

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

DEPARTMENT OF PUBLIC SAFETY

**A Staff Report
to the
Sunset Advisory Commission**



April 1992

TEXAS SUNSET ADVISORY COMMISSION

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DEPARTMENT OF PUBLIC SAFETY

April 1992

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SUMMARY

SUMMARY

The Department of Public Safety (DPS) is subject to the Sunset Act and will be automatically abolished unless statutorily continued by the 73rd Legislature in 1993. As required by statute, the review of the DPS included a determination of whether the department fills a real and continuing need; whether benefits could be gained by reorganizing the department; and whether current statutory policies should be changed to improve the efficiency and effectiveness of the department.

Need for the Agency

The review concluded that the DPS should be continued for a 12-year period and reviewed again in 2005. The functions performed by the department are appropriate and the state should continue to perform the functions.

Reorganization Alternatives

As part of the review, various reorganization options were considered to determine if all or part of the department's functions should be transferred to other agencies. No substantial benefits could be documented, so no recommendations for reorganization were included in the report.

Policymaking Body

- The policymaking body of the department should be changed by:
 - providing the governor with authority to designate the chair of the commission; and
 - increasing the size of the commission from three to six members.

Overall Administration

- The administration efforts of the department should be changed by:
 - providing direction to improve the department's minority work force;
 - authorizing a fee for reinstatement of driver's licenses; and
 - standardizing access to criminal history information.

Evaluation of Programs

- The operation of the department's programs should be improved by:
 - clearly authorizing the use of vehicle checkpoints;
 - continuing current authority for oral/wire intercepts; and
 - increasing coordination between the department and the criminal justice division of the governor's office in drug law enforcement efforts.

FISCAL IMPACT

Preliminary estimates indicate that the recommendations will result in a revenue gain to the state. Most of the recommendations do not have a fiscal impact. However, the recommendation authorizing a fee for reinstatement of driver's licenses will have a probable gain of \$1.3 million to the general revenue fund. One other recommendation, increasing the size of the commission, will result in \$15,000 in additional cost to the highway fund.

Fiscal Year	Net Gain to the State
1994	\$1,285,000
1995	1,285,000
1996	1,285,000
1997	1,285,000
1998	1,285,000

BACKGROUND

CREATION AND POWERS

The Department of Public Safety (DPS) and its three-member Public Safety Commission were created in 1935 by the 44th Legislature. The DPS was formed with the transfer of the State Highway Patrol from the State Highway Department and the Texas Rangers Force from the Adjutant General.

Law enforcement in Texas began in the early 1800s when ten men were hired by Stephen F. Austin to range over a wide region scouting for marauding Indians. These men eventually became known as "Rangers." In 1929, with increased truck and automobile traffic damaging Texas highways and bridges, the State Highway Patrol was created under the Texas Highway Department to enforce motor vehicle laws and regulations on public highways. In 1935, these two enforcement functions were pulled together to create one agency to enforce the laws protecting the public safety and provide for the prevention and detection of crime. The main responsibilities of the DPS remain essentially identical to those established when the department was created.

As the Texas population escalated in the 20-year period between 1936 and 1956, so too did criminal activities and highway traffic accidents. The Department of Public Safety responded to these changes by expanding its number of programs and activities to reduce the incidence of crime and the number of traffic violations and accidents. However, this growth in programs and activities was not accompanied by changes in the organizational structure to effectively manage the growing number of department responsibilities.

As a result of a study by the Texas Research League in 1957, the department was reorganized. Traffic Law Enforcement Field Operations were placed in the six regional offices headed by a regional commander. In 1963, the governor transferred to the DPS the State Civil Defense Office that ultimately became the Division of Emergency Management. The Traffic Law Enforcement Division was created in 1968 to improve administration for the regional commanders. Command of criminal investigation units remained centralized in Austin until creation of the Criminal Law Enforcement Division in 1968. In 1973, the Administration Division was created to coordinate activities of the various headquarters divisions. The department has also recently undergone significant organizational changes. The 72nd Legislature shifted the Texas Rangers from the Criminal Law Enforcement Division to the Director's Staff as a separate division of the department. The Capitol Security Police was transferred from the General Services Commission to the DPS as part of its Traffic Law Enforcement Division. In addition, the 72nd Legislature required that most of the commissioned personnel in the Driver's License Service and all those in the Vehicle Inspection Service be replaced with civilian personnel by September 1, 1995.

POLICYMAKING BODY

The Public Safety Commission is charged with the responsibility of overseeing the Department of Public Safety. The commission is composed of three Texas citizens appointed by the governor, with the advice and consent of the senate, that serve staggered six-year terms. In appointing members, the governor is required by statute to consider the person's knowledge of law, experience in the enforcement of law, honesty, integrity, education, training, and executive ability. The chairman of the commission is annually elected by the commission members.

In overseeing the Department of Public Safety, the Public Safety Commission has three primary responsibilities. The first responsibility is to appoint the department's director and assistant director. The second responsibility is to formulate plans and policies for enforcing state criminal, traffic, and safety laws; preventing crime; detecting and apprehending persons who violate laws; and educating citizens in promoting public safety and observance of the law. The commission's third area of responsibility is to organize the department and supervise its operation, to adopt rules considered necessary for carrying out the department's work, to maintain records of all proceedings and official orders, and to submit a biennial report of its work to the governor and the legislature. The commission meets at the times and places specified by commission rule or at the call of the chairman or any two members. During fiscal year 1991, the commission met seven times.

FUNDING AND ORGANIZATION

The Department of Public Safety expended a total of \$233,100,615 in fiscal year 1991. The largest percentage of departmental expenditures was incurred by the Traffic Law Enforcement Division for efforts such as highway patrol, driver's license issuance, and trucking license and weight enforcement, and accounted for \$115.1 million or 49.4 percent of the total expenditures. The second largest departmental expenditure was for direct program support and included areas such as crime records, crime laboratories, and data processing and accounted for \$72.5 million or 31.1 percent of the department's expenditures. Expenditures for criminal law enforcement efforts such as narcotics control, criminal intelligence, and motor vehicle theft totaled \$27.9 million or 12 percent of total expenditures. Exhibit A shows the percentages of expenditure by the department's major programs. Exhibit B provides expenditure information for the last five fiscal years. Exhibit C shows a more detailed breakdown of departmental expenditures for fiscal year 1991.

Exhibit A
EXPENDITURES BY MAJOR PROGRAM
 Department of Public Safety
 Fiscal Year 1991

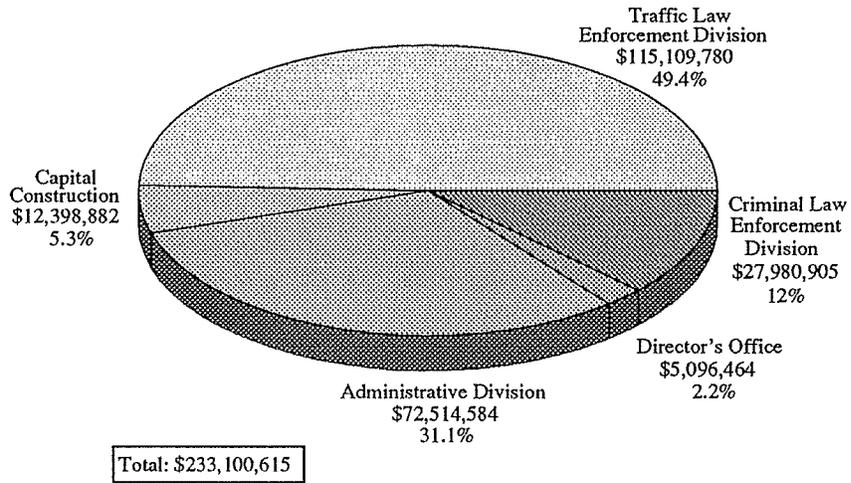


Exhibit B
COMPARISON OF EXPENDITURES
 Department of Public Safety
 1987-1991

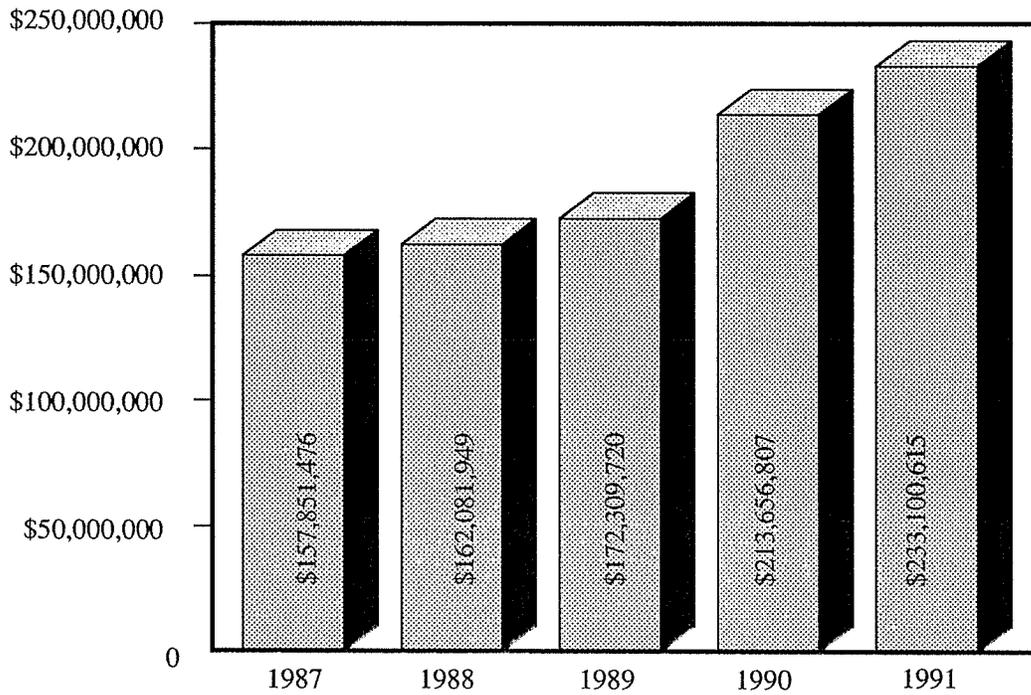
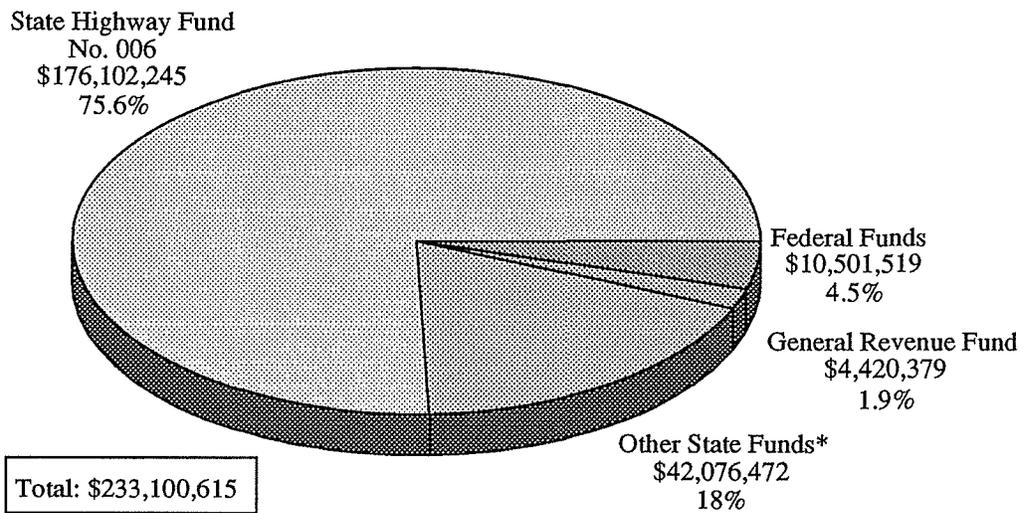


Exhibit C
DETAIL OF EXPENDITURES
 Department of Public Safety
 Fiscal Year 1991

Division	Expenditures
<i>DIRECTOR'S OFFICE</i>	
Director's Staff	\$3,382,215
Accounting & Budget Control	1,714,249
TOTAL - Director's Office	\$5,096,464
<i>ADMINISTRATION</i>	
Inspection & Planning	\$712,458
Staff Services	8,718,323
Data Processing	10,471,922
Driver & Vehicle Records	14,550,107
Crime Records	15,359,542
Crime Laboratories	5,096,027
Equipment, Overtime and Hazardous Duty Pay	15,097,917
Emergency Management	2,508,288
TOTAL - Administrative Division	\$72,514,584
<i>TRAFFIC LAW ENFORCEMENT DIVISION</i>	
Administrative	\$10,125,088
Highway Patrol	57,079,371
Driver's License	23,411,276
License & Weight	12,315,199
Motor Vehicle Inspection	4,645,713
Safety Education	1,506,921
Communications	6,026,212
TOTAL - Traffic Law Enforcement	\$115,109,780
<i>CRIMINAL LAW ENFORCEMENT</i>	
Administrative	\$183,482
Criminal Intelligence	4,649,864
Texas Rangers	4,312,553
Narcotics	16,255,231
Motor Vehicle Theft	2,114,199
Polygraph	465,576
TOTAL - Criminal Law Enforcement	\$27,980,905
Capital Construction	12,398,882
GRAND TOTAL	\$233,100,615

The DPS is primarily funded from State Highway Fund No. 006. In 1991, the DPS received \$176,102,245, or 75.6 percent of its appropriations, from the highway fund. The remaining 24.4 percent of appropriations came from a number of other funds, including the Motor Vehicle Inspection Fund (8.1 percent), the Operators and Chauffeurs License Fund (5.8 percent), and the general revenue fund (1.9 percent). Exhibit D provides a breakdown of all the sources of funding for fiscal year 1991.

Exhibit D
SOURCES OF FUNDING
 Department of Public Safety
 Fiscal Year 1991



- *Motor Vehicle Inspection Fund No. 274 - \$18,843,313
- Operators and Chauffeurs License Fund No. 099 - \$13,606,966
- Finance Authority Bond Fund No. 643 - \$4,320,000
- Criminal Justice Grants - \$2,760,703
- Controlled Substances Fund No. 098 - \$1,440,723
- Motor Carrier Act Enforcement Fund No. 582 - \$756,163
- Motorcycle Education Fund No. 501 - \$344,383
- All Terrain Vehicle Safety Fund No. 598 - \$4,221

While the department is not directly funded by revenue it generates, the department does collect a sizeable amount of money annually. In 1991, the department, primarily through the issuance of driver's licenses and service of traffic warrants, generated approximately \$150 million in revenue. The majority of fees collected by the DPS are deposited in the general revenue fund. Driver's license fees are the primary source of revenue generated by the department with \$56.5 million collected, or 40 percent of the department's total. Other major revenue sources include driver record information fees, which generated approximately \$24 million; administrative fines

and fees, which generated \$22.5 million; and motor vehicle inspection fees, which totaled \$46.6 million.

In fiscal year 1991, the department employed 5,553.5 full-time equivalent (FTE) employees. Of these, 62 percent were in the Traffic Law Enforcement Division, 11 percent in the Criminal Law Enforcement Division, and the remaining 27 percent in the Director's Office and the Administrative Division. Approximately 30 percent of the department's employees are assigned to the headquarters in Austin and 70 percent to field offices.

The Department of Public Safety is organized into three major divisions, Administrative, Traffic Law Enforcement, and Criminal Law Enforcement, under the oversight of the Director's Office. Both the Director's Office and Administrative Division work almost exclusively out of the DPS headquarters in Austin, while the Traffic and Criminal Law Enforcement divisions are spread throughout the state with administrative functions in Austin.

To provide assistance to law enforcement and criminal justice agencies throughout the state, the department established six geographic regions with each region divided into districts and, where necessary, subdistricts. Because certain regions are more populated than others and, consequently, require different amounts of effort from the department, the divisions and services of the department are not equally represented in all districts. Exhibit E shows the organizational structure of the department and the regional efforts of the various divisions and programs. Exhibit F depicts how the ethnic composition of the department's work force has changed over a five-year period. The chart uses the categories and minority employment goals established by the General Appropriations Act.

Exhibit E
ORGANIZATIONAL CHART
 Department of Public Safety

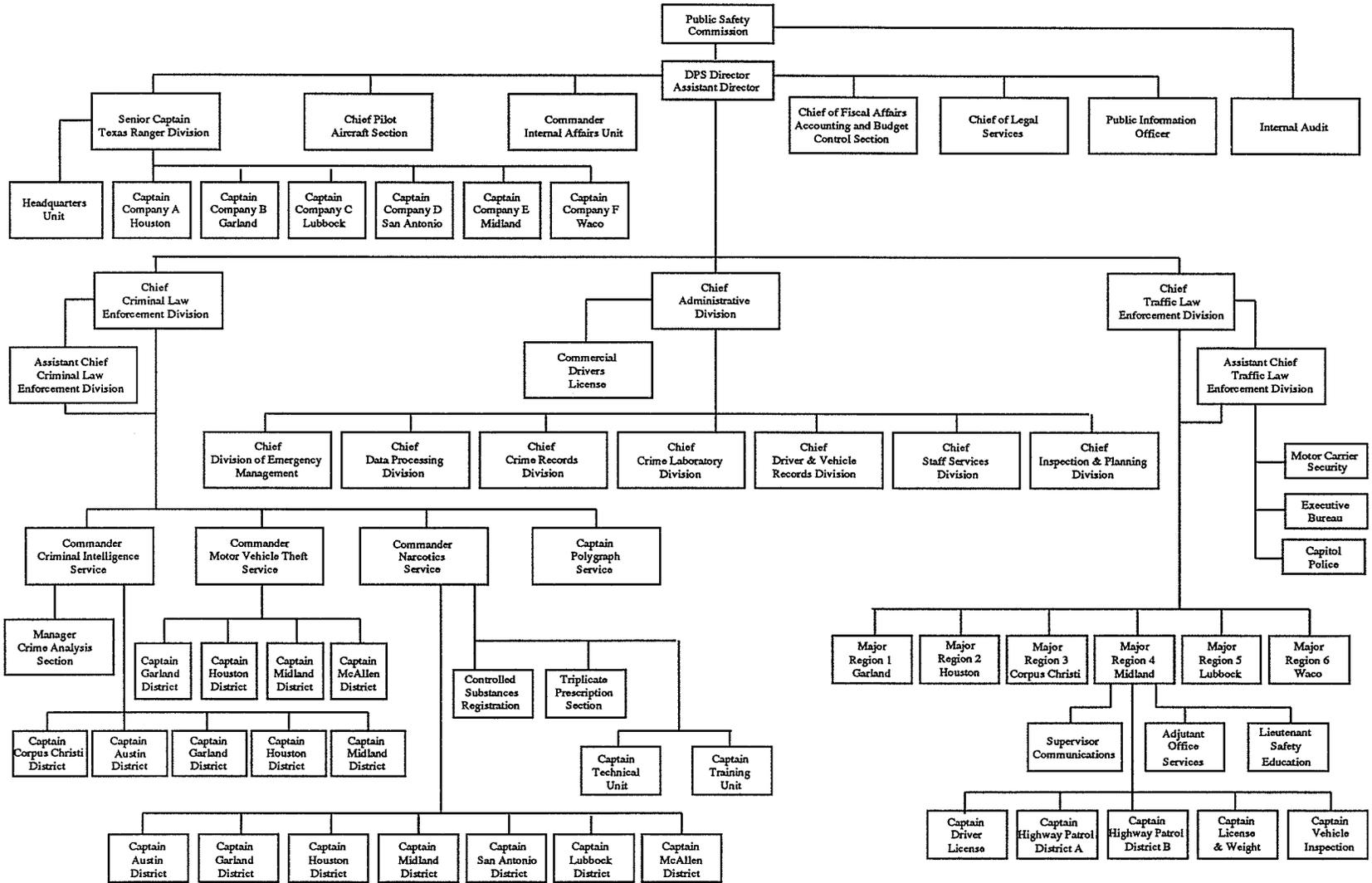


Exhibit F
PERCENTAGE OF MINORITIES IN AGENCY'S WORK FORCE
 Department of Public Safety

Job Category	1987 Total Work Force 5,059		1991 Total Work Force 5,616		1992-1993 Appropriations Act Statewide Goal for Minority Work Force Representation
	Total Positions	% Minority	Total Positions	% Minority	
Administrators	111	0.1%	62	3.2%	14%
Professionals	241	9.9%	371	12.4%	18%
Technicians	583	8.9%	711	14.2%	23%
Protective Service	2,272	23.3%	2,411	26.3%	48%
Para-Professionals	224	14.7%	990	25.3%	25%
Administrative Support	1,386	21.4%	766	25.7%	25%
Skilled Craft	78	20.5%	88	17%	29%
Service/Maintenance	164	48.8%	217	51.2%	52%

PROGRAMS AND FUNCTIONS

The Department of Public Safety is responsible for enforcing traffic laws on the state's rural highways, enforcing criminal laws, administering assigned regulatory programs, regulating commercial and for-hire traffic, and directing and controlling emergency management activities in the state. The department carries out its programs and functions through the Director's Office, the Traffic Law Enforcement Division, the Criminal Law Enforcement Division, and the Administrative Division. The major functions and activities of each of these four divisions and their corresponding sub-divisions are described in the following section.

DIRECTOR'S OFFICE

The Director's Office includes Executive Administration, the Equal Employment Opportunity (EEO) Officer, Accounting and Budget Control, Legal Services, Aircraft Section, Internal Affairs, Public Information Office, Internal Audit, and, effective September 1, 1991, the Texas Rangers Division. The director's office operated with a budget of \$5,096,464 and 132 full-time equivalent employees (FTEs) in fiscal year 1991. Budget detail is provided below for those sections or divisions that maintain a separate budget.

Executive Administration

This office includes the director, the assistant director, and their immediate staff. The director is responsible for oversight of department programs and operations. The assistant director serves as the director in the absence of the director. The director manages the heads of the units in the Director's Office, the senior captain of the Texas Rangers, and the division chiefs of Traffic Law Enforcement, Criminal Law Enforcement, and Administration.

Equal Employment Opportunity Officer

The EEO Officer is responsible for coordinating the development, implementation, and evaluation of the department's Affirmative Action Plan. The EEO Officer monitors selection and promotion activities, makes recommendations as necessary to improve employment of protected classes, and provides information and assistance to both employees and other interested parties.

Accounting and Budget Control Section

The Accounting and Budget Control Section provides a full range of financial services including responsibility for the receipt and deposit of all revenue; accounting for all revenue and expenditures; preparing legislative appropriations requests and agency operating budgets; purchasing all supplies, equipment, and services; maintaining property records for all fixed assets; preparing the payroll and maintaining related records and reports; preparing financial and other reports; and processing vouchers for vendor payments.

In fiscal year 1991, the section supported 5,553.5 department employees, processed 923,800 payments and other receipts, received and deposited \$197.6 million in fees and other revenue, and processed 35,355 purchase orders and 103,202 invoices and travel vouchers. The department's appropriation is accounted for through approximately 50 cost centers, and revenues and expenditures are maintained through approximately 375 internal budgetary units. The Accounting and Budget Control Section operated with a budget of \$1,714,249 and 77 FTEs in fiscal year 1991.

Legal Services

Legal Services is responsible for providing advice and legal counsel to members of the Public Safety Commission and the staff of the department. The Legal Services section is also responsible for reviewing internal disciplinary actions, grievances, and employment complaints; facilitating all land transactions, including the acquisition and divestiture of property; working with the attorney general's office on lawsuits involving the department; and reviewing and processing legal actions related to the expunction of criminal history or driver records. The Legal Services office operated with a staff of nine FTEs in fiscal year 1991.

Aircraft Section

The Aircraft Section is responsible for supporting the DPS and other law enforcement and emergency agencies by providing aircraft services to assist with law enforcement and public safety efforts. The section has 13 aircraft based at eight different sites throughout the state. All pilots are commissioned officers of the department. In fiscal year 1991, 80 percent of the flight time was in support of law enforcement with over 70 percent in support of criminal law enforcement, and 2.4 percent in support of emergency situations and natural disasters. Section staff assisted in 666 investigations and 228 arrests. During aircraft assisted activities, narcotics valued at \$32.4 million were seized and stolen property valued at \$824,986 was recovered. In addition, eight lost persons were located, two persons were rescued, and 123 crime related photo missions were performed. The Aircraft Section operated with a budget of \$2,058,783 and 22 FTEs in fiscal year 1991.

Internal Affairs Unit

The Internal Affairs Unit is primarily responsible for investigating allegations and complaints filed against department employees. Investigative assignments are received directly from the director or assistant director and fall into three areas: administrative issues dealing with policy compliance; firearms discharges by an officer on or off duty when an injury or death occurs; and legal issues dealing with equal employment opportunity and grievance procedures. The majority of investigations involve legal matters.

In addition to investigating complaints assigned to them, this unit is also responsible for reviewing investigations conducted by other departments to assure thoroughness and compliance with departmental procedures. In fiscal year 1991, the unit investigated three internal discrimination complaints, two complaints filed with the Texas Commission on Human Rights, and 12 personnel complaints. The unit also investigated 12 incidents involving firearm discharges and assisted with 18 legal cases. The Internal Affairs Unit operated with seven FTEs in fiscal year 1991.

Public Information Office

The Public Information Office is responsible for providing information about department operations, programs, and services to the news media and the general public. The office is available to the media 24 hours a day and disseminates information on traffic safety, crime prevention, new laws, drug and alcohol abuse, and disaster preparedness. In addition, the office also serves as the department's liaison with the entertainment industry, which often approaches the DPS for assistance in motion picture and television productions scheduled to be filmed in Texas. This office annually responds to more than 6,000 telephone calls from state and national news media outlets and hundreds of telephone and mail inquiries from the general public. In 1991, the office issued approximately 4,500 press cards to the news media for their use in gaining access to disasters and major crime scenes. The office issues periodic news releases and public service announcements to the state's 101 daily newspapers, 451 weekly newspapers, 677

radio stations and 111 television stations. The office operated with three FTEs in fiscal year 1991.

Internal Audit

The Internal Audit unit is responsible for providing the DPS management with independent analyses, appraisals, and recommendations about the adequacy and effectiveness of its systems of internal controls. The department is subject to the Internal Audit Act and its internal audit functions comply with the requirements in the Act. This office produces annual and five-year audit plans that focus on risk management, cash operation, petty cash, and imprest funds, which are used in drug enforcement activities. During fiscal year 1991, the three auditors performed 13 audits that were either financial, operational, or compliance reviews of headquarters bureaus, and conducted 204 field audits. The unit operated with four FTEs in fiscal year 1991.

Texas Ranger Division

The Texas Ranger Division is the state's special investigation and law enforcement unit. When requested, the Texas Rangers assist local law enforcement agencies in high profile investigations such as homicides, investigations of public officials, and all shooting incidents involving department personnel. The Rangers usually assist in rural areas where smaller law enforcement agencies often lack staff with expertise in forensic techniques. Rangers also provide security for the governor and visiting dignitaries and officials. In special circumstances, they provide courtroom security.

For 1991, the Rangers prepared 4,822 written accounts of criminal investigations and offenses, made 1,269 felony arrests, recovered \$7,765,006 worth of stolen property, and seized contraband valued at \$2,575,131. Rangers were involved with 907 convictions for various crimes that resulted in four death sentences, 40 life sentences, and a total of 10,776 years in penitentiary time assessed. The division operated with a budget of \$4,312,553 and 112 FTEs in fiscal year 1991.

TRAFFIC LAW ENFORCEMENT DIVISION

The Traffic Law Enforcement Division (TLE) is responsible for the administration and coordination of all field traffic law enforcement activities of the department and furnishing executive security for the governor and visiting dignitaries. Primary duties of this division involve traffic supervision on rural highways while secondary functions include criminal law enforcement activities and certain regulatory functions.

Traffic Law Enforcement field operations include the Highway Patrol, License and Weight, Driver's License, Vehicle Inspection, Safety Education, Capitol Security Police, and Communications. The division's Motor Carrier Bureau plays an important part in supporting these field activities, especially those of the License and Weight Service.

Administratively, the division is divided into six geographical regions with regional headquarters at Garland, Houston, Corpus Christi, Midland, Lubbock, and Waco. Each region is overseen by a regional commander who is responsible for the administration and operation of all the TLE activities in the region. Under each regional commander are service commanders responsible for the operations of their respective services within the region. Each of the department's six regional commanders is assigned an "adjutant", a director of business management. The six adjutants are responsible for maintenance of the 78 department-owned office buildings and 32 rented facilities statewide and for supervision of regional maintenance and grounds keeping staff. The adjutants, directly or through assigned staff, assist with budget preparation, record keeping, inventory control, and supply and building equipment purchases.

Because of its broad responsibilities, the TLE is the largest division of the department with an authorized strength of 2,381 commissioned officers and 1,060 civilian positions. In 1991, the division operated with a budget of \$115,109,780. The activities of each of the division's services are described in the following material.

Highway Patrol Service

The basic objective of this service is patrolling and supervising traffic along the state's rural highways to ensure safe travel. Violations involving intoxicated drivers, excessive speed, and seat belt regulations are considered as enforcement priorities. Highway Patrol officers patrol 210,976 highway miles, or 128 miles per officer. In 1991, officers issued 1,402,282 citations and 622,592 warnings. Other traffic enforcement activities also play an important part in the overall program of the Highway Patrol. For example, in fiscal year 1991, the service investigated 51,887 motor vehicle accidents and participated in 38,684 motorist assists. Arrests resulted in 63 percent of the accident investigations. In addition, the Highway Patrol is increasing emphasis on drug enforcement as part of patrol activities. In fiscal year 1991, 434 drug traffic cases were filed, which resulted in 16,886 pounds of marijuana, 511,332 grams of cocaine, and \$3,496,771 being seized. Each district also maintains a highly trained and well equipped civil disturbance management team. The Highway Patrol Service operated with a budget of \$57,079,371 and 1,546 commissioned officers in fiscal year 1991.

License and Weight Service

Primary duties of this service involve enforcement of all commercial vehicle regulations to ensure the safety of the general public, to protect the state's highway system from unnecessary damage from overweight vehicles, and to ensure proper payment of registration fees. Objectives are accomplished through visible patrol and the routine use of checkpoints to inspect and weigh commercial vehicles. Priorities for this service are enforcement of regulations involving vehicle size and weight, registration requirements, economic regulations set by the Texas Railroad Commission, motor carrier safety, transportation of hazardous materials, speeding of commercial vehicles, and intoxicated drivers. With recent passage of the Federal Motor Carrier Act, the service is now enforcing stricter safety and driver training requirements. Officers also routinely enforce traffic regulations and criminal laws. During fiscal year 1991, license and weight officers

checked 648,006 vehicles, issued 400,302 citations and warnings, and reduced 6,599 oversized or overweight loads. The License and Weight service operated with a budget of \$12,315,199 and 250 FTE commissioned officers in 1991.

Driver's License Service

This service is charged with the responsibility of ensuring the competency of Texas drivers. Department personnel examine new drivers; determine the eligibility of renewal applicants; and issue original driver's licenses, renewals, duplicates, and identification cards. During the licensing process, outstanding warrants are checked in most field offices with outstanding traffic warrants served and wanted felons apprehended in those offices where commissioned personnel are stationed. Troopers in this service also perform routine traffic and criminal law enforcement.

The Driver's License Service is involved in implementing legislation, passed in 1989 as a result of a federal mandate, that requires special licensure of commercial drivers and monitoring and inspection of both drivers and equipment. Full implementation of these new requirements was to be completed by April 1, 1992. This service is also implementing another recent legislative mandate. The 72nd Legislature, 1st Called Session, in HB 9, mandated the reduction of commissioned officers in the service from 386 to 211 by 1995. These positions are to be replaced with civilian employees. The department is currently restructuring the service to comply with the legislative mandate.

During fiscal year 1991, the Driver's License Service issued 3,998,300 driver's licenses that generated \$56,559,409. It also issued 531,927 identification cards that generated \$2,942,485. The service provides driver record information to individual drivers and certain other authorized entities such as insurance companies. In fiscal year 1991, the service had 9,716,085 requests while fees from this service generated \$23,762,540. In total, the Driver's License Service collected \$83,549,909 in fees from driver's licenses, identification cards, driver record requests, driver information, and fees designated for the motorcycle education fund. These funds are deposited in the general revenue fund. The Driver's License Service operated with a budget of \$23,411,276 and 331 commissioned officers FTEs and 582 civilian FTEs in fiscal year 1991.

Vehicle Inspection Service

The primary objective of this service is to prevent accidents through the administration and supervision of the state's vehicle inspection program. At the request of the Texas Air Control Board, the service also is responsible for supervision of the vehicle emissions programs in the counties of El Paso, Dallas, and Tarrant and of the parameter programs in the counties of Harris, Denton, Collin, Rockwall, Kaufman, Ellis, Johnson, and Parker. Both of these programs consist of a visual inspection and machine testing of a motor vehicle to verify that the idle emissions system meets the guidelines of the EPA.

Recent state legislation that brings Texas into compliance with the Federal Clean Air Act will significantly increase emissions-control responsibilities for the service. Failure of the state

to comply with these regulations could result in a loss of \$130 million annually in federal construction funds for cities and counties in Texas. Consequently, this service maintains close supervision of inspectors and inspection stations to ensure compliance with quality standards for continued certifications.

This service is also implementing another legislative mandate. The 72nd Legislature, 1st Called Session, in HB 9, mandated that all commissioned positions in this service be replaced by civilian employees by 1995. The service is currently being restructured to accomplish the switch to civilian employees. During fiscal year 1991, the Vehicle Inspection Service supervised 9,210 inspection stations that conducted 11,454,040 vehicle inspections. During these inspections, 1,550,203 vehicle defects were detected.

The Vehicle Inspection Service operated with a budget of \$4,645,713 and 119 commissioned officers in fiscal year 1991. In 1991, the vehicle inspection program collected \$46,647,576 in fees. These fees are deposited into several funds; the Clean Air Fund, administered by the Texas Air Control Board; the Law Enforcement Custodial Officer Retirement Fund; and the Motor Vehicle Inspection Fund.

Safety Education Service

The objective of this service is to obtain voluntary compliance with traffic and criminal laws through the education of Texas citizens. The service promotes and coordinates national, state, and local programs related to crime suppression, drug education, and traffic safety. It also assists youth groups and local officials in the development of programs about safety and good citizenship. Drug education in the public schools is accomplished through classroom instruction and the use of "Trooper Bud" robots to talk to the students. In 1991, officers presented 7,111 programs to schools and other groups and 845 classes to law enforcement officers. The officers in this service also serve as regional public information officers and liaisons with disaster and emergency services, and routinely enforce traffic and criminal laws. The Safety Education Service operated with a budget of \$1,506,921 and 36 commissioned FTEs in fiscal year 1991.

Communications Service

This service provides a support function to the DPS and other law enforcement agencies by providing necessary voice and data communications services. It operates a communication system that provides for rapid interchange and dissemination of information between department mobile units, field offices, and headquarters and between the DPS and other law enforcement agencies. The system uses radio, telephone, and land line telecommunications in 34 locations throughout the state. The service helps to coordinate the response of local law enforcement agencies in emergency situations and provides criminal history information to officers who are making routine traffic stops. The Communications Service operated with a budget of \$6,026,212 and 226 FTEs in fiscal year 1991.

Motor Carrier Bureau

The Motor Carrier Bureau is divided into two sections. The Lease Section serves as a repository for all commercial vehicle leases required by law and many other reports generated by the License and Weight Service. The Motor Carrier Safety Section maintains commercial vehicle inspection files and develops safety profiles from accident reports, violation reports, hazardous material spills/incidents, arrest activity, and safety complaints. This section also administers and monitors Federal Motor Carrier Safety regulations and maintains necessary computer files to comply with federal requirements for reporting to Safety Net (a federal data base of safety violations). In 1991, the bureau processed 64,160 commercial vehicle inspection reports, 266,085 violations, 52,864 citations, 70 hazardous material spills/incidents, and established 11,984 safety profiles. The bureau collected fees totaling \$361,149 that were deposited in the Operators and Chauffeurs License Fund. The bureau operated with a budget of \$731,269, one commissioned FTE, and 35 civilian FTEs.

Capitol Security Police

The 72nd Legislature, 2nd Called Session, in HB 39, transferred the Capitol Security Police from the General Services Commission to the department effective September 1, 1991. This service is charged with maintaining law and order in the State Capitol and in the Capitol complex. Commissioned officers investigate criminal activities that occur on property or in buildings in the Capitol complex. The service is also responsible for the security of personnel and property in specified state buildings and parking areas, issuing parking permits and building passes, and providing locksmith services. The Capitol Security Police has an operating budget of \$2,956,110 for fiscal year 1992 and has 74 FTE commissioned officers and 63 civilian employees.

CRIMINAL LAW ENFORCEMENT DIVISION

The Criminal Law Enforcement Division (CLE) is composed of four services: Narcotics, Criminal Intelligence, Motor Vehicle Theft, and Polygraph. The division initiates its own law enforcement efforts, provides specialized assistance to local enforcement agencies, and cooperates with federal agencies engaged in criminal law enforcement activities. The four services closely coordinate their efforts and attempt to impact the rise in crime through continuous coordination with all local, state, and federal agencies having concurrent interests in criminal investigations. In fiscal year 1991, the division was involved in 46,192 criminal investigations, assisted in 2,841 felony arrests, and recovered \$21,349,966 in property. The Criminal Law Enforcement Division operated with a budget of \$27,980,905, 346 commissioned officer FTEs, and 155 non-commissioned FTEs, for a total of 501 FTEs in fiscal year 1991. The activities of each of the division's services are described below.

Narcotics Service

The objective of the Narcotics Service is to suppress the illegal traffic of controlled substances and dangerous drugs in Texas. The service is responsible for the overall direction of the state's enforcement efforts against illegal drug traffic and supervising three regulatory programs: the Texas Controlled Substances Act, supervision of permits and reporting of the Precursor Chemical Permit Program, and the Triplicate Prescription Program. The Narcotics Service operated with a budget of \$16,255,231 and 206 commissioned and 86 non-commissioned FTEs for a total of 292 FTEs in fiscal year 1991. The key efforts of the service's work effort are described below.

Drug Enforcement. A major effort of the Narcotics Service is the actual conducting of drug enforcement efforts, either on its own initiative, or jointly with local or federal agencies. Major efforts include detection and confiscation of drugs being transported into or within the state. Manufacture, growth, distribution, and actual sales of illegal drugs are also targeted. Activities include surveillance, use of wiretaps, undercover drug buys, and infiltration of drug operations. The service also works with local, federally funded, drug task forces and drug squads, to assist them in special targeted enforcement efforts.

The Texas Controlled Substances Act. The Act requires all persons or institutions, such as practitioners, analysts, hospitals, and teaching institutions, who manufacture, distribute, analyze, or dispense a controlled substance in Texas to register with the department. An annual fee of \$5.00 is deposited in the Operators and Chauffeurs License Fund to be used in the administration of the Act. In 1991, 48,842 persons and institutions were registered and \$233,783 was collected.

Precursor Chemical Permit Program. State law regulates the sale and transfer of certain chemicals used in the manufacturing of various controlled substances. Under the act, businesses are required to obtain permits from the DPS to sell or transfer precursor chemicals and certain laboratory apparatus or to receive those items from an out-of-state source. The department does not charge for the permits and, in 1991, 265 permits were issued.

Triplicate Prescription Program. This program administers the state law that requires strict regulation and control over Schedule II drugs, which are prescribed drugs such as pure cocaine, morphine and other opiates used for medical purposes. The program requires medical practitioners who prescribe or dispense Schedule II drugs to use a three-part form issued to the practitioners by the DPS. The department codes the drug information and enters the prescription information into an automated system. Information in the automated system can only be released to investigators of the affected regulatory licensing boards (medical, dental, podiatry, veterinary, and pharmacy) or, with approval of the boards, to department investigators. Noncompliance is referred to the appropriate regulatory licensing board and strictly criminal activities are investigated within the Narcotics Service. The department sells the three-part form in packets of 100 forms. In fiscal year 1991, the charge for 100 forms was \$7.00. Effective September 1, 1991, the charge was increased to \$8.00. In 1991, 12,069 packets were sold for \$105,586.

In 1991, the Narcotics Service confiscated drugs valued in excess of \$328,477,607; seized \$6,207,795 in currency, four parcels of real estate, and 148 vehicles; confiscated 17 drug laboratories; and made 1,536 felony arrests. In addition, the service provided technical support for six federal court-authorized wire intercepts.

Criminal Intelligence Service

The Criminal Intelligence Service focuses on organized crime, securities violations such as the sale of fraudulent stocks, statewide criminal activities, horse and dog racing violations, special investigations, and security for state officials and visiting dignitaries. The service provides and exchanges knowledge and information with federal, local, and other states' criminal justice agencies regarding the activities of organized crime and those individuals, organizations, and conditions that promote criminal acts. The service is also involved in actual enforcement efforts in its priority areas and, when requested, provides investigative assistance to other law enforcement agencies. The Criminal Intelligence Service also provides support to other law enforcement agencies by providing a forensic artist and an officer who specializes in criminal personality profiling and violent crime assessment. The service monitors metal and salvage dealers who are required to report the sale and purchase of certain metals. During 1991, activities of the Criminal Intelligence Service resulted in 879 felony arrests, 226 misdemeanor arrests, and recovery of stolen or seized property valued at \$1,696,234. The service operated with a budget of \$4,649,864 and 84 commissioned officers and 55 noncommissioned personnel in fiscal year 1991.

Motor Vehicle Theft Service

The primary purpose of the Motor Vehicle Theft Service is to promote cooperation among law enforcement agencies by planning, designing, and implementing statewide vehicle theft prevention and recovery programs. The service coordinates efforts in vehicle theft control activities among all law enforcement and other interested agencies. The service concentrates its actual enforcement efforts on theft rings and cases involving multiple law enforcement jurisdictions. In 1990, 154,000 motor vehicles were stolen in the state and 68 percent were recovered. During the first six months of 1991, 76,726 vehicles were stolen and 70.5 percent were recovered. Enforcement efforts by the department resulted in 426 felony arrests and recovery of 1,471 stolen vehicles with an estimated value of \$19,653,732. Local, state, and federal agencies were provided assistance on 3,848 occasions and 2,306 criminal offenses were investigated. The Motor Vehicle Theft Service operated with a budget of \$2,114,199 and 43 commissioned officers and 11 non-commissioned personnel in fiscal year 1991.

Polygraph Service

The Polygraph Service is responsible for assisting the DPS and other law enforcement agencies in the investigation of criminal offenses. Requests to examine suspects, victims, and witnesses are routinely scheduled as an investigative means of verifying alibis and the truthfulness of statements, obtaining additional investigative leads and/or locations of evidence

or wanted individuals, identifying the person who perpetrated the offense, and eliminating persons wrongly suspected or accused.

In 1991, the service received 3,435 requests to administer criminal-specific polygraph examinations. Also in 1991, the Polygraph Service assisted 4,009 criminal justice agencies that resulted in 1,095 confessions to offenses such as homicide, rape, sexual abuse of a child, robbery, theft, burglary, narcotics, injury to the elderly, motor vehicle theft, arson, forgery, and counterfeiting. The Polygraph Service operated with a budget of \$465,576 and 11 FTEs in fiscal year 1991.

ADMINISTRATIVE DIVISION

The Administrative Division consists of seven sub-divisions. This division provides administrative support to the Criminal Law Enforcement and Traffic Law Enforcement divisions. The division also provides specialized information and services to local and national law enforcement agencies and, in some circumstances, provides information and assistance to other state agencies, private organizations, and to the general public. This division is also responsible for administering certain regulatory programs mandated by statute. The Administrative Division consists of Inspection and Planning, the Division of Emergency Management, Driver and Vehicle Records, Crime Records, Crime Laboratory, Staff Services, and Data Processing. The Administrative Division operated with a budget of \$72,514,584 and 1,352 FTEs in fiscal year 1991. The activities of each of the division's main functions are described below.

Inspection and Planning Division

The Inspection and Planning Division is primarily responsible for the inspection of internal program activities. Inspectors monitor department programs to assure compliance with agency policies and procedures and assess management and operational activities. Findings and any related recommendations are issued through written reports to department managers, division chiefs, and the director. Additional duties include updating agency policies and procedures manuals, serving on committees that research problems and recommend changes to policies and procedures, analyzing legislation, and conducting special studies. During fiscal year 1991, inspectors expended 5,892 hours conducting 29 management and operational effectiveness inspections of field operations, resulting in 154 recommendations for improvements of operations. The inspectors also analyzed approximately 1,348 legislative bills and prepared 185 fiscal notes during the 72nd Legislative Session. The Inspection and Planning Division operated with a budget of \$712,458 and 20 FTEs in fiscal year 1991.

This division is also responsible for coordinating the department's strategic planning efforts. During the 72nd regular session, the legislature passed a bill requiring most state agencies to develop a six-year strategic plan. The strategic plans are the first step in building a long-term statewide budgeting and planning process. The agency is presently working on its strategic plan, which is required to be completed by June 1, 1992. The completed plan will be submitted to the

governor, lieutenant governor, speaker of the house of representatives, and several oversight agencies, including the Sunset Advisory Commission.

Division of Emergency Management

The Division of Emergency Management consists of Emergency Management and, effective September 1, 1991, the Communications Bureau. The division operated with a budget of \$2,508,288 and 52 FTEs in fiscal year 1991.

Emergency Management. The DPS, at the request of the governor, coordinates the state's program for comprehensive emergency management by providing a system to prevent, prepare for, and deal with natural or man-made disasters, riots, and/or hostile military or paramilitary actions. Assistance is provided to local jurisdictions in program development, maintenance, training, and hazard mitigation. The division also supports the Emergency Management Council which is composed of the heads of state agencies and representatives of volunteer groups. The division also coordinates all Civil Air Patrol search-and-rescue missions for missing aircraft and state disaster reconnaissance missions, and monitors federal requirements associated with toxic chemical accidents.

In 1991, this division administered and coordinated 1,431 Emergency Management programs; trained 2,694 state and local officials; processed, supervised, and audited 144 state and local applications for federal funds; coordinated one disaster assistance project for 129 jurisdictions which resulted in over \$18.8 million in federal assistance to jurisdictions and individuals; coordinated over 700 coordinated responses to emergencies or incidents; and monitored 52 fuel suppliers.

Headquarters Communications Bureau. This bureau was transferred from the Staff Services Division to the Division of Emergency Management September 1, 1991. The bureau operates the headquarter's 24-hour communications center and provides communications support for local, state, and federal criminal justice agencies for the exchange of criminal justice information. It serves as a control point to provide warnings of natural and man-made disasters in a timely manner, acts as a reporting reception area for highway emergencies, and is the reporting entity for railroad crossing signal malfunctions. The bureau also performs quality control of the Texas and National Law Enforcement Telecommunications Systems by auditing messages sent through the statewide system. If noncompliance is identified, the bureau notifies the appropriate agency administrator of the violation and offers assistance to gain compliance.

In 1991, the center processed 41,605 message control center activities and received 538,732 switchboard calls. It also received, 7,480 railroad crossing malfunction calls and 25,527 emergency calls from persons traveling on Texas highways.

Driver and Vehicle Records Division

The Driver and Vehicle Records Division is responsible for managing driver and vehicle inspection records and administering the Texas Driver's License and Safety Responsibility laws. This division is divided into five bureaus: License Issuance and Driver Records, Driver Improvement and Control, Safety Responsibility, Statistical Services, and Vehicle Inspection Records. The Driver and Vehicle Records Division operated with a budget of \$14,550,107 and 591 FTEs in fiscal year 1991.

License Issuance and Driver Records. This bureau provides support to the 237 Driver's License field offices and is responsible for centrally processing, mailing and issuing over 4 million driver's licenses and identification cards annually. The bureau collects and processes all traffic citations and maintains records pertaining to individual drivers. In fiscal year 1991, revenue for driver's licenses, identification cards, and driver's records totaled \$83,549,909. This bureau maintained 13,011,502 driver's records and 2,141,184 identification card records in 1991.

Driver Improvement and Control Bureau. This bureau is responsible for enforcing the Driver's License Law (Article 6687b and Article 6687b-2, V.A.C.S) as it pertains to two general classes of drivers, those who lack certain skills or have physical handicaps that prevent safe vehicle operation, and those who habitually fail or refuse to obey the law such as chronic violators of traffic laws or habitual DWI violators. On medical and physical issues, the bureau may require a re-examination or have the case reviewed by the Medical Advisory Board of the Department of Health. The board evaluates medical information and fitness and makes recommendations concerning a person's ability to safely operate a motor vehicle and any necessary restrictions or special conditions.

Cases involving driver skill or repeated law violations are decided through local courts, primarily justices of the peace and municipal court judges. The department petitions the court to review the case. The judge may revoke or suspend the license, and, in some cases, probate the license suspension. The penalty options available to the judge depend on the violation involved as well as the number of violations. During fiscal year 1991, the bureau analyzed a total of 64,848 records for possible driver improvement action. As a result of administrative action, the department initiated 78,641 suspensions, 19,439 probations, and 1,118 revocations.

The Safety Responsibility Bureau. This bureau is responsible for administering the Texas Motor Vehicle Safety Responsibility Act, the state liability insurance law. The purpose of this Act is to ensure that drivers and owners who may be found negligent in the operation of motor vehicles are financially responsible for damage, injury, or death of persons resulting from traffic accidents. The Act also provides for suspension of driving and registration privileges of those who fail to meet these responsibilities. During fiscal year 1991, a total of 689,175 evaluations were completed and 150,973 suspensions were invoked. During fiscal year 1991, the bureau collected and deposited \$3,995,817 in reinstatement fees to the general revenue fund.

The Statistical Services Bureau. This bureau is the state repository for traffic accident reports. Detailed analyses of accident reports are entered into a computerized information system that generates periodic summaries describing traffic accidents. This information is used for analyzing causes of accidents, designing corrective measures, and making projections by the media, research groups, the Texas Department of Transportation, and the National Highway Traffic Safety Administration in Washington, D.C. During calendar year 1991, the department received 478,446 accident reports. Copies of these reports are available for a fee and sales generate approximately \$350,000 annually.

Vehicle Inspection Records Bureau. This bureau maintains records related to the motor vehicle inspection program. This program promotes highway safety by requiring regular inspection of all vehicles registered in Texas and providing for certification and supervision of inspection stations and vehicle inspectors. This bureau maintains official records of licensing, enforcement activity, station reports, and sales/issuance of inspection certificates. The program is supported by fees charged for inspections and certificate issuance. In 1991, 10,395,100 one-year and 922,825 two-year inspection stickers, for new vehicles only, were sold at \$8.50 and \$15.75 respectively. The inspection station retains five dollars for the cost of the actual inspection. During fiscal year 1991, \$46,663,321 in fees were collected and deposited in various funds in the state treasury.

Crime Records Division

The Crime Records Division maintains arrest records, fingerprint files, criminal justice information, a missing persons clearinghouse, and statistical data on crime in Texas. This division consists of the Fingerprint and Records Bureau, the Crime Information Bureau, and the Automated Fingerprint Identification System project. The Crime Records Division operated with a budget of \$15,359,542 and 154 FTEs in fiscal year 1991. The activities of the division's bureaus are discussed below.

Crime Information Bureau. The bureau is made up of three units. The first unit, the Texas Crime Information Center (TCIC), is a computerized filing system of information on crime and criminals in Texas and the nation. During fiscal year 1991, approximately 630,000 wanted person and stolen property records were entered into the TCIC, and 4,090,778 automated criminal history inquiries were made. The second unit, Uniform Crime Reporting (UCR), receives and records information regarding the extent and nature of known crimes from local criminal justice agencies. The state's activity is also part of a nationwide crime statistics gathering program. In 1991, the UCR processed 118,411 reports from 851 local law enforcement agencies. The third unit, the Missing Persons Clearinghouse (MPCH), is a central repository of information about missing Texans or persons believed to be missing in Texas as well as information about unidentified deceased or living persons found in Texas. In 1991, 54,878 missing persons records were entered into the MPCH and the National Crime Information Center. The MPCH furnished information to law enforcement agencies that resulted in the location of 24 missing persons, and helped identify six unidentified deceased persons.

Fingerprint and Records Bureau. The bureau's major function is to identify the arrest fingerprint cards received from local law enforcement agencies and to process applicant fingerprint cards from non-criminal justice agencies for licensing and employment purposes. The bureau maintains 4.5 million fingerprint cards and 3.9 million criminal history records and, in 1991, processed 519,122 fingerprint cards. The bureau is currently automating the fingerprint system through the development of the Automated Fingerprint Identification System (AFIS). When it is completely implemented, it will replace the current process that requires manual classification, search, and verification of fingerprints. The AFIS will automatically classify and search fingerprints to accurately identify and compare incoming fingerprint cards with those cards already on file. The system will include, in addition to those placed in department field offices, 62 remote access terminals placed in local law enforcement agencies throughout the state.

Crime Laboratory Division

The Crime Laboratory Division is responsible for the scientific analyses of physical evidence associated with a crime. The division has three bureaus: Alcohol Testing, Field Laboratories, and Headquarters Laboratory. Services are provided to the various divisions of the DPS and local law enforcement agencies of the state. The division operated with a budget of \$5,096,027 and 136 FTEs in fiscal year 1991. The activities of the division's bureaus are described below.

Breath Alcohol Testing Program. The DPS is responsible for overseeing the use of breath tests for law enforcement in the state. All tests must be conducted in accordance with regulations developed by the department. Supervisors and operators, both within the DPS and in local agencies, must be periodically certified through the department. The testing equipment must also be checked periodically to ensure that proper readings are being provided. The department is responsible for maintenance of most of the machines in use in the state. The breath test results are used in DWI related traffic offenses. The technical supervisors maintain more than 240 breath test instruments and supervise 2,000 breath test operators. In 1991, these supervisors provided expert testimony in more than 300 contested DWI cases.

Field Crime Laboratories. The department operates eleven laboratories located throughout the state that serve both the DPS and local law enforcement agencies. These laboratories examine drug evidence, conduct alcohol analyses on blood samples from DWI suspects and traffic accident victims, and examine bloodstains and other trace evidence from felony crimes. These laboratories examined evidence in 24,678 criminal cases in fiscal year 1991.

Headquarters Laboratory Bureau. This laboratory, located in Austin, performs specialized analyses and tests. In addition to those tests performed in the field laboratories, this laboratory provides criminal justice agencies with laboratory services in the areas of drug analysis, trace evidence, toxicology, firearms, tool marks, latent prints, forensic photography, and questioned documents, such as forgeries. This laboratory examined evidence in 6,340 criminal cases in fiscal year 1991.

The work load in the crime laboratories over the past 11 years has doubled from 15,522 cases in 1980 to 31,018 in 1991. Approximately 25 percent of the division's efforts relate to the department's cases with the remainder for local, primarily smaller, law enforcement agencies.

Staff Services Division

The Staff Services Division is responsible for the administration and operation of headquarters activities related to personnel, training, reproduction, supplies, building and grounds maintenance, building program, and procurement, distribution, and maintenance of the automotive fleet, communications equipment, and motorcycle operator training. This division is divided into six bureaus: Training, Personnel, Fleet Operations, General Services, Motorcycle Safety, and the Building Program. The Staff Services Division operated with a budget of \$8,718,323 and 313 FTEs in fiscal year 1991. The activities of the division's bureaus are described below.

Training Bureau. This bureau is responsible for providing education and training to personnel from the department and other police agencies. The department conducted 200 classes on 103 different topics. Classes were delivered to the majority of department employees for a total of 179,581 student training hours, and 2,941 students from other law enforcement agencies received 79,673 student training hours. The department's training bureau may charge employees and students for tuition, lodging, and meals to partially defray the costs of providing these services and collected \$218,831 in 1991.

The Personnel Bureau. This bureau administers and oversees all department personnel activities including selection and promotional processes, maintenance of all employee records, and administration of the employee benefits program. The selection and promotional process is a dual system, one system for civilian employees and a more stringent and involved process for law enforcement officers and trooper-trainee applicants.

Fleet Operations Bureau. This bureau is responsible for the purchase, distribution, and maintenance of the department's vehicle fleet, fixed and mobile radio communications systems, and related electronic equipment and records. It also arranges for disposition of surplus vehicles and electronic equipment and coordinates land mobile radio frequencies assigned to police and local government entities. During fiscal year 1991, the bureau performed 115 major and 1,921 minor mechanical repairs and 116 major and minor body repairs. The bureau also prepared 832 new vehicles for issue and 814 surplus vehicles for sale.

The General Services Bureau. This bureau provides general support functions for the department's headquarters in Austin. The bureau's services include document reproduction, mail service, procurement and issuance of equipment and office supplies, and grounds maintenance. The bureau sells various agency forms and publications, such as driver handbooks and criminal law books to the public, schools, universities, and law enforcement agencies. In fiscal year 1991, 354,467 documents were sold for a total revenue of \$214,417.

Motorcycle Safety Bureau. The bureau administers and coordinates statewide motorcycle and all-terrain vehicle operator training, safety, and education certification programs delivered by qualified public and private entities. The bureau collects a \$5.00 fee from each driver's license renewal with a motorcycle endorsement. These fees are used to fund motorcycle operator training, safety programs, and other support functions. In fiscal year 1991, \$507,420 was deposited in the Motorcycle Education Fund for equipment replacement and maintenance and supplying helmets, gloves, instruction handbooks, and other materials to training facilities. Both the DPS and other groups, such as school districts and junior colleges, provided motorcycle safety training to 2,539 students in 1991.

Building Program. This program supervises the construction, maintenance, and repair of all 108 department field, headquarters, and storage buildings throughout the state. Additionally, the program oversees all building renovations and additions. For example, the department recently obtained the Austin Independent School District property adjacent to the DPS headquarters and renovation of that property is currently underway. The program is also responsible for all departmental leases, the department's energy conservation program, and compliance with the Underground Storage Tank Act regulations.

Data Processing Division

The Data Processing Division provides the equipment, personnel, and administration necessary to furnish electronic data processing and information-retrieval services to the department and local agencies throughout the state. The division must maintain an on-line, 24-hour-per-day, 7-day-per-week computer system that contains all driver's license records and historical entries, all criminal offender records and historical entries, notices involving persons wanted for major offenses, stolen vehicles, and missing children and persons. It performs maintenance operations required to keep the data current and makes the information available for local and remote inquiries from law enforcement agencies throughout the state. The division supports the department's operational and administrative needs for information resources which has resulted in the transformation from a single central mainframe to a system utilizing microcomputers, minicomputers, the central mainframe, remote processing, and electronic transmittal of data. The system maintains over 13 million driver's license records, 13.5 million criminal history record segments, and 317,600 active criminal files. The division operated with a budget of \$10,471,922 and 106 FTEs in fiscal year 1991.

***FINDINGS AND
RECOMMENDATIONS***

OVERALL APPROACH TO REVIEW

OVERALL APPROACH TO THE REVIEW

In accordance with the Sunset Act, the review of the Department of Public Safety included determining if the agency's functions continue to be needed, if those functions could be better performed by another agency, whether functions performed by another agency could be better performed by the agency under review, and if any changes are needed to the agency's statute.

The need to continue the department focused on whether continued state involvement in law enforcement was necessary. The review also included an examination of whether benefits would result from combining the department with any other state agency. The review then focused on statutory changes needed if the department is maintained in its current form.

To make determinations in each of these areas, the review team was involved in a number of activities over the six-month review period. These included:

- review of agency documents and reports, state statutes, legislative reports, other states' reports and statutes, previous evaluations of agency activities, and literature containing background material;
- interviews with key agency staff in both the central office and district offices;
- field visits with department staff to observe law enforcement efforts;
- discussions with legislative agencies and committees with responsibility for oversight of the department;
- attendance at public meetings of the Public Safety Commission;
- phone and personal interviews with individuals involved in law enforcement at the state, local and federal levels in this state and in other states;
- a survey of the department's employees requesting the identification of problems in the department as well as potential solutions; and
- interviews and meetings with groups affected by or interested in the activities and policies of the department including groups representing law enforcement agencies, groups representing employees of the department, groups representing efforts to reduce incidents of driving while intoxicated, and others.

Out of these activities the overall focus of the review was shaped. The primary question asked and answered in the course of the review was whether Texas' policy framework provided the DPS with the major law enforcement tools found in similar law enforcement agencies in other states or the federal government.

The recommendations included in the report represent only a small percentage of the total number of issues that were raised during the review process. Many of the issues raised were management issues and could not be resolved through a change in statute. This type of issue was left for consideration by other legislative oversight agencies. The policy issues finally selected were based on their relative importance and represent a good faith effort to provide the department with an adequate statutory structure in which to operate.

NEED FOR THE AGENCY

ISSUE 1: The Department of Public Safety should be continued for a 12-year period.**BACKGROUND**

The Department of Public Safety (DPS) was created in 1935 to enforce the state's laws protecting public safety - criminal, traffic and safety; provide for the detection and prevention of crime; detect and apprehend persons who violate the laws; and educate the citizens of the state on public safety. Additional responsibilities have been given to the DPS but the main objectives of the department have remained essentially the same.

To accomplish its objectives, the department is organized into three major divisions, Traffic Law Enforcement, Criminal Law Enforcement, and Administration. Major efforts in the traffic law area include highway patrol; driver's license issuance and control; enforcement of commercial motor transportation license and weight laws; and regulation of vehicle inspections. Efforts in the criminal law area include the detection and confiscation of illegal drugs being manufactured, transported or sold within the state; development of information on organized crime and gambling; investigation of all types of criminal activity; detection of dog and horse race violations; and investigation of organized motor vehicle theft rings.

The department's administrative efforts support its other divisions and also provide support to law enforcement agencies throughout the state. For example, the DPS maintains information systems that provide criminal history information, driving records and warrant information to law enforcement officers of the department and local departments. In addition, the department operates a communications system statewide that helps link city, county, and state law enforcement personnel as well as fire and emergency personnel. In times of disaster, the department becomes the coordinator of disaster preparedness and recovery operations.

To justify the continuation of an agency, certain conditions should exist. First, the functions or services provided by the agency should continue to be needed. Also, the functions or services should not duplicate those currently provided by any other state agency. Finally, the potential benefits must outweigh any disadvantages of transferring the agency's functions or services to any other state agency. The evaluation of the need to continue the department resulted in the following findings.

FINDINGS

- ▶ **The primary functions of the DPS continue to be needed.**
 - Traffic law enforcement continues to be important. The state's 12 million drivers traveled 162 billion miles over 300,000 miles of highways and roadways. In 1991, over 260,000 people were injured and 3,079 killed in traffic accidents statewide. The DPS issued 1.4 million traffic citations and worked 51,887 accidents in 1991.
 - DWI enforcement continues to be a needed priority. Driving under the influence of drugs or alcohol was a contributing factor in 35,561 accidents and 1,068, or 35 percent, of the traffic fatalities in 1991.
 - Criminal law enforcement is also needed. Criminal activity in the state is an ever present problem. For the latest year available, 1990, an estimated 1.3 million crimes were committed. All major categories of crime, murder, sexual assault, robbery, assault, burglary, and theft, all increased from 1989. Murder increased by 17 percent to 2,388. Sexual assaults were estimated at more than 8,700, up 10 percent. Motor vehicle thefts totaled over 154,000, up 2.3 percent, with a value of approximately \$857 million.
 - Narcotics traffic also continues to be a problem. For example, in 1991, the DPS, through its drug enforcement efforts, seized drugs valued in excess of \$328 million; \$6 million in currency; four parcels of real estate; 148 vehicles; and 17 drug laboratories.
 - Other functions performed by the DPS; driver's license issuance and control; enforcement of commercial motor transportation license and weight laws; regulation of vehicle inspections; maintenance of criminal record information systems; and coordination of emergency management services, all continue to be needed functions performed by the state.
- ▶ **A review of the organizational structures of other states' police agencies did not reveal any potential for organizational change.**
 - Most states use a structure similar to Texas. At least 39 states have a separate, free-standing agency that operates as a state police and/or public safety agency.
 - Public safety and transportation regulation are combined in one agency in four states; five other states place public safety in a criminal justice agency; and one state has its highway patrol in a combined regulatory agency.

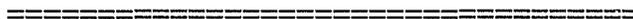
- ▶ **Many law enforcement activities cross jurisdictional boundaries. No other entity exists that has the ability to enforce laws throughout the state. Also, no other agency exists to coordinate such statewide efforts and cooperate with federal agencies involved in law enforcement in the state.**
- ▶ **An assessment of the DPS and other existing agencies did not reveal any viable alternatives for transfer of functions.**
 - Most of the department’s efforts are enforcement in nature and are fairly unique and different than those of most other regulatory agencies enforcing the state’s laws.
 - One agency, the Texas Department of Transportation (TxDOT), has responsibility for registration of motor vehicles. The DPS also regulates motor vehicles through its vehicle inspection program. However, these functions do not overlap and the DPS enforces the registration law of the TxDOT through efforts of several of its programs.

CONCLUSION

The functions assigned to the DPS to carry out are functions the state should perform and are appropriately placed in the department as it is currently structured. No organizational structure found in other states would provide any significant benefit over the current structure. No benefits would be achieved by transferring any functions to another agency. Based on these factors, the review concluded that the department should be continued.

RECOMMENDATION

- **The statute should be changed to continue the Department of Public Safety for a 12-year period.**



This recommendation would continue the department for a 12-year period and provide for review again in 2005. The department would continue its current functions of enforcing the state’s laws protecting the public safety - criminal, traffic and safety; and providing for the detection and prevention of crime. If the state abolished the department, local law enforcement agencies would be left to provide law enforcement without the benefit of a state agency to assist them and coordinate their efforts.

FISCAL IMPACT

If the department is continued, its annual appropriations of \$233,100,615 would continue to be required. The DPS is supported primarily by state Highway Fund 006 with some funding from the general revenue fund.

POLICYMAKING BODY

ISSUE 2: The statute should be changed to give the governor the authority to designate a member of the commission as its chair.

BACKGROUND

The chair of the commission is elected annually by the members of the commission. Members serve six-year staggered terms.

Over the past decade, the legislature has worked to increase the accountability between state agencies and the governor. Having the governor designate the chair of state agency policymaking bodies is one way to strengthen this accountability. In this effort, the Sunset Commission routinely recommends that the governor be authorized to designate the chair when it is not already authorized in law.

State statutes commonly require that the governor designate the chair of agency boards. This approach is useful in strengthening executive branch accountability. A review of the commission's process for selecting its chair compared to other policymaking bodies led to the following findings.

FINDINGS

- ▶ **The ability to designate the chair of an agency's policymaking body strongly enhances the accountability of a state agency to the governor.**
- ▶ **A search of agency statutes found 56 other state agencies, including agencies such as the State Board of Insurance, the Texas Department of Transportation, the Texas Department of Health, and the Texas Department of Human Services, where the governor designates the agency's board or commission chair.**
- ▶ **Authorizing the governor to designate a board's chair has been a routine change made to agency statutes through the sunset process.**

CONCLUSION

The current process, whereby the chair of the commission is elected by its members, does not provide accountability that results from designation of the chair by the governor.

RECOMMENDATION

- **The statute should be changed to give the governor the authority to designate a member of the commission as its chair.**

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The member designated as chair would continue in that position at the pleasure of the governor. This would promote accountability of the commission to the governor.

FISCAL IMPACT

No fiscal impact would occur as a result of this recommendation.

ISSUE 3: The Public Safety Commission should be expanded in statute from three to six members.

BACKGROUND

The Public Safety Commission is a three-member policymaking body created to oversee the Department of Public Safety. The members of the commission are appointed by the governor for six-year staggered terms. In appointing members, the governor is required to consider the person's knowledge of law, experience in the enforcement of law, honesty, integrity, education, training, and executive ability. The commission elects a member annually to serve as chair.

The commission's responsibilities include organizing the department, formulating plans and policies to guide the department's efforts, and supervising the department's efforts. The commission meets monthly and other times as needed to carry out its duties.

State boards and commissions are generally structured to provide for the efficient performance of their duties, to ensure that the interests of the citizens of the state are appropriately represented, and to allow for clear compliance with state statutes governing the operations of boards and commissions. A review of the size and composition of the commission and other policymaking bodies indicated the following.

FINDINGS

- ▶ **Only one other major Texas state agency has a three-member part-time policymaking body.**
 - The Texas Transportation Commission is the only other three-member part-time board or commission in Texas.
 - Most state boards and commissions in Texas are composed of either six or nine members.
- ▶ **A larger commission would provide opportunity for ethnic diversity in appointments.**
 - No women and only one minority have served on the commission. Since 1935, all but one of the persons who have served on the Public Safety Commission have been anglo males.

- Recent appointments by the governor indicate that, with more slots available, more women and minorities could be appointed to state boards and commissions. During the last year, appointments have closely reflected Texas' demographics with 55 percent male and 45 percent female appointees. In addition, 21 percent of the appointments have been Hispanic and 15 percent have been Black.
- Specifically, increasing the size of a board or commission can lead to more minority appointments. During the last legislative session, the legislature increased the General Services Commission from three members to six members. Two of the new members are women, one of whom is an ethnic minority. The other new member, a male, is also an ethnic minority.
- ▶ **A recent supreme court interpretation of the Texas Open Meetings Act indicated that three-member policymaking bodies may have difficulty complying with the act.**
 - The Supreme Court of Texas, in a May 1990 decision, *Acker v. Texas Water Commission*, stated that a meeting occurs any time a quorum discusses or acts on public business. The court concluded that a quorum of the commission could not have an "informal" discussion outside a public meeting.
 - With a three-member commission, every time two members meet with each other they must be certain not to discuss any matters pending before the commission.
 - Members of a larger commission would have an easier time communicating with each other while complying with the open meetings law. For example, with a six-member commission, three of the members could meet and discuss an issue without violating the open meetings act.

CONCLUSION

A larger commission would provide the opportunity for more diversity in appointments. A greater number of members would also provide for easier discussion of issues among members without violation of the open meetings law.

RECOMMENDATION

- **The statute should be changed to expand the size of the commission from three to six members.**



Increasing the size of the commission to six members would provide the governor with more of an opportunity to appoint commission members who reflect the geographic and ethnic diversity of the state. In addition, the larger commission would be better able to ensure compliance with the state’s open meetings law and could allow members more flexibility to carry out their official responsibilities while meeting their personal time schedules.

FISCAL IMPACT

The increase in the number of commission members would increase travel and per diem expenses. Because current commission members do not routinely claim reimbursement for expenses, the estimate of expenses is based on the average expenses of other part-time boards or commissions. Based on the expenses of other boards and commissions meeting on a monthly basis, costs would increase by \$15,000 per year. Current expenses, when claimed, are paid out of State Highway Fund No. 006.

Fiscal Year	Cost to State Highway Fund No. 006
1994	\$15,000
1995	15,000
1996	15,000
1997	15,000
1998	15,000

OVERALL ADMINISTRATION

ISSUE 4: The statute should provide specific direction to the department to improve its recruitment, hiring, and promotion of women and minorities.

BACKGROUND

The department, along with other state agencies, is required to meet state and federal guidelines relating to the recruitment and hiring of women and minorities. The purpose of these guidelines is to ensure that these protected classes are given equal opportunity in the hiring and promotion process and to reduce the under-representation of women and minorities in the work place. State agencies are required to develop and implement a plan to recruit and select qualified women and minorities and use selection procedures that are in compliance with the Texas Human Rights Act. The purpose of the plan and procedures is to increase the number of women and minorities at all levels of employment.

The legislature, for the last two bienniums, has outlined a specific approach in the Appropriations Act for state agencies to follow as they strive to improve minority representation in state government's work force. The 1992-1993 General Appropriations Act establishes an overall minority hiring goal of 30 percent for all new employees and establishes goals in eight specific job categories. These federally defined job categories are: administrators, professionals, technicians, protective services, paraprofessionals, administrative support, skilled craft, and service/maintenance. The target percentages for the eight job categories are based on the civilian labor force in Texas. The Appropriations Act requires each agency to report its progress in meeting these goals to the Texas Commission on Human Rights.

The department has established personnel systems that are administered by its personnel bureau. The bureau is responsible for: developing all personnel policies and procedures, maintaining the personnel manual, and monitoring compliance with departmental policies and procedures; recruitment, selection, and promotion of commissioned and non-commissioned personnel; employee performance evaluation; position classification; employee timekeeping; personnel records of current and former employees and related reporting requirements; and the employee benefits program. The bureau ensures that the department complies with all federal and state employment laws and the department's affirmative action plan. The EEO officer in the Director's Office works closely with the bureau to monitor implementation of the department's affirmative action plan.

A government agency should strive to meet all state and federal employment goals by using effective programs and efforts to recruit, hire, and retain qualified women and minorities. A review of the department's recruitment, hiring, and promotion of women and minorities resulted in the following findings.

FINDINGS

- ▶ **The department has developed and implemented programs and policies aimed at recruitment, hiring, and promotion of women and minorities.**
 - In the early 1970s, the department initiated a policy that required each of its training academies for commissioned troopers be composed of 40 percent minorities. This policy has been followed since 1973.
 - In 1988, the agency established an EEO officer position in the Director's Office. The position is responsible for coordinating the development, implementation, and evaluation of the department's affirmative action plan. The officer monitors recruiting and hiring activities and makes recommendations necessary to improve the process; and provides information and assistance to the personnel office, employees, and other interested parties. The position is also responsible for identifying specific problem areas in recruitment, hiring and promotion; ensuring that the agency moves toward work force targets; and developing contacts with professional and civil rights organizations and other minority groups.
 - The director of the department has stated his commitment to improving minority representation in the department, and that policy is clearly set out in the department's general manual. A committee of minority employees provides input to the director about problems in the department. In addition, the department has established an affirmative action plan; a minority recruiting position in the personnel office responsible for overall agency minority recruiting and for supervising a team of six regional recruiters; a classification officer to provide an independent perspective on minority classification issues; and a sensitivity training program for department employees.
- ▶ **Despite its emphasis on recruiting and hiring minorities, the department has met minority work force goals in only three of the eight job categories set out in the 1992-93 General Appropriations Act.**
 - The 1992-93 appropriations bill specifies goals for minorities in the work force in eight job categories. As the following chart indicates, the department has met these goals in three of the eight job categories. It has achieved less than 70 percent of the state goals in the other five categories.

<u>Job Category</u>	<u>State Work Force Goal</u>	<u>DPS Work Force</u>	<u>Department Work Force in Job Category</u>
Administrators	14%	3.2%	1.1%
Professionals	18%	12.4%	6.6%
Technician	23%	14.2%	12.7%
Protective Service	48%	26.3%	42.9%
Paraprofessionals	25%	25.3%	17.6%
Adm. Support	25%	25.7%	13.6%
Skilled Craft	29%	17.0%	1.6%
Service and Maint.	52%	51.2%	3.9%

▶ **The department’s lack of emphasis on its non-commissioned work force impedes progress in reaching overall minority employment goals.**

- The non-commissioned work force of the department is approximately half of its total number of employees. The department has developed programs for and placed emphasis on recruiting women and minorities for commissioned law enforcement positions but has placed little emphasis on similar efforts for positions filled by non-commissioned employees. For example, the main priority of the department’s headquarters and regional minority recruiter positions is to recruit for commissioned positions.
- The state auditor, in a recent management review of the department, commented that the department has a strong system for promotion of law enforcement personnel, but identified problems with career paths for non-law enforcement positions.

▶ **The department’s policy of promotion-from-within limits its ability to increase the percentage of women and minorities in its work force.**

- All vacancies in mid and upper management positions are filled by people inside the agency.
- Except for entry level positions filled by graduates of the department’s training academy, all vacancies in commissioned officer positions are filled only by promotion or transfer of current personnel.
- Vacancies in non-commissioned positions are also, where possible, filled from within. Of the 2,040 non-commissioned positions in the department, 743, or 36 percent, of the positions are automatic promotion or only available to in-house employees.

- The department considers applicants from outside the department in 1,297, or 64 percent, of its non-commissioned positions. In 1991, approximately 420 of these positions became vacant. Of these, approximately 175 were filled by current employees and 240 new employees were hired. However, many of the better paying positions are filled by current employees and most new employees are hired into entry-level, lower paid positions. For example, in a sample of 76 vacancies in administrative support positions, 56 of the 65 vacancies that occurred in pay groups six and below were filled by a new employee but only one of the 11 vacancies in pay groups seven through nine was filled by a new employee. A sample of 23 vacancies in professional and technical positions indicated that nine, or 40 percent, were filled by current employees and 14 were filled by new employees.

CONCLUSION

The department has taken many steps to develop and implement policies and procedures to identify areas of under-representation and facilitate the recruitment and hiring of qualified women and minorities for commissioned positions. Despite its efforts, the number of minorities in the department's work force do not meet the state's minority work force goals. Additional efforts are needed to increase the department's ability to recruit, hire, and retain women and minorities throughout its work force. The following recommendations are intended to provide a statutory basis for further efforts to recruit and hire women and minorities.

RECOMMENDATION

- **The statute should be changed to:**
 - **specify that the department's minority recruiter and EEO positions created for personnel and EEO matters continue to pertain to both commissioned and non-commissioned employees;**
 - **require the department to continue recent emphasis on minority recruiting and hiring efforts for non-commissioned positions;**
 - **require the department, by January 1994, to study job requirements for all commissioned and non-commissioned positions and limit promotion-from-within to only positions where department experience is essential for reasonable job performance; and**
 - **require the department to provide the results of the study on promotion-from-within to the Texas Commission on Human Rights for review and comment.**

This recommendation will allow the department to continue its existing programs to recruit and hire women and minorities in its work force. In addition, the department will continue recent emphasis on recruitment, hiring, promotion, and retention of persons in non-commissioned positions. Finally, the evaluation of the promotion-from-within policy may result in more positions being filled from outside the department. The department would then have the opportunity to recruit and retain women and minorities for these positions. The study should be provided to the Texas Commission on Human Rights for its use in fulfilling responsibilities to monitor the state's progress in minority recruitment and hiring.

FISCAL IMPACT

No fiscal impact will result from the implementation of this recommendation.

ISSUE 5: Fees should be charged for the reinstatement of a suspended driver's license.**BACKGROUND**

The DPS has statutory authority to suspend the driver's licenses of those persons who violate certain traffic laws. In fiscal year 1991, the department's Driver Improvement and Control Bureau suspended 78,641 drivers licenses. Suspensions fall under one of two categories, mandatory or departmental suspensions. Generally, mandatory suspensions involve the most serious traffic law violations where licenses are automatically suspended upon final conviction. Departmental suspensions involve less serious traffic law violations that may or may not result in a license suspension.

Mandatory suspensions occur when a person is convicted of violations such as driving under the influence of alcohol or drugs, involuntary manslaughter, providing false information on a driver's license, and the sale, distribution, or possession of personal identification certificate's or driver's licenses. Licenses are surrendered upon final conviction of the offense. The length of the suspension period, in general, is set by the court and varies by type of violation.

Departmental suspensions include failure to complete a DWI education program, habitual reckless or negligent driving, refusal to give a blood or breath specimen to test the content of drugs or alcohol in the body, and operating with a suspended license. Upon committing one of these types of offenses, the person is summoned, by mail, to appear for an administrative hearing before a local judge, usually a justice of the peace or a municipal court judge, to determine if the license should be suspended or revoked. At the hearing, the judge can suspend and seize the person's license or the judge may recommend that the suspension of the license be probated, allowing the person to drive under certain conditions.

Once suspended, under either method, surrendered licenses are kept in a separate file and information regarding the suspension is entered into the department's computer system and monitored. The administrative work involved in processing and reinstating a license under mandatory or departmental criteria is similar. The department, in either instance, checks to determine whether all conditions imposed by the suspension have been met. The ability of the department to charge a fee for the work and effort involved in determining whether reinstatement is appropriate is not uniform. For example, reinstatement fees are currently required to regain a license for all offenses falling under the mandatory, or automatic, license suspension provisions. The fee for reinstatement is \$50 for most cases.

In contrast, the department can charge reinstatement fees for only one offense under the departmental suspension category. Minors who fail to appear in court or default on a

payment are subject to license suspension and a \$25 fee can be charged to reinstate their license. However, the department cannot charge a fee for reinstatement of licenses suspended under other departmental suspension categories such as the habitual reckless or negligent driving of a motor vehicle.

Current practice in state government is, where appropriate, to authorize state agencies to charge fees to recover the cost of services. A review of the department's fee authority found one area, reinstatement fees, needing attention. A comparison of fee authority within the department and a comparison with other states' practices resulted in the following findings.

FINDINGS

- ▶ **Other states charge reinstatement fees for both departmental and mandatory driver's license suspensions and revocations.**
 - Forty two states charge fees for all types of suspensions or revocations.
 - Generally, Texas can only charge reinstatement fees for mandatory suspensions or revocations.
- ▶ **Departmental suspensions and revocations represent a higher work load for the department than mandatory suspensions but the department is not authorized to charge a fee to recover costs.**
 - In 1991, the department worked with nearly 60,000 cases involving license revocations, suspensions, and probations where no reinstatement fees were authorized.
 - Mandatory cases totaled 38,215 for the same period. These were all subject to a \$50 reinstatement fee and approximately \$1.9 million was generated to cover costs.
- ▶ **The administrative process of evaluating the offense; sending notice of the suspension hearing; preparing the case for the hearing; suspending, revoking, or probating the driver's license; and eventually reinstating the license is costly to the department.**
 - Efforts related to departmental suspensions are estimated to have cost the department over \$1.3 million in 1991, but these costs could not be recovered by charging a fee.

- The department has indicated that it needs flexibility to determine the kind of departmental suspensions that should involve a fee. Unlike mandatory suspensions, departmental suspensions do not always warrant fee impositions. Some of the offenses that fall under the departmental suspension category are minor and should not result in a reinstatement fee.

CONCLUSION

Nearly all states have the authority to charge fees for the reinstatement of both departmental and mandatory driver’s license suspensions. Texas has the authority to charge fees for mandatory suspensions only. The work load for processing departmental suspensions is nearly double that of the mandatory suspensions. Currently, the costs of reinstating licenses suspended administratively by the department are not recovered through fees and the state loses \$1.3 million annually. No valid reasons could be found as to why costs are recovered in one instance and not in another.

RECOMMENDATION

- **The statute should be changed to authorize the department to charge a fee to cover the cost of the department’s effort regarding the reinstatement of departmentally suspended, probated, or revoked licenses.**

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This recommendation would give the DPS general authority to charge reinstatement fees for all suspended, revoked, or probated licenses. This authority would allow the DPS, by rule, to charge reinstatement fees in appropriate situations. Those who habitually violate traffic laws or operate with a suspended license are the more serious violators whose behavior has the potential to be harmful to the driving population and should be charged a reinstatement fee.

This recommendation would also give authority to the department to recover the cost of the probation process through the reinstatement fee. The entire process of evaluating records, preparing cases for hearings, and maintaining the status of the final sentence on the driver record is similar for both suspended and probated licenses.

FISCAL IMPACT

Of the 60,000 cases involving driver’s licenses that were departmentally suspended, revoked, or probated, 48,000 licenses were reinstated in 1991. To recover the department’s costs (\$1.3 million) related to this reinstatement effort, a fee of \$27 per reinstatement would have been needed. Authorizing the department to charge a fee to offset its costs should result in similar fee and revenue amounts during the next five years.

Fiscal Year	Gain to the General Revenue Fund
1994	\$1,300,000
1995	1,300,000
1996	1,300,000
1997	1,300,000
1998	1,300,000

EVALUATION OF PROGRAMS

ISSUE 6: Authority for access and use of criminal history information by noncriminal justice agencies should be standardized in one statute.**BACKGROUND**

The collection and dissemination of criminal history information has been revolutionized by current computer technology and use of the information has become a crucial element in protecting the public from criminal harm. Demand for access to criminal history information has grown significantly because it allows state agencies and private employers to reduce the harm to the public by preventing the inappropriate employment of persons with criminal backgrounds. The appropriate use of criminal history information is an additional safeguard in a time when crime continues to increase and resources available to cope with criminal activity are limited. The collection and use of crime records serves as an important component in the state's overall crime prevention efforts.

In Texas, the Department of Public Safety is the designated repository for the state's crime records. The agency maintains arrest records, fingerprint files, criminal justice information and crime statistics to be used by policymakers, law enforcement agencies, state agencies, and the public. Initially, criminal history information is collected and stored at the county clerk level as public information. The county or district clerk, county sheriff's office, municipal police department, or other local reporting agency is responsible for forwarding that information to the department, which acts as the state's repository. Once the information is received by the department, it is subject to strict dissemination guidelines.

Major users of criminal history information are criminal justice agencies. For example, thousands of routine searches are conducted daily over the Texas Law Enforcement Telecommunications Network to help law enforcement personnel identify persons wanted for major offenses, persons with criminal records, stolen vehicles and missing children and persons. The department also routinely conducts fingerprint checks on individuals arrested to check past arrest and conviction records.

During the last decade, however, an increasing number of noncriminal justice agencies have been granted access to crime records. Individual agency statutes define what type of information may be reviewed and for what purpose. The noncriminal justice agencies that may check criminal histories include state occupational licensing and regulatory agencies, school districts, and state and local health and human service agencies.

The noncriminal justice agencies obtain criminal history data by submitting fingerprint cards and names to the DPS, which matches the fingerprints and names against criminal history data to determine if the person being checked has any past criminal difficulties. The department charges fees of \$10 and \$15 for processing the noncriminal justice agency requests for criminal history records. Some of the agencies are allowed all arrest data,

including conviction and nonconviction data. Other agencies are authorized to receive only conviction data or only information on certain classes of crime. Also included in some statutes are penalties for misuse of the information. These penalties vary from statute to statute.

With the increasing demand for criminal history information, standardized access and consistent use of criminal history information is necessary. The results of the review of the access and use of criminal history information and the department's ability to respond to requests for information are described below.

FINDINGS

- ▶ **Over the past 20 years, access to criminal history information has been significantly expanded to reduce the amount of criminal risk to which members of the public are exposed.**
 - At the state level, 137 institutions of higher education have been provided access along with at least 30 state agencies.
 - At the local level, over 1,100 school districts, 860 political subdivisions and 400 municipal fire departments have been approved access. In addition, about 50 safe house programs in metropolitan areas and about 700 federally subsidized local housing programs for the disabled and elderly also have access to criminal history information.
- ▶ **Requests for criminal history information are steadily increasing, creating a substantially heavier work load for the Crime Records Division.**
 - The number of noncriminal justice inquiries conducted by name search increased 478 percent over a six-year period. In fiscal year 1985, 149,561 inquiries were processed compared to 864,690 in fiscal year 1991.
 - Requests for criminal history fingerprint checks are expected to increase dramatically with the establishment of a state lottery. Since fiscal year 1987, the number of fingerprint checks has risen only slightly from 50,974 to 61,371 in fiscal year 1991. However, the Texas Lottery Commission estimates 50,000 fingerprint cards will be submitted during the first year, with an additional 4,000 annually.
 - The number of requests from the general public and employers are expected to be significant. Due to changes to Section 3B of the Texas Open Records Act by the 71st Legislature, an individual is now allowed to obtain a copy of his or her criminal history information. Consequently, many employers now require a criminal history check before hiring. This resulted in approximately 3,200 requests to the DPS in 1991.

- ▶ **Establishing access authority in individual statutes leads to inconsistency in the state's approach regarding the use of criminal history information.** (A comprehensive comparison of all statutory authorizations for criminal history access is provided in Exhibit 1 in the appendix. Selected examples are listed below.)
 - At the state level, the Texas Board of Medical Examiners has access to all arrest and conviction information, including national data. The Texas State Board of Pharmacy is limited to state conviction information only and does not have access to arrest information or criminal history information outside the state of Texas. The Board of Nurse Examiners is limited to conviction information that relates to a felony, a misdemeanor that involves moral turpitude, or an offense involving the abuse of drugs and alcohol.
 - At the local level, any local law enforcement agency involved in establishing a safe house program (temporary housing for school-age children) is authorized access to all criminal history information to investigate adults residing in the safe homes. However, criminal history checks of employees of subsidized housing for the disabled or elderly are limited to information on selected offenses. Access is limited to offenses related to controlled substances, public indecency, and crimes against a person, family or property.

- ▶ **Confidentiality requirements and penalties for the misuse of the criminal history information also vary significantly from statute to statute.**
 - At least 11 statutes do not have any confidentiality requirements to protect the subject of the criminal history check. The remaining statutes contain varying confidentiality requirements that sometimes prescribe guidelines for maintaining or destroying the crime records.
 - At least 15 statutes do not include any penalty for misuse of criminal history information. At least eight statutes include a penalty of a class A misdemeanor for improper use of crime records. Four statutes, including the open records act, provide a Class B misdemeanor for violation of confidentiality provisions and a second degree felony penalty is required in three statutes.
 - The department's statute does not include any general confidentiality or penalty provisions that apply to all users of the criminal history information. In addition, the Code of Criminal Procedure does prohibit criminal justice agencies from disclosing an individual's criminal history record. The Code does specify that users must comply with protections specified in state or federal laws and regulations; however, such protections do not currently exist.

CONCLUSION

Steadily increasing access to criminal history information has created a significantly heavier workload for the department. The wide distribution of authority for access throughout state statutes has led to an inconsistent approach for granting access and using crime records. In addition, confidentiality and penalty requirements for misuse of this sensitive information vary extensively from statute to statute. Based on the results of the review and considering the important role criminal history information plays in protecting the public, a change in the state’s approach is needed.

RECOMMENDATION

- **The statute should be changed to:**
 - **centrally identify all noncriminal justice agencies that have been granted access;**
 - **specify what type of access has been granted;**
 - **establish standard confidentiality requirements for the department and for all criminal and noncriminal justice agencies that have access to criminal history information; and**
 - **provide a minimum penalty of a Class B misdemeanor for the unauthorized release of confidential information by the department and all criminal and noncriminal justice agencies.**

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A centralized statute, with clearly defined levels of access, would help the department monitor who has access to criminal history information. The department could then better respond to requests for criminal information. The recommendation will help safeguard against misuse of crime records and help protect those who could be harmed by wrongful use of the information. This recommendation would not involve the repeal of access provisions contained in individual agencies’ statutes. Statutes that now have a penalty for violation of confidentiality requirements that is higher than the proposed standard level would not be changed. Overall, this recommendation should assist the legislature and other policymakers in the development of a consistent policy for using crime record information.

FISCAL IMPACT

No fiscal impact is anticipated from the implementation of this recommendation.

ISSUE 7: The department and local law enforcement agencies should be clearly authorized to use vehicle checkpoints for sobriety checks.

BACKGROUND

Until 1979, law enforcement authorities in state and local governments had authority to stop an individual driver of a vehicle to make a routine inspection for compliance with state and local laws, such as the possession of a driver's license or proof of registration. This practice was ruled unconstitutional in 1979 by the United States Supreme Court in the case, *Delaware v. Prouse*. In this case the Court ruled that stopping a specific, individual driver without reasonable suspicion or probable cause that a crime or violation had been committed gave law enforcement officers "unbridled discretion" and violated the unreasonable search and seizure protections under the Fourth Amendment of the United States Constitution. The Court also said it would probably be constitutionally permissible to check driver's licenses by stopping all cars at a particular location, every fifth car, or any other randomly structured selection criteria that controlled "unbridled discretion."

After the *Prouse* case, some states and local governments initiated sobriety checkpoints that targeted drunk drivers. Drivers would be stopped in some random manner, such as stopping all cars going in one direction. In 1989, the Court of Criminal Appeals of Texas ruled in *Higbie v. State* that such checkpoints were unconstitutional and used the *Prouse* case as the basis for the decision. However, at the same time, a parallel case, *Michigan v. Sitz*, was under appeal to the United States Supreme Court. In June 1990, the Supreme Court ruled, in *Sitz*, that random vehicle checkpoints were constitutional if they were operated under certain guidelines established by upper level law enforcement officials. The Court found that structured vehicle checkpoints that randomly selected drivers did not give law enforcement officers "unbridled discretion".

In response to the *Sitz* case, the Court of Criminal Appeals of Texas in *King v. State* reversed its own *Higbie* decision and ruled that vehicle checkpoints were permitted in the state. However, in 1991, the Fifth Court of Appeals in *State v. Wagner*, ruled that, even in light of the *Sitz* and *King* cases, checkpoints continued to be illegal in Texas because no state law granted authority to the DPS or local law enforcement authorities to develop the guidelines required by *Sitz*. Since this case has not come before the Court of Criminal Appeals of Texas, the DPS and many local law enforcement authorities are unsure if sobriety checkpoints can be used legally.

Vehicle checkpoints are an effective law enforcement technique. However, operation of these checkpoints must be executed in compliance with strict guidelines that require statutory authorization. The evaluation of the use of sobriety checkpoints, their effectiveness, and the current legal requirements for their use resulted in the following findings.

FINDINGS

- ▶ **Most other states use sobriety checkpoints. State police or highway patrol agencies in 34 states specifically use sobriety checkpoints. Local law enforcement authorities in 38 states use them.**
- ▶ **Before 1991, the department and other law enforcement agencies in Texas used sobriety checkpoints as one of several traditional methods under their implied authority to enforce traffic laws. However, in 1991, the department stopped using them when court cases clouded its implied authority.**
- ▶ **The department has clear statutory authority to conduct other types of checkpoints and routinely uses this authority.**
 - The department's License and Weight Service has routinely used checkpoints in its enforcement program and no legal challenges have been successful concerning the department's authority to conduct them.
 - The department depends heavily on checkpoints to enforce commercial vehicle and license and weight laws and regulations. During the first nine months of calendar year 1991 this service operated 1,616 checkpoints that resulted in 18,576 cited violations.
- ▶ **The United States Supreme Court has ruled that sobriety checkpoints are constitutional and the Court defined how states can use them.**
 - In June 1990, the Supreme Court ruled in *Michigan v. Sitz* that vehicle checkpoints were constitutional if drivers were selected at random and if the checkpoint was operated under certain guidelines established by an upper level law enforcement official.
 - The *Sitz* ruling defined the following five standards for vehicle checkpoints.
 - Minimize officer discretion by selecting vehicles to stop based on previously established, neutral guidelines developed by a top administrative official.
 - Base site selection on some statistical evidence that the site is in an area that has a higher than average incidence of violations.
 - Develop statistical records that defend the use of a vehicle checkpoint in a particular area.
 - Minimize fear and surprise to the law abiding citizen by having uniformed officers make the stops; providing general publicity that checkpoints will be done in certain areas; and displaying clearly marked signs, lights, and law enforcement equipment.

Minimize inconvenience to motorists by using a site that is safe for motorists and officers and a scripted notice that is read by the officer to the driver.

- ▶ **The State Court of Appeals, Fifth District, ruled, in the *Wagner* case, that sobriety checkpoints cannot be used by Texas law enforcement authorities without specific statutory authority to do so.**

CONCLUSION

When operated properly, sobriety checkpoints are an effective technique to reduce drunken driving, and most state and local law enforcement agencies use them. The department has ceased using checkpoints because of issues raised in these court cases, but many local law enforcement agencies continue to use them. The U.S. Supreme Court has ruled that sobriety checkpoints are constitutional if they are executed in compliance within strict guidelines. However, state courts in Texas have ruled that these checkpoints are not allowed under the state constitution without specific statutory authority, which currently does not exist.

RECOMMENDATION

- **The statute should be changed to:**
 - **clearly authorize the department and local law enforcement agencies to use sobriety checkpoints; and**
 - **require that the use of checkpoints meet the guidelines set out by the United States Supreme Court.**

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Providing specific statutory authority to the DPS and local law enforcement agencies to use sobriety checkpoints will clearly allow these agencies to use this effective enforcement technique. State and federal constitutional issues will be resolved, and the department and law enforcement authorities will have clear authority to develop checkpoint guidelines that are required by the *Sitz* and *Wagner* decisions. The DPS will resume the use of checkpoints as one of its enforcement tools and will be clearly authorized to join with local law enforcement agencies in operating sobriety checkpoints.

FISCAL IMPACT

Some additional costs may result from the payment of overtime to officers involved in conducting checkpoints; however, no estimate can be made at this time.

ISSUE 8: The state's wire and oral communication intercept statute should be continued with an expiration date that coincides with the next sunset review of the department.

BACKGROUND

Texas enacted its first wire, oral, and electronic communication intercept law in 1981. The department is the only non-federal law enforcement agency in the state authorized to operate an intercept. Any local law enforcement agency that needs to use a wire/oral intercept must request the department to operate and supervise the intercept. Since its enactment, the Texas law has limited the use of wire/oral intercepts to felony narcotics investigations other than felony possession of marijuana. Before this law, all legal wire/oral intercepts done in the state were operated by federal law enforcement agencies.

The Texas law is structured to meet the requirements of the federal law enacted in 1968 as part of the Omnibus Safe Streets and Crime Control Act. In 1981, Congress amended the act to accommodate current and future advances in communication technology. Before these changes, most states avoided enacting wire/oral intercept laws because of the complex legal and technical issues surrounding the use of this investigative technique.

In calendar year 1990, 812 state and federal wire/oral intercepts were authorized nationwide. As a result, 2,057 persons were arrested and 420 were convicted. Additional convictions will occur because all trials are not completed in the year of arrest. In Texas in 1990, 21 wire/oral intercepts were authorized that resulted in 82 arrests. No convictions resulted in 1990 from these arrests because of the time involved between arrest, trial and conviction. However, 34 persons were convicted in 1990 as a result of wire/oral intercepts from previous years. In 1991, the department did not conduct any state-authorized investigations but assisted federal law enforcement agencies in six investigations that required 14 wire/oral intercepts. Since the state's wire/oral intercept law was enacted in 1981, it has been used by the department 115 times in 42 investigations and resulted in confiscation of drugs valued at \$61.8 million.

Wire/oral intercepts operated by the department are initiated by department investigators or by heads of local law enforcement agencies. Either source requires extensive documentation that meets statutory requirements and justifies the need for the wire/oral intercept. The documentation is prepared as an affidavit and is reviewed by the technical unit of the narcotics service, the chain of command in the criminal law enforcement division, and the department's legal staff before submission to the director for approval. After the director approves the request, the director requests a prosecutor to apply to a district judge for the order to operate the wire/oral intercept.

Operation of most wire/oral intercepts is time consuming and costly. Each wire/oral intercept requires at least one staff person to be present 24 hours per day. In 1990, the department conducted 21 intercepts as part of six investigations. The average time spent per intercept was 25.4 days or an average of approximately 89 24-hour days per investigation. In 1990, the average cost per investigation in Texas was \$52,466.

The Texas wire/oral intercept law expires August 31, 1993. The review of the need for the law focused on whether its use justified the cost involved, whether it had been effective in obtaining evidence that resulted in convictions, and whether its use had been abused. The evaluation of the use of wire/oral intercepts in Texas compared to other states' and federal law enforcement agencies resulted in the following findings.

FINDINGS

- ▶ **The state's wire/oral intercept law has been reviewed once before. The statute was originally enacted in 1981 with a 1985 expiration date. In 1985, the legislative review was positive and, with only minor revisions, the statute was extended to 1993, which provided for a total of 12 years of authority.**
- ▶ **Federal law enforcement agencies, 37 states, the District of Columbia, and Puerto Rico use wire/oral intercepts in law enforcement efforts.**
- ▶ **Federal and state law enforcement agencies use wire/oral intercepts more for narcotics investigations than for all other purposes combined.**
 - The federal law authorizes federal law enforcement agencies to use wire/oral intercepts in investigations of 54 different criminal activities. Federal narcotics investigations used 220, or 68 percent, of the 324 federal intercepts.
 - In 1990, 300, or 55 percent, of the 548 wire/oral intercepts used by the states were for narcotics investigations.
 - Texas is one of seven states that limits the use of wire/oral intercepts to narcotics investigations. The other six states are California, Illinois, Indiana, Iowa, North Dakota, and Wyoming.
- ▶ **The most valuable application of wire/oral intercept is to obtain evidence about complex criminal networks or criminal activities. According to the department, the investigations for 1990 and 1991 could be characterized as including one or more of the following: large numbers of people in closed organizations or families that cannot be infiltrated; persons who head criminal operations but who are**

- removed from direct criminal activity; or network operations that cross local, state, or international boundaries.**
- ▶ **Due to the privacy intrusion that wire/oral intercepts represent, substantial controls and conditions are placed on their use in Texas.**
 - The department is the only non-federal law enforcement agency in the state authorized to operate wire/oral intercepts.
 - The need for wire/oral intercepts must be thoroughly documented and submitted to a specific court for approval. The only officials authorized to request orders for intercepts are district attorneys, criminal district attorneys, and county attorneys performing the duties of a district attorney.
 - An authorizing order may only be approved by one of nine district judges designated by the presiding judge of the Court of Criminal Appeals of Texas.
 - Courts that authorize the use of wire/oral intercepts require substantial information before they will authorize wire/oral intercepts. Requesting officials must submit affidavits that document that all other investigative methods have been used and have proven to be inadequate or unsuccessful or that obtaining necessary evidence would cause undue hazard to officers.
 - The federal law places stringent reporting requirements on the department, prosecutors who request wire/oral intercepts, and the courts that authorize them.
 - ▶ **Controls placed on the use of intercepts have been effective in preventing their abuse.**
 - In the 11 years from 1980 through 1990, federal and state authorities requested 7,773 wire/oral intercepts. During this period, judges have denied only nine. No request by any Texas authority has ever been denied.
 - Since the law was enacted, the state's wire/oral intercept statute has been challenged only once and its validity was upheld.
 - ▶ **The use of wire/oral intercepts has been effective in obtaining convictions.**
 - Nationwide, in cases involving the use of intercepts, the average conviction rate was 63.3 percent for persons arrested between 1982 and 1988.

- In Texas, from 1982 through 1988, 92 wire/oral intercepts were used in 35 investigations. Only two of the 35 investigations did not result in any arrests or convictions. A total of 503 arrests were made and 347 persons were convicted, for a conviction rate of 69 percent.

CONCLUSION

The state’s wire/oral intercept law has been reviewed once before and continued. The use of wire/oral intercepts has proven effective by both state and federal law enforcement officials in obtaining arrests and convictions in difficult narcotics investigations. Due to the privacy intrusion that wire/oral intercepts represent, substantial controls and conditions are placed on their use in Texas. These controls have been effective in preventing abuses.

RECOMMENDATION

- **The statute should be changed to:**
 - **continue the state’s wire and oral communication intercept authority; and**
 - **add an expiration date to the statute that coincides with the department’s next sunset review.**

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This recommendation will continue the current authority for oral/wire intercepts for an additional 12-year period. The next review of the authority would occur during the next sunset review of the department. The authority would continue to be limited to only narcotics investigations. Continuation of the authority will allow state law enforcement officials to maintain use of an effective enforcement tool.

FISCAL IMPACT

Continuation of the current law will not result in any change in resources required by the department or local law enforcement agencies.

ISSUE 9: Increase coordination between the department and the criminal justice division of the governor's office in drug law enforcement efforts.**BACKGROUND**

Over the past two decades, drug trafficking has become a sizeable problem for the state of Texas. In 1990, the federal government identified five areas in the United States as high intensity drug trafficking areas. Texas has two of the designated areas - Houston and the entire Texas-Mexican border. The flow of illegal drugs is considered by many to be the most critical crime problem in the state. An estimated 75-80 percent of the inmates incarcerated in the Texas Department of Criminal Justice committed drug related crimes.

In response to the drug control problem, two major state efforts have been established. First, the legislature strengthened state drug laws and dedicated a significant amount of resources to the drug law enforcement effort at the DPS. The department's Narcotics Service, which was established in 1951, has steadily grown with current staffing of 292 investigators and a budget of about \$16 million.

The second major effort is in the criminal justice division (CJD) of the governor's office which is responsible for securing federal funding and making awards to drug control programs throughout the state. The criminal justice division received approximately \$25 million in federal anti-drug abuse funds for fiscal year 1992, a significant increase since 1987. These funds are mainly distributed to drug task forces by the division's Texas Narcotics Control Program. This program, established in 1987, is a multi-jurisdictional, multi-agency drug law enforcement effort designed to target rural and urban drug production, trafficking, and sales statewide.

One of the main enforcement effort techniques used is local task forces. Currently, Texas has 51 multi-agency task forces to provide broad enforcement of drug laws by pooling resources and sharing equipment and personnel. The task forces are composed of personnel from local police departments, sheriffs' offices, the DPS, the federal Drug Enforcement Agency and U.S. Attorney's Office. The program particularly assists rural areas of the state that do not have sufficient resources to establish a dedicated narcotics enforcement effort. These task forces are funded through the CJD. The CJD also develops a comprehensive statewide plan each year, the *Statewide Strategy for Drug and Violent Crime Control*, that summarizes the entire state's drug law enforcement efforts.

Drug law enforcement efforts that exist statewide should be closely coordinated to maximize available resources. The results of the review of the statewide drug law enforcement efforts are described below.

FINDINGS

- ▶ **State law does not provide any clear guidance as to how the state's overall drug enforcement approach should be developed.**
 - The DPS has not been designated as the central drug enforcement agency but instead is generally authorized to enforce the laws and provide for the prevention and detection of crime. Specific controlled substances programs have been statutorily assigned to the department, but not overall responsibility for the state's anti-drug effort.
 - The CJD is statutorily charged to assist in developing the state's overall criminal justice plan and administering grants and funds for criminal justice, law enforcement, and judicial systems.
 - As a result, both the department and the CJD operate separate statewide enforcement efforts.

- ▶ **The department, until recently, has not been included in the effort to develop a statewide comprehensive drug control plan.**
 - Since 1987, the Governor's Subcommittee on Drug Policy has developed and published the *Statewide Strategy for Drug and Violent Crime Control*. The DPS never served on the subcommittee or participated in developing the statewide strategy.
 - However, the department, in 1992, was included in the latest planning effort by being placed on the Governor's Drug Policy Advisory Board, the new committee for policy development.

- ▶ **Unlike its counterpart in many other states, the department does not have a formal role in the guidance of the drug task forces.**
 - At least 14 other states provide for drug task force oversight through their statewide drug law enforcement agency. Discussions with the statewide drug law enforcement agencies in these states indicated that use of the state agency improves communication, consistency, and coordination of effort. In addition, the task forces can then use existing drug law enforcement expertise, intelligence networks and resources.
 - The department provides guidance and assistance to local task forces, but only upon request.

- ▶ **Increasing the department's role in the drug task forces would benefit the drug task forces and enhance the statewide effort in drug law enforcement.**
 - The department could assist each local board of governors in establishing operational policies and procedures to be followed by the task force. The department could provide assistance in formalizing the procedures into individual task force policy manuals designed to fit geographical and other unique needs of a particular task force.
 - The department could provide input into developing a task force's enforcement emphasis. Such input could help each task force determine its focus with assurance that the efforts are coordinated with other task forces and the department.
 - The department could help mitigate the internal pressure that develops from competing interests of task force members. For example, depending on the composition and geographical location of the task force, pressure may develop due to a focus on urban drug law enforcement instead of emphasizing rural law enforcement. Other jurisdictions may prefer a street dealer emphasis, whereas still others may want to focus on upper-level drug distributors.
 - The DPS currently supplies useful supervision for three of the 51 task forces by providing: stability through uniform operational policies, guidelines and procedures; a standard unified reporting system; training in all facets of narcotic law enforcement; investigative coordination; and an enhanced drug intelligence base.

- ▶ **Past reviews of the statewide drug law enforcement effort indicated that problems of coordination exist between the department and drug task forces.**
 - The Texas Performance Review recommended that the DPS be designated as the lead drug agency to provide coordination of statewide enforcement activities and to use existing state resources.
 - In its Performance Report to the 72nd Legislature, the Legislative Budget Board recommended increased involvement by the department in the allocation and oversight of the federal funds received by the task forces to improve communication, consistency and coordination of effort.

CONCLUSION

Without a clear statutory designation of a lead agency for statewide drug law enforcement efforts, the department and the criminal justice division of the governor’s office have established two separate drug enforcement efforts. The department has not been sufficiently involved in developing the state’s drug enforcement policy or in the multi-agency, multi-jurisdictional drug task forces. Past reviews of the drug enforcement effort indicated that existing resources and expertise from the DPS need to be better coordinated for the benefit of the drug task forces. Consequently, a more unified effort between the department and the CJD is needed.

RECOMMENDATION

- **The statute should be changed to require a memorandum of understanding (MOU) between the department and the governor’s office to increase coordination of drug law enforcement efforts. The MOU should:**
 - **provide for ongoing input from the department in the statewide drug policy planning efforts of the CJD;**
 - **provide for department representation on the Governor’s Drug Policy Advisory Board or its successor;**
 - **require the CJD and the department to define their respective roles related to task forces;**
 - **require that the CJD and the department jointly determine the areas of law enforcement focus for task force efforts; and**
 - **require the CJD and the department to jointly develop guidelines and procedures to govern drug task force operations funded by the state.**
- **The statute should require the governor’s office to initiate and develop the MOU by January 1994.**
- **The statute should authorize either the department or the CJD to initiate changes to the MOU as necessary.**

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The areas for joint policy development should include task force reporting requirements, training needs, investigative coordination, drug intelligence networks, and disposal of chemicals and hazardous wastes associated with illegal drug manufacturing. The MOU

should be adopted by January 1994 to coincide with publication of the governor's annual *Statewide Strategy for Drug and Violent Crime Control*. Adoption of a formal agreement between the department and the governor's office will help unify the statewide drug law enforcement efforts. The cooperation required by the MOU should ensure statewide sharing of expertise and resources, increase the stability of the drug task forces, and prevent potential duplication in the drug law enforcement efforts. This cooperation will benefit the drug law enforcement community and the citizens of Texas by maximizing use of existing drug enforcement resources.

FISCAL IMPACT

No fiscal impact is anticipated from the implementation of this recommendation.

***ACROSS-THE-BOARD
RECOMMENDATIONS***

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies is denoted in abbreviated chart form.

Department of Public Safety			
APPLIED	MODIFIED	NOT APPLIED	ACROSS-THE-BOARD RECOMMENDATIONS
			A. GENERAL
		X	1. Require public membership on boards and commissions.
		X	2. Require specific provisions relating to conflicts of interest.
X			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
X			5. Specify grounds for removal of a board member.
X			6. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			7. Require the board to establish skill-oriented career ladders.
X			8. Require a system of merit pay based on documented employee performance.
	X		9. Provide for notification and information to the public concerning board activities.
		*	10. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.
X			11. Require files to be maintained on complaints.
X			12. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
X			13. Require development of an E.E.O. policy.
X			14. Require the agency to provide information on standards of conduct to board members and employees.
X			15. Provide for public testimony at agency meetings.
		*	16. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.
X			17. Require development of accessibility plan.
X			18. Place agency under the state's competitive cost review program.

* Already in law -- no statutory change needed.

** Already in law -- requires updating to reflect standard ATB language.

Department of Public Safety (cont.)			
APPLIED	MODIFIED	NOT APPLIED	ACROSS-THE-BOARD RECOMMENDATIONS
			B. LICENSING
		*	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
		X	2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
		X	3. Provide an analysis, on request, to individuals failing the examination.
		X	4. Require licensing disqualifications to be: 1) easily determined, and 2) related to currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity. (b) Provide for licensing by reciprocity rather than endorsement.
X			6. Authorize the staggered renewal of licenses.
	X		7. Authorize agencies to use a full range of penalties.
		*	8. Specify board hearing requirements.
		X	9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
		X	10. Authorize the board to adopt a system of voluntary continuing education.

* Already in law -- no statutory change needed.

** Already in law -- requires updating to reflect standard ATB language.

APPENDIX

Exhibit 1
**ACCESS TO CRIMINAL HISTORY INFORMATION
 FOR NONCRIMINAL JUSTICE PURPOSES**
 Department of Public Safety

LEVEL I: Agencies authorized access to all national and state criminal history record information.

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Texas Alcoholic Beverage Commission	Alcoholic Beverage Code, Section 5.36	no penalty	no
Texas Alcoholic Beverage Commission for bingo regulation	Article 179d, Section 13e, Vernon's Civil Statutes	Class A misdemeanor	yes
Office of Banking Commissioner	Article 350, Section 9, Vernon's Civil Statutes	no penalty	yes
Texas Department of Licensing and Regulation	Article 8501-1, Section 12, Vernon's Civil Statutes	no penalty	no
Institutions of Higher Education	Education Code, Section 51.215	Class B misdemeanor	yes
Consumer Credit Commissioner	Article 5069-51.05, & 5069-51.17A, Vernon's Civil Statutes	no penalty	no
Texas Racing Commission	Article 179e, Section 2.16, 3.11, 5.03-.04, Vernon's Civil Statutes	no penalty	yes
School districts	Education Code, Section 21.917	Class A misdemeanor	yes
Texas School for the Blind	Education Code, Section 11.064	Class A misdemeanor	yes
State Board of Medical Examiners	Article 4495b, Section 2.09(h), Vernon's Civil Statutes	no penalty	yes
Board of Law Examiners	Government Code, Section 82.029	Class B misdemeanor	yes
Texas Structural Pest Control Board	Article 135b-6, Section 6(d), Vernon's Civil Statutes	no penalty	no
McGruff houses (temporary housing for school-age children)	Human Resources Code, Section 80.002	no penalty	no

Exhibit 1
**ACCESS TO CRIMINAL HISTORY INFORMATION
 FOR NONCRIMINAL JUSTICE PURPOSES**
 Department of Public Safety

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Child Watch Programs	Human Resources Code, Section 80.004	no penalty	yes
Texas Employment Commission	Article 5221b-9e, Vernon's Civil Statutes	Class A misdemeanor	yes
Texas Education Agency	Education Code, Section 13.0322	Class B misdemeanor	yes
State Board of Public Accountancy	Article 41a-1, Section 21B, Vernon's Civil Statutes	no penalty	no
State Board of Insurance	Insurance Code, Article 1.10C, Article 21.28, Section 4(i) Vernon's Civil Statutes	Class A misdemeanor	yes
State Comptroller	Article 179g, Section 3.06 Vernon's Civil Statutes	Class A misdemeanor	yes
State Treasurer	Tax Code, Sections 154.5095 and 155.2075	Class A misdemeanor	yes
Texas Department of Health	Health and Safety Code, Section 773.070	Class B misdemeanor	yes
Hidalgo County Probation Department	Code of Criminal Procedure, Article 42.12, Section (j)(3)	no penalty	yes
District courts with family jurisdiction for names change cases	Family Code, Section 32.21 (c)	no penalty	no
Texas Commission on Law Enforcement Officers Standards and Education (for law enforcement agencies that sponsor peace officers for certification)	Government Code, Section 415.051	no penalty	no
Defendants in criminal cases (for witnesses)	Code of Criminal Procedure, Section 39.14	no penalty	no

Exhibit 1
**ACCESS TO CRIMINAL HISTORY INFORMATION
 FOR NONCRIMINAL JUSTICE PURPOSES**
 Department of Public Safety

LEVEL 2: *Agencies authorized access to national and state arrest/conviction information for selected offenses only.*

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Department of Human Services	Human Resources Code, Sections 12.003 and 22.006	Class A misdemeanor	yes
Texas School for the Deaf	Education Code, Section 11.033	Class A misdemeanor	yes

LEVEL 3: *Agencies authorized access to national and state conviction information for selected offenses only.*

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Texas Department of Mental Health and Mental Retardation (also receive warrant and wanted persons information)	Health and Safety Code, Section 533.007	second degree felony	yes
Department of Human Services for the Department of Health	Human Resources Code, Chapter 106	second degree felony	yes
Board of Private Investigators and Private Security Agencies	Article 4413(29bb) Section 15(a)(9), 39, 49 Vernon’s Civil Statutes	no penalty	no

Exhibit 1
**ACCESS TO CRIMINAL HISTORY INFORMATION
 FOR NONCRIMINAL JUSTICE PURPOSES**
 Department of Public Safety

LEVEL 4: Agencies authorized to access state arrest/conviction criminal history record information.

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Texas Alcoholic Beverage Commission (for licensing)	Alcoholic Beverage Code, Sections 25.07, 69.07	no penalty	no
Texas Rehabilitation Commission	Human Resources Code, Section 111.058	no penalty	yes
Texas Adjutant General's Department	Government Code, Section 431.037	Class B misdemeanor	yes
Private individuals	Article 6252-17a, Section 3B (a), Vernon's Civil Statutes	no penalty	no

LEVEL 5: Agencies authorized to access state arrest/conviction criminal history record information - selected offenses only.

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
Private employers of workers in subsidized housing for the disabled and elderly	Human Resources Code, Chapter 135	second degree felony	yes

Exhibit 1
**ACCESS TO CRIMINAL HISTORY INFORMATION
 FOR NONCRIMINAL JUSTICE PURPOSES**
 Department of Public Safety

LEVEL 6: Agencies authorized access to state conviction information.

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
All agencies of the state and political subdivisions with the duty and responsibility of licensing and regulating members of particular trades, occupations, businesses, vocations, or professions including municipal fire fighters	Article 6252-13c, Sections 3(a) and 3(b), Vernon’s Civil Statutes	no penalty	no
Political subdivisions employing drivers of public transportation vehicles	Article 6252-13c, Section 3(c), Vernon’s Civil Statutes	no penalty	no

LEVEL 7: Agencies authorized to access state conviction criminal history record information - selected offenses only.

Noncriminal Justice Agency	Statutory Citation	Penalty for Misuse of Information	Confidentiality Provision
State Board of Nurse Examiners	Article 4525, Section (j), Vernon’s Civil Statutes	no penalty	no

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