

EXECUTIVE SUMMARY

Department of Public Safety

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Since its establishment in 1935, the Department of Public Safety's (DPS) responsibilities have expanded enormously. Growing from the Texas Highway Patrol and Texas Rangers that first made up the department, DPS now handles modern law enforcement concerns such as human trafficking, transnational gangs, and counterterrorism investigations as well as border security. Over the years, the Legislature has also assigned non-law enforcement functions to DPS, such as statewide emergency management along with numerous regulatory programs such as vehicle inspection, private security, and the license to carry a handgun.

Sunset staff did not engage in evaluating DPS' law enforcement functions such as patrol operations or criminal investigations as these areas generally lie outside the expertise of legislative oversight agencies. The department appears to perform this work well, receiving accolades from many of its partners and national attention for innovative programs such as better identifying young victims of human trafficking during routine traffic stops. Instead, the Sunset review focused on DPS' administrative operations and non-law enforcement functions and found several areas in need of improvement. While DPS rightfully prioritizes its police work, it also must carefully administer its other important duties.

The department's driver license and motorcycle safety training programs have not been administered well at DPS and could benefit from being transferred to more appropriate, non-law enforcement agencies like the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation, respectively. The driver license program in particular has continually struggled to meet customer service expectations of the millions of Texas residents that rely on its services. However, transferring such a large, complex program requires extensive analysis of operational and technology issues that need more time and expertise than a Sunset review allows. Instead, DPS and the Texas Department of Motor Vehicles should conduct a joint analysis of the costs and opportunities in transferring this program.

In reviewing DPS' regulatory functions, Sunset staff found the department's current approach to overseeing the private security industry delves too deeply

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into purely business affairs without a clear nexus to public safety. The review also found that continuing to have a separate, quasi-independent Private Security Board creates dueling regulatory authority, inefficiencies, and unnecessary risks for DPS, and that the board could better serve the state as an advisory body. Further, DPS needs several changes in its licensing and enforcement approach to treat licensees more fairly and consistently, and to ensure state resources are not wasted. Some of these needed changes include ensuring that only criminal history convictions truly related to the regulated profession preclude licensure and using risk-based inspections. Finally, Sunset staff identified 16 licenses and registrations for elimination because the regulation is simply unnecessary to protect the public.

The security of the Texas border with Mexico is a subject of much debate, differing opinions, and political intrigue, as well as a huge factor in Texas' economy. The state needs goods and people to pass the border legally and safely, while protecting Texans from criminal activity. The state's portion of these difficult and dangerous border responsibilities have fallen primarily to DPS, with a legislative investment of more than \$1.4 billion for the current and previous biennium. With this investment comes a legislative expectation of information on the return or impact the funding has on border safety. Objectively measuring the success of border security is not easy, and factors beyond the control of DPS or any law enforcement entity can affect the level of criminal activity along the border. Even recognizing these difficulties, the review found DPS' data collection and analysis of border security impacts need improvement, and that tracking and publicly providing certain crime statistics could help the state more effectively plan for future investment in the program.

In addition to border security data shortcomings, the review found DPS has other data and information technology challenges. For example, DPS relies on an unmanageable patchwork of databases to track its 10 regulatory programs, and struggled to provide consistent, accurate numbers about its regulatory activities. Likewise, DPS needed a month to provide a list of all its active contracts and their total value. The department is working to address these issues but in the meantime, the shortcomings impede DPS' ability to assess its performance and manage strategically.

The following material highlights Sunset staff's key recommendations on the Department of Public Safety.

Issues and Recommendations

Issue 1

DPS Has Not Maximized Its Resources to Adequately Improve Driver License Customer Service.

The vast majority of adults in Texas — over 20 million — have a driver license or identification card issued by DPS. Issuing more than four million of these security-sensitive documents annually is a huge workload for DPS, and the department's staff works hard to carry out this function. However, wait times at driver license offices and the call center have continued to increase, despite significant financial investments by the Legislature to improve this program, with wait times of more than an hour at several large offices, and just 20 percent of phone calls being answered.

Within a law enforcement agency, the driver license program cannot compete with public safety priorities. Over the years, DPS has used driver license funding for its other programs and has not consolidated or closed low volume driver license offices to maximize resources to meet demand. DPS has also not invested in basic technology that could significantly improve customer service. Having the driver license

function housed in DPS is also confusing to the public who frequently expect the Texas Department of Motor Vehicles (TxDMV) to issue driver licenses as well as vehicle titles and registrations, like 42 other states do. In fact, the Legislature created TxDMV in 2009 to ensure its functions received more focus and attention than they received at TxDOT, and to improve customer service. Transferring the driver license program to TxDMV, an agency focused on customer service, is worth considering, but only after detailed analysis of the technology, resources, and budgetary impacts involved. Having DPS and TxDMV jointly analyze the potential of this transfer would provide the information needed for the Legislature to consider before making this significant change.

Key Recommendations

- Require DPS to develop and implement a plan to close inefficient driver license offices.
- Direct the Department of Public Safety and Texas Department of Motor Vehicles to perform a joint analysis on opportunities and challenges of transferring the driver license program to TxDMV.

Issue 2

DPS Should Better Measure and Report Its Border Security Performance to Allow the State to Determine the Return on Its Significant Investment.

The Legislature significantly increased its investment in border security for the last two biennia, appropriating over \$1.4 billion to DPS alone. Since 2015, the Legislature has required every state agency receiving border security funds to report certain performance indicators to be able to evaluate the state's return on investment, but measuring the success of this work is incredibly challenging. Several factors beyond the control of DPS or any law enforcement entity affect the level of criminal activity along the border, such as the weather's impact on harvests of certain illicit drugs or economic and political circumstances in other countries. With this reality in mind, the best chance the state has at assessing the impact of its investment in border security is to examine three categories of information: the amount of resources deployed; trends in outputs; and whether all of these measures have resulted in less border-related crime. However, attributing outcomes, like lower crime rates, directly to specific inputs, like state funding for border security, is extremely complicated, with no consensus on how best to measure whether the state's efforts to secure the border are succeeding.

As such, DPS prefers to measure and show the effectiveness of its border security efforts in terms of the quantity of resources deployed and intelligence gained. However, this approach does not provide sufficient information to the public and policymakers about the return on investment for border security funds. Without examining impacts to crime, while also taking into account the quantity of resources deployed as well as shifts in output data, neither DPS nor the Legislature can effectively plan for the state's future investments in border security. Understanding the impact of DPS' border security efforts is also important in the event of significant changes to federal border security efforts that many anticipate, with some already in progress, under the current presidential administration.

Key Recommendations

- Require DPS to track and publicly provide crime statistics as part of the reporting of its border security performance.
- Direct DPS to develop a system for collecting and maintaining outcome data related to its border security mission.
- Direct DPS to regularly report to members of the Legislature threat levels along the Texas-Mexico border.

Issue 3

Overregulation and Unclear Authority Hamper DPS' Private Security Program.

The private security program at DPS cannot be fully integrated into the agency's regulatory processes, in part due to the quasi-independent Private Security Board and conflicting authority between this board and the Public Safety Commission. As Sunset has discovered, administrative attachment of a quasi-independent board to a larger agency is unworkable and creates significant inefficiencies. Further, overregulation of the private security industry and a web of registration, endorsement, and licensure requirements contribute to a heavily bureaucratic licensing system that does not meaningfully promote a public interest and creates barriers to doing business in Texas. While Texas continues to have a demonstrable need to regulate individuals and companies that provide direct private security services, simplifying the regulatory structure would better focus DPS' resources on regulation that has a clear nexus to public safety.

Key Recommendations

- Reconstitute the Private Security Board as an advisory committee.
- Deregulate 10 registrations for individuals and entities that do not directly provide private security services.
- Require individuals who provide private security services to obtain a license, rather than a registration or endorsement, and remove requirements for regulated individuals to be affiliated with companies.

Issue 4

The Department's Nonstandard Regulatory Processes Compromise Effective and Fair Operations.

The department struggles to harmonize administration of its 10 regulatory programs with its more important law enforcement operations. Weak data management and tracking have reduced the transparency of DPS' regulatory operations, and hampered DPS' ability to oversee these programs. Also, nonstandard elements of licensing and enforcement processes, brought about by a patchwork of statutes and misplaced focus, create barriers to licensure and prevent DPS from being able to efficiently manage all of its regulatory programs. The department's primary law enforcement duties clearly take precedent over administering regulatory programs, but regulatory administration needs to be treated as a distinct, important role for DPS.

Key Recommendations

- Require DPS to track and annually report regulatory information on its website.
- Remove unnecessary, subjective qualifications for applicants.
- Establish clear authority for DPS to receive, investigate, and resolve complaints, including informally resolving complaints.
- Direct DPS to adopt a risk-based inspection process and provide DPS a full range of sanctions to enforce regulations.

Issue 5

Three DPS Regulatory Programs Are Not Necessary to Protect the Public.

Regulation of precursor chemical and laboratory apparatus sales, peyote distributors, and ignition interlock device vendors is duplicative of existing laws and does not meaningfully protect the public. Thorough regulation by the U.S. Drug Enforcement Agency and existing criminal penalties make state regulation of precursor chemical and laboratory apparatus sales and peyote distributors unnecessary. Further, existing criminal laws provide better deterrence for illicit use of precursor chemicals, laboratory equipment, and peyote. In addition, DPS already oversees the calibration and maintenance of ignition interlock devices, so the regulation of vendors of these devices has only a nominal impact to public safety. Ultimately, Sunset staff found these three regulatory programs are no longer needed and should be discontinued.

Key Recommendations

- Discontinue regulation of precursor chemical and laboratory apparatus sales and transfers.
- Discontinue duplicative registration of peyote distributors.
- Discontinue regulation of ignition interlock device vendors.

Issue 6

DPS' Management of the Motorcycle Safety Program Wastes State Resources.

In 1983, the Legislature established a motorcycle training and safety program at DPS and an all-terrain vehicle (ATV) safety program six years later. Texans continue to benefit from motorcycle and ATV safety training; almost 34,000 people took the motorcycle safety course and more than 1,000 people took the ATV course in 2017. However, providing costly material support, such as instructional material, helmets, and loaned motorcycles, to training providers is not an appropriate use of public resources. Further, DPS' heavy involvement in instructor training and directly providing motorcycle safety courses is unnecessary and not typical of state regulatory programs. In 2015, the Legislature transferred the driver education and safety program to the Texas Department of Licensing and Regulation (TDLR), where rules have been streamlined and the program has been refocused to improve customer service to schools, instructors, and students. The motorcycle and ATV safety programs would be better housed at TDLR, aligning regulation with similar programs and focusing on assisting customers in a more appropriate way for the state.

Key Recommendations

- Transfer the motorcycle and ATV safety training programs to TDLR.
- Direct DPS to discontinue subsidizing motorcycle safety training course operators and providing motorcycle safety training.

Issue 7

DPS Needs Enhanced Accountability and Efficiencies in Contracting and Purchasing.

DPS manages more than 1,000 active contracts with a total value of \$1.6 billion. At the time of this review, DPS was experiencing some growing pains with its contracting and procurement processes, particularly in establishing and implementing agencywide procedures to comply with the recent strengthening of state purchasing requirements. Some of DPS' difficulty is attributable to staff not being trained on new state procurement requirements and the lack of functionality in DPS' electronic procurement system. Making matters worse is that DPS' procurement process is replete with bureaucracy, which causes unnecessary delays. DPS also does not have a system capable of collecting broad data to identify potential issues in its procurement process as well as a consolidated location for all contract information. DPS has begun making improvements to its contracting and purchasing operations, but needs to ensure these improvements address the issues Sunset staff identified.

Key Recommendations

- Direct DPS to analyze its contracting and purchasing procedures, and align its levels of review, approval, and accountability with the value and complexity of the contracts and purchases.
- Direct DPS to track, analyze, and report contracting and purchasing data through all phases of the procurement process.
- Direct DPS to maintain all contract-related documentation in a central location and post up-to-date contract information on its website.

Issue 8

Texas Has a Continuing Need for the Department of Public Safety.

The Department of Public Safety's role of protecting the public and providing statewide law enforcement continues to be important to Texas, more than 80 years after DPS' establishment. Only a statewide organization can coordinate law enforcement and public safety activities across jurisdictional boundaries and Texas continues to need DPS and its main programs, including highway safety, criminal law enforcement, border security operations, driver license, and emergency management.

Key Recommendation

- Continue the Department of Public Safety for 12 years.

Fiscal Implication Summary

Overall, recommendations from two issues would result in a negative fiscal impact of about \$601,300 to the General Revenue Fund, primarily from discontinuing state regulation of individuals and businesses that does not improve public safety. The recommendation to discontinue providing state-funded materials and training for the motorcycle safety program would result in a positive fiscal impact of about \$463,000 to the dedicated Motorcycle Education Fund. The fiscal implication of these three recommendations is summarized on the following page.

Issue 3 — The recommendations to eliminate unnecessary layers of regulation and deregulate several security industry groups would result in negative fiscal impact of about \$912,000 from the loss of licensure fee revenue, offset by about \$378,000 in administrative cost savings. Reconstituting the Private Security Board as an advisory committee would also save about \$6,000 in travel reimbursements. Eliminating unnecessary regulation would reduce the number of full-time positions necessary for administering the private security program by seven.

Issue 5 — Discontinuing state regulation of ignition interlock device vendors would result in a small negative fiscal impact resulting from a loss of about \$185,900 in fee revenue, but would save about \$112,600 in administrative expenses.

Issue 6 — The recommendation to stop providing material support to motorcycle safety course providers would result in a savings of an estimated \$171,000 each year to the general revenue dedicated fund associated with the motorcycle safety program. Eliminating state-sponsored training of safety course instructors and mobile courses would save about \$292,000 and reduce the positions necessary to support the program by three. The remaining six full-time positions would transfer to the Texas Department of Licensing and Regulation along with the remaining funding.

Department of Public Safety

Fiscal Year	Savings to the General Revenue Fund	Loss to the General Revenue Fund	Savings to the Motorcycle Education Fund (General Revenue-Dedicated)	Change in Number of FTEs From FY 2019
2020	\$496,600	\$1,097,900	\$463,000	-10
2021	\$496,600	\$1,097,900	\$463,000	-10
2022	\$496,600	\$1,097,900	\$463,000	-10
2023	\$496,600	\$1,097,900	\$463,000	-10
2024	\$496,600	\$1,097,900	\$463,000	-10

