
- Vehicle Identification Number (VIN) of the vehicle did not match the VIN in RTS. (This is likely due to an inspector inadvertently entering an incorrect VIN when inputting inspection results.)
- Inspection results did not have time to upload to the database. (This sometimes occurred when the inspection and renewal were carried out on the same day.)

Out of State Vehicles

Out-of-state vehicles presented a challenge to the new system. HB 1888 passed by the 84th Legislature addressed this problem by allowing Texans to self-certify that the vehicle is out-of-state. The system will then permit the vehicle to be registered online, by mail, or in person, but will mark the vehicle record with “Verify Inspection Required.” Law enforcement can view this record, and it is a citable offense. Once the vehicle is within state lines a vehicle inspection must be completed within three days.⁹

International Registration Plan & Token Trailer Registrants

A similar clause in HB 1888 related to International Registration Plan participants and semitrailers. Instead of requiring these vehicle types, which often operate out of state, to return to Texas in order to have their registration renewed, they are now exempt from having their inspection status verified at the time of registration. This modification was proposed to encourage businesses that operate fleets of these vehicles to register their trucks and trailers in Texas. However, the inspection is still legally required, and must be completed when the truck

returns within state lines. Trucking businesses operating in Texas have expressed frustration with this since they feel that their required federal safety inspection makes the state inspection redundant.¹⁰

Renewal Notice & Inspection Fee

TxDMV attempted to provide drivers with information regarding their total costs to register their vehicle TxDMV by including this information on each renewal notice. This amount included the state's portion of the inspection fee, which is based on the most recent inspection the vehicle received and assumes the vehicle will require the same inspection it received in the previous year. However, if the driver has moved in the last year and is now registering the vehicle in a new county their inspection fee (Appendix I) may have changed and thus the actual cost to register may be different than the cost printed on the renewal notice.¹¹ Currently, TxDMV systems recognize 14 different inspection fee amounts. Some customers have been dismayed to realize their actual fee is different than the amount they expected to pay.

Trailer Registration

Since 1995 Texas law has required trailers with a gross weight of 4,500 pounds or more to be subject to inspection if they are registered in the state. The "Two Steps, One Sticker" program made no changes to that requirement, but it did bring to light the fact that many trailer owners were not in compliance with state inspection requirements. In fact, some have reported they were unaware that such a requirement existed and were both surprised and frustrated they were not able to register their trailers under the new program without first obtaining an inspection.¹²

Recommendations

Examine the impact of exempting Commercial Motor Vehicles with federal safety inspections from the state inspection requirement for registration.

Ensure vehicle inspectors are properly trained on best practices for trailer inspections.

Consider whether certain trailers currently required to be inspected should be exempted from the inspection requirement.

**DISSEMINATION OF CRIMINAL RECORDS CONTAINING
INCOMPLETE OR INACCURATE INFORMATION**

Committee Action

On May 25, 2016 the committee met jointly with the House Committee on Government Transparency & Operation to hear testimony on the dissemination by public entities of criminal records containing incomplete or inaccurate information. Invited testimony was given by the following: Joe Ellis for Freedom of Information Foundation of Texas; Eric Ellman for Consumer Data Industry Association; John Fleming for Texas Mortgage Bankers Association; David Foy for LexisNexis; Skylor Hearn for Texas Department of Public Safety; David Mintz for Texas Apartment Association; Kathy Mitchell for Texas Criminal Justice Coalition; Stephanie Morgan for General Information Services; Dianna Muldrow for Texas Public Policy Foundation; Galen Svanas for National Association of Professional Background Screeners; and Caroline Woodburn for County and District Clerks' Association of Texas.

Background

Background checks, including criminal history records, have been used for some time by parties such as employers, volunteer organizers, banks, credit lenders, landlords and journalists for legitimate business and reporting purposes. More than two thirds of employers run criminal background checks on all of their potential employees as a contingency of employment according to a 2012 survey by the Society of Human Resource Management.¹³ The right to access these public records is protected under the Texas Public Information Act, and this information plays an important role in social and economic commerce and public integrity.

Concurrently, certain websites and publications have developed a business model around the bulk purchase of criminal history information. Income is generated from the further sale or distribution of those records, or by charging a fee to remove or modify false or misleading information from the website. Once erroneous or incomplete criminal history information enters the public domain it can often be nearly impossible to rescind. Many states are turning to legislative measures to restore balance between an individual's right to privacy and fair trial, and the public's right to obtain information.

Texas Public Information Act

The Texas Public Information Act, Texas Government Code Chapter 552, gives the public the right to access government records without being asked for what purpose they are being requested.

The Public Information Act applies to all governmental bodies, including all boards, commissions, and committees created by the executive or legislative branch. It also may apply to a body that is supported by public funds or that spends public funds. Although certain exceptions may apply to the disclosure of the information all government information is presumed to be available to the public. Information collected and maintained by the judiciary is not covered by the Texas Public Information Act. That information is governed by public access rules set by the Supreme Court of Texas and other applicable rules and laws.

The Act defines “public information” as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by or for a governmental body. This definition applies to information recorded in a variety of media and formats including any electronic communications. There is no set form to request public information, but the request must be submitted in writing to trigger obligations set forth in the Public Information Act.

Computerized Criminal History System

During the 71st Regular Session the Texas Legislature enacted House Bill 2335 and Senate Bill 41 establishing Chapter 60 of the Texas Code of Criminal Procedure and therein the Criminal Justice Information System (CJIS; Appendix J and K). The CJIS must capture, for each arrest for a felony or a Class B or higher misdemeanor, information relating to:

- Offenders
- Arrests
- Prosecutions
- Disposition of cases by courts
- Sentencing
- The handling of offenders received by a correctional agency, facility, or other institution.

This information is collected in two databases maintained by two agencies. The Texas Department of Criminal Justice (TDCJ) oversees the Corrections Tracking System, which it uses to manage information on offenders who are currently sentenced to prison, jail, parole, and probation. Independently, the Department of Public Safety (DPS) manages the Computerized Criminal History (CCH) System, the statewide repository for criminal history data and the system which is used to provide criminal background check services.

The CCH collects arrest information submitted by law enforcement entities; records submitted by district and county attorney’s offices; and records submitted by county, district, and other courts - including conviction decisions and sentencing information.¹⁴ Currently, there are over 14 million individuals listed in CCH. By law, arresting agencies must provide arrest information to the DPS within 7 days. Within 30 days of when they become available, prosecuting offices are required to report their decisions regarding acceptance or rejection of charges in the CCH, and court clerks are required to report into the CCH the disposition of charges decided in their courts.¹⁵

DPS is tasked with monitoring the submission of arrest and disposition information by local jurisdictions and is required to annually submit to the Legislative Budget Board, the governor, the lieutenant governor, the state auditor, and the standing committees in the senate and house of

representatives that have primary jurisdiction over criminal justice and the Department of Public Safety a report regarding the level of reporting by local jurisdictions in order to identify local jurisdictions that do not report arrest or disposition information or that partially report information.¹⁶ The fourteenth and most recent “Report Examining Reporting Compliance to the Texas Computerized Criminal History System” published January 2016 can be found on the DPS website.

A September 2011 report by the State Auditor’s Office (SAO) determined that the quality of information that DPS uses to conduct criminal history background checks was impaired by the significant number of prosecutor and court records that were not reported to DPS.¹⁷ As of January 2011, prosecutor offices and courts had submitted disposition records to the CCH System for 73.68 percent of arrests made in 2009. In May 2016 the SAO reported that the completeness and timeliness of the CCH System data had improved, reaching a 80.21 percent completion rate for arrests reported in 2013. In their reporting DPS found the statewide disposition reporting completeness rate for 2014 adult arrests was 78 percent and 89 percent for juvenile arrests.¹⁸ One factor that may impact the completeness of certain records is the length of time it may take to reach a final disposition in a contested case, but these numbers illustrate that 1 in 5 arrest records maintained by DPS have not been updated with a final disposition and remain incomplete. DPS has no means for enforcing when local agencies update those records in the database, but some departmental grants are contingent on keeping the number of complete records in CCH at or above a certain threshold.

Access and Sale of Criminal Records

Texas Government Code, Chapter 411 outlines who and for what purpose a person or organization may be granted access to criminal history record information. Section 411.135 states that any member of the public is entitled to obtain from DPS criminal history record information maintained by the department that relates to the conviction of or a grant of deferred adjudication to a person for any criminal offense. A person who obtains information from the department may use the information for any purpose and may release the information to any other person.

DPS makes this information available to individuals, for a fee, via the Conviction Database. The Conviction Database is public record information extracted from the CCH. The information contained in CCH is only public if a conviction or deferred adjudication has been reported to the Department on an offense.

DPS also provides publicly available data in the CCH system to private companies in the form of bulk sales. A list of bulk sales customers (Appendix L) is maintained online along with the date of their last purchase.¹⁹ DPS communicates to these customers on a regular basis when existing records become subject to orders of nondisclosure or are expunged, and customers are required to redact those records within 30 days. DPS has had good responsiveness with its customers in compliance with such orders.²⁰

Criminal history information can also be obtained directly from local government sources such as county and district clerks, clerks in justice or municipal courts, and law enforcement agencies. Users suggest that the most accurate and up to date arrest, booking, and criminal

information can be obtained from these local sources since it can be obtained with a written public information request, without much delay, and at any point in the criminal justice process.²¹ Government subdivisions rarely maintain copies of the records that are released, nor do they register who requested or received those records.²² The result is that once the information has been released there is no means for correcting misinformation, updating disposition information on each file, or redacting a file if a case is expunged or a person is issued an order of nondisclosure.

Neither DPS nor local governmental subdivisions are able to trace or update information passed or sold to a third party.

Recent Legislation in Texas and Other States

Texas, Georgia, Illinois, Oregon and Utah enacted legislation in 2013 to prohibit commercial sites from charging fees for removing mug shots upon request or by prohibiting sheriffs from releasing mug shots to sites that charge a fee, among other provisions.²³ Similar legislation was enacted in California, Colorado, Georgia, Missouri and Wyoming in 2014; in Maryland and Virginia in 2015; and in Florida and South Carolina so far in 2016.²⁴

In Texas, SB 1289, passed by the 83rd Legislature aimed to ensure that all public criminal record information that is reposted by a business entity is correct and fair. The bill amended the Business and Commerce Code (Appendix M) to require that criminal record information published by certain business entities must be complete and accurate. The bill established a process by which a person who is the subject of the criminal history information may dispute the completeness or accuracy of the information. SB 1289 required individuals disputing criminal record information published by a business entity to provide the business entity with a noncertified copy of a court order or other document that supports the individual's dispute. If the business finds that the published information is inaccurate or incomplete, it shall promptly remove the inaccurate information. The bill established a civil penalty for not more than \$500 for each violation in cases where a business entity publishes criminal record information it knows to be incomplete or inaccurate. It should be noted however that §109.002 of the Texas Business and Commerce Code exempts all of the following from SB 1289 and other provisions of the Chapter:

- A publication of general circulation or an Internet website related to such a publication that contains news or other information, including a magazine, periodical newsletter, newspaper, pamphlet, or report;
- A radio or television station that holds a license issued by the Federal Communications Commission;
- An entity that provides an information service or that is an interactive computer service; or
- A telecommunications provider.

In the last 5 years many states have passed or considered legislation related to curbing the

distribution of erroneous criminal history data including:

Alabama

H.B. 8, Requires websites containing personal information of persons charged with crimes to remove information at no charge upon request; provides civil penalties; provides presumption of defamation.

Florida

H.B. 293, Provides that juvenile justice confidential information, including arrest records, is exempt from public records requirements; authorizes custodians to choose not to electronically publish juvenile arrest and booking photographs; provides an exception for intrastate criminal information; relates to employee background screenings, investigations, notifications, court records and fingerprinting.

S.B. 1072, Relates to arrest booking photographs; prohibits a person who publishes or disseminates an arrest booking photograph through a certain medium from soliciting or accepting payment of a fee or other consideration to remove, correct, or modify such photograph; authorizes an action to enjoin publication or dissemination of an arrest booking photograph for a violation of the act; specifies the time limit for the removal of an arrest booking photograph pursuant to a court order.

Hawaii

H.B. 529, For criminal cases resulting in no conviction: 1) prohibits commercial websites from collecting a fee for removing arrest booking photographs from the website; 2) prohibits criminal justice agencies from posting arrest booking photographs on a website except as provided by law.

Kentucky

H.B. 132, Prohibits for commercial purposes the use of booking photographs and photographic records generated by law enforcement for identification purposes and taken of an inmate under certain conditions; allows for a right of action for certain persons requesting the removal of a photograph taken; provides for civil penalties; defines related terms; provides for service credits and sentence reductions to county jail inmates for receiving a general equivalency or high school diploma, and for good behavior.

New Jersey

A.B. 2085, Prohibits a person from charging a fee to stop publishing personal identifying information obtained through the criminal justice system.

A.B. 3906, Exempts mugshots of arrestees who have not been convicted of the underlying offense from State's open public records law.

New York

A.B. 626/S.B. 4537, Relates to when booking photographs taken after arrest of a person or the defendant shall be made publicly available.

Oregon

H.B. 3467, Requires persons that operate websites that disseminate photographic records of arrested individuals and charge fees for removal of these records to remove photographs and related information from all websites within their ownership or control without charging fee when requested in writing and arrest resulted in acquittal or violation, or following expunction.

South Carolina

S.B. 255, Relates to the destruction of arrest and booking records; provides that an entity who publishes on a website the arrest and booking records of a person whose charges have been discharged or dismissed, or of a person who is found not guilty of a charge, shall, without fee or compensation, remove the arrest and booking records within specified days of a written request; includes administrative hearings; provides penalties for failure to remove such records; provides for correction of crime database records.

Utah

H.B. 408, Enacts a provision relating to photographs of criminal suspects; prohibits county sheriffs from providing a copy of a booking photograph to a person if the photograph will be placed in a publication or posted on a website that requires a payment in order to remove the photograph; requires a person requesting a copy of a booking photograph to sign a statement that the photograph will not be placed in a publication or on a website that requires payment in order to remove the photograph; relates to penalties.

Virginia

S.B. 720, Relates to dissemination of criminal history record information and civil actions; provides that any person who disseminates, publishes, or maintain or causes the same of the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense that solicits, requests, or accepts money or other thing of value for removing such information shall be liable to the individual who is subject to the information for actual damages or a specified amount.

Wisconsin

A.B. 258, Relates to removal of certain criminal record information from Internet sites without a fee; provides a criminal penalty.

Some legislation, in line with those who note that access to mug shots and other criminal background information is an important part of journalistic coverage, freedom of speech and the public's right to know, has come at the issue from a different angle:

District of Columbia

B. 73, Requires the Metropolitan Police Department to release photographs of arrested individuals to the public.

Louisiana

2012 S.B. 452, Provides that the booking photograph of any person arrested for an alleged offense held by law enforcement agencies and communication districts will be disclosed upon request.

New Jersey

A.B. 2177, This bill would clarify that the booking photographs taken of a defendant after an arrest, commonly referred to as mugshots, are to be available to the public under the State's open public records law. Current law does not specifically address the availability of mugshots to the public. Instead, decisions on whether to release mugshots are left to the discretion of investigative agencies, allowing inconsistent policies on the release of these records to be applied throughout the State. This bill would provide a uniform policy that all mugshots are to be made available to the public.

South Dakota

H.B. 1109, Provides that criminal booking photos and police logs are open records.

Washington

H.B. 1723, Allows booking photographs and electronic images at jails to be open to the public.

H.B. 1689, Requires department of corrections officers and chief law enforcement officers to maintain a jail register that is open to the public and includes booking photographs of each person after charges have been filed.

Recommendations

Consider amending the Business and Commerce Code to prohibit business entities from charging consumers for having their mugshots removed from a website if the information is inaccurate, misleading, or has been ordered expunged or sealed by an order of nondisclosure.

Require counties to maintain date of purchase and contact information for purchasers of bulk criminal record information.

APPENDICES

Appendix A

SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

Sec. 418.041. ORGANIZATION. (a) The Texas Division of Emergency Management is a division of the department.

(b) The division is managed by a chief appointed by the public safety director of the department, with the approval of the governor. The chief serves at the pleasure of the public safety director. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified:

- (1) a representative of the department;
- (2) a representative of the division;
- (3) a representative of the governor's office of homeland security;
- (4) the presiding officer of the Homeland Security Council; and
- (5) a state agency representative from the emergency management council, selected by the chair of the emergency management council.

(d) The division shall employ other coordinating and planning officers and other professional, technical, secretarial, and clerical personnel necessary to the performance of its functions.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2A.02, eff. September 1, 2009.

Sec. 418.042. STATE EMERGENCY MANAGEMENT PLAN.

(a) The division shall prepare and keep current a comprehensive state emergency management plan. The plan may include:

- (1) provisions for prevention and minimization of injury and damage caused by disaster;
- (2) provisions for prompt and effective response to disaster;
- (3) provisions for emergency relief;
- (4) provisions for energy emergencies;
- (5) identification of areas particularly vulnerable to disasters;
- (6) recommendations for zoning, building restrictions, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (7) provisions for assistance to local officials in designing local emergency management plans;
- (8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, fire, or other disaster;
- (9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
- (10) organization of manpower and channels of assistance;
- (11) coordination of federal, state, and local emergency management activities;
- (12) coordination of the state emergency management plan with the emergency management plans of the federal government;
- (13) coordination of federal and state energy emergency plans;

(14) provisions for providing information to local officials on activation of the Emergency Alert System established under 47 C.F.R. Part 11;

(15) a database of public facilities that may be used under Section 418.017 to shelter individuals during a disaster, including air-conditioned facilities for shelter during an extreme heat disaster and fortified structures for shelter during a wind disaster;

(16) provisions for quickly replenishing the food supplies of area food banks or food pantries following a disaster; and

(17) other necessary matters relating to disasters.

(b) In preparing and revising the state emergency management plan, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

(c) All or part of the state emergency management plan may be incorporated into regulations of the division or executive orders that have the force and effect of law.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 7.01, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 365 (H.B. 1326), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.04, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.009, eff. September 1, 2011.

Sec. 418.0425. STATE EMERGENCY MANAGEMENT PLAN ANNEX. (a) In this section, "critical water or wastewater facility" means a facility with:

(1) water supply, treatment, or distribution equipment that is essential to maintain the minimum water pressure requirements established by the governing body of a municipality or the Texas Commission on Environmental Quality; or

(2) wastewater collection or treatment equipment that is essential to prevent the discharge of untreated wastewater to water in the state.

(b) The division, in cooperation with the emergency management council, local governments, regional entities, health and medical facilities, volunteer groups, private sector partners, the Federal Emergency Management Agency, and other federal agencies, shall develop an annex to the state emergency management plan that addresses initial response planning for providing essential population support supplies, equipment, and services during the first five days immediately following a disaster. The annex must include:

(1) plans to make fuel available to, maintain continuing operations of, and assess the backup power available for, all:

- (A) hospitals;
- (B) prisons;
- (C) assisted living facilities licensed under Chapter 247, Health and Safety Code;
- (D) institutions licensed under Chapter 242, Health and Safety Code; and
- (E) other critical facilities determined by the division;

(2) provisions for interagency coordination of disaster response efforts;

(3) provisions for the rapid gross assessment of population support needs;

(4) plans for the clearance of debris from major roadways to facilitate emergency response operations and delivery of essential population support supplies and equipment;

(5) methods to obtain food, water, and ice for disaster victims through prearranged contracts or suppliers, stockpiled supplies, or plans to request assistance from federal agencies, as appropriate;

(6) guidelines for arranging temporary points of distribution for disaster relief supplies and standardized procedures for operating those distribution points;

(7) methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals;

(8) provisions, developed in coordination with fuel suppliers and retailers, for the continued operation of service stations to provide fuel to disaster victims and emergency responders; and

(9) provisions for the dissemination of emergency information through the media to aid disaster victims.

(c) The division, in coordination with the Texas Commission on Environmental Quality and electric, gas, water, and wastewater utility providers, shall develop for inclusion in the annex to the state emergency management plan provisions to provide emergency or backup power to restore or continue the operation of critical water or wastewater facilities following a disaster. The provisions must:

(1) establish an online resource database of available emergency generators configured for transport that are capable of providing backup power for critical water or wastewater facilities following a disaster;

(2) include procedures for the maintenance, activation, transportation, and redeployment of available emergency generators;

(3) develop a standardized form for use by a water or wastewater utility provider in developing and maintaining data on the number and type of emergency generators required for the operation of the provider's critical water or wastewater facilities following a disaster; and

(4) include procedures for water or wastewater utility providers to maintain a current list of generators available in surrounding areas through mutual aid agreements, recognized and coordinated statewide mutual aid programs, and through commercial firms offering generators for rent or lease.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.05, eff. September 1, 2009.

Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;

(2) procure and position supplies, medicines, materials, and equipment;

(3) adopt standards and requirements for local and interjurisdictional emergency management plans;

(4) periodically review local and interjurisdictional emergency management plans;

(5) coordinate deployment of mobile support units;

(6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery;

(14) develop a plan to raise public awareness and expand the capability of the information and referral network under Section 531.0312;

(15) improve the integration of volunteer groups, including faith-based organizations, into emergency management plans;

(16) cooperate with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines;

(17) cooperate with state agencies to:

(A) encourage the public to participate in volunteer emergency response teams and organizations that respond to disasters; and

(B) provide information on those programs in state disaster preparedness and educational materials and on Internet websites;

(18) establish a liability awareness program for volunteers, including medical professionals;

(19) define "individuals with special needs" in the context of a disaster;

(20) establish and operate, subject to the availability of funds, a search and rescue task force in each field response region established by the division to assist in

search, rescue, and recovery efforts before, during, and after a natural or man-made disaster; and

(21) do other things necessary, incidental, or appropriate for the implementation of this chapter.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 11.010, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 959 (S.B. 1465), Sec. 2, eff. June 18, 2015.

Sec. 418.044. ASSISTANCE IN DEVELOPMENT OF LOCAL PLANS.

(a) The division shall take an integral part in the development and revision of local and interjurisdictional emergency management plans. For that purpose, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies. Those personnel shall consult with the subdivisions and agencies on a regularly scheduled basis and shall make field reviews of the areas, circumstances, and conditions to which particular local and interjurisdictional emergency management plans apply and may suggest revisions.

(b) The division shall encourage local and interjurisdictional agencies to seek advice from local government, business, labor, industry, agriculture, civic organizations, volunteer organizations, and community leaders.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 992, Sec. 6, eff. Sept. 1, 1997.

Sec. 418.045. TEMPORARY PERSONNEL. (a) The division may employ or contract with temporary personnel from funds appropriated to the division, from federal funds, or from the

disaster contingency fund. The merit system does not apply to the temporary or contract positions.

(b) The division may enroll, organize, train, and equip a cadre of disaster reservists with specialized skills in disaster recovery, hazard mitigation, community outreach, and public information to temporarily augment its permanent staff. The division may activate enrolled disaster reservists to support recovery operations in the aftermath of a disaster or major emergency and pay them at a daily rate commensurate with their qualifications and experience. Chapter 654, Chapter 2254, and Subtitle D, Title 10, do not apply in relation to a disaster reservist under this subsection.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by Acts 1997, 75th Leg., ch. 992, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.07, eff. September 1, 2009.

Sec. 418.046. ASSISTANCE TO AVIATORS. (a) The division may provide assistance to private aviators, including partial reimbursement for funds expended, to meet the actual costs of aircraft operation in performing search, rescue, or disaster-related functions requested by the governor or the governor's designee.

(b) Any reimbursement must be limited to the actual cost of aircraft operation not reimbursable from other sources.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Sec. 418.0461. ASSISTANCE TO CIVIL AIR PATROL. The division may provide financial assistance to the Civil Air Patrol, Texas Wing, to support the wing's disaster-related activities that assist the state and state agencies and the wing's training and exercises associated with those activities.

Added by Acts 1995, 74th Leg., ch. 889, Sec. 1, eff. Aug. 28, 1995.

Sec. 418.047. COMMUNICATIONS. (a) In cooperation with other state agencies, the division shall ascertain what means exist for rapid and efficient communication in times of disaster.

(a-1) The division shall coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists, including:

- (1) severe weather advisories;
- (2) AMBER alerts under Subchapter L, Chapter 411; and
- (3) silver alerts under Subchapter M, Chapter 411.

(b) The division shall consider the desirability of supplementing the communication resources or integrating them into a state or state-federal telecommunication or other communication system or network.

(c) In studying the character and feasibility of any system or its parts, the division shall evaluate the possibility of its multipurpose use for general state and local governmental purposes.

(d) The division shall make recommendations to the governor as appropriate.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 8.01, eff. September 1, 2009.

Sec. 418.048. MONITORING WEATHER. The division shall keep continuously apprised of weather conditions that present danger of climatic activity, such as precipitation, severe enough to constitute a disaster.

Acts 1987, 70th Leg., ch. 147, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.08, eff. September 1, 2009.

Sec. 418.050. PHASED REENTRY PLAN. (a) The division shall develop a phased reentry plan to govern the order in which particular groups of people are allowed to reenter areas previously evacuated because of a disaster or threat of disaster. The plan may provide different reentry procedures for different types of disasters.

(b) The phased reentry plan shall:

(1) recognize the role of local emergency management directors in making decisions regarding the timing and implementation of reentry plans for a disaster; and

(2) provide local emergency management directors with sufficient flexibility to adjust the plan as necessary to accommodate the circumstances of a particular emergency.

(c) The division, in consultation with representatives of affected parties and local emergency management directors, shall develop a reentry credentialing process. The division shall include the credentialing process in the phased reentry plan. The Department of Public Safety of the State of Texas shall provide support for the credentialing process.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.09, eff. September 1, 2009.

Sec. 418.0501. REENTRY CREDENTIALING PILOT PROGRAM. (a) The division shall consider implementing a pilot program for a reentry credentialing process for reentry into areas previously evacuated because of a disaster or threat of disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 2B.051, eff. September 1, 2009.

Redesignated from Government Code, Section 418.050 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(16), eff. September 1, 2011.

Sec. 418.051. COMMUNICATIONS COORDINATION GROUP. (a) The communications coordination group shall facilitate interagency coordination and collaboration to provide efficient and effective planning and execution of communications support to joint, interagency, and intergovernmental task forces.

(b) At the direction of the division, the communications coordination group shall assist with coordination and collaboration during an emergency.

(c) The communications coordination group consists of members selected by the division, including representatives of:

- (1) the Texas military forces;
- (2) the Department of Public Safety of the State of Texas;
- (3) the Federal Emergency Management Agency;
- (4) federal agencies that comprise Emergency Support Function No. 2;
- (5) the telecommunications industry, including cable service providers, as defined by Section 66.002, Utilities Code;
- (6) electric utilities, as defined by Section 31.002, Utilities Code;
- (7) gas utilities, as defined by Sections 101.003 and 121.001, Utilities Code;
- (8) the National Guard's Joint Continental United States Communications Support Environment;
- (9) the National Guard Bureau;
- (10) amateur radio operator groups;
- (11) the Texas Forest Service;
- (12) the Texas Department of Transportation;
- (13) the General Land Office;
- (14) the Texas Engineering Extension Service of The Texas A&M University System;
- (15) the Public Utility Commission of Texas;

- (16) the Railroad Commission of Texas;
- (17) the Department of State Health Services;
- (18) the judicial branch of state government;
- (19) the Texas Association of Regional Councils;
- (20) the United States Air Force Auxiliary Civil Air Patrol, Texas Wing;
- (21) each trauma service area regional advisory council;
- (22) state agencies, counties, and municipalities affected by the emergency, including 9-1-1 agencies; and
- (23) other agencies as determined by the division.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.10, eff. September 1, 2009.

Sec. 418.052. USE OF FUNDS TO SUPPORT CERTAIN DIVISION PERSONNEL. The division may use appropriated funds to purchase food and beverages for division personnel who are:

- (1) activated to provide services in response to a disaster; and
- (2) unable to leave or required to remain at their assignment areas due to the disaster.

Added by Acts 2015, 84th Leg., R.S., Ch. 267 (H.B. 120), Sec. 1, eff. June 1, 2015.

Appendix B

TEXAS State Coordinators - as of December 2015



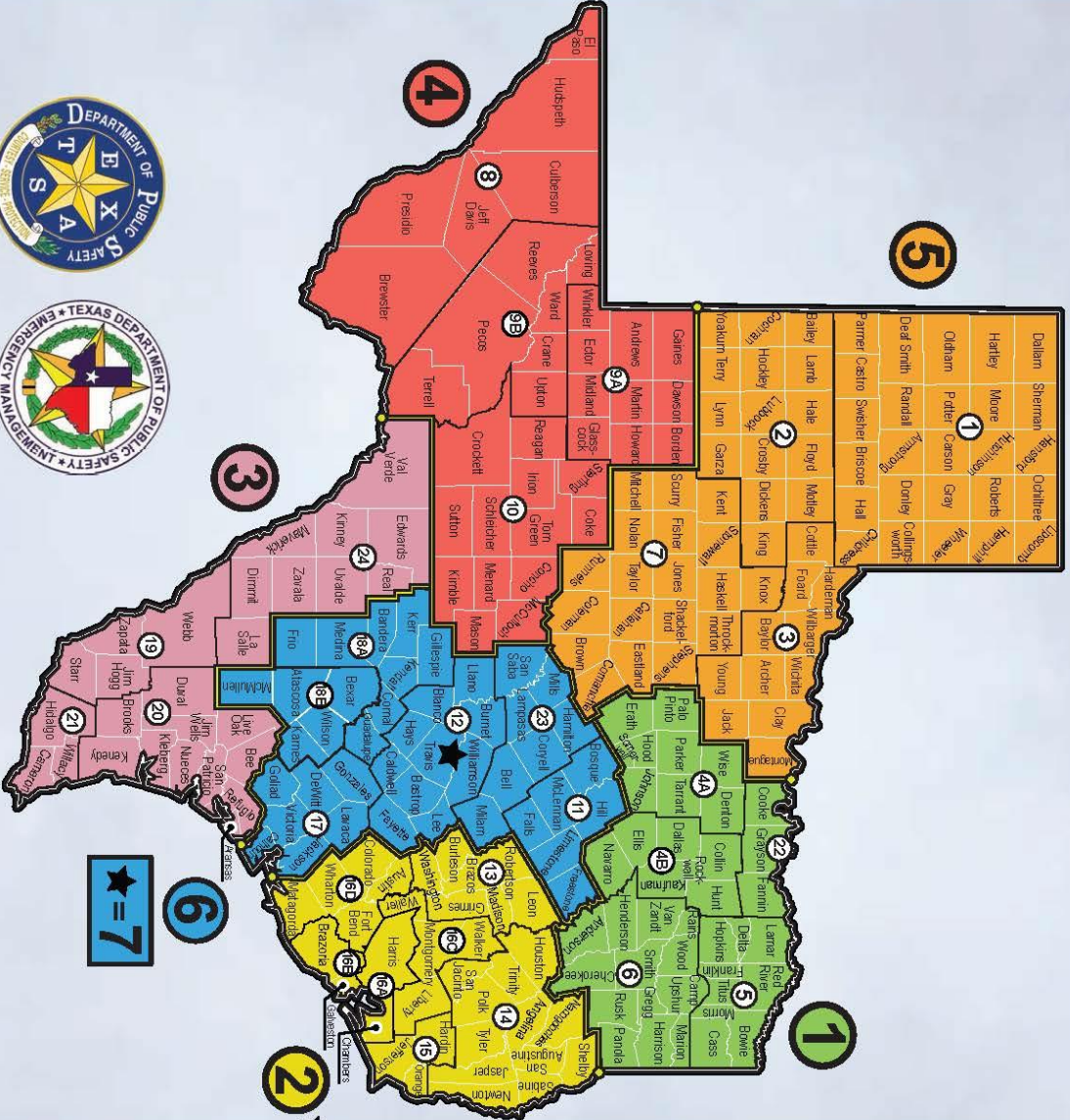
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Appendix C

Emergency Management Council

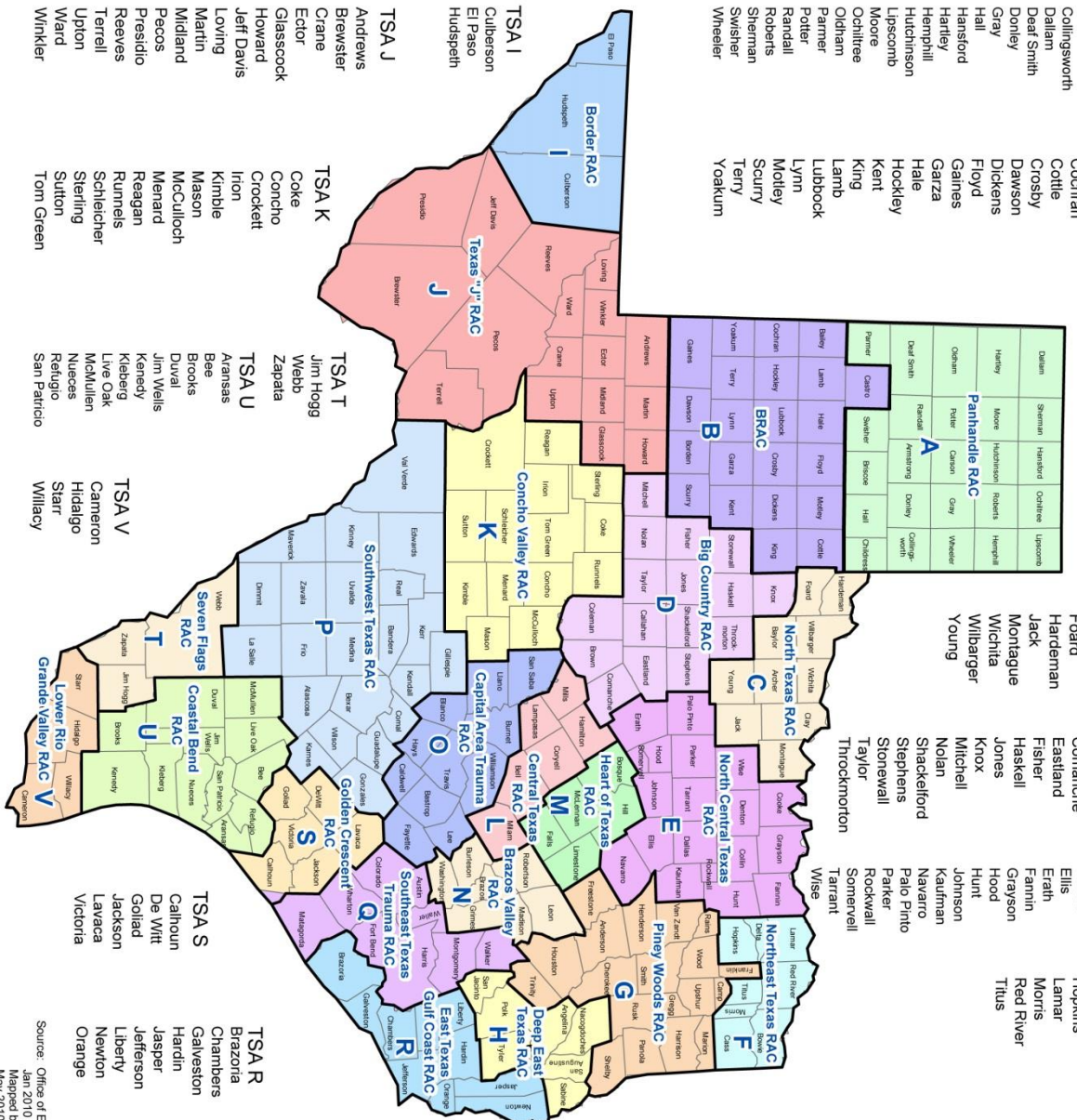
- Adjutant General's Department (AGD)
- American Red Cross (ARC) *
- Department of Information Resources (DIR)
- General Land Office (GLO)
- State Auditor's Office (SAO)
- State Comptroller of Public Accounts (CPA)
- Texas AgriLife Extension Service (formerly TX Cooperative Extension Service)
- Texas Animal Health Commission (TAHC)
- Texas Attorney General's Office (OAG)
- Texas Commission on Environmental Quality (TCEQ)
- Texas Commission on Fire Protection (TCFP)
- Texas Department Assistive & Rehabilitative Services (DARS)
- Texas Department of Aging and Disability Services (DADS)
- Texas Department of Agriculture (TDA)
- Texas Department of Criminal Justice (TDCJ)
- Texas Department of Family Protective Services (DFPS)
- Texas Department of Housing and Community Affairs (TDHCA)
- Texas Department of Insurance (TDI)
- Texas Department of Public Safety (TXDPS)
- Texas Department of State Health Services (DSHS)
- Texas Department of Transportation (TXDOT)
- Texas Division of Emergency Management (TDEM)
- Texas Education Agency (TEA)
- Texas Engineering Extension Service (TEEX)
- Texas Forest Service (TFS)
- Texas Health & Human Services Commission (HHSC)
- Texas Office of Court Administration (Texas Supreme Court) (new member, 81st Leg)
- Texas Parks and Wildlife Department (TPWD)

- Texas Procurement and Support Services (TPASS) (formerly TBPC) (CPA)
- Texas Public Utility Commission (PUC)
- Texas Railroad Commission (RRC)
- Texas Workforce Commission (TWC)
- The Salvation Army (TSA) *

* **Note:** The American Red Cross and the Salvation Army are not state agencies.

Appendix D

Trauma Service Areas with RAC Names



- TSA A**: Armstrong, Briscoe, Carson, Childress, Collingsworth, Daltam, Dearl Smith, Donley, Gray, Hall, Haristord, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ocillnee, Oldham, Parmer, Potter, Randall, Roberts, Shearnan, Swisher, Wheeler
- TSA B**: Bailey, Borden, Castro, Cochran, Cottle, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, King, Lamb, Lubbock, Lynn, Motley, Scurry, Terry, Yoakum
- TSA C**: Archer, Baylor, Clay, Foad, Hardeman, Jack, Montague, Wichita, Wilbarger, Young
- TSA D**: Brown, Callahan, Coleman, Comanche, Eastland, Fisher, Haskell, Jones, Knox, Mitchell, Nolan, Shackleford, Stephens, Stonewall, Taylor, Throckmorton, Wise
- TSA E**: Collin, Cooke, Dallas, Denton, Ellis, Fannin, Grayson, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant
- TSA F**: Bowie, Cass, Delta, Hopkins, Lamar, Morris, Red River, Trius
- TSA G**: Anderson, Camp, Cherokee, Franklin, Freestone, Gregg, Harrison, Henderson, Houston, Marlon, Panola, Raino, Rusk, Shelby, Smith, Trinity, Upshur, Van Zandt, Wood
- TSA H**: Angelina, Nacogdoches, Polk, Sabine, San Augustine, San Jacinto, Tyler
- TSA I**: Culberson, El Paso, Hudspeth
- TSA J**: Andrews, Brewster, Crane, Ector, Glasscock, Howard, Jeff Davis, Loving, Martin, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Ward, Winkler
- TSA K**: Coke, Concho, Crockett, Itron, Kinrble, Mason, McCulloch, Menard, Reagan, Runnels, Schleicher, Surtion, Tom Green
- TSA L**: Bell, Coryell, Hamilton, Lampasas, Milam, Mills
- TSA M**: Bosque, Falls, Hill, Limestone, McLennan
- TSA N**: Brazos, Burleson, Grimes, Jasper, Jefferson, Liberty, Newton, Orange
- TSA O**: Bastrop, Blanco, Burnet, Caldwell, Fayette, Hayes, Lee, Llano, San Saba, Travis, Williamson
- TSA P**: Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gillespie, Gonzales, Guadalupe, Karnes, Kendall, Kerr, Kinney, La Salle, Maverick, Medina, Real, Uvalde, Val Verde, Wilson, Zavala
- TSA Q**: Austin, Colorado, Fort Bend, Harris, Matagorda, Montgomery, Walker, Waller, Wharton
- TSA R**: Brazoria, Chambers, Galveston, Hardin, Jasper, Jefferson, Liberty, Newton, Orange
- TSA S**: Calloun, De Witt, Goliad, Jackson, Lavaca, Victoria
- TSA T**: Jim Hogg, Webb
- TSA U**: Akins, Bee, Brooks, Duvall, Jim Wells, Kennedy, Kleberg, Live Oak, McMullen, Nueces, Refugio, San Patricio
- TSA V**: Cameron, Hidalgo, Starr, Willacy
- TSA W**: Lower Rio Grande Valley RAC

Source: Office of EMS/Trauma Systems
 Jan 2010
 Mapped by GIS Staff, Center for Health Statistics
 May 2010



Appendix E

SUBCHAPTER C. ADMINISTRATIVE ENFORCEMENT

Sec. 644.101. CERTIFICATION OF CERTAIN PEACE OFFICERS.

(a) The department shall establish procedures, including training, for the certification of municipal police officers, sheriffs, and deputy sheriffs to enforce this chapter.

(b) A police officer of any of the following municipalities is eligible to apply for certification under this section:

(1) a municipality with a population of 50,000 or more;

(2) a municipality with a population of 25,000 or more any part of which is located in a county with a population of 500,000 or more;

(3) a municipality with a population of less than 25,000:

(A) any part of which is located in a county with a population of 3.3 million; and

(B) that contains or is adjacent to an international port;

(4) a municipality with a population of at least 34,000 that is located in a county that borders two or more states;

(5) a municipality any part of which is located in a county bordering the United Mexican States;

(6) a municipality with a population of less than 5,000 that is located:

(A) adjacent to a bay connected to the Gulf of Mexico; and

(B) in a county adjacent to a county with a population greater than 3.3 million;

(7) a municipality that is located:

(A) within 25 miles of an international port; and

(B) in a county that does not contain a highway that is part of the national system of interstate and defense

highways and is adjacent to a county with a population greater than 3.3 million;

(8) a municipality with a population of less than 8,500 that:

(A) is the county seat; and

(B) contains a highway that is part of the national system of interstate and defense highways; or

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 278, Sec. 1

(9) a municipality located in a county with a population between 60,000 and 66,000 adjacent to a bay connected to the Gulf of Mexico

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 1130, Sec. 1

(9) a municipality with a population of more than 40,000 and less than 50,000 that is located in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico.

(c) A sheriff or a deputy sheriff of a county bordering the United Mexican States or of a county with a population of 700,000 or more is eligible to apply for certification under this section.

(d) A sheriff, a deputy sheriff, or any peace officer that does not attend continuing education courses on the enforcement of traffic and highway laws and on the use of radar equipment as prescribed by Subchapter F, Chapter 1701, Occupations Code, shall not enforce traffic and highway laws.

(e) The department by rule shall establish reasonable fees sufficient to recover from a municipality or a county the cost of certifying its peace officers under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.29(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 508 (S.B. 545), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 702 (H.B. 2077), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1030 (H.B. 1638), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.009, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 249 (H.B. 1010), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 176, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 683 (H.B. 2304), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 278 (H.B. 716), Sec. 1, eff. June 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1130 (S.B. 58), Sec. 1, eff. September 1, 2015.

Sec. 644.102. MUNICIPAL AND COUNTY ENFORCEMENT REQUIREMENTS. (a) The department by rule shall establish uniform standards for municipal or county enforcement of this chapter.

(b) A municipality or county that engages in enforcement under this chapter:

(1) shall pay all costs relating to the municipality's or county's enforcement;

(2) may not be considered, in the context of a federal grant related to this chapter:

(A) a party to a federal grant agreement, except as provided by Subsection (b-1); or

(B) a grantee under a federal grant to the department; and

(3) must comply with the standards established under Subsection (a).

(b-1) Subsection (b) does not prohibit a municipality or county from receiving High Priority Activity Funds provided under the federal Motor Carrier Safety Assistance Program.

(c) Municipal or county enforcement under Section 644.103(b) is not considered departmental enforcement for purposes of maintaining levels of effort required by a federal grant.

(d) In each fiscal year, a municipality may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the municipality's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after reviewing the most recent municipal audit conducted under Section 103.001, Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent municipal audit, a municipality may retain fines in an amount not to exceed 110 percent of the amount the comptroller estimates would be the municipality's actual expenses for enforcement of this chapter during the year.

(e) In each fiscal year, a county may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the county's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after reviewing the most recent county audit conducted under Chapter 115, Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent county audit, a county may retain fines in an amount not to exceed 110 percent of the amount the comptroller estimates would be the county's actual expenses for enforcement of this chapter during the year.

(f) A municipality or county shall send to the comptroller the proceeds of all fines that exceed the limit imposed by Subsection (d) or (e). The comptroller shall then deposit the remaining funds to the credit of the Texas Department of Transportation.

(g) The department shall revoke or rescind the certification of any peace officer who fails to comply with any standard established under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 13.01, eff. September 1, 2007.

Sec. 644.103. DETENTION OF VEHICLES. (a) An officer of the department may stop, enter, or detain on a highway or at a port of entry a motor vehicle that is subject to this chapter.

(b) A municipal police officer who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the municipality a motor vehicle that is subject to this chapter. A sheriff or deputy sheriff who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the county a motor vehicle that is subject to this chapter.

(c) A person who detains a vehicle under this section may prohibit the further operation of the vehicle on a highway if the vehicle or operator of the vehicle is in violation of a federal safety regulation or a rule adopted under this chapter.

(d) A noncommissioned employee of the department who is certified for the purpose by the director and who is supervised by an officer of the department may, at a commercial motor vehicle inspection site, stop, enter, or detain a motor vehicle

that is subject to this chapter. If the employee's inspection shows that an enforcement action, such as the issuance of a citation, is warranted for a violation of this title or a rule adopted under this title, including a federal safety regulation adopted under this chapter, the noncommissioned employee may take enforcement action only if the employee is under the supervision of an officer of the department.

(e) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.31(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 40, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 359, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.03, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 12 (S.B. 330), Sec. 2, eff. April 23, 2007.

Sec. 644.104. INSPECTION OF PREMISES. (a) An officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to:

- (1) inspect real property, including a building, or equipment; or
- (2) copy or verify the correctness of documents, including records or reports, required to be kept or made by rules adopted under this chapter.

(b) The officer or employee may conduct the inspection:

- (1) at a reasonable time;
- (2) after stating the purpose of the inspection; and
- (3) by presenting to the motor carrier:
 - (A) appropriate credentials; and
 - (B) a written statement from the department to the motor carrier indicating the officer's or employee's authority to inspect.

(c) The department may use an officer to conduct an inspection under this section if the inspection involves a situation that the department determines to reasonably require the use or presence of an officer to accomplish the inspection.

(d) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

(e) A municipal police officer who is certified under Section 644.101 may enter a motor carrier's premises to inspect equipment on a per unit basis or in a manner agreeable between the motor carrier and the enforcement entity:

- (1) at a reasonable time;
- (2) after stating the purpose of the inspection; and
- (3) by presenting to the motor carrier appropriate credentials.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 642, Sec. 1, eff. June 13, 2001.

Appendix F

Current Motor Carrier Safety Assistance Program (MCSAP) Agencies

Allen Police Department
Arlington Police Department
Austin Police Department
Balch Springs Police Department
Baytown Police Department
Beaumont Police Department
Bexar County Sheriff's Office
Burleson Police Department
Carrollton Police Department
Cedar Park Police Department
Cedar Hill Police Department
Collin County Sheriff's Office
Conroe Police Department
Coppell Police Department
Corpus Christi Police Department
Dallas County Sheriff's Office
Del Rio Police Department
Denton Police Department
DeSoto Police Department
El Paso Police Department
Euless Police Department
Flower Mound Police Department
Fort Worth Police Department
Freeport Police Department
Friendswood Police Department
Frisco Police Department
Galena Park Police Department
Galveston Police Department
Garland Police Department
Grand Prairie Police Department
Grapevine Police Department
Gregory Police Department
Haltom City Police Department
Harris County Sheriff's Office
Hillsboro Police Department
Houston Police Department

Hurst Police Department
Irving Police Department
Kemah Police Department
Killeen Police Department
La Joya Police Department
Lancaster Police Department
La Porte Police Department
Laredo Police Department
League City Police Department
Lewisville Police Department
Little Elm Police Department
Longview Police Department
Mansfield Police Department
McKinney Police Department
Midland Police Department
Mission Police Department
Missouri City Police Department
North Richland Hills Police Department
Palmview Police Department
Pasadena Police Department
Pearland Police Department
Pflugerville Police Department
Pharr Police Department
Plano Police Department
Port Arthur Police Department
Richardson Police Department
Rowlett Police Department
San Antonio Police Department
Seabrook Police Department
Southlake Police Department
Temple Police Department
Texas City Police Department
Travis County Sheriff's Office
Wylie Police Department

Appendix G

Current MOU, Effective Since 2015

MEMORANDUM OF UNDERSTANDING

Between

THE TEXAS DEPARTMENT OF PUBLIC SAFETY

(The "Department")

-and-

(The "Allied Agency")

General Agreement

The goal of the Motor Carrier Safety Assistance Program is to reduce Commercial Motor Vehicle (CMV)-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Effective safety programs increase the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices are detected and corrected before they become contributing factors to crashes.

In order to maximize the effective utilization of CMV, driver, and cargo inspection resources; to avoid duplication of effort and to expand the number of inspections performed; to advance uniformity of inspection; and to minimize delays in schedules incurred by industry inherent to this type of enforcement activity, the undersigned parties enter into this Memorandum of Understanding (MOU).

In recognition of the many agencies - federal, state, county, and municipality - engaged in the inspection of commercial motor vehicles, their drivers, and cargo within the State of Texas; and the need for a basic delineation of routine responsibility, it is agreed:

1. The Department will inspect vehicles operating over public highways and at carrier terminal facilities.
2. Other allied agencies will, as a routine practice, confine inspection activities to vehicles operating over public highways and city streets in their jurisdiction with the exception of municipal police officers certified under Texas Transportation Code, Section 644.101; such municipal officers may conduct vehicle inspections at carrier terminal facilities.

The Parties understand that it is very important to ensure the timeliness and accuracy of information recorded about both interstate and intrastate motor carriers in their respective carrier profiles. To this end, the Federal Motor Carrier Safety Administration has imposed timeliness and accuracy standards on the Department regarding information about motor carriers. The Department, in turn, has established timeliness and accuracy standards for itself and for counties and municipalities engaged in the inspection of commercial motor vehicles.

The Parties' authorized inspection representatives (Program Coordinators) shall implement procedures in accordance with the minimum standards in this MOU.

In order to advance uniformity in the inspection of commercial motor vehicles and their operators, the Parties shall adopt the CVSA's North American Standard Roadside Inspection Procedures and North American Standard Out-of-Service Criteria as adopted by the Department of Public Safety under Chapter 644, Texas Transportation Code (the "Transportation Code" at <http://www.statutes.legis.state.tx.us/>); Title 37, Texas Administrative Code ("TAC" at <http://www.sos.state.tx.us/tac/index.shtml>), Chapter 4, Subchapter B; Chapter 16, Subchapter A; and Chapter 21 and any amendments thereto, and the most current version of the CMV Enforcement Guidance Documents provided by the Department.

Commercial Vehicle Safety Alliance (CVSA)

Levels of Inspection

Level I	North American Standard
Level II	Walkaround Inspection
Level III	Driver Only Inspection
Level IV	Special Inspection
Level V	Vehicle-Only Inspection (Terminal)

Responsibilities of the Department

In order to better implement and maintain the standards in this MOU, the Department shall:

1. Train, retrain (as necessary or desirable), test, and certify the inspectors of the Allied Agency as per the agreement between the Department and the CVSA.
2. Approve inspection forms for all inspections conducted in conformance with this agreement.
3. Approve vehicle and driver out-of-service stickers.
4. Supply CVSA decals on a cost recovery basis to municipalities and counties.
5. Supply software necessary for the data entry of all inspection information, on a cost recovery basis to municipalities and counties.
6. Upon request, the municipalities and counties may be supplied with inspection data.
7. Forward challenges of data in inspections or crash reports to the municipalities and counties for their investigation.

The Department may conduct random in-person observation of inspections conducted by the Allied Agency in order to ensure that the Allied Agency's inspectors maintain practical proficiency in the program.

Responsibilities of the Allied Agency

The Allied Agency shall enroll officers who have not met the minimum certification requirements for enforcement of Chapter 644 of the Code in training programs required by 37 TAC §4.13(b) necessary for certification prior to using these officers for commercial vehicle enforcement. The Allied Agency shall reimburse the Department for costs associated with any training provided by the Department under 37 TAC §4.13(b)(5).

The Allied Agency shall require all defects disclosed during the inspection process to be corrected.

The Allied Agency shall adopt the Recommended Out-of-Service and other defect repair verification procedures as developed by CVSA.

The Allied Agency shall honor the CVSA inspection decals affixed to those vehicles by all authorized agencies. CVSA decals will be affixed to vehicles which pass the Level I or V CVSA inspection with no disqualifying violations under the North American Standard Roadside Inspection Procedures and North American Standard Out-of-Service Criteria.

The Allied Agency shall implement a program to ensure its officers perform the required inspections annually as specified in 37 TAC §4.13(c), and successfully complete the required annual certification training to maintain their certification. To further program goals and achieve the highest quality in inspections, the Allied Agency shall ensure that its officers conduct more than the minimum number of inspections required to maintain certification and that inspections are evenly distributed throughout the year to maintain enforcement continuity.

The Allied Agency shall immediately suspend from performing CVSA enforcement and inspections any officer who fails to maintain his certification or who fails to perform the required inspections following CVSA's North American Standard Uniform Inspection Procedures and North American Standard Out-of-Service Criteria guidelines.

The Allied Agency shall send a representative to the annual MCSAP meeting held by the Department to ensure familiarity with all updates to policies and procedures.

If the Allied Agency wishes to continue commercial vehicle enforcement beyond the date specified in the Termination of Certification section of this MOU, the Allied Agency shall mail or FAX a renewal request not more than sixty (60) calendar days nor less than thirty (30) calendar days prior to the expiration date of this MOU.

The Allied Agency shall also:

1. Conduct inspections only by using CVSA certified inspectors.
2. Ensure traffic stops performed on a commercial vehicle must be made by either a CVSA certified inspector, or by a peace officer using probable cause or reasonable suspicion guidelines. An absence of these requisites will be cause for inspection report invalidation and a program participation review.
3. When performing inspections as described herein, document these inspections using most recent version of forms and software approved by the Department and

conducted following the guidelines approved by the Department. Forms and software will not be altered without prior written approval of the Department.

4. Ensure that CVSA certified inspectors have adequate tools and resources to conduct queries into motor carrier registration and operating authority while conducting roadside inspections.
5. Level I, Level IV or V inspections requiring undercarriage inspection and brake measurements must be performed by an inspector utilizing an inspection pit or with a referring officer for safety.
6. Level V terminal inspections may only be performed on motorcoaches for certification purposes. All other inspections should be roadside.
7. Document all violations (citations / warnings) found during a CVSA inspection on the CVE-3 inspection report, including violations of local ordinances.
8. Forward inspection data electronically to the Department within ten (10) days following the date of inspection for processing and final compliance using the most recent version of reporting software; paper copies will be mailed to the Department immediately thereafter.
9. Any time an officer's certification status changes (is certified, suspended, or decertified for different types of inspections, or transferred out of the CVSA inspection program), the Allied Agency shall notify the Department in writing within 10 days. A cumulative list of the officers whose status has changed will be sent to the Department by January 31st of each year.
10. Crash reports involving commercial motor vehicles will be forwarded to the Texas Department of Transportation no later than ten (10) days after the date of the crash investigation.
11. Allow the Department to conduct random in-person observation of inspections conducted by the Allied Agency in order to ensure that the Allied Agency's inspectors maintain practical proficiency in the program.
12. Maintain the official copy of all reports of inspections conducted by its CVSA certified inspectors for the current calendar year, and two additional years. The official copy may be in paper or retrievable electronic form, and it must bear the signature of the commercial motor vehicle driver involved in the inspection. A copy shall be provided to the Department upon the Department's request.
13. When data in an inspection or crash report is challenged, the Allied Agency shall investigate and determine whether a correction to the data needs to be made. The Allied Agency shall notify the motor carrier and the Department in writing of the results of the investigation within 10 days. If a correction is necessary, the Allied Agency shall make the correction and forward the corrected reports to the Department immediately. Retaliatory actions against motor carriers who file data challenges are strictly prohibited.
14. The Allied Agency will not use its certification to enforce federal safety regulations as a primary method to generate program revenue through enforcement penalties or to enhance criminal interdiction activities.
15. An important aspect of the Motor Carrier Safety Assistance Program is consistency in the inspection process and uniform enforcement. While it is recognized that uniform enforcement may include the issuance of a citation by the inspecting officer, it is also recognized that there may be exceptional occasions when the issuance of multiple citation may be warranted. In order to monitor uniformity in enforcement, when more than two citations are issued during an inspection, the inspector will note the circumstances in the inspection report.

16. The Allied Agency will not allow officers certified to enforce federal safety regulations to participate in secondary employment activities that present a conflict of interest related to their commercial vehicle enforcement duties. This includes Allied Agency officers trained by the Department that are no longer assigned to commercial vehicle enforcement units but remain employed by the Allied Agency.
17. Inspection of commercial vehicles should only be done while on duty and compensation for such should only be done by the officer's employing agency. Compensation of any kind by other entities (including but not limited to carriers and carrier employees) is prohibited.

Upon amendment of 37 TAC Chapter 4, Subchapter B, the Department will, if necessary, amend this MOU within a reasonable period of time. The date of any amendment under this paragraph will not affect the renewal date described in the next section.

Termination of Certification

***** UNLESS RENEWED, THIS MOU WILL EXPIRE ON MARCH 1, 2017 *****

To prevent a loss of authority to conduct CVSA inspections, please mail or FAX your renewal request to the Department no more than sixty or less than thirty days prior to the expiration of this MOU. If the renewal has not been executed by both parties before the MOU expiration date, certified officers must cease performing all CVSA inspections, until the renewal has been fully executed.

Termination of certification, whether by decertification, request of the Allied Agency, or by failure to renew, will result in the inability of the Allied Agency, to retain expenses for any enforcement actions taken after the effective date of the termination of certification. All reporting requirements, including the list of officers suspended and no longer certified which is normally due by January 31st of each year, Inspection data reports and Crash reports must be provided to the Department immediately upon discontinuation in the certification program.

The Allied Agency may discontinue certification at any time by notifying the Program Coordinator for the Department in writing.

The CVSA and Federal Motor Carrier Safety Administration require officers to complete a minimum number of inspections annually in order for officers to renew their certifications. The purpose of this requirement is to ensure officers achieve and maintain practical proficiency in inspecting commercial motor vehicles. Therefore, the Department will decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to report any inspections to this Department within a six (6) month period or for failure to evenly space the required number of inspection throughout the year.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to demonstrate practical proficiency in the

program during random in-person observations by the Department, or by audits of inspections submitted.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for using the certification as a primary method of generating program revenue or enhancing criminal interdiction activities.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, if officers ~~to~~ engage in secondary employment activities that present a conflict of interest with their commercial vehicle enforcement duties.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to comply with the provisions of the MOU, training, officer certification, or data-sharing requirements, including the requirement that the Allied Agency reimburse the Department for training expenses and the requirement that the Allied Agency forward information and respond to requests in a timely manner, or any other provisions of 37 TAC §§ 4.13-4.14.

Any Termination of Certification terminates the Allied Agency's authority to enforce federal safety regulations under Chapter 644 of the Code, and the Allied Agency's eligibility for reimbursement of expenses from penalties assessed. The Department will notify the program coordinator for the Allied Agency and the Texas Comptroller of Public Accounts in writing of any Termination of Certification.

The Department may issue a warning to the Allied Agency if the Allied Agency fails to conduct any inspections within a three (3) month period. The Department may also issue a warning if the Allied Agency fails to comply with MOU requirements in such a way that the Department deems the quality and/or timeliness of inspection data could be compromised, or certified officers would fail to maintain practical proficiency in the program. Failure to correct the compliance issues within three (3) months, or such other period as the Department may specify, can result in termination of the MOU and decertification of the Allied Agency.

Program Coordinators

The Parties' program coordinators are responsible for all communications and contacts required to manage this MOU. The Parties shall provide any updates regarding contact information within thirty (30) calendar days. The current program coordinators for this MOU are:

Allied Agency:

Department:

Program Coordinator

DEPARTMENT OF PUBLIC SAFETY
Texas Highway Patrol
Motor Carrier Bureau

Captain Omar Villarreal
Manager

Program Coordinator

Address

MCB, P.O. Box 4087
Austin Texas 78773-0522

Address

Voice Phone Number

(512) 424-2053

Voice Phone Number

Fax Number

(512) 424-5712

Fax Number

E-mail Address

omar.villarreal@txdps.state.tx.us

E-mail Address

Evidence of Acceptance:

Signature of Authorized Official

Political Subdivision

Name

Title

Date

Revised October 2016: Expected Effective January 31, 2017

MEMORANDUM OF UNDERSTANDING

Between

THE TEXAS DEPARTMENT OF PUBLIC SAFETY

(The "Department")

-and-

(The "Allied Agency")

General Agreement

The goal of the Motor Carrier Safety Assistance Program is to reduce Commercial Motor Vehicle (CMV)-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Effective safety programs increase the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices are detected and corrected before they become contributing factors to crashes.

In order to maximize the effective utilization of CMV, driver, and cargo inspection resources; to avoid duplication of effort and to expand the number of inspections performed; to advance uniformity of inspection; and to minimize delays in schedules incurred by industry inherent to this type of enforcement activity, the undersigned parties enter into this Memorandum of Understanding (MOU).

In recognition of the many agencies - federal, state, county, and municipality - engaged in the inspection of commercial motor vehicles, their drivers, and cargo within the State of Texas; and the need for a basic delineation of routine responsibility, it is agreed:

1. The Department will inspect vehicles operating over public highways and at carrier terminal facilities.
2. Other allied agencies will, as a routine practice, confine inspection activities to vehicles operating over public highways and city streets in their jurisdiction with the exception of municipal police officers certified under Texas Transportation Code, Section 644.101; such municipal officers may conduct vehicle inspections at carrier terminal facilities.

The Parties understand that it is very important to ensure the timeliness and accuracy of information recorded about both interstate and intrastate motor carriers in their respective carrier profiles. To this end, the Federal Motor Carrier Safety Administration has imposed timeliness and accuracy standards on the Department regarding information about motor carriers. The Department, in turn, has established timeliness and accuracy standards for itself and for counties and municipalities engaged in the inspection of commercial motor vehicles.

The Parties' authorized inspection representatives (Program Coordinators) shall implement procedures in accordance with the minimum standards in this MOU.

In order to advance uniformity in the inspection of commercial motor vehicles and their operators, the Parties shall adopt the CVSA's North American Standard Roadside Inspection Procedures and North American Standard Out-of-Service Criteria as adopted by the Department of Public Safety under Chapter 644, Texas Transportation Code (the "Transportation Code" at <http://www.statutes.legis.state.tx.us/>); Title 37, Texas Administrative Code ("TAC" at <http://www.sos.state.tx.us/tac/index.shtml>), Chapter 4, Subchapter B; Chapter 16, Subchapter A; and Chapter 21 and any amendments thereto, and the most current version of the CMV Enforcement Guidance Documents provided by the Department.

Commercial Vehicle Safety Alliance (CVSA)

Levels of Inspection

Level I	North American Standard
Level II	Walkaround Inspection
Level III	Driver Only Inspection
Level IV	Special Inspection
Level V	Vehicle-Only Inspection (Terminal)

Responsibilities of the Department

In order to better implement and maintain the standards in this MOU, the Department shall:

1. Train, retrain (as necessary or desirable), test, and certify the inspectors of the Allied Agency as per the agreement between the Department and the CVSA.
2. Approve inspection forms for all inspections conducted in conformance with this agreement.
3. Approve vehicle and driver out-of-service stickers.
4. Supply CVSA decals on a cost recovery basis to municipalities and counties.
5. Supply software necessary for the data entry of all inspection information, on a cost recovery basis to municipalities and counties.
6. Upon request, the municipalities and counties may be supplied with inspection data.
7. Forward challenges of data in inspections or crash reports to the municipalities and counties for their investigation.

The Department may conduct random in-person observation of inspections conducted by the Allied Agency in order to ensure that the Allied Agency's inspectors maintain practical proficiency in the program.

Responsibilities of the Allied Agency

The Allied Agency shall enroll officers who have not met the minimum certification requirements for enforcement of Chapter 644 of the Code in training programs required by 37 TAC §4.13(b) necessary for certification prior to using these officers for commercial vehicle enforcement. The Allied Agency shall reimburse the Department for costs associated with any training provided by the Department under 37 TAC §4.13(b)(5).

The Allied Agency shall require all defects disclosed during the inspection process to be corrected.

The Allied Agency shall adopt the Recommended Out-of-Service and other defect repair verification procedures as developed by CVSA.

The Allied Agency shall honor the CVSA inspection decals affixed to those vehicles by all authorized agencies. CVSA decals will be affixed to vehicles which pass the Level I or V CVSA inspection with no disqualifying violations under the North American Standard Roadside Inspection Procedures and North American Standard Out-of-Service Criteria.

The Allied Agency shall implement a program to ensure its officers perform the required inspections annually as specified in 37 TAC §4.13(c), and successfully complete the required annual certification training to maintain their certification. To further program goals and achieve the highest quality in inspections, the Allied Agency shall ensure that its officers conduct more than the minimum number of inspections required to maintain certification and that inspections are evenly distributed throughout the year to maintain enforcement continuity.

The Allied Agency shall immediately suspend from performing CVSA enforcement and inspections any officer who fails to maintain his certification or who fails to perform the required inspections following CVSA's North American Standard Uniform Inspection Procedures and North American Standard Out-of-Service Criteria guidelines.

The Allied Agency shall send a representative to the annual MCSAP meeting held by the Department to ensure familiarity with all updates to policies and procedures.

If the Allied Agency wishes to continue commercial vehicle enforcement beyond the date specified in the Termination of Certification section of this MOU, the Allied Agency shall mail or FAX a renewal request not more than sixty (60) calendar days nor less than thirty (30) calendar days prior to the expiration date of this MOU.

The Allied Agency shall also abide by the following policies and guidelines:

1. Conduct inspections only by using CVSA certified inspectors.
2. Inspections must be conducted on duty. No inspections may be performed at any time for the specific purpose of benefitting a carrier's safety profile whether on site or offsite (such as roadside or at an inspection facility). Compensation for inspections of any kind by other entities (including but not limited to carriers and carrier employees) is prohibited.
3. Inspection shall not be used as a pretext to search commercial vehicles.

4. MCSAP personnel are encouraged to provide expertise and safety presentations to carriers at their request and with supervisory approval. Safety presentations may include a mock (walk around) inspection, but no documented inspection may be performed as a part of a walk around or safety presentation.
5. Ensure traffic stops performed on a commercial vehicle must be made by either a CVSA certified inspector, or by a peace officer using probable cause or reasonable suspicion guidelines. An absence of these requisites will be cause for inspection report invalidation and a program participation review.
6. During the inspection process, the most current forms approved by DPS should be utilized. All violations (citations and warnings) discovered should be documented on the inspection report as violations, including violations of local ordinances. All CMV contacts will be recorded on the inspection report. Forms and software will not be altered without prior written approval of the Department.
7. Ensure that CVSA certified inspectors have adequate tools and resources to conduct queries into motor carrier registration and operating authority while conducting roadside inspections.
8. Level I, Level IV or V inspections requiring undercarriage inspection and brake measurements must be performed by an inspector utilizing an inspection pit or with a referring officer for safety.
9. Except under unusual circumstances (such as post crash investigation) Level V terminal inspections may only be performed on motorcoaches for certification purposes. All other inspections should be conducted roadside. Level I, II, IV or V motorcoach inspections may only be performed by PVI certified inspectors.
10. Forward inspection data electronically to the Department within ten (10) days following the date of inspection for processing and final compliance using the most recent version of reporting software; paper copies will be mailed to the Department immediately thereafter.
11. Any time an officer's certification status changes (is certified, suspended, or decertified for different types of inspections, or transferred out of the CVSA inspection program), the Allied Agency shall notify the Department in writing within (10) days. A cumulative list of the officers whose status has changed will be sent to the Department by January 31st of each year.
12. Crash reports involving commercial motor vehicles will be forwarded to the Texas Department of Transportation no later than ten (10) days after the date of the crash investigation.
13. Allow the Department to conduct random in-person observation of inspections conducted by the Allied Agency in order to ensure that the Allied Agency's inspectors maintain practical proficiency in the program.
14. Maintain the official copy of all reports of inspections conducted by its CVSA certified inspectors for the current calendar year, and two additional years. The official copy may be in paper or retrievable electronic form, and it must bear the signature of the commercial motor vehicle driver involved in the inspection. A copy shall be provided to the Department upon the Department's request.
15. When data in an inspection or crash report is challenged, the Allied Agency shall investigate and determine whether a correction to the data needs to be made. The Allied Agency shall notify the motor carrier and the Department in writing of the results of the investigation within 10 days. If a correction is necessary, the Allied Agency shall make the correction and forward the corrected reports to the Department immediately.

Retaliatory actions against motor carriers who file data challenges are strictly prohibited.

16. The Allied Agency will not use its certification to enforce federal safety regulations as a primary method to generate program revenue through enforcement penalties or to enhance criminal interdiction activities.
17. An important aspect of the Motor Carrier Safety Assistance Program is consistency in the inspection process and uniform enforcement. While it is recognized that uniform enforcement may include the issuance of a citation by the inspecting officer, it is also recognized that there may be exceptional occasions when the issuance of multiple citations may be warranted. In order to monitor uniformity in enforcement, when more than two citations are issued during an inspection, the inspector will note the circumstances in the inspection report.
18. The Allied Agency will not allow officers certified to enforce federal safety regulations to participate in secondary employment activities that present a conflict of interest related to their commercial vehicle enforcement duties. This includes Allied Agency officers trained by the Department that are no longer assigned to commercial vehicle enforcement units but remain employed by the Allied Agency.
19. The State of Texas has an inspection quality agreement with the Federal Motor Carrier Safety Administration in its Commercial Vehicle Safety Plan. Inspections found to be non-compliant with this policy may be nullified by the Motor Carrier Bureau from the carrier's safety profile and from the inspector's certification record by the authority of the Assistant Director of the Texas Highway Patrol or his designee.

Upon amendment of 37 TAC Chapter 4, Subchapter B, the Department will, if necessary, amend this MOU within a reasonable period of time. The date of any amendment under this paragraph will not affect the renewal date described in the next section.

Termination of Certification

***** UNLESS RENEWED, THIS MOU WILL EXPIRE ON MARCH 1, 2017 *****

To prevent a loss of authority to conduct CVSA inspections, please mail or FAX your renewal request to the Department no more than sixty or less than thirty days prior to the expiration of this MOU. If the renewal has not been executed by both parties before the MOU expiration date, certified officers must cease performing all CVSA inspections, until the renewal has been fully executed.

Termination of certification, whether by decertification, request of the Allied Agency, or by failure to renew, will result in the inability of the Allied Agency, to retain expenses for any enforcement actions taken after the effective date of the termination of certification. All reporting requirements, including the list of officers suspended and no longer certified which is normally due by January 31st of each year, Inspection data reports and Crash reports must be provided to the Department immediately upon discontinuation in the certification program.

The Allied Agency may discontinue certification at any time by notifying the Program Coordinator for the Department in writing.

The CVSA and Federal Motor Carrier Safety Administration require officers to complete a minimum number of inspections annually in order for officers to renew their certifications. The purpose of this requirement is to ensure officers achieve and maintain practical proficiency in inspecting commercial motor vehicles. Therefore, the Department will decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to report any inspections to this Department within a six (6) month period or for failure to evenly space the required number of inspection throughout the year.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to demonstrate practical proficiency in the program during random in-person observations by the Department, or by audits of inspections submitted.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for using the certification as a primary method of generating program revenue or enhancing criminal interdiction activities.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, if officers ~~to~~ engage in secondary employment activities that present a conflict of interest with their commercial vehicle enforcement duties.

The Department may decertify the Allied Agency, or individual officers conducting inspections for the Allied Agency, for failure to comply with the provisions of the MOU, training, officer certification, or data-sharing requirements, including the requirement that the Allied Agency reimburse the Department for training expenses and the requirement that the Allied Agency forward information and respond to requests in a timely manner, or any other provisions of 37 TAC §§ 4.13-4.14.

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The Department may issue a warning to the Allied Agency if the Allied Agency fails to conduct any inspections within a three (3) month period. The Department may also issue a warning if the Allied Agency fails to comply with MOU requirements in such a way that the Department deems the quality and/or timeliness of inspection data could be compromised, or certified officers would fail to maintain practical proficiency in the program. Failure to correct the compliance issues within three (3) months, or such other period as the Department may specify, can result in termination of the MOU and decertification of the Allied Agency.

Program Coordinators

The Parties' program coordinators are responsible for all communications and contacts required to manage this MOU. The Parties shall provide any updates regarding contact information within thirty (30) calendar days. The current program coordinators for this MOU are:

Allied Agency:

Department:

DEPARTMENT OF PUBLIC SAFETY
Texas Highway Patrol
Motor Carrier Bureau

Captain Omar Villarreal
Manager

Program Coordinator

Program Coordinator

Address

MCB, P.O. Box 4087
Austin Texas 78773-0522
Address

Voice Phone Number

(512) 424-2053
Voice Phone Number

Fax Number

(512) 424-5712
Fax Number

E-mail Address

omar.villarreal@txdps.state.tx.us
E-mail Address

Evidence of Acceptance:

Signature of Authorized Official

Political Subdivision

Name

Title

Date

Appendix H

Excess Motor Carrier Fines (as reported)

[Qtr is YYQ, 972 is the 2nd calendar quarter of 1997]

Participant is allowed to retain 110% of previous years "cost of enforcement" before remitting fines that exceed 110%

City of:	Rpt for Qtr:	Amount Remitted:	Corresponding : "Cost of Enforcement Worksheet"	FY
San Antonio	972	\$4,846.05	\$40,234.50	96
	973	\$28,576.00	s/a	96
Plano	983	\$714.90	\$7,319.30	97
	004	\$11,669.77	\$50,404.07	00
Eagle Pass	011	\$1,597.01	\$26,160.40	
	012	\$8,252.75	s/a	
	013	\$4,161.25	s/a	
	023	\$17,484.55	\$27,883.88	
Arlington	023	\$9,908.52	\$3,862.00	01
	033	\$1,024.42	\$30,819.39	02
	113	\$45,423.23	\$31,285.39	10
	123	\$35,543.71	\$75,180.83	11
	132	\$45,691.60	\$98,313.03	12
	133	\$63,168.78	s/a	12
Richardson	043	\$11,688.50	\$25,775.00	03
	083	\$4,276.00	\$20,124.00	07
Garland	102	\$3,085.31	\$38,177.61	09
	103	\$8,093.10	s/a	09
	112	\$9,371.03	\$35,361.56	10
	113	\$29,515.35	s/a	10
	121	\$8,112.90	\$34,729.18	11
	122	\$31,747.74	s/a	11
	123	\$35,543.50	s/a	11
	131	\$8,812.42	\$36,283.15	12
	132	\$32,941.51	s/a	12
	133	\$26,015.40	s/a	12
	142	\$8,603.11	\$38,255.79	13
	143	\$8,528.00	s/a	13
	153	\$3,335.70	\$27,124.73	14
Town Flower Mound	133	\$3,265.55	\$10,541.68	12
Hurst	133	\$73,106.41	\$184,204.43	12
Killeen	143	12856.02	\$29,021.52	13
		\$596,960.09		

5/26/16

Appendix I

TEXAS REGISTRATION FEES

EFFECTIVE January 1, 2017

EXPIRES December 31, 2017

STATE LAW ALLOWS THE COLLECTION OF LOCAL FEES AT THE TIME OF VEHICLE REGISTRATION

Below are local fees collected with vehicle registration fees through the County Tax Assessor-Collector's office.
The total fee on the registration renewal notice includes applicable local fees.

Anderson \$10.25	Brazos \$11.50	Coke \$10	Denton \$11.50	Freestone \$10	Harris \$11.50	Jasper \$10	Lampasas \$11.50	McLennan \$11.50	Orange \$10	Rusk \$11	Taylor \$10	Wharton \$10
Andrews \$7	Brewster \$10	Coleman \$10	DeWitt \$10	Frio \$11.50	Harrison \$11.50	Jeff Davis \$11.50	La Salle \$10	McMullen 0	Palo Pinto \$10	Sabine \$11	Terrell \$10	Wheeler \$6.50
Angelina \$10	Briscoe \$10	Collin \$11.50	Dickens \$10	Gaines 0	\$11.50	\$11.50	La Salle \$10	Medina \$10	Panola \$1.50	San Augustine \$10	Terry \$10	Wichita \$10
Aransas \$10	Brooks \$11.50	Collingsworth \$10	Dimmitt \$11.50	Galveston \$10	Hartley \$10	Jefferson \$10	Lavaca \$10	Menard \$11.50	Parker \$10	\$11.50	Throckmorton \$10	Wilbarger \$10
Archer \$10	Brown \$11.50	\$10	Donley \$10	Garza \$10	Haskell \$10	Jim Hogg \$11.50	Lee \$10	Midland \$10	Parmer \$10	San Jacinto \$11.50	\$10	Willacy \$10
Armstrong \$10	Burleson \$10	Colorado \$10	Duval \$10	Gillespie \$11.50	Hays \$10	\$11.50	Leon \$10	Milam \$10	Pecos \$10	San Patricio \$11.50	Titus \$10	Williamson \$11.50
Atascosa \$10	Burnet \$11.50	Comanche \$10	Eastland \$10	Glasscock \$10	Hemphill \$5	Jim Wells \$11.50	Liberty \$10	Mills \$11.50	Polk \$11.50	San Saba \$10	Tom Green \$11.50	Wilson \$10
Austin \$10	Caldwell \$10	\$10	Ector \$10	Goliad \$10	Henderson \$10	\$11.50	Limestone \$10	Presidio \$10	Potter \$10	Schleicher \$10	\$11.50	Winkler \$7.50
Bailey \$10	\$11.50	Concho \$10	\$11.00	Gray \$10	Hill \$10	Jones \$10	Live Oak \$10	Rains \$11.50	Scurry \$10	Shackelford \$10	Trinity \$11.50	Wise \$10
Bandera \$10	Calhoun \$10	Cooke \$10	Ellis \$10	Grayson \$10	Hockley \$10	Karnes \$10	Llano \$11.50	Montague \$10	Shelby \$11.50	Randall \$10	Tyler \$11	Wood \$10
Bastrop \$10	Callahan \$10	Coryell \$10	El Paso \$20	Gregg \$9	Hood \$10	Kaufman \$11.50	Loving 0	Moore \$10	Reagan \$10	Sherman \$10	Upshur \$10	Yoakum \$10
Baylor \$10	Cameron \$20	Cottle \$10	Erath \$10	Grimes \$9	Hopkins \$10	\$11.50	Lubbock \$10	Morris \$10	Real \$10	Smith \$11.50	Upton \$5	Young \$10
Bee \$10	Camp \$10.50	Crane 0	Falls \$11	Guadalupe \$11.50	Houston \$10	Kendall \$11	Lynn \$10	Motley \$10	Red River \$10	Somervell \$10	Uvalde \$10	Zapata \$11.50
Bell \$11.50	Carson \$10	Crockett \$5	Fannin \$10	Howard \$10	Hudspeth \$10	Kent 0	Madison \$10	Nacogdoches \$10	Reeves \$10	Starr \$10	Val Verde \$10	Zavala \$11.50
Bexar \$21.50	Cass \$10	Crosby \$10	Fayette \$10	Hale \$10	Hunt \$11	Kerr \$10	Marion \$10	Navarro \$10	Refugio \$10	Sterling 0	Stephens \$10	Van Zandt \$11.50
Blanco \$11.50	Castro \$10	Culberson \$10	Fisher \$10	Hall \$10	Hutchinson \$10	King 0	Martin \$10	Newton \$10	Roberts \$5	Sterling 0	\$11.50	
Borden 0	Chambers \$11	\$10	Floyd \$10	Hamilton \$10	\$10	Kinney \$10	Mason \$10	Nolan \$10	Robertson \$11.50	Sutton \$10	Stonewall \$10	Victoria \$10
Bosque \$10	Cherokee \$10	Dallam \$10	Foard \$10	Hansford \$10	\$10	Kleberg \$10	Matagorda \$10	Nueces \$10	Rockwall \$10	Swisher \$10	Tarrant \$10	Walker \$10
Bowie \$10	Childress \$10	Dallas \$10	Fort Bend \$11.50	Hardeman \$10	Irion \$10	Kinney \$10	Maverick \$11.50	Ochiltree \$10	Rockwall \$10	Swisher \$10	Tarrant \$10	Waller \$10
Brazoria \$10	Clay \$10	Dawson \$10	\$11.50	Hardin \$10	Jack \$10	Knox \$10	McCulloch \$11.50	Oldham \$10	Runnels \$10	Tarrant \$10		Washington \$10
	Cochran \$10	Deaf Smith \$10	Franklin \$10	Jackson \$10			Lamar \$10					Webb \$20
		Delta \$10					Lamb \$10					

PASSENGER VEHICLES / TRUCKS

6,000 lbs. or less = \$50.75

The annual registration fee for a passenger vehicle (including a motor bus or private bus) or truck with a gross vehicle weight of **6,000 lbs. or less is \$50.75**, plus applicable fees and local county fees.

Note: The gross vehicle weight of a truck is determined by adding the empty weight of the vehicle and the heaviest load that will be carried by the vehicle (carrying capacity) during the registration year.

TRAILERS / TRAVEL TRAILERS

6,000 lbs. and less = \$45.00

The annual registration fee for a trailer or travel trailer (if the trailer requires registration) with a gross vehicle weight of **6,000 lbs. or less is \$45.00**, plus applicable fees and local county fees.

ALL VEHICLES

6,001 lbs. – 10,000 lbs. = \$54.00

The annual registration fee for a vehicle with a gross vehicle weight of **6,001 lbs. – 10,000 lbs. is \$54.00**, plus applicable fees and local county fees.

Note: The gross vehicle weight of a truck is determined by adding the empty weight of the vehicle and the heaviest load that will be carried by the vehicle (carrying capacity) during the registration year.

WEIGHT BASED REGISTRATION FEES

Vehicles 10,001 lbs. or more will pay the following registration fee*, plus applicable and local county fees

10,001-18,000 lbs.	\$110.00
18,001-25,999 lbs.	\$205.00
26,000-40,000 lbs.	\$340.00
40,001-54,999 lbs.	\$535.00
55,000-70,000 lbs.	\$740.00
70,001-80,000 lbs.	\$840.00
Over 80,000 lbs.	Varies

*Does not include diesel fees for commercial vehicles

MOTORCYCLES / MOPEDS = \$30.00

The annual registration fee for a motorcycle or moped is **\$30.00**, plus applicable fees and local county fees.

TEXAS DEPARTMENT OF MOTOR VEHICLES
VEHICLE TITLES AND REGISTRATION DIVISION
FEE CHART 1C (REV. 1/2017)

Appendix J

Art. 60.051. INFORMATION IN COMPUTERIZED CRIMINAL HISTORY SYSTEM. (a) Information in the computerized criminal history system relating to an offender must include:

- (1) the offender's name, including other names by which the offender is known;
- (2) the offender's date of birth;
- (3) the offender's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos; and
- (4) the offender's state identification number.

(b) Information in the computerized criminal history system relating to an arrest must include:

- (1) the name of the offender;
- (2) the offender's state identification number;
- (3) the arresting agency;
- (4) the arrest charge by offense code and incident number;
- (5) whether the arrest charge is a misdemeanor or felony;
- (6) the date of the arrest;
- (7) the exact disposition of the case by a law enforcement agency following the arrest; and
- (8) the date of disposition of the case by the law enforcement agency.

(c) Information in the computerized criminal history system relating to a prosecution must include:

- (1) each charged offense by offense code and incident number;
- (2) the level of the offense charged or the degree of the offense charged for each offense in Subdivision (1) of this subsection; and
- (3) for a rejected case, the date of rejection, offense code, and incident number, and whether the rejection is a result of a successful pretrial diversion program.

(d) Information in the computerized criminal history system relating to the disposition of a case that was not rejected must include:

- (1) the final pleading to each charged offense and the level of the offense;
- (2) a listing of each charged offense disposed of by the court and:
 - (A) the date of disposition;
 - (B) the offense code for the disposed charge and incident number; and
 - (C) the type of disposition; and
- (3) for a conviction that is appealed the final court decision and the final disposition of the offender on appeal.
- (e) Information in the computerized criminal history system relating to sentencing must include for each sentence:
 - (1) the sentencing date;
 - (2) the sentence for each offense by offense code and incident number;
 - (3) if the offender was sentenced to confinement:
 - (A) the agency that receives custody of the offender;
 - (B) the length of sentence for each offense; and
 - (C) if multiple sentences were ordered, whether they were ordered to be served consecutively or concurrently;
 - (4) if the offender was sentenced to a fine, the amount of the fine;
 - (5) if a sentence to confinement or fine was ordered but was deferred, probated, suspended, or otherwise not imposed:
 - (A) the length of sentence or the amount of the fine that was deferred, probated, suspended, or otherwise not imposed; and
 - (B) the offender's name, offense code, and incident number; and
 - (6) if a sentence other than fine or confinement was ordered, a description of the sentence ordered.
- (f) The department shall maintain in the computerized criminal history system any information the department maintains in the central database under Article 62.005.
- (g) In addition to the information described by Subsections (a)-(f), information in the computerized criminal

history system must include the age of the victim of the offense if the defendant was arrested for or charged with an offense under:

- (1) Section 21.02 (Continuous sexual abuse of young child or children), Penal Code;
- (2) Section 21.11 (Indecency with a child), Penal Code;
- (3) Section 22.011 (Sexual assault) or 22.021 (Aggravated sexual assault), Penal Code;
- (4) Section 43.25 (Sexual performance by a child), Penal Code;
- (5) Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;
- (6) Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense described by Subdivision (2), (3), or (5);
- (7) Section 20A.02 (Trafficking of persons), Penal Code, if the defendant:
 - (A) trafficked a person with the intent or knowledge that the person would engage in sexual conduct, as defined by Section 43.25, Penal Code; or
 - (B) benefited from participating in a venture that involved a trafficked person engaging in sexual conduct, as defined by Section 43.25, Penal Code; or
- (8) Section 43.05(a)(2) (Compelling prostitution), Penal Code.

Renumbered from art. 60.05(b) to (f) and amended by Acts 1990, 71st Leg., 6th C.S., ch. 25, Sec. 28, eff. June 18, 1990. Subsec. (a) amended by Acts 1993, 73rd Leg., ch. 1025, Sec. 9, eff. Sept. 1, 1993; Subsec. (f) added by Acts 1995, 74th Leg., ch. 258, Sec. 14, eff. Sept. 1, 1995; Subsec. (f) amended by Acts 1997, 75th Leg., ch. 668, Sec. 8, eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.03, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.08, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 2.05, eff. September 1, 2011.

Appendix K

Overview of the Criminal Justice Information System

The Criminal Justice Information System (CJIS) consist of two independent systems managed by two separate state agencies. The Department of Public Safety (DPS) manages the Computerized Criminal History System, which is the system used to provide criminal background check services. In fiscal year 2015, approximately 4,250 law enforcement agencies, prosecutor’s offices, and court entities reported information to the Computerized Criminal History System.

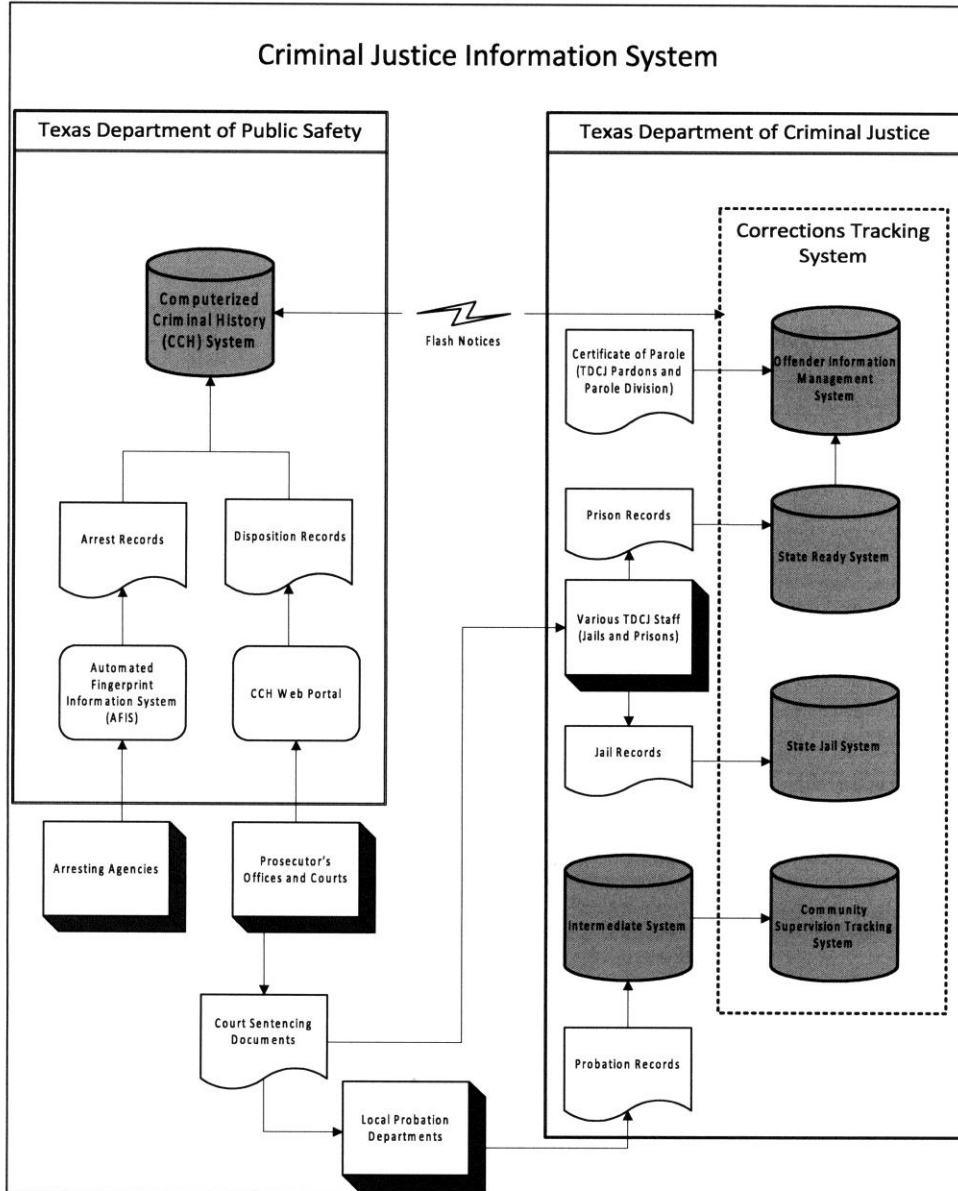
The Department of Criminal Justice (TDCJ) manages the Corrections Tracking System, which it uses to manage information on offenders who are currently sentenced to prison, jail, parole, and probation. That system includes the following components:

- **The Intermediate System** – This system was implemented in January 2005 to allow local probation departments¹⁵ to upload probation records that do not include a state identification number and/or an incident number and, therefore, cannot be uploaded to the Community Supervision Tracking System. Local probation departments create probation records from documentation provided by the courts.
- **The State Jail System** – This system includes records for offenders sentenced to jail. Those records are created based on documentation provided by the court.
- **The State Ready System** – This system includes records for offenders sentenced to prison. Those records are created based on documentation provided by the court.
- **The Offender Information Management System** – This system includes records for offenders who are placed on parole. Those records are created from information in the State Ready System and information from the certificate of parole issued by TDCJ’s Pardons and Parole Division.

In addition, TDCJ and DPS use CJIS to issue “flash notices,” which inform local probation departments about offenders on parole or probation who have a subsequent arrest. Figure 1 on the next page shows the primary components of CJIS and the type of information provided by the various law enforcement agencies.

¹⁵ Local probation departments are also known as community supervision and corrections departments.

Figure 1



Source: Auditors created Figure 1 based on interviews conducted with DPS and TDCJ staff.

Appendix L



**Texas Department of Public Safety
Criminal History Search**

USER: Anonymous (0,0) SERVER: DPSWEB6 DATE:12/5/2016 2:21:35 PM LANG:ENGLISH (UNITED STATES)
ORIG:PublicSite



Conviction Database Customers

The following customers have last purchased the CCH Database on the date listed. The Department provides a file that contains the Nondisclosure records that are no longer public. Customers have 30 business days from the posting of the file to remove any records.

Customer	Last Purchased
Allied Resident/Employee Screening Service, Inc. 4230 LBJ Frwy Ste 400 Dallas TX 75244 972 404-0808	12/05/2016
Automation Research, Inc. (CBC) 1651 N.W. Professional Plaza Columbus OH 43220-3866 614 538-1507	12/05/2016
Bifrost Solutions 102 Oakmont Roanoke TX 76262-5470 940 395-1130	10/10/2016
Confi-check Investigations 1915 21st street Sacramento CA 95811 916 733-6125	09/06/2010
CoreLogic SafeRent 40 Pacifica Irvine CA 92618-0000 949 214-1372	11/07/2016
Dallas Computer Service, Inc. (DCS) 500 North Central Expressway Suite 280 Dallas TX 75074 972 422-3600	11/21/2016
Data Diver Technologies 7135 S. Harl Ave Tempe AZ 85283 877 601-3282	12/05/2016
Data Driven Safety 209 Delburg Street Suite 205 Davidson NC 28036 865 773-5773	12/05/2016
Dealer Alert Network, LLC 2005 N Bell Blvd Cedar Park TX 78613 512 261-8987	09/14/2016
Drivers History Information 1 Keystone Ave, Suite 700 Cherry Hill NJ 08003 856 528-3092	07/04/2016
Experian 475 Anton Blvd. Bldg D Floor 3 Costa Mesa CA 92626 714 830-7994	12/05/2016
FC Background 8350 N. Central Expy, Suite 300 Dallas, TX 75206 Dallas TX 75206 214 306-8199	10/24/2016
Genuine Data Services 12770 Coit Road Suite 1150 Dallas TX 75251 866 991-9196x5022	12/05/2016
GroupOne Services 300 Decker Drive Irving TX 75062 469 648-5052	02/16/2015
HDR, Inc.	

307 South Friendswood Drive, Suite F Friendswood TX 77546 281 996-5509	11/21/2016
Innovative Enterprises, Inc 11824 Fishing Point DR. Suite B Newport News VA 23606 757 263-4319x384	11/29/2016
Jerico Pictures, Inc 1801 NW 126th Way Coral Springs FL 33071 561 251-1959	10/10/2016
Jordan Health Services 14295 Midway Road Addison TX 75001 972 404-5771	12/05/2016
Legal Holdings, LLC 103 East 5th Street Austin TX 78701 979 824-3178	07/28/2016
PreCheck, Inc. 3453 Las Palomas Rd Alamogordo NM 88310 866 459-3187	11/14/2016
QuestMark Information Management, Inc. 9440 Kirby Dr Houston TX 77054 713 662-9022	11/07/2016
RapidCourt, LLC 9710 Northcross Center Court Suite 105 Huntersville NC 28078 704 990-0101	11/28/2016
Shadowsoft, Inc. 7750 MacArthur Blvd Suite 120-290 Irving TX 75063 972 869-2471	11/07/2016
Tenant Tracker, Inc. 1550 Bray Central Drive McKinney TX 75069 800 658-9369	11/07/2016
Texas Department of Licensing and Regulation 920 Colorado St Austin TX 78701 512 463-6085	11/28/2016
Wesearch Data Systems 902 West Castlewood Friendswood TX 77546 832 457-1809	12/05/2016

[TOP](#)

Appendix M

BUSINESS AND COMMERCE CODE

TITLE 5. REGULATION OF BUSINESSES AND SERVICES

SUBTITLE C. BUSINESS OPERATIONS

CHAPTER 109. BUSINESS ENTITIES ENGAGED IN PUBLICATION OF
CERTAIN CRIMINAL RECORD OR JUVENILE RECORD INFORMATION

Sec. 109.001. DEFINITIONS. In this chapter:

(1) "Criminal justice agency" has the meaning assigned by Section 411.082, Government Code.

(2) "Criminal record information" means information about a person's involvement in the criminal justice system.

The term includes:

(A) a description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges;

(B) a photograph of the person taken pursuant to an arrest or other involvement in the criminal justice system; and

(C) personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

(3) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

(4) "Publish" means to communicate or make information available to another person in writing or by means of telecommunications and includes communicating information on a computer bulletin board or similar system.

(5) "Confidential criminal record information of a child" means information about a person's involvement in the criminal justice system resulting from conduct that occurred or was alleged to occur when the person was younger than 17 years

of age that is confidential under Chapter 45, Code of Criminal Procedure, or other law. The term does not include:

(A) criminal record information of a person certified to stand trial as an adult for that conduct, as provided by Section 54.02, Family Code; or

(B) information relating to a traffic offense.

(6) "Confidential juvenile record information" means information about a person's involvement in the juvenile justice system that is confidential, sealed, under restricted access, or required to be destroyed under Chapter 58, Family Code, or other law, including:

(A) a description or notation of any referral to a juvenile probation department or court with jurisdiction under Title 3, Family Code, including any instances of being taken into custody, any informal disposition of a custodial or referral event, or any formal charges and the disposition of those charges;

(B) a photograph of the person taken pursuant to a custodial event or other involvement in the juvenile justice system under Title 3, Family Code; and

(C) personal identifying information of the person contained in any other records of the person's involvement in the juvenile justice system.

(7) "Information service" has the meaning assigned by 47 U.S.C. Section 153.

(8) "Interactive computer service" has the meaning assigned by 47 U.S.C. Section 230(f).

(9) "Telecommunications provider" has the meaning assigned by Section 51.002, Utilities Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 2, eff. September 1, 2015.

Sec. 109.002. APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter applies to:

(1) a business entity that:

(A) publishes criminal record information, including information:

(i) originally obtained pursuant to a request for public information under Chapter 552, Government Code; or

(ii) purchased or otherwise obtained by the entity or an affiliated business entity from the Department of Public Safety under Subchapter F, Chapter 411, Government Code; and

(B) requires the payment:

(i) of a fee in an amount of \$150 or more or other consideration of comparable value to remove criminal record information; or

(ii) of a fee or other consideration to correct or modify criminal record information; or

(2) a business entity that publishes confidential juvenile record information or confidential criminal record information of a child in a manner not permitted by Chapter 58, Family Code, Chapter 45, Code of Criminal Procedure, or other law, regardless of:

(A) the source of the information; or

(B) whether the business entity charges a fee for access to or removal or correction of the information.

(b) This chapter does not apply to:

(1) a statewide juvenile information and case management system authorized by Subchapter E, Chapter 58, Family Code;

(2) a publication of general circulation or an Internet website related to such a publication that contains news or other information, including a magazine, periodical newsletter, newspaper, pamphlet, or report;

(3) a radio or television station that holds a license issued by the Federal Communications Commission;

- (4) an entity that provides an information service or that is an interactive computer service; or
- (5) a telecommunications provider.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 3, eff. September 1, 2015.

Sec. 109.003. DUTY TO PUBLISH COMPLETE AND ACCURATE CRIMINAL RECORD INFORMATION. (a) A business entity must ensure that criminal record information the entity publishes is complete and accurate.

(b) For purposes of this chapter, criminal record information published by a business entity is considered:

(1) complete if the information reflects the notations of arrest and the filing and disposition of criminal charges, as applicable; and

(2) accurate if the information:

(A) reflects the most recent information received by the entity from the Department of Public Safety in accordance with Section 411.0851(b)(1)(B), Government Code; or

(B) was obtained by the entity from a law enforcement agency or criminal justice agency, including the Department of Public Safety, or any other governmental agency or entity within the 60-day period preceding the date of publication.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Sec. 109.004. DISPUTING COMPLETENESS OR ACCURACY OF INFORMATION. (a) A business entity shall clearly and conspicuously publish an e-mail address, fax number, or mailing address to enable a person who is the subject of criminal record

information published by the entity to dispute the completeness or accuracy of the information.

(b) If a business entity receives a dispute regarding the completeness or accuracy of criminal record information from a person who is the subject of the information, the business entity shall:

(1) verify with the appropriate law enforcement agency or criminal justice agency, including the Department of Public Safety, or any other governmental agency or entity, free of charge the disputed information; and

(2) complete the investigation described by Subdivision (1) not later than the 45th business day after the date the entity receives notice of the dispute.

(c) If a business entity finds incomplete or inaccurate criminal record information after conducting an investigation prescribed by this section, the entity shall promptly remove the inaccurate information from the website or other publication or shall promptly correct the information, as applicable. The entity may not:

(1) charge a fee to remove, correct, or modify incomplete or inaccurate information; or

(2) continue to publish incomplete or inaccurate information.

(d) A business entity shall provide written notice to the person who disputed the completeness or accuracy of information of the results of an investigation conducted under this section not later than the fifth business day after the date on which the investigation is completed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Sec. 109.0045. PUBLICATION OF CONFIDENTIAL JUVENILE RECORD INFORMATION OR CONFIDENTIAL CRIMINAL RECORD INFORMATION OF A CHILD PROHIBITED. (a) A business entity may not publish

confidential juvenile record information or confidential criminal record information of a child.

(b) If a business entity receives a written notice by any person that the business entity is publishing information in violation of this section, the business entity must immediately remove the information from the website or publication.

(c) If the business entity confirms that the information is not confidential juvenile record information or confidential criminal record information of a child and is not otherwise prohibited from publication, the business entity may republish the information.

(d) This section does not entitle a business entity to access confidential juvenile record information or confidential criminal record information of a child.

(e) A business entity does not violate this chapter if the business entity published confidential juvenile record information or confidential criminal record information of a child and:

(1) the child who is the subject of the records gives written consent to the publication on or after the 18th birthday of the child;

(2) the publication of the information is authorized or required by other law; or

(3) the business entity is an interactive computer service, as defined by 47 U.S.C. Section 230, and published material provided by another person.

Added by Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 4, eff. September 1, 2015.

Sec. 109.005. PUBLICATION OF CERTAIN CRIMINAL RECORD INFORMATION PROHIBITED; CIVIL LIABILITY. (a) A business entity may not publish any criminal record information in the business entity's possession with respect to which the business entity has knowledge or has received notice that:

(1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or

(2) an order of nondisclosure of criminal history record information has been issued under Subchapter E-1, Chapter 411, Government Code.

(a-1) Except as provided by Section 109.0045(e), a business entity may not publish any information with respect to which the business entity has knowledge or has received notice that the information is confidential juvenile record information or confidential criminal record information of a child.(b) A business entity that publishes information in violation of this section is liable to the individual who is the subject of the information in an amount not to exceed \$500 for each separate violation and, in the case of a continuing violation, an amount not to exceed \$500 for each subsequent day on which the violation occurs.

(c) In an action brought under this section, the court may grant injunctive relief to prevent or restrain a violation of this section.

(d) An individual who prevails in an action brought under this section is also entitled to recover court costs and reasonable attorney's fees.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 5, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 14, eff. September 1, 2015.

Sec. 109.006. CIVIL PENALTY; INJUNCTION. (a) A business entity that publishes criminal record information, confidential juvenile record information, or confidential criminal record information of a child in violation of this chapter is liable to the state for a civil penalty in an amount not to exceed \$500

for each separate violation and, in the case of a continuing violation, an amount not to exceed \$500 for each subsequent day on which the violation occurs. For purposes of this subsection, each record published in violation of this chapter constitutes a separate violation.

(b) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(d) The attorney general may bring an action in the name of the state to restrain or enjoin a violation or threatened violation of this chapter.

(e) The attorney general or an appropriate prosecuting attorney is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this chapter, including court costs and reasonable attorney's fees.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 6, eff. September 1, 2015.

Sec. 109.007. VENUE. An action under this chapter must be brought in a district court:

(1) in Travis County if the action is brought by the attorney general;

(2) in the county in which the person who is the subject of the criminal record information, confidential juvenile record information, or confidential criminal record information of a child resides; or

(3) in the county in which the business entity is located.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1034 (H.B. 1491), Sec. 7, eff. September 1, 2015.

Sec. 109.008. CUMULATIVE REMEDIES. The actions and remedies provided by this chapter are not exclusive and are in addition to any other action or remedy provided by law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1200 (S.B. 1289), Sec. 1, eff. September 1, 2013.

ENDNOTES

- ¹Texas Department of Emergency Management, <https://www.txdps.state.tx.us/dem/mission.htm> Retrieved October 2016.
- ²Kidd, Nim. Testimony provided to the Committee. March 29, 2016.
- ³Kidd, Nim. Testimony provided to the Committee. March 29, 2016
- ⁴Regional Advisory Council Operation Guidelines. “History/Overview,” retrieved from <https://www.dshs.texas.gov/emstraumasystems/etrarac.shtm>, October 2016.
- ⁵Department of State Health Services, Information submitted to the committee. December 2016.
- ⁶Texas Trucking Association. Testimony provided to the Committee. March 2016.
- ⁷Kuntz, Jeremiah. Testimony provided to the Committee. March 29, 2016.
- ⁸Kuntz, Jeremiah. Testimony provided to the Committee. March 29, 2016.
- ⁹Kuntz, Jeremiah. Testimony provided to the Committee. March 29, 2016.
- ¹⁰Texas Trucking Association. Testimony provided to the Committee. March 2016.
- ¹¹Kuntz, Jeremiah. Testimony provided to the Committee. March 29, 2016.
- ¹²Kuntz, Jeremiah. Testimony provided to the Committee. March 29, 2016. Similar feedback has also been shared with the committee by constituents.
- ¹³ ‘Background Checking—The Use of Criminal Background Checks in Hiring Decisions,’ Society for Human Resource Management, July 2012. Retrieved from: <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/criminalbackgroundcheck.aspx> in October 2016.
- ¹⁴ Texas State Auditor’s Office. ‘An Audit Report on The Criminal Justice Information System at the Department of Public Safety and the Texas Department of Criminal Justice,’ Report No. 16-025. May 2016.
- ¹⁵ Skylor Hearn, Department of Public Safety, Testimony given before the Committee. May 25, 2016
- ¹⁶ Texas Code of Criminal Procedure, Chapter 60.
- ¹⁷ Texas State Auditor’s Office. ‘An Audit Report on The Criminal Justice Information System at the Department of Public Safety and the Texas Department of Criminal Justice,’ Report No. 12-002. September 2011.
- ¹⁸ “Fourteenth Report Examining Reporting Compliance to the Texas Computerized Criminal History System.” Texas Department of Public Safety. January 2016.
- ¹⁹ <https://records.txdps.state.tx.us/DpsWebsite/CriminalHistory/Purchases.aspx>
- ²⁰ Skylor Hearn, Department of Public Safety, Testimony given before the Committee. May 25, 2016.
- ²¹ Eric Ellman, Consumer Data Industry Association. Written testimony submitted to the Committee. May 22, 2016.
- ²² John Dahill, Texas Conference of Urban Counties. Written testimony submitted to the Committee. March 22, 2016.
- ²³ Greenberg, Pam. National Conference of State Legislatures, ‘Mug Shot Websites Raise New Questions About Public Records,’ December 10, 2013. Retrieved from <http://www.ncsl.org/blog/2013/12/10/mug-shot-websites-raise-new-questions-about-public-records.aspx> in October 2016.
- ²⁴ National Conference of State Legislatures, ‘Mug Shots and Booking Photo Websites.’ April 13, 2016. Retrieved from <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> in October 2016.