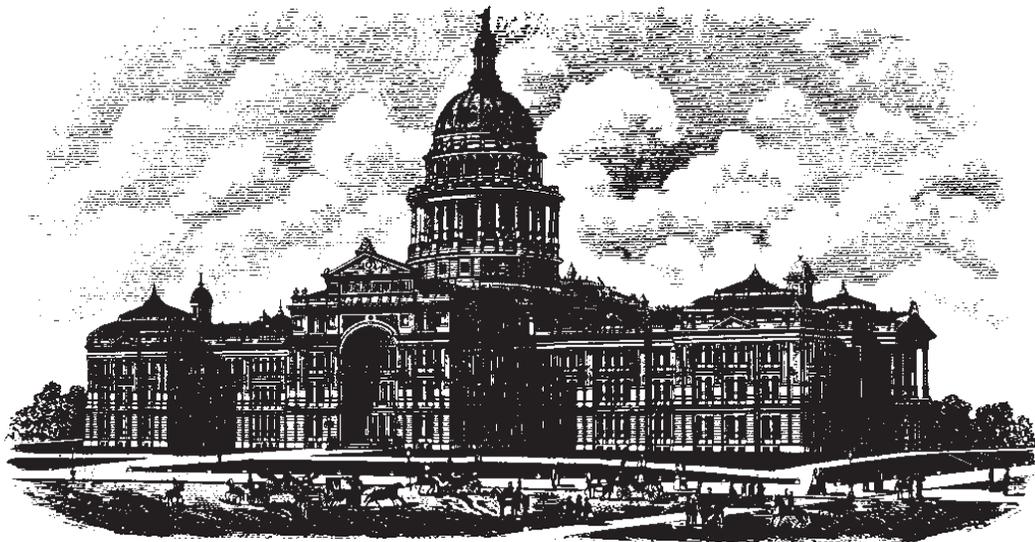


# Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

*E.E. Myers architect*

Department of Public Safety



Staff Report

1998

## **SUNSET ADVISORY COMMISSION**

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

**DEPARTMENT OF PUBLIC SAFETY**

**SUNSET STAFF REPORT**

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# **EXECUTIVE SUMMARY**

# Executive Summary

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The Department of Public Safety (DPS) provides for the public's safety through the prevention and detection of crime, enforcement of traffic laws, administration of licensing programs, and emergency preparedness and response. The Department has organized its operations into five major divisions — Traffic Law Enforcement, Criminal Law Enforcement, Texas Rangers, Driver License, and Administration — to help administer its programs and activities. Beyond administering state-level programs, the Department also supports local law enforcement agencies by maintaining criminal history information, records, and warrant information. To carry out its public safety responsibilities, the Department is staffed by more than 7,050 employees and has an annual budget that exceeds \$305 million.

Sunset staff looked at the Department's oversight and management capabilities. The Department's management has been complicated by an expanding array of program responsibilities. In recent years, the Department has faced questions about some of its actions, resulting in a high degree of legislative oversight.

The review focused on strengthening the Department's internal oversight, improving employee relations, and identifying opportunities to make better use of existing resources. The following material describes the results of the review.

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## 1. Improve Oversight of the Department by Increasing the Size of the Public Safety Commission.

The Public Safety Commission is a three-member, part-time board. Since the creation of the Department, the Commission's structure has not changed despite a significant growth in public safety responsibilities.

- The Department has several management and oversight concerns that need close attention from the Commission. However, the Commission's current structure limits its ability to provide policy guidance to the Department.
- Increasing the size of the Commission would improve oversight of the Department by making its size commensurate with its workload and permitting the creation of subcommittees to focus on specific issues and problems.

## Recommendation

- **Increase the size of the Public Safety Commission to six members.**

## 2. Strengthen Internal Oversight Functions within the Department.

The Department has three internal oversight functions: Internal Audit, Inspection and Planning, and Internal Affairs. These functions are designed to provide objective, independent information to management and to conduct impartial investigations of criminal misconduct of DPS employees.

- Despite an increased need, the Department's internal oversight functions have not helped improve program management. The key elements of internal oversight — auditing, inspections, and

investigations — need improvement in independence, coordination, and accountability.

- Other law enforcement organizations have centralized internal oversight functions to assist management in monitoring and improving agency operations.

### **Recommendation**

- **Consolidate Internal Audit and Inspection and Planning into a single Office of Audit and Review that directly reports to the Public Safety Commission.**
- **Statutorily establish the mission for the Office to objectively audit and inspect departmental operations.**
- **Specify that Internal Affairs reports to the Commission and has original jurisdiction over criminal investigations involving DPS employees.**

### **3. Improve Employee Relations by Strengthening Grievance Procedures and Creating an Employee Relations Office.**

Good employee relations are based on open communication and the commitment to resolve workplace problems. The Department has two processes for dealing with employee-related problems: a grievance procedure for employees to express concerns about the workplace and a process for employees to appeal disciplinary actions.

- The Department's grievance process, by relying on the chain of command, does not adequately promote better employee relations. While a chain of command provides clear direction for police functions, it may impede the free flow of information.
- The Department's disciplinary action appeal process lacks impartiality and is time consuming.

- DPS' other human resources practices do not assist in promoting better employee relations. For example, the Department does not systematically track information from these grievances and disciplinary appeals to make changes in response to feedback.

### **Recommendation**

- **Require the Department to formalize an employment-related grievance procedure and to prepare an annual report on its use.**
- **Require the Department to give employees the option of using mediation to resolve grievances and to appeal disciplinary actions.**
- **Require the Department to create an Employee Relations Office to promote the resolution of problems in the workplace.**

### **4. Authorize the Director to Make Senior-Level Management Staff Assignments.**

The ability to assemble a management team is central to agency performance and accountability. In most instances, state employees work on an at-will basis and can be discharged or reassigned without cause. DPS employees, however, work on a for-cause basis and can only be dismissed or demoted for documented violations of rules or laws.

- Because Department employees work on a for-cause basis, the Director's ability to manage the Department is limited.
- The Director cannot make key management staff assignments or changes based on performance or abilities.
- Other state agency executives benefit from the ability to choose their executive teams to better manage agencies.

**Recommendation**

- **Authorize the reassignment or demotion of key management staff at the Director's discretion.**
- **Authorize the Director to appoint the Assistant Director.**

**5. Strengthen Oversight and Accountability of the Use of Seized and Forfeited Assets.**

DPS is responsible for collecting, managing, and disbursing assets and funds that were seized because they were used or involved in the commission of a crime. Seized assets may also be allocated among other local, state, and federal law enforcement agencies. At DPS, the authority over seized assets rests with the Director, who may only use them for law enforcement purposes and not supplant appropriated funds.

- Asset seizures generate a significant amount of revenue. For each of the past four years, the Department has collected an average of \$4.3 million in state and federal seized assets.
- The current level of oversight of seized asset funds is not adequate to provide accountability for their use. Unlike other public funds, the use of seized assets does not require input or approval by the Legislature or the Public Safety Commission to ensure that they are spent in line with public safety needs or goals.
- Strengthened oversight of seized assets would improve decision making regarding their use. This oversight would reduce the risk that these funds may be spent inappropriately or out of compliance with federal or state requirements.

**Recommendation**

- **Require the Public Safety Commission to approve seized asset expenditures.**

- **Require the Department to annually report to the Legislature on future use and expenditure of seized assets.**

**6. Authorize the Department to Conduct Driver's License Transactions Electronically.**

The Department administers the licensing program for Texas' 13.1 million licensed drivers. About 683,000 new driver's licenses and 3.3 million renewals are issued each year.

- A large amount of the Department's time and effort is spent administering licensure programs, specifically driver's license transactions. Almost a quarter of the Department's staff resources are dedicated to the issuance and renewal of driver's licenses or identification cards. In addition, DPS has requested 182 more employees at a cost of \$6 million for the upcoming biennium to deal with delays in drivers license offices.
- DPS does not have specific statutory authority to provide license transactions by electronic means. While the Department may renew licenses by mail, it does not have express authority to conduct this business by telephone or over the Internet.
- Many state agencies are moving to electronic commerce to become more efficient in providing services. Allowing the Department to conduct license transactions electronically would allow the Department to more efficiently provide necessary services without jeopardizing public safety efforts.

**Recommendation**

- **Authorize the Department to conduct driver's license and identification card transactions electronically and to set eligibility standards for these transactions.**

- **Authorize the Department to accept credit or debit card payments.**
- **Remove the requirement for evidence of financial responsibility for driver's license renewals.**
- **Expand the mail renewal program to include identification cards.**

#### **7. Improve the Enforcement of Commercial Vehicle Laws Through Greater Use of Non-Commissioned Staff.**

Texas has experienced a tremendous growth in truck traffic due to an expanding economy and the enactment of the North American Free Trade Agreement. This increase has provided a significant regulatory and enforcement challenge for the Department.

- DPS has not strategically used its staff resources to meet the needs of increasing truck traffic. The Department relies on commissioned officers for commercial motor vehicle safety inspections and motor carrier compliance audits. State law requires the Department to use officers for safety inspections but not compliance audits.
- Using commissioned officers is more expensive than civilians because of their higher training and equipment costs.
- Other states and the federal government have successfully used civilian staff to perform these regulatory functions without compromising public safety. In addition, the Legislature has recognized the need for the Department to better use its resources by using civilians in similar areas such as vehicle inspection and driver's license activities.

#### **Recommendation**

- **Require the Department to use non-commissioned staff to conduct routine compliance review audits of motor carrier operations.**
- **Authorize non-commissioned staff to perform truck safety inspections.**

#### **8. Formalize Planning Efforts Between the Department and the Texas Department of Transportation to Ensure Proper Enforcement of Truck Safety Laws.**

DPS and the Texas Department of Transportation (TxDOT) are the two state agencies responsible for the traveling public's safety and protection of the State highway system. TxDOT registers commercial vehicles and issues permits for vehicles to exceed standard size and weight limits. DPS enforces size and weight limits on trucks traveling the State's highways.

- While DPS actually enforces state and federal weight and safety regulations for trucks, TxDOT is charged with building the facilities that support enforcement efforts.
- State facilities used in the enforcement of truck regulations are inadequate. Many facilities are designed only to weigh trucks and do not have adequate space to safely conduct truck inspections.
- No formal coordination exists to address facility needs for commercial motor carrier regulation. DPS does not play a significant role in TxDOT's planning for projects that affect motor carrier regulations. This lack of coordination could affect the State's ability to receive federal funds for transportation projects.
- Requiring more formal coordination would be beneficial in assessing long-term enforcement and

infrastructure needs and in determining the best use of available funds.

### **Recommendation**

- **Require DPS and TxDOT to establish and implement a formal planning process for infrastructure projects that affect both agencies by January 1, 2000.**
- **Require DPS to develop a long-term infrastructure needs assessment for the enforcement of commercial motor vehicle regulations.**

### **9. Continue the Department of Public Safety for Six-Years.**

The Department's mission — to prevent and detect crime, enforce criminal and traffic laws, apprehend violators, and educate the public — is of vital importance to the people of Texas.

- The Department should be continued to enforce laws and to coordinate and support local government.
- However, continuing the Department for six-years, as opposed to the standard 12-year period, would allow the Legislature to better assess whether the Department has adequately addressed ongoing management concerns.

### **Recommendation**

- **Continue the Department of Public Safety for six years.**

## **Fiscal Impact Summary**

These recommendations are intended to enable the Department to improve management and services, and enhance enforcement efforts. Increasing the size of the Public Safety Commission would result in a small annual cost to the State Highway Fund to cover additional travel expenses. The recommendation to formalize employee-related grievance procedures and establish an Employee Relations Office would have some short-term costs that would be offset by fewer lawsuits and lower staff turnover. Authorizing the Department to establish a system for electronic renewals of driver's licenses and identification cards may have costs associated with system development. However, using technology to handle labor and facility intensive processes would have long-term benefits by reducing staff needs and capital expenditures. Finally, using non-commissioned staff to perform motor carrier regulatory functions would reduce the Department's future staff costs in enforcing the State's license and weight laws.



## **APPROACH AND RESULTS**

# Approach and Results

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## Approach

In 1935, the Legislature created the Department of Public Safety to prevent and detect crime, enforce criminal and traffic laws, apprehend violators, and educate the public on safety issues. Formed through the consolidation of the Texas Rangers and Texas Highway Patrol, DPS' original mission has remained relatively unchanged. However, since its creation, the Department has experienced a tremendous expansion in responsibilities, reflecting the State's evolving view of public safety. This growth, combined with changes in technology, have changed the agency from simply performing a policing function to providing such non-law enforcement functions as information management systems, technical support, regulatory and licensing programs, and disaster emergency management.

Ensuring the safety of the citizens of Texas is a dynamic process that continually emphasizes new program responsibilities, such as registering sex offenders or investigating high-tech, complex crimes. Often, these responsibilities are assigned to the Department without adequate funding support. The limitations in funding and heightened expectations of State policymakers demand that the Department find ways to implement new program mandates on its own initiative through management solutions and approaches. To do this successfully, the Department's internal management resources must be sufficiently supported and used. While the Department has maintained its commitment to protecting the public's safety as it experienced these changes, it has been less successful in demonstrating its ability to efficiently manage all of its functions. These oversight and management concerns have made effective communication between the Department and Legislature difficult and have heightened the level of legislative interest in the Department.

In response to questions about the Department's management of its affairs and in an effort to strengthen accountability, the Legislature has taken exceptional efforts to provide greater oversight of the Department. In 1997, the Legislature required the State Auditor to audit the Department, placed the Department under the oversight of the General Services Commission for property acquisition and purchasing and under the Quality Assurance Team for information management systems development, and moved the Department's Sunset date forward from 2005 to 1999 — thereby requiring

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Limitations in funding demand the Department seek ways to implement new program mandates through management solutions and approaches.

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The Legislature has taken exceptional efforts to provide greater oversight of the Department.

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The report recommendations are intended to move the Department past simple compliance with legislative directives to a fuller understanding of the job that needs to be done.

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The Sunset review focused on the Department's own management resources and its effectiveness in using those resources in making decisions.

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its second review in only six years. Also, through riders in the General Appropriations Act, the Legislature mandated specific management improvements such as filing an annual seized assets report with the Governor and Legislative Budget Board, creating a central database for personnel information, providing annual evaluations of executive managers, and developing a system to accept budgetary and managerial suggestions from employees.

In forming an approach to the review, Sunset staff examined the areas of most concern to the Legislature — those relating to the agency's oversight and management. The Sunset review focused on ways to improve DPS' internal oversight and accountability to get the extra effort needed for the agency to better manage its affairs in a complex and changing environment. The review found an agency that meets the basic requirements of legislative enactments, but does not fully use the intent of the suggestion. The recommendations in this report are specifically directed to provide additional resources, authority, and encouragement to assist the Department in moving past simple compliance with legislative directives to a fuller understanding of the improvements that it needs to make. A level of commitment is required for the desired benefits to occur. Only then can the Department and the Legislature hope to reduce or escape the need for outside scrutiny and legislative involvement in agency details that have characterized their relationship in recent years.

In structuring this agency's review, Sunset staff did not attempt to fully assess the ability of the Department to carry out its law enforcement functions. Staff also chose not to weigh into continuing debates over the jurisdiction and organization of DPS' two criminal law enforcement divisions — the Texas Rangers and the Criminal Law Enforcement Division. The Sunset review focused on the Department's own management resources and its effectiveness in using those resources in making appropriate decisions. The issues in this report address the need to strengthen the Department's management resources and tools by improving policymaking and internal oversight, employee relations, and the efficient use of limited resources.

## **Review Activities**

In conducting the review of the Department of Public Safety, the Sunset staff:

- Worked extensively with agency staff at the Department;
- Met with Public Safety Commission members;
- Attended public meetings of the Public Safety Commission and reviewed past minutes of meetings;

- Attended the agency's legislative appropriations request hearing;
- Attended conferences on internal audit procedures and electronic commerce;
- Worked with staff of the State Auditor's Office, Legislative Budget Board, Governor's Office, House Appropriations Committee, legislative committees, and key legislator's offices;
- Interviewed state officials from the State Auditor's Office, Texas Department of Transportation, State Comptroller, Office of the Attorney General, State Office of Administrative Hearings, General Services Commission, Texas Department of Criminal Justice, Department of Information Resources, Texas Department of Protective and Regulatory Services, Texas Commission on Alcohol and Drug Abuse, Texas Department of Insurance, and the Quality Assurance Team,
- Conducted telephone interviews with federal officials from the Department of Transportation, Customs Service, Department of Justice, and Treasury Department;
- Interviewed local government officials from the Travis County District Attorney's Office, the Austin Police Department, and the Harris County District Clerk's Office;
- Conducted telephone interviews with officials from other states, including the Arizona Department of Transportation, California Motor Vehicle Division, California Highway Patrol, Florida Highway Patrol, New Mexico Taxation and Revenue Department, and Wisconsin Department of Transportation;
- Reviewed state statutes, court decisions, legislative committee reports, previous legislation, federal statutes, federal legislation, and Attorney General opinions;
- Reviewed reports by the State Auditor's Office, State Comptroller, Legislative Budget Board, Texas Department of Transportation, Center for Public Policy Dispute Resolution, U.S. Department of Justice, U.S. Comptroller General, and federal public safety agencies;
- Reviewed Department documents, reports, plans, inspection reports, and internal audit reports;
- Conducted interviews with and solicited written comments from state and national interest groups regarding their concerns on public safety issues;
- Observed DPS Headquarter facilities and operations with close attention to the crime laboratory, fleet operations, and crime records;

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Sunset staff concluded that the Department's functions continue to be needed.

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- Accompanied commissioned troopers and officers from the Highway Patrol, License and Weight, Motor Vehicle Theft, and Narcotics Services, Texas Rangers, and the Fugitive Apprehension Unit;
- Researched the structure of agencies in other states with common functions; and
- Researched the structure of other state agencies with similar functions.

## Results

The Sunset review of DPS started by asking the threshold question of whether the functions of the Department continue to be needed. The Department has four main functions — traffic law enforcement, criminal law enforcement, disaster emergency management, and a variety of licensing programs — that support public safety efforts in the state. While many of these functions are duplicated by cities and counties, only a statewide organization can coordinate law enforcement and public safety activities that cross jurisdictional boundaries. For this reason, Sunset staff concluded that the Department's functions continue to be needed.

Once the Department's functions were determined to be necessary, the focus of the review shifted to examining the organizational structure used by the State to provide these functions. Sunset staff evaluated the Department to see if some or all of its functions could be consolidated within another state agency. A review of the State's other law enforcement agencies, the Texas Alcoholic Beverage Commission and the Parks and Wildlife Department, found that few savings could be achieved by transferring the Department's traffic and criminal law enforcement functions. Staff also considered consolidation options for the Department's licensing functions and found few potential benefits from transferring these programs.

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DPS should be reviewed under Sunset again in six years.

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Having concluded that the Department should remain as an independent agency, Sunset staff examined the question of when DPS should be reviewed again by the Sunset Commission. Because of legislative concern over the agency's management, DPS was reviewed six years earlier than its regular Sunset date. A review time frame shorter than the standard 12-year Sunset cycle would allow the Legislature to evaluate the Department's progress in addressing its management concerns. Therefore, Sunset staff concluded that a shorter time frame would be beneficial. A six-year Sunset review date would return DPS to its regular review cycle — allowing the agency to be reviewed concurrently with other public safety agencies.

In reviewing how the Department carries out its mission, staff examined recent reports and other evidence raising questions about accountability and

oversight of its operations. With these issues in view, the review focused on:

- strengthening the Department's management resources and tools to improve its ability to make appropriate decisions;
- improving employee relations by formalizing processes; and
- identifying opportunities to make better use of existing, limited resources to meet the Department's public safety responsibilities.

***Strengthen management resources and oversight*** — In recent years, the Department of Public Safety has seen an expansion of the Legislature's definition of public safety and significant growth in the number of its assigned programs. The Sunset review examined the management resources available to the Department and the adequacy of oversight of its programs. The continued expansion of programs and responsibilities requires the Department to find appropriate and efficient solutions to support its public safety mission. Among the existing management resources available to the Department are the Public Safety Commission, internal oversight, and standard program reporting functions. **Issue 1** addresses expanding the size of the Commission to provide additional expertise and resources to oversee the Department and to make its size more commensurate with its workload. **Issue 2** contains an examination of the Department's existing internal oversight functions — Internal Audit, Inspection and Planning, and Internal Affairs. This analysis found that these processes could be improved by elevating the divisions within the Department's hierarchy and providing greater coordination and accountability. Sunset staff also analyzed the processes by which the State oversees the Department's planning and spending of assets seized after the commission of crimes. **Issue 5** discusses having the Commission formally approve all seized asset expenditures and establishing improved reporting and planning procedures.

***Improve employee relations and decision making*** — The Department's process for resolving employees' concerns about their work environment relies on a chain-of-command decision-making process. While a chain of command provides clear direction for DPS' police functions, it impedes the free flow of information needed to make management the administration fully aware of the needs of its employees most of whom are civilians. **Issue 3** addresses these concerns by strengthening the Department's grievance process and establishing an employee relations office.

The review also examined whether the Department's Director is fully capable of assembling the right management team to guide the agency. A Sunset staff review of other state agencies that have effectively addressed past management difficulties found that the ability of directors to replace executive

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The Sunset review examined the management resources available to the Department and the adequacy of its oversight.

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The Sunset staff review paid particular attention to ways the Department could make better use of management solutions to improve its performance.

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management teams is instrumental in improving agency performance. However, the DPS Director's ability to manage the Department is limited by the inability to assemble a management team. **Issue 4** discusses these problems and makes a recommendation for improvement.

**Enhance use of public safety resources** — The Sunset staff review paid particular attention to ways the Department could make better use of management solutions to improve its performance. Because of the changing environment in which DPS operates, it must seek alternate, more economical ways of carrying out its responsibilities. Three specific staff recommendations highlight areas where the Department could use its current resources in a more efficient and effective manner. **Issue 6** examines the removal of statutory impediments to the use of electronic means, such as the telephone and Internet, to conduct driver's license transactions reducing the need for additional staff resources. **Issue 7** looks at the opportunity to increase the use of civilians in place of commissioned officers to perform certain commercial motor carrier regulatory duties. The staff recommendation discusses allowing the Department to use less-expensive resources to perform these duties without compromising public safety. Finally, **Issue 8** probes coordination between the Department and the Texas Department of Transportation in planning for the construction and placement of truck weighing and inspection facilities. The recommendation would better support the enforcement of state and federal truck weight and safety regulations.

## Recommendations

1. Improve Oversight of the Department by Increasing the Size of the Public Safety Commission.
2. Strengthen Internal Oversight Functions within the Department of Public Safety.
3. Improve Employee Relations by Strengthening Grievance Procedures and Creating an Employee Relations Office.
4. Authorize the Director to Make Senior-Level Management Staff Assignments.
5. Strengthen Oversight and Accountability of Seized and Forfeited Assets.
6. Authorize the Department to Conduct Driver's License Transactions Electronically.
7. Improve the Enforcement of Commercial Vehicle Laws through the Greater Use of Non-commissioned Staff.

8. Formalize Planning Efforts Between the Department and the Texas Department of Transportation to Ensure Proper Enforcement of Truck Safety Laws.
9. Continue the Department of Public Safety for Six Years.

## Fiscal Impact

Although precise savings or revenue gains cannot be estimated, the recommendations in the report will improve the Department's overall ability to ensure the public's safety with existing resources. Specifically, the recommendations to facilitate electronic means to conduct driver's license transactions and require use of more cost-effective personnel for motor carrier regulatory functions will result in long-term savings to the State Highway Fund. In addition, the recommendations to strengthen the Department's internal oversight functions, improve the planning and use of seized assets, and enhance coordination between DPS and the Texas Department of Transportation would improve decision making and the effective use of limited resources to better support law enforcement and public safety activities.

Two recommendations, expanding the size of the Public Safety Commission and requiring the Department to establish a formal grievance procedure and employee relation office will result in any additional costs. The additional annual cost associated with the Commission size is estimated at \$15,000 to pay travel expenses for the three additional members. The exact cost associated with improving employee relations cannot be estimated at this time.

Finally, the recommendation to continue the Department of Public Safety would require its annual appropriations of approximately \$305 million to continue.

| Fiscal Year | Cost to State Highway Fund | Change in Number of FTEs from Fiscal Year 1999 |
|-------------|----------------------------|--|
| 2000        | \$15,000                   | 0  |
| 2001        | \$15,000                   | 0  |
| 2002        | \$15,000                   | 0  |
| 2003        | \$15,000                   | 0  |
| 2004        | \$15,000                   | 0  |



# ISSUES

# Introduction

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## Issues 1 and 2

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### Background

Oversight of state agencies is essential to ensure that they do their jobs as required under state law in the most effective and efficient way possible. While oversight may take many forms, a major element of oversight is for an agency to have the resources to successfully perform its job on a daily basis.

An agency needs to be fully accountable to the public for its actions and needs to have expertise to guide policies. These qualities are generally provided by boards and commissions that preside over most state agencies. Appointed by the Governor and confirmed by the Senate, these bodies provide accountability to the public for the activities of state agencies. They also provide the expertise and perspective to direct policy that reflects the intent of legislative enactments and the interests of the Governor. The typical responsibilities of policymaking bodies are to oversee agencies by adopting rules. These boards are also generally responsible for hiring a director who is responsible for the day-to-day operations of the agency.

State agencies also need an independent check to ensure that they achieve their mission in the best way. This check is provided from inside the agency as a means to provide information to policymakers and management to help improve agency operations. Typically, this occurs through an internal audit effort that works continuously to identify problems for agency executives and provide information to managers so that they can make more informed decisions.

All agencies need to receive adequate oversight of their operations, but this need becomes more critical under certain circumstances. Dramatic changes in responsibilities or mission may present new challenges to agencies that require them to obtain greater direction and assistance to implement. In addition, organizations with a strong chain of command may not foster the kind of open dialog that provides critical information to executive decision makers. Typically, in these organizations, the dominant operating system is

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An agency needs to have the expertise to guide policies and be fully accountable to the public for its actions.

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Organizations with a strong chain of command may not foster the kind of open dialog that provides critical information to executive decision makers.

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to follow orders and not to question the way things are done. Additional oversight provides the critical analysis of agency operations needed to guide the management of these agencies.

Inadequate oversight can affect agencies in several ways. It can lead to a lack of innovation in problem solving that may contribute to doing things the way they have always been done. It can result in poor planning, or the lack of foresight, leading to a more reactive approach to problems. As oversight deficiencies get worse, agencies may suffer from greater inefficiency and ineffectiveness in their operations. They may have little or no commitment to finding the best way to do their jobs. Ultimately, the lack of oversight may affect an agency's ability to get things done, starting with individual tasks, but at its extreme, affecting the agency's ability to perform its basic mission.

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The lack of adequate oversight may affect an agency's ability to get things done or to perform its basic mission.

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In its analysis of the Department's oversight mechanisms, Sunset staff sought to determine the extent that oversight is an issue for this agency. In so doing, staff sought to evaluate how recent changes have affected the agency and indicate a need for improved oversight. Staff also looked at whether DPS is receiving oversight necessary for it to do its job efficiently and effectively.

The following material reflects the findings of Sunset staff regarding the Department's need for additional oversight. These findings provide much of the basis for Issues 1 and 2 that help strengthen oversight of the agency and thereby improve planning and problem solving to enhance the agency's ability to do its job.

## Findings

- ▼ **Expansion of the Department's responsibilities in recent years has greatly complicated its public safety mission.**
  - ▶ When the Department was created in 1935, it only had two functions — traffic enforcement and criminal investigations — carried out by the Department's two components, the Highway Patrol and the Texas Rangers.
  - ▶ Over time, the Department grew with the addition of more public safety functions such as driver's licensing, motor vehicle inspection, narcotics enforcement, crime labs, and emergency management and response. In recent years, the Legislature has continued to expand the Department's public safety role by making it responsible for several new computer information

systems and new regulatory programs such as the concealed handgun program, the Administrative License Revocation program for the license suspension of drunk drivers, and the vehicle emissions program. The expansion of responsibilities has mainly occurred in non-traditional law enforcement areas. A listing of major new functions assigned to DPS in the last 25 years is shown in the text box, *Major Additions to DPS Functions Since 1973*.

- Major Additions to  
DPS Functions Since 1973**
- Controlled Substances Registration
  - Triplicate Prescription
  - Precursor Chemical
  - Sex Offender Registration
  - Missing Persons Clearinghouse
  - Salvage Vehicle Inspection
  - Regulated Metals
  - Emergency Management Service
  - Automated Fingerprint Identification System
  - Combined DNA Index System
  - Concealed Handgun Licensing
  - Administrative License Revocation
  - Motorcycle Operator Training and Safety
  - All-Terrain Vehicle Operator Education and Certification
  - Bicycle Safety Education
  - Motor Carrier Bureau
  - Vehicle Emissions Testing
  - Capitol Police

▼ **While its overall public safety mission has not been jeopardized, the Department has faced questions about some of its actions, raising concerns about the way it conducts its business.**

- While the Department does a good job in performing its primary public safety mission, recent departmental decisions have raised concerns about its ability to find appropriate management solutions, especially regarding the management of non-law enforcement functions. As the Department continues to receive new responsibilities — often without funding to pay for them — it will increasingly need to find innovative ways to implement and operate its programs.
- Questions about the Department’s information technology have led to the agency’s information management systems being placed under exceptional oversight by the Legislature’s Quality Assurance Team and have caused the agency to cease development of many programs.<sup>1</sup> Although the Department is highly dependent on its information technology, the agency has been slow to address problems.

For example, development of new computer software projects is currently on hold pending the rewriting of software to ensure the functionality of current programs past the year 2000. The Department’s slow response to year 2000 conversion is revealed by the fact that it did not have an inventory of all computer systems until May 1998 even though the Legislature and the Department of Information Resources have emphasized the importance of performing this task since 1996.<sup>2</sup> The moratorium imposed as a result of these computer problems has significantly delayed the development of new information systems or enhancements, even if mandated by the Legislature, unless the system is already in compliance.

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Recent departmental decisions have raised concerns about its ability to find appropriate management solutions, especially regarding the management of non-law enforcement functions.

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The Department has demonstrated a tendency to seek budget solutions to problems rather than finding appropriate management action to address the situation.

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- The Department has demonstrated a tendency to seek budget solutions to problems rather than finding appropriate management action to address the situation. Examples of this include the recent requests for additional staff for its driver's license program and its traditional use of commissioned staff for regulatory programs, such as vehicle inspections. In its appropriations request for the fiscal year 2000 - 2001 biennium, the Department asked for \$ 79.7 million in exceptional items for program expansion including staffing increases of 519 employees. The Department is requesting additional funding and positions for driver's license staff and license and weight troopers to address program priorities when management solutions could either replace the need for funding or reduce the amount required. Issues 6 and 7 in this report make specific recommendations that address these program priorities through management actions.

- Lack of coordination of certain criminal law enforcement activities may lead to inefficiency and affects the agency's ability to do its job. In the last legislative session, the Legislature enacted a rider to the appropriations bill creating a complex crime unit within the Criminal Law Enforcement Division to focus on public integrity issues and white collar crime. However, this unit was established without prior coordination with the Texas Rangers, which also focuses on these crimes.

Another example of a lack of coordination may be seen in the Department's efforts to deal with counterfeit records, such as motor vehicle registration cards, insurance documents, and driver's licenses. Troopers in its Traffic Law Enforcement Division specifically target counterfeit efforts at vehicle inspection stations and, until 1997, had worked undercover to seize counterfeit documents and arrest criminals involved in counterfeit activities. Currently, however, most of these troopers' time is spent in uniform, patrolling highways and monitoring vehicle inspection stations. Inadequate coordination between Traffic Law Enforcement and Criminal Law Enforcement, which also has responsibility for counterfeit efforts through its Special Crimes Service, has affected the Department's ability to target these counterfeit activities.

▼ **The Legislature's recognition of the need to address concerns at the Department has led to a higher level of external oversight.**

- ▶ The Legislature typically provides oversight of executive agency functions through standard means, such as the appropriations and strategic planning processes and through committee review. Because of the questions raised about the Department, the agency's management of key functions has drawn additional oversight.
- ▶ The State Auditor's Office has conducted numerous audits of the Department, focusing on the need for management changes and a complete assessment of its business practices. In an August 1998 report, the State Auditor concluded that the Department's ability to provide efficient and effective public safety is challenged by key oversight weaknesses and poor use of the strategic planning process. Specifically, the report found:

  - business practices supporting the delivery of public safety need significant improvement;
  - automation and management of information have significant weaknesses;
  - oversight, strategic planning, and financial information need improvement; and
  - key oversight processes have weaknesses that limit the Department's ability to identify and solve its own problems.<sup>3</sup>

In addition, a 1997 report had recommended that DPS improve essential management operations that support its primary mission of providing public safety and improving its accountability to the Legislature and general public.

- ▶ The Legislature has placed the General Services Commission in charge of overseeing DPS property acquisition and purchasing. Before 1997, the Department provided its own oversight of property acquisition.

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The Department's past management of key functions has drawn additional oversight.

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In response to questions about management at DPS, the Legislature moved the Department's Sunset date from 2005 to 1999.

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- Last session, the Legislature moved the Department's Sunset date from 2005 to 1999. This change was in response to questions about how the Department was managing its affairs.
- The Legislature, through the General Appropriations Act, has attached a number of riders to the Department's appropriations to address questions about Department operations. These riders include requirements to file an annual seized assets report with the Governor and Legislative Budget Board, create a central database for personnel data, provide for annual evaluations of executive managers, and develop a system to accept budgeting and management suggestions from employees.

## Conclusion

The Department has experienced much change, broadening the scope of its responsibility well beyond traditional law enforcement matters. At the same time, it has faced questions about how it conducts its business, leading the Legislature to expand its oversight of the agency and to seek ways to improve the agency's operations. Sunset staff concluded that changes should be made to improve the oversight of DPS to give it the tools needed to effectively manage itself. The changes are detailed in the following two recommendations.

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<sup>1</sup> The Quality Assurance Team is composed of the State Auditor's Office and the Department of Information Resources.

<sup>2</sup> Office of the State Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August, 1998), p. 7; Tex. H.B. 1, 75th Leg., R.S. (1997): Article IX, Section 188, *Year 2000 Conversion*; Texas Department of Information Resources, *Going Forward: Biennial Report on Information Resources Management*, (Austin, Tex., November 1996), p. 3.

<sup>3</sup> Office of the State Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August 1998), pp. 1-4.

# Issue 1

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## Improve Oversight of the Department by Increasing the Size of the Public Safety Commission.



### Background

The Department of Public Safety (DPS) is governed by the Public Safety Commission, a three-member board appointed by the Governor with Senate approval. The members serve six-year staggered terms. When appointing members, the Governor considers the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability. The Governor also appoints the Chair of the Commission. To carry out Commission duties, the statute requires the Commission to meet at regular intervals at a location of their choosing. The Commission met 12 times in fiscal year 1998, with all but one meeting held at DPS Headquarters in Austin.

Commissioners serve part-time and receive no salary, but are entitled to reimbursement for their expenses. The Commission's responsibilities include organizing the Department, formulating plans and policies to guide the Department's efforts, and supervising the Department. The Commission is also responsible for appointing the Director and Assistant Director.

In reviewing the operations of the Department, Sunset staff focused on the oversight provided by the Public Safety Commission and its ability to guide the affairs of a dynamic agency. The staff examined the Department's expanding role and its ability to integrate traditional law enforcement functions with efficient business practices.

### Findings

- ▼ **The Department has several management and oversight concerns that need close attention from the Public Safety Commission.**
  - ▶ The significant increase in the number of activities assigned to the Department has transformed it from a pure law enforcement agency to a public safety agency, reflecting the

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The Public Safety Commission has remained a three-member, part-time Commission since 1935.

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The State Auditor identified several recommendations aimed at strengthening oversight of the Department that require involvement of the Commission.

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growing complexity of society and the State's interest in protecting its citizens from harm. These new responsibilities have broadened the Department's mission beyond the tasks traditionally performed by police agencies. Throughout this expansion, however, the Public Safety Commission has remained a three-member, part-time commission since 1935.

- ▶ A State Auditor's report identified several recommendations aimed at strengthening the Department's oversight functions, including many that require the involvement of the Commission, such as:
  - rebuilding the internal audit function, including establishing a direct reporting link between internal audit and the Commission and creating a separate budget for the function;
  - establishing rules for Internal Audit and Internal Affairs;
  - receiving enhanced information from a variety of sources, including Accounting and Budget, Inspection and Planning, and Internal Affairs; and
  - monitoring the Department's compliance with Year 2000 conversion requirements.<sup>1</sup>

▼ **The Commission's current structure limits its ability to provide policy guidance to the Department.**

- ▶ The use of the Public Safety Commission as a key guidance and management resource is appropriate and consistent with its defined role. However, the Commission is more limited than most policymaking bodies in its ability to serve this role because of constraints inherent in a three-member commission.

One problem with a three-member commission is the limitations placed on it by the Texas Open Meetings Act. Because two members of the Commission constitute a quorum, any deliberations of agency business between two Commission members must occur at a properly posted open meeting. Limits on the informal contact between its members restricts Commission communications that could help it better guide and oversee the agency.

The Commission effectively cannot use another tool to help its oversight — subcommittees. A subcommittee consisting of two commissioners could be created, but would limit the Commission’s ability to work on several different issues at the same time, which is a primary benefit of having subcommittees. Working one-on-one with Department officials is the only other option available. However, this option does not provide much diversity of views or distribution of workload for the adequate consideration of issues facing the Commission.

- D
 The Commission is further limited by its unique personnel duties. According to statute, any employee who is discharged may appeal to the Commission for a hearing. In fiscal year 1998, the Commission met 12 times and conducted employee discharge appeal hearings at seven of the meetings. Because of the length of these hearings, which average approximately four hours, the Commission has spent almost half of its time during the past year engaged in employee discharge appeals. These hearings take valuable time away from the Commission that could be used for other purposes.

▼
**The Legislature has expressed its intent to make governing boards the size necessary to provide effective oversight.**

- D
 Most boards or commissions created by the Legislature are larger than the Public Safety Commission. Research into state agency enabling statutes shows that of the 148 state agencies governed by board or commissions, 134, or 91 percent, have commissions with more than three members.
- D
 The Public Safety Commission is uncommon as a three-member, part-time executive agency board. Texas has other three-member commissions that oversee large agencies, such as the Texas Workforce Commission, Texas Natural Resource Conservation Commission, and the Public Utility Commission, but all are full-time commissions. The Texas Department of Transportation is overseen by a commission with three part-time commissioners who are paid a small annual salary and have paid assistants. The only other agency of significant size, with a three-member, part-time commission, is the Texas Alcoholic Beverage Commission. However, this agency’s

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Of the 148 state agencies governed by boards or commissions, 134, or 91 percent, have commissions with more than three members.

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scope, enforcement of the Alcoholic Beverage Code, is considerably smaller than that of DPS.

- ▶ Although not often, the Legislature has increased the size of state boards when doing so would allow for more effective oversight. For example, in 1985, the Legislature increased the size of the governing board of the Department of Human Services from three to six members. The bill's proponents argued successfully that a six-member board would allow for improved communication among board members and broader representation.

▼ **Increasing the size of the Public Safety Commission would improve its oversight of the Department.**

- ▶ Formulating policies to guide the Department and monitoring for compliance is the role of the Public Safety Commission. However, this is difficult given the dramatic increase in Department responsibilities and the limited resources of a three-member, part-time commission. Increasing the number of members would improve Commission oversight by allowing it to form subcommittees to regularly oversee specific areas of the agency such as budget, legislative affairs, and strategic planning.
- ▶ Adding members to the Commission would make its size more commensurate with the Department's workload. New duties that the Department has received from the Legislature in recent years have created a difficult workload for the three-member Commission.

Increasing the size of the Commission could also provide additional resources in the form of business knowledge and expertise. A larger commission could be indispensable in helping the Department improve the business practices that have been found deficient by the State Auditor. Additional expertise could further help the Department in its transformation from a purely law enforcement agency to one that ensures public safety through a broad array of programs and services.

## Conclusion

Despite the tremendous growth in the responsibilities of the Department, its oversight body, the Public Safety Commission, has remained a three-member, part-time commission. The addition of substantial public safety responsibilities by the Legislature has increased the Commission's workload, while requirements of the Texas Open Meetings Law limits the members' ability to communicate with each other. The combination of additional work and scarce resources has created a burdensome workload for the Commission. Increasing the size of the Commission could allow it to better organize itself to provide for the Department's needs.

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The combination of additional work and scarce resources has created a burdensome workload for the three-member Public Safety Commission.

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## Recommendation

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### Change in Statute

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- **Increase the size of the Public Safety Commission to six members.**
- **Authorize a subcommittee of the Public Safety Commission to hear appeals of personnel actions.**

This recommendation would increase the size of the Public Safety Commission from three to six members. Commission members would continue to be appointed by the Governor to staggered, six-year terms and receive no salary. The requirements to serve on the Commission would not change. This expanded size would allow the Commission to establish subcommittees to provide in-depth consideration of different issues and subjects. Any subcommittees of the Commission would be required to conduct meetings in compliance with the Open Meetings Act just as the full Commission currently does.

By expressly allowing a subcommittee to hear personnel matters in statute, a subcommittee could hear the employee discharge appeal cases that currently require up to half of the Commission's time. The full Commission would approve or reject any recommendation of the subcommittee. This would allow the Commission, as a whole, to concentrate on other aspects of the agency.

An expanded Commission would allow for greater representation of the people of Texas. Rural areas, ethnic minorities, and women would have more opportunities for representation on the Commission. The additional perspective these members bring would benefit the Commission and the agency.

Increasing the size of the Commission would also further insulate it from political pressures because of the nature of the appointments process. The statute specifies qualities, such as knowledge of laws, experience in the enforcement of law, and executive ability, that the

Governor is to consider in making appointments to the Commission. In addition, the Senate is to evaluate these same qualities through its confirmation process.

## Management Action

- **The Public Safety Commission should form subcommittees for:**
  - **audit and operations,**
  - **budgeting and planning, and**
  - **investigations and personnel.**

Directing the Commission to create subcommittees that focus on audit, operational, and investigative matters would allow the Commission to better oversee the activities of the Department, particularly the areas the State Auditor found deficient. The audit and operations subcommittee would work closely with the Department's Internal Auditor. The budgeting and planning subcommittee would work closely with the Accounting and Budget Office and oversee program implementation and the creation of the Department's strategic plan. The investigations and personnel subcommittee could keep track of any criminal investigations for the Commission and address personnel matters, including hearing employee discharge appeals that are currently heard by the full Commission.

## Fiscal Impact

The expansion in the number of Commission members would increase travel expenses. Based on projections of continued monthly meetings, costs would increase by approximately \$15,000 per year. Current expenses are paid from the State Highway Fund.

| <b>Fiscal Year</b> | <b>Cost to State Highway Fund No. 006</b> |
|--------------------|---|
| 2000               | \$15,000                                  |
| 2001               | \$15,000                                  |
| 2002               | \$15,000                                  |
| 2003               | \$15,000                                  |
| 2004               | \$15,000                                  |

<sup>1</sup> Office of the State Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056 (Austin, Tex., August 1998), pp.1-4.

## Issue 2

### Strengthen Internal Oversight Functions within the Department of Public Safety.



#### Background

As a law enforcement agency, the Department of Public Safety (DPS) requires a greater degree of internal oversight than most other agencies. Like all agencies, it relies on an internal audit function to provide an objective assessment of how well the agency is doing its job. However, because of the authority that the Department has on life and liberty issues and the significant risks associated with law enforcement, DPS also places a heavy emphasis on internal affairs activities for investigating allegations of misconduct by agency employees. In addition, agencies with public safety missions generally have a greater need for independent internal oversight due to the strong chain of command that can impede independent information from reaching executive management.

The Department uses three separate internal oversight functions to provide information on agency performance — Internal Audit, Inspection and Planning, and Internal Affairs. These sections carry out a variety of services designed to provide objective, independent information to management through audits of program implementation, inspections of field and headquarter operations, and investigations of complaints about the Department and its employees.

The function of the Internal Audit section is to provide management with independent analyses, appraisals, and recommendations concerning the adequacy and effectiveness of internal controls. The Internal Audit section meets the requirements of the Texas Internal Auditing Act, including the basic structure of the section and the need to report to the appropriate authority within the agency.<sup>1</sup>

The Inspection and Planning Service, located within the Administration Division, is responsible for inspections of field and headquarter operations. The 14 Inspection and Planning employees also develop strategic plans, agency policies and procedures, legislative bill analyses and fiscal notes, and policy manuals.

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Public safety agencies have a greater need for independent internal oversight because a strong chain of command can impede information flow.

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DPS has three internal oversight functions: Internal Audit, Inspection and Planning, and Internal Affairs.

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The Department's Internal Affairs section, located within the Director's Office, investigates complaints and allegations of criminal wrong-doing filed against Department employees. Investigations are initiated upon request of the Director or the Commission Chair. The staff of six also investigates firearm discharges, employee misconduct cases, and affirmative action matters, as well as supporting Legal Services on employee litigation cases.

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The Sunset review focused on the ability of existing internal oversight at DPS to provide necessary information to management.

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The Sunset staff, in its review of the Department of Public Safety's internal oversight functions, focused on the ability of the separate sections of Internal Audit, Inspection and Planning, and Internal Affairs to adequately perform their responsibilities. The review also focused on the ability of existing departmental internal oversight functions to provide necessary information to assist management to make better or more informed decisions. The analysis included an examination of how other law enforcement and criminal justice agencies organize their internal oversight structures to ensure greater agency performance.

## Findings

### ▼ **Despite an increased need for oversight, the Department's own processes have not effectively helped it address management concerns.**

- ▶ A recent audit of the Department by the State Auditor found that the Commission cannot adequately evaluate the Department's operations and that it retains a higher-than-necessary risk in performing its oversight role due to the lack of independent information.<sup>2</sup> The Department's own oversight functions — Internal Audit, Inspection and Planning, and Internal Affairs — would benefit from greater independence, coordination, and accountability to provide the high-level support the agency requires.

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Three requisites for effective oversight are independence, coordination, and accountability.

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Based on the U.S. General Accounting Office's Government Auditing Standards, three requisites for effective oversight are independence, coordination, and accountability. Independence is required for internal oversight to be effective because opinions, conclusions, judgments, and recommendations need to be impartial and freely communicated.<sup>3</sup> Coordination is essential to avoid redundancy of effort and inefficient use of limited resources.<sup>4</sup> Accountability is necessary to ensure that work is done to benefit the agency in achieving its mission.<sup>5</sup> The following information summarizes concerns of each of the Department's internal oversight sections.

- Internal Audit** - Internal Audit's operations need improvement in the three basic areas that are typically used to judge effectiveness. First, internal audit's independence has been questioned by the State Auditor because management did not follow Department policy that requires direct reporting to the Commission.<sup>6</sup> Instead, the Internal Auditor's communications were routed through the Director. In addition, the Commission did not actively participate in the recent hiring of a new Internal Auditor and simply approved management's sole selection. A second concern is Internal Audit's need to better coordinate with other agency oversight functions regarding high risk operational matters. The third area is its accountability for completing its work as specified in the Department's annual internal audit plan. The text box, *Internal Audit Concerns*, provides specific examples reflecting the coordination and accountability efforts of these operations.

- Inspection and Planning** - Inspection and Planning has not been effective as a high-level management tool largely because of the limited scope of its inspections. By focusing mainly on policy manual and procedural compliance, Inspection and Planning ensures that agency directives are being followed, but it does not provide the comprehensive analysis the Department needs to determine how well its programs are performing and how these programs can be improved.

The independence of Inspection and Planning is diminished because of its location within the chain of command under the Chief of Administration. In addition, coordination with other sections in the agency has not been optimized. Although Inspection and Planning produces necessary inspection reports, they do not contain a level of detail or analysis that could be most useful to management. The text box, *Inspection and Planning Concerns*, gives further examples of each of these points.

### Internal Audit Concerns

#### Coordination

- Internal auditors should take a consultative or facilitating role to promote understanding and raise awareness about risk and control throughout the organization. The Department's Internal Auditor has not been used as an advisor or consultant on key programs and projects within the agency. For example, Internal Audit did not actively participate in Year 2000 planning or strategic performance measures development.

#### Accountability

- Internal Audit has focused on minor fiscal affairs, such as controls related to petty cash and banking procedures, rather than audits that appraised agency processes, operations, and functions.<sup>7</sup> Consequently, the agency has been without independent analysis of key or high risk organizational functions. The Internal Audit section's 1997 audit plan identified 23 high risk audits, but only completed three — Narcotics Service Seized Property, Consumable Inventory, Narcotic Service Imprest Funds, and Seized Property.<sup>8</sup> In 1998, Internal Audit was only able to complete four compliance audits and one financial reporting audit.<sup>9</sup> These audits were four narcotic imprest funds and the employee flower fund. In addition, no records exist of audits of high risk areas, such as Human Resources, fleet operations, building program, Rangers, or the Training Academy.
- The Internal Audit section has been plagued with vacancies, including the Director position. Although a new Director and two auditors were hired in 1998, the section still does not have adequate staff when compared to the State Auditor's standards for internal audit functions.<sup>10</sup>

### Inspection and Planning Concerns

#### *Independence*

- Inspection and Planning reports to the Chief of Administration, and through that position, to the Executive Director. Although Inspection and Planning recommended in 1997 that the section directly report to the Director to improve the objectivity and stature of inspections, its placement in the organization has not changed.<sup>11</sup> Because of this apparent lack of independence, Inspection and Planning findings of administrative problems may not reach the Director or the Public Safety Commission.

#### *Coordination*

- Inspection and Planning, aside from inspections, is responsible for developing the agency's strategic plan, policy manuals, and legislative analyses and fiscal notes — all documents crucial for direction and focus of the agency. Yet, Inspection and Planning does not report directly to the Director.
- Although Inspection and Planning conducts inspections within the agency, its inspections focus almost exclusively on compliance with existing policy manual requirements and job descriptions. Inspection and Planning currently lacks the quantitative expertise to perform more comprehensive inspections, such as benefit-cost or financial analysis. For example, as noted by the State Auditor, a study of Fleet Operations concluded that it was performing at a very acceptable level. However, due to the lack of financial knowledge in Inspection and Planning, and a lack of coordination with Internal Audit, this conclusion was reached without analyzing rising fleet costs. By not considering all factors involved in reviewing these operations, Inspection and Planning missed the larger picture regarding the performance of the Department's fleet operations.<sup>12</sup>

#### *Accountability*

- Despite the value of including findings in its reports, Inspection and Planning does not contain recommendations in its reports based on these findings. Without recommendations, problems are recognized but formal steps to correct the problems are not forwarded to the Director or Commission.
- Inspections account for 50 percent of Inspection and Planning's time with the majority of that time spent in the field. Consequently, Inspection and Planning rarely conducts inspections of Headquarters, despite the fact that Headquarters represents a significant portion of the Department's operations.

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DPS has not used existing oversight functions in the most beneficial way to assist management.

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- *Internal Affairs* - Like Internal Audit and Inspection and Planning, Internal Affairs does not have independent reporting authority and could perform its functions more effectively and efficiently. The text box, *Internal Affairs Concerns*, gives more examples of each point.
- While DPS complies with the statutory standards for internal audit, and should be recognized for implementing the functions of Inspection and Planning as well as Internal Affairs, the Department has not required these functions to perform in the most beneficial way to assist management. These oversight functions satisfy the basic requirements of the job, but generally do not go beyond minimal expectations nor take the initiative to identify and maximize their usefulness to executive

management. By strengthening its internal oversight functions — especially in the areas of independence, coordination, and accountability — the Department can benefit from its own analysis of its operations without having to rely on outside reviewers, such as the State Auditor and the Sunset Commission.

- D A recent peer review of the Internal Audit function at DPS, completed in April 1998, concluded that the Department is in compliance with the Internal Auditing Act, but that past performance is unacceptable in meeting DPS’ internal audit needs.<sup>13</sup> Specific recommendations for improvement included better coordination with Inspection and Planning to cover the Department’s areas of risk and development of a long-range plan that addresses anticipated audit activities and budget needs.

**Internal Affairs Concerns**

*Independence*

- Before Internal Affairs can investigate any complaints against employees, the Director, Assistant Director, or the Commission must authorize the investigation.
- Internal Affairs does not initiate efforts to discover employee problem areas before complaints are filed. It strictly reacts to issues at the command of the Director or Commission. Once an internal investigation is concluded, Internal Affairs does not report any finding information to the Commission, but instead reports to the Director.

*Accountability*

- Frequent areas of complaint are not compiled or evaluated to provide useful management information to the Commission. As a result, the Department misses the opportunity to use information from its employees to help improve its performance.

▼ **The federal government and other states have effectively centralized internal oversight functions as a means of improving agency management.**

- D A review of other law enforcement organizations, oversight functions of the federal government, and other states found organizations that have centralized the oversight functions of internal audits, inspections, and investigations into a single office that reports to the policymaking body. These singular oversight offices — sometimes referred to as a professional standards units or office of inspector general — have increased the accountability and effectiveness of internal oversight functions.
- D The federal government has established the Office of Inspector General in 60 agencies since 1976. The number and size of the Office of Inspectors General has grown rapidly during the last 15 years. The purpose of the Inspector General position is to keep executive management and Congress informed about problems and deficiencies in the administration of agencies and to make recommendations for corrective action.<sup>14</sup> Federal Inspector Generals have authority for internal audits, inspections, and investigations.

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Other states, as well as the federal government, have centralized internal oversight functions to better assist management activities.

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- ▶ The State of Florida has 28 agencies with Inspectors General Office, including the Department of Law Enforcement, Department of Highway Safety and Motor Vehicles, and the Department of Corrections. Florida created the Office of Inspectors General to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government.<sup>15</sup> The Florida Department of Law Enforcement Inspector General is responsible for audits, inspections, and management reviews.
- ▶ The Virginia State Police Superintendent's Office contains a Professional Standards Unit. This unit contains the sections of Internal Audit, Internal Affairs, and Staff Inspections. These sections report to the Superintendent who is appointed by the Governor and serves as Chief Executive of the Virginia State Police.<sup>16</sup>

## Conclusion

The Department's public safety role and functions have expanded dramatically over the years, prompting a need for greater internal oversight. While the Department already possesses the key elements of this internal oversight — auditing, inspections, and investigations — a lack of independence, coordination, and accountability prevent these internal processes from adequately meeting the Department's management needs. A review of other police and governmental agencies reveals that centralized internal oversight functions — providing a combination of audit and inspection — can assist management in monitoring agency activities.

## Recommendation

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### Change in Statute

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- **Consolidate Internal Audit and Inspection and Planning into a single Office of Audit and Review that directly reports to the Public Safety Commission.**

This recommendation would elevate and combine existing internal oversight functions into an Office of Audit and Review that reports directly to the Public Safety Commission. Elevating the oversight functions into a single office — outside the chain of command — would give more autonomy to, and highlight the importance of, the oversight functions. Centralizing oversight would permit the sharing of resources and expertise that currently exists in the Internal Audit and Inspection and Planning sections. Having this Office report

directly to the Commission would improve its independence and authority while providing the Commission with better access to information on which to base its oversight of the agency. This recommendation would strengthen internal oversight so that the Department can identify and take action on its own initiative, raise performance standards, and better use its resources. Thus, the agency can improve performance, without relying on outside reviews. In sum, the section would have the qualities of independence, coordination, and accountability desired of an oversight section.

The recommendation would specify that the Director of the Office of Audit and Review must meet all requirements of the Internal Audit Act. In addition, the Director would provide all audit and inspection reports directly to the Commission. Current statutory provisions requiring state agency internal audit annual reports to be submitted to the Governor, Legislative Budget Board, Sunset Commission, and State Auditor would apply to this Office. The recommendations would also specify that the Commission is responsible for hiring and firing the Director and for all administrative and personnel matters for the Office.

The non-oversight function activities of the Inspection and Planning section, such as preparing the strategic plan, policy manuals, legislative analyses, and fiscal notes, would remain separate from the Office. These functions would be located within the agency based on the Commission's discretion.

- **Establish as the mission of the Office of Audit and Review the responsibility to independently and objectively audit and inspect all divisions of the Department.**
- **Specify that the office is authorized to:**
  - **conduct independent and objective audits and inspections relating to Department programs and operations;**
  - **promote economy, effectiveness, and efficiency within the Department;**
  - **prevent and detect fraud, waste, and abuse in Department programs and operations;**
  - **review and make recommendations regarding regulations relating to Department programs and operations;**
  - **keep the Commission, Director, and the Legislature fully informed of problems in Department programs and operations;**
  - **empower the Director of the Office of Audit and Review with:**

- **independence to determine what reviews to perform;**
- **access to all necessary information; and**
- **authority to publish review findings and recommendations.**

The mission would be set in statute to ensure that it is clearly stated and followed. This mission statement would include the responsibility for independently and objectively conducting audits and inspections of the Department and its functions. The Office would be directed to make recommendations designed to improve the operations. Additionally, the Office would act to prevent and detect fraud and abuse. Finally, the Office Director should keep the Commission and the Legislature fully informed of problems and deficiencies in the administration of DPS.

■ **Specify that the Internal Affairs section:**

- **report directly to the Public Safety Commission; and**
- **has original jurisdiction over all criminal investigations occurring on departmental property or involving on-duty DPS employees.**

This recommendation would require the Internal Affairs section to directly report to the Public Safety Commission. Internal Affairs would not be consolidated with the other internal oversight function. The section would keep the Commission informed on all current criminal investigations being conducted and provide analysis of criminal investigation trends, including the number and type of complaints and the outcomes of investigations, as well as provide recommendations to avoid future complaints.

This change would also avoid conflicts over jurisdictional grounds involving the Internal Affairs section and other units of the Department. Internal Affairs investigations would be approved by the Commission Chair or Director before they could be conducted.

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## **Fiscal Impact**

The recommendation to establish the Office of Audit and Review would not have a fiscal impact on DPS. The Department already operates with Internal Auditor, Internal Affairs, and Inspection and Planning sections. The recommendation would not require the creation of new positions but would permit greater coordination of existing resources.

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- <sup>1</sup> Texas Gov't. Code Ann. ch. 2102, sec. 001
- <sup>2</sup> Office of the State Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August 1998), p. 11.
- <sup>3</sup> U.S. Comptroller General, *Government Auditing Standards*, (Washington, D.C.: General Accounting Office, 1994), p. 22.
- <sup>4</sup> Office of the President, *The Inspectors General* (Washington, D.C.: Council on Integrity and Efficiency, June 1988), Online. Available: <http://www.hhs.gov/cgi-bin/waisgate>, Accessed: September 28, 1998, p. 2.
- <sup>5</sup> U.S. Comptroller General, *Government Auditing Standards*, (Washington, D.C.: General Accounting Office, 1994), p. 8.
- <sup>6</sup> Office of the Texas Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August 1998), p. 11.
- <sup>7</sup> "Control Processes," Institute of Internal Audit. Online. Available: <http://www.theiia.org/pamflects/pp972cnt.htm>, Accessed: October 7, 1998.
- <sup>8</sup> Department of Public Safety, *Internal Audit Annual Report for Fiscal Year 1997*, "Audit Plan for Fiscal Year 1997," p.1.
- <sup>9</sup> Department of Public Safety, *Internal Audit Annual Report for Fiscal Year 1998*, "List of Audits Completed with Breakdown by Scope of Audit," p. 3.
- <sup>10</sup> Office of the State Auditor, State of Texas, *Evaluating the Effectiveness of Internal Audit*, (Austin, Tex., November 1994), p. 7.
- <sup>11</sup> Department of Public Safety Function Review, Administration Division, Fall 1997, p. 12.
- <sup>12</sup> Office of the State Auditor, State of Texas, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August 1998), p. 17.
- <sup>13</sup> Texas Adjutant General's Department, *Report of the External Quality Assurance Review of Internal Audit for the Texas Department of Public Safety*, (Austin, Tex., April 30, 1997), pp. 3 - 4.
- <sup>14</sup> Inspector General Act of 1978, United States Code, title 5, sec. 2.
- <sup>15</sup> Florida Statute, ch. 20, sec. 55.
- <sup>16</sup> "Superintendent's Office," Virginia State Police. Online. Available: <http://www.state.va.us/vsp/asupt.html>, Accessed: September 15, 1998.



## Issue 3

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### Improve Employee Relations by Strengthening Grievance Procedures and Creating an Employee Relations Office.



#### Background

All employers, whether public or private, strive to create good working relationships with their employees. To develop good employee relations, an employer must:

- open lines of communication between management and employees;
- recognize and try to resolve tensions, disputes, and injustices as soon as they arise; and
- give employees an avenue to present problems about working conditions and achieve resolution confidentially without fear of reprisal.

Employment-related issues that employees may wish to voice dissatisfaction with include promotions, leave requests, performance evaluations, transfers, benefits, working environment, shift or duty assignments, harassment, retaliation, and relationships with supervisors or other employees. This is the definition of a grievance used by the majority of employers.

Improving employee relations benefits employers as well as employees. When a workforce feels that management will take its grievances seriously, employee morale and productivity increase while turnover rates decline. Improved communication and problem resolution can also lower the number of lawsuits filed against an organization by current and former employees. Creating good employee relations is especially important in law enforcement agencies where the chain of command can inhibit open communication and discourage employees from voicing complaints.

To address grievances, the Department of Public Safety (DPS) has established procedures for employees to voice problems about employment-related matters. The Department's grievance procedures require employees to report their dissatisfaction to their supervisors and follow the chain of command until satisfied with the outcome. This process is fundamentally different from the agency's process for receiving and investigating complaints against employees who may have violated a policy, rule, or law and may therefore

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Creating good employee relations is important in law enforcement agencies where the chain of command can inhibit open communication and discourage employees from voicing problems.

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**Comparison of DPS' Procedures  
for Handling Employment-Related  
Grievances and Complaints  
Against Employees**

***Employment-Related Grievances***

The Department's process for allowing employees to voice dissatisfaction with employment-related matters is referred to as the nondisciplinary grievance procedure. It is nondisciplinary because the grievances express concern about workplace problems affecting employees personally and not matters that can result in disciplinary action being taken against any employee.

***Complaints Against Employees***

The Department also has a procedure to handle complaints from the public and employees alleging the violation of a policy, rule, or law by a DPS employee. These complaints are investigated by the chain of command or Internal Affairs, depending on the severity of the alleged violation, and can result in disciplinary action.

have a disciplinary action taken against them. The differences between these two processes are explained in the text box, *Comparison of DPS' Procedures for Handling Employment-Related Grievances and Complaints Against Employees*.

The Department has a separate process to allow employees to appeal disciplinary actions taken against them. Dismissed employees may request a hearing before the Public Safety Commission. Employees who have been demoted or given time off without pay can choose between a Grievance Disciplinary Action Hearing before their major division Chief and a Grievance Board Hearing before their major division Chief and a jury of five peers. Despite their names, these hearings have no relation to the Department's grievance procedure, which allows employees to bring forward issues about employment-related matters, as discussed above. All other disciplinary actions can be appealed through a chain of command administrative review.

The Department also has an Equal Employment Opportunity Officer and a Staff Psychologist to address employee relations issues. The Department's Equal Employment Opportunity Officer trains employees on issues of discrimination and sexual harassment. The Officer, along with a board of employees appointed by the Director, reviews complaints of discrimination and sexual harassment to determine their validity. The Staff Psychologist offers counseling and mediation services to

employees with problems related to their mental health and well-being that may affect their job performance.

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Sunset staff examined the agency's human resources practices, specifically those related to hearing employee grievances and appeals of disciplinary actions.

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During the review of DPS, Sunset staff examined the agency's human resources practices, specifically those related to hearing employee grievances and appeals of disciplinary actions. The review sought to determine if these procedures were sufficient to ensure an open and impartial environment in which employees could communicate problems and achieve resolution. The review also sought to determine if the Department used this process to address employee concerns about their work environment and to guide it in improving agency operations. The Department's process for handling complaints against employees that can lead to disciplinary action, as overseen by Internal Affairs, was not included in this review.

## Findings

### ▼ **The Department’s employment-related grievance procedure, based solely on the chain of command, does not promote good employee relations.**

- ▶ As a law enforcement agency, the Department places great importance on the chain of command — all communication and information flows from employees to their immediate supervisors, to the next supervisor in line, and on up the chain. The Department relies on the chain of command to provide unambiguous direction in pursuing its critical public safety mission. The chain of command serves as the foundation for relationships between employees and management at DPS. However, regarding human relations functions, more open dialogue is necessary, especially for civilian employees who have not been trained as law enforcement personnel.
- ▶ The Department’s employment-related grievance procedure uses the chain of command exclusively. This process may not be the most objective way for employees to communicate problems about their working conditions. Employees must take up grievances with their supervisors. If still not satisfied, workers may present their grievances to the next supervisor in line. However, a chain of command may impede open communication and resolution of problems within an organization, especially if problems involve those in charge.
- ▶ While the chain of command may serve as a good foundation for the Department’s employment-related grievance procedure, its exclusive use does not include other elements necessary to make the process more effective. For example, DPS employees do not have the option of seeking assistance from outside the chain of command, even if employees’ problems are directly related to their supervisors. The Department’s procedure also does not establish time frames for how soon employees must present their grievances after a problem arises or how long management has to respond. Appendix A contains DPS’ grievance procedure as taken from its general policies and procedures manual.

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The Department’s employment-related grievance procedure uses the chain of command exclusively — this process may not be the most objective way for employees to communicate problems.

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▼ **DPS' disciplinary action appeal process lacks impartiality and is time consuming.**

- ▶ No matter what process an employee uses to appeal a disciplinary action, the outcome is ultimately decided by the employee's chain of command, which took the original disciplinary action the employee is appealing. Both the Grievance Disciplinary Action Hearing and the Grievance Board Hearing are presided over by the employee's major division Chief or a designee. Although the Grievance Board Hearing includes a jury, the major division Chief or a designee controls the hearing by performing several judicial-type functions including limiting the issues and number of witnesses presented and deciding on the fairness and impartiality of all evidence presented.
- ▶ The only recourse available to terminated employees, after exhausting the chain of command, is to appeal the action to the Public Safety Commission. During fiscal year 1998, the Commission met 12 times and, because of a backlog in the number of discharge hearings, heard appeals at seven of the meetings. The average length of each appeal was three to four hours, about the same length of time the Commission spent conducting its public business.<sup>1</sup>

▼ **Other human resources practices of the Department do not assist in promoting better employee relations.**

- ▶ The Department's employment-related grievance and disciplinary appeals procedures do not provide a method for capturing information, therefore DPS is unable to track the number or types of grievances or appeals its employees initiate with their supervisors. The Department has no systematic way of knowing what employment issues are causing discontent in the workplace, why its employees are appealing disciplinary actions, or how these matters are resolved. Because the Department does not centrally maintain this information, agency management is less able to address employee concerns and make changes in response to feedback.
- ▶ While all new employees attend an orientation session, the Human Resources Division does not provide an employee handbook to explain the Department's policies on issues such

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DPS does not centrally track the number or types of grievances or appeals its employees initiate with their supervisors.

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as attendance and leave, compensation and benefits, and grievance and appeals procedures. In the past, the Department had distributed such a handbook, but it is currently out-of-date and is no longer given to new employees. The employee handbook was last updated in 1992. Although the Department has detailed its policies in its General Manual and other procedures manuals, these manuals do not replace the need for an employee handbook and are written in a legalistic style, are long and difficult to read, and do not effectively communicate the Department's concern for its employees.

- Specific language in the Department's policies and procedures manuals reflects the attitude of an agency whose reliance on the chain of command may not encourage needed communication or useful employee discourse. The text box, *DPS Policy Directives Affecting Employee Relations*, quotes DPS' manuals regarding employee communication and discontent.

▼ **Other state agencies and law enforcement agencies have implemented programs and procedures to improve employee relations.**

- Several other state agencies have programs that help to improve employee relations. The Texas Department of Criminal Justice (TDCJ), the State's largest public safety agency, has established an Employee Relations Office within its Human Resources Division. The many functions of this office are described in the text box, *TDCJ's Employee Relations Office*. Similarly, the General Services Commission, Texas Department of Insurance, and Office of the Attorney General have employee ombudsman offices.

**DPS Policy Directives Affecting Employee Relations**

*Ten General Orders of Conduct:*

“Number 8: To take up matters affecting me and my position with my immediate superior and through proper channels.”

“Number 9: To submit through proper channels constructive suggestions for the betterment of the Department and its service.”

*General Policy Manual:* “Very little talent is required to coast or plod along in a job and be unhappy. Even less intellectual capital is required to set up in the grumbling business.”

*Criminal Law Enforcement Division Manual:* “Any member feeling justified in complaining of any action on the part of any other Department personnel or the procedures and policies of any other divisions or services will do so by a confidential interoffice memorandum through channels to the Chief of Criminal Law Enforcement.”

**TDCJ's Employee Relations Office**

TDCJ's Employee Relations Office ensures compliance with the agency's grievance procedures and maintains records on all grievances filed. The procedure includes a grievance form filled out by the employee and time frames for submitting and responding to grievances. TDCJ has a three-step grievance process with each subsequent step involving an appeal to a higher level of management. A Grievance Specialist from Employee Relations is assigned to monitor and offer assistance at each step. Complaints of discrimination and appeals of disciplinary actions are handled through this same process. In fiscal year 1998, 1,326 employee grievances were filed.

The Employee Relations Office also employs five trained mediators who facilitate communication between aggrieved employees and management. Mediators act as impartial third parties to help the disputing parties reach a mutually-agreeable solution. Employees recommended for dismissal may choose the standard grievance process or independent mediation through an external, professional mediation service.

In each of these agencies, employees are encouraged to communicate problems about working conditions and seek resolution through formal grievance processes. Employee relations personnel monitor these grievance processes and are available to counsel aggrieved employees and act as mediators between disputing parties. These agencies were noted by the State Auditor's *Human Resources Best Practices Guide* as having model employee grievance procedures.

- ▶ The Legislature has required firefighters and police officers in certain large cities to have access to grievance procedures. State law provides for a written grievance form, a four-step process, time frames, grievance counselors, and grievance hearings.
- ▶ Both the California Highway Patrol and Florida Highway Patrol have established employee relations programs. In each state, employees may file grievances and go through the multiple steps up the chain of command. The office of employee relations in each state monitors the grievance process and offers assistance and mediation, thus providing an impartial third party outside the chain of command.

▼ **The Legislature has shown an interest in soliciting management suggestions from employees and using mediation to resolve employee disputes.**

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The Legislature has shown an interest in soliciting management suggestions from employees and using mediation to resolve employee disputes.

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- ▶ By rider attached to the Department's 1998-1999 appropriations bill, the Legislature required the Department to implement a program to collect budgetary and managerial suggestions from employees. DPS began the program in December 1997 and received 31 suggestions in its first six months. Employees are encouraged to forward suggestion forms to Human Resources or place them in suggestion boxes. This program allows employees to make suggestions without going through their chain of command.
- ▶ To improve TDCJ's grievance procedure, the Legislature added a rider to the agency's 1996-1997 appropriations bill requiring the use of mediation or independent arbitration for appeals of disciplinary actions. As a result, TDCJ trained five employees in mediation techniques and offered employees who are recommended for discharge the option of working with a mediator from outside the agency.

- D In 1997, the Legislature passed legislation encouraging state agencies to use alternative dispute resolution methods, such as mediation and arbitration, whenever possible to resolve disputes without expensive litigation. Agencies were given explicit authority to use these tools to resolve disputes with both the public and their employees. Among other provisions, the bill provided judges at the State Office of Administrative Hearings with authority to conduct alternative dispute resolution proceedings.
- D To encourage the use of alternative dispute resolution among all Texans, the Legislature created Dispute Resolution Centers in 1983. These centers, located throughout the state, offer services and training in mediation techniques to the public. The Legislature also created the Alternative Dispute Resolution Fund as a revenue source for the centers.

## Conclusion

The Department's procedures for handling employment-related grievances and appeals of disciplinary actions depend solely on the chain of command for resolution. Employees have few options outside their chain of command for assistance in dealing with problems that may arise in the workplace. Further, DPS does not centrally track the number, types, and resolution of grievances and appeals brought by employees. As a result, the Department misses an opportunity to determine what working conditions are causing problems for its employees and potentially solve employment-related problems that occur on an on-going basis. While other state agencies and law enforcement agencies have implemented successful employee relations programs and the Legislature has encouraged agencies to use mediation tools whenever possible, DPS has no such programs for resolving employment-related grievances or appeals of disciplinary actions.

## Recommendation

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### Change in Statute

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- **Require DPS to formalize an employment-related grievance procedure that includes the following key elements:**

  - **a form for employees to state their employment-related grievances and request a specific corrective action;**

- **time limits for employees to submit grievances and for management to respond;**
- **a stepped process in which an employee's grievance is submitted to the lowest appropriate level of management, with each subsequent appeal submitted to a higher level in the chain of command;**
- **a method to track the number of grievances filed and the subjects and resolution of the grievances;**
- **an assurance that confidentiality of all parties involved will be maintained and retaliation against an employee filing a grievance is prohibited; and**
- **a program to advertise and explain the grievance procedure to all employees.**

This recommendation would establish a formal procedure for DPS employees to express employment-related grievances and lay the foundation for how it will be implemented. This recommendation would not affect the Department's current approach to dealing with these grievances through the chain of command, but would formalize the process to make it more consistent and useful for executive management as a tool to improve operations. This recommendation also does not affect DPS' complaint process, as overseen by Internal Affairs, that can lead to disciplinary action against an employee.

Among its components, this recommended procedure would include an official form, time limits, and steps for filing grievances that would allow DPS to assess employee use of the process. The grievance procedure would also ensure confidentiality and protection from retaliation for employees filing grievances and all others involved in the process. Finally, this recommendation would require DPS to make the new grievance procedure known to all employees.

- **Require DPS to prepare an annual report on the use of its employment-related grievance process to be submitted to the Public Safety Commission and the Legislature.**

Requiring DPS to prepare an annual report on the use of its employment-related grievance procedure would allow the Public Safety Commission and the Legislature to monitor the implementation of a revised grievance process. Further, the report would provide information to agency and state decision makers to address any on-going employment-related problems within the agency. This report should include the number of grievances filed, description of the subjects of the grievances filed, and any final disposition. The Department's report to the Legislature should be submitted as part of its annual report already required by statute.

■ **Require DPS to allow all employees the option of using mediation to resolve employment-related grievances and disciplinary action appeals.**

This recommendation would allow all employees to request mediation to resolve their employment-related grievances and appeals of disciplinary action. The use of mediators is not meant to circumvent the chain of command, which must ultimately make personnel decisions, but to facilitate communication between employees and management and help the two parties reach mutually-agreeable resolutions to grievances or appeals. Further, the option to use mediation in appeals cases would be offered in addition to the current appeals system. For instance, employees who are demoted or given time off without pay could request a chain of command review, Grievance Hearing Board, Grievance Disciplinary Action Hearing, or mediation. However, an employee must choose a single avenue of appeal, and may not choose another once the process has begun.

The Public Safety Commission would be required to adopt rules establishing when the use of mediation is appropriate in the grievance process. While employees may request mediation to resolve their grievances at any time, the Department is not required to provide these services in all cases. The Department would be able to deny the use of mediation in cases that could be easily resolved through less formal methods. Conversely, DPS would not be able to deny mediation without justification.

■ **Permit DPS employees recommended for termination to choose between an appeal to the Public Safety Commission or an outside mediation service.**

According to statute, DPS employees recommended for termination may only appeal to the Public Safety Commission. This recommendation would give these employees another appeal option, through an independent source outside the chain of command and the agency, while potentially reducing the amount of time the Commission spends hearing appeals. A discharged employee could request the services of an independent mediator, such as a Dispute Resolution Center or private mediation service. TDCJ has implemented a similar program, the cost of which is shared by the agency and the employee requesting mediation.

Terminated employees would still have the option of appealing to the Commission. However, if the size of the Commission is expanded, as recommended in Issue 1 of this report, discharge appeals would be heard by a subcommittee of the Commission rather than the entire body. As above, an employee can only choose one avenue of appeal.

■ **Require the Public Safety Commission to adopt rules governing all disciplinary action appeal hearings.**

Currently, no rules exist governing how disciplinary action appeal hearings are conducted by the Public Safety Commission or Grievance Hearing Boards. This recommendation would ensure that all appeal hearings are conducted according to established rules. These

rules should describe in detail the procedures and practices governing appeals. Formalizing the agency's appeal hearing procedures in rule would allow the public, including DPS employees, to provide input on how these hearings should be conducted.

## Management Action

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### ■ The Department should create an Employee Relations Office within its Human Resources Division.

The recommended Employee Relations Office should have three main responsibilities: employment-related grievances, disciplinary action appeals, and equal employment opportunities. The Office should receive copies of all grievances and appeals filed, record the responses to and resolution of grievances, and monitor the grievance and appeals processes whenever they are initiated. The Office should also provide training in appeal hearing rules to all hearing officers and jurors and monitor hearings to ensure their consistency and compliance with hearing rules. Although DPS' Equal Employment Opportunity Officer is currently part of the Director's staff, the Employee Relations Office would greatly benefit from this expertise. The functions performed by the EEO Officer, such as reviewing complaints of discrimination and counseling employees on discrimination issues, closely parallel the recommended functions of the Employee Relations Office. Further, the Equal Employment Opportunity Officer could benefit from being part of the Employee Relations Office through the sharing of information about grievances and discrimination complaints.

The Employee Relations Office should educate DPS employees on the grievance and appeal procedures and encourage resolution of problems arising in the workplace. The Office should use counselors and trained mediators to provide assistance to employees and supervisors in resolving complaints and improving employee relations. Counselors should talk with employees requesting mediation and determine, according to Commission rules, whether mediation is the best course of action in each individual case. If DPS uses existing employees as mediators, training is available in mediation techniques from a variety of sources, such as Dispute Resolution Centers.

In addition to the grievance, appeals, and EEO responsibilities discussed above, DPS should decide if any of its existing programs could be merged with the Employee Relations Office. For example, the Department's new Staff Psychologist Program may serve to compliment to the activities of the Employee Relations Office. The Staff Psychologist Program offers mediation services, but they are fundamentally different from those services recommended in this issue. This program consists of one psychologist, one mental health professional, and one commissioned officer. The program's main function is to help employees with problems affecting their mental health and well-being. The mediation services they offer have been used to date to settle disputes, usually caused by personality conflicts, between two or more employees. Currently, mediation sessions can only be requested by supervisors — employees have not been given the option of seeking mediation on their own.

- **DPS should consult with other state agencies and information sources that have knowledge in alternative dispute resolution and employee relations.**

In developing its employee relations program and new grievance procedures, DPS should consult experts in these fields. Other state agencies with employee relations and ombudsman offices, such as those discussed earlier in this issue, could offer assistance in establishing grievance and mediation programs. The State Office of Administrative Hearings has expertise in alternative dispute resolution. The Texas Workforce Commission and the State Auditor's Office can provide information on improving employee relations and human resources functions. The Texas Public Policy Dispute Resolution Center at the University of Texas Law School and Dispute Resolution Centers throughout the state regularly offer assistance to state agencies in implementing alternative dispute resolution programs.

- **DPS should update its employee handbook biennially and distribute it to all employees.**

The Department has not updated its employee handbook since 1992. This handbook, which should be given to each employee, should describe the Department's policies and procedures, especially those related to human resources, in plain language and offer additional resources to employees who want more information. In updating the handbook, DPS should also re-evaluate the language in its policies and procedures manuals to ensure that all staff are focused on resolving workplace problems and improving employee relations.

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## Fiscal Impact

Requiring DPS to improve its employment-related grievance procedures, allow employees the option of using mediation, and create an Employee Relations Office would have a minimal fiscal impact on the State. Considering the large number of existing resources, such as other state agencies, available to assist DPS in implementing its grievance and mediation programs, the cost should be minimal. However, DPS would have increased administrative costs in developing systems to track and report on the use of its new grievance procedure. Further, the cost of mediation will depend on how the Department chooses to implement the program and how often mediation services are used. As an example, Dispute Resolution Centers charge about \$800 for a 40-hour mediation training class. TDCJ has contracted with a private company to perform mediation when an employee appeals a discharge recommendation. The employee is required to pay \$50, and TDCJ pays the remaining cost which can vary between \$200 to \$500, depending on the length of the mediation and other factors.

Because several of the recommendations, including the creation of the Employee Relations Office and updating the employee handbook, are management recommendations, DPS should implement the changes through the reallocation of existing resources to minimize costs.

All of the recommendations in this issue are intended to improve DPS' relationship with its employees and help create a more stable and productive workforce. To the extent this improvement occurs, these recommendations may have a long-term positive fiscal impact as a result of fewer employee lawsuits and lower turnover rates.

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<sup>1</sup> Department of Public Safety, Legal Services Division (Austin, Tex., October 1998).

# Issue 4

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## Authorize the Director to Make Senior-Level Management Staff Assignments.



### Background

Most state employees, like most private-sector workers in Texas, are employed on an at-will basis. As a general rule, at-will employees serve at the pleasure of the agency and can be terminated from employment for reasons considered appropriate by the agency. At-will employees are not deprived of important employment protections under state and federal statutes, including the Equal Employment Opportunity Act, Americans with Disabilities Act, and Whistle Blower Act. These laws prevent employers from discriminating against an employee when taking disciplinary action.

Some state employees, however, are employed on a for-cause basis. Typically, a specific statutory provision or agency rule creates a property interest for workers with for-cause status. These employees can only be dismissed for a cause such as a violation of a specific policy, rule, or law. Disciplinary action against for-cause employees usually requires written documentation of specific violations. Presently, state law defines staff of the Department of Public Safety (DPS) as for-cause employees.

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Presently, state law defines DPS staff as for-cause employees.

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The Department relies on a simple organizational structure where each of its primary functions — criminal law enforcement, traffic law enforcement, Texas Rangers, administrative functions, and driver's licensing functions — is headed by a Chief who reports directly to the agency's Director and Assistant Director. In addition, the Director's staff includes key management functions, such as Information Management, Accounting and Budget Control, Legal Services, Internal Affairs, and Media Relations.

The Sunset review assessed the enabling statute of the Department to determine whether it impedes the Director's ability to take employee action based on performance or the good of the organization. Specifically, staff examined the Director's ability to assemble a management team and whether specific restrictions on the assignment of key employees diminishes the Director's ability to effectively manage the Department's business processes.

## Findings

### ▼ **The statute currently restricts the Director's discretion in making personnel decisions.**

- ▶ State law establishes that DPS employees, both commissioned officers and civilians, work on a for-cause basis. Employees are subject to a defined chain of command and report directly to their immediate supervisor who initiates all personnel actions. Appeals of all personnel actions are handled through the chain of command and appeals of terminations can be made to the Public Safety Commission.

DPS employees either hold a rank or a position. To be promoted, an employee must typically apply for a specific vacancy, pass an examination, and be selected by a promotion board. If promoted, a newly acquired rank or position becomes permanent on the date of promotion.

- ▶ Key management staff, such as major division Chiefs, are appointed by the Director, subject to the Commission's approval. These employees are not promoted into the position and are not required to pass a test or be selected by a promotional board. However, similar to all other employees, these Chiefs have a property interest in their employment and can only be dismissed for-cause.

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The statute places a higher burden upon DPS than other agencies for standard personnel actions.

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- ▶ In addition to the for-cause status of the Department's employees, its enabling statute provides additional personnel guidelines for commissioned officers stating that they may not be discharged, suspended, or demoted by the Department except for the violation of a specific Commission rule.<sup>1</sup> This statutory language places a higher burden upon the Department for these standard personnel actions. This provision does not apply to non-commissioned staff, allowing Director discretion to demote or reassign.

### ▼ **The Director's ability to manage the Department is limited by the inability to assemble a management team.**

- ▶ The Director's ability to manage the Department is limited by statutory restrictions on fundamental personnel decisions, such as demotion or reassignment. For instance, commissioned

officers can only be dismissed or demoted because of specific and documented violations of Commission rules. The statute does not provide the Director any discretion in making personnel decisions that would be based on the performance of commissioned officers.

The inability to make personnel changes for reasons such as poor performance, may prevent the Department from moving quickly to address existing or potential management problems. For example, a newly-appointed Director is unable to change some key management staff to reflect a new management style or philosophy unless a position becomes vacant. In addition, the Director has no authority to select the Assistant Director because the statute charges the Public Safety Commission with the responsibility to appoint this position.

▼ **Other state agency executives generally have greater authority to make personnel decisions and assign key management staff.**

- ▶ State employees, generally, serve on an at-will basis.<sup>2</sup> With this basis for employment, a director of an agency can make personnel decisions based on employee performance or for the good of the organization. This allows directors to assemble staff, specifically management staff, that perform to their standards. In addition, authority to dismiss or reassign staff increases the level of employee accountability to the executive.
- ▶ The Texas Department of Mental Health and Mental Retardation (MHMR) is the only other state agency that has specific statutory provisions that define the basis of employment as for-cause. The Health and Human Service Code states that MHMR can only remove an officer, teacher, or employee of a department facility for good cause and with the Board's consent.<sup>3</sup> This provision applies the for-cause principle only to these employees. It does not apply for-cause status to other employees, such as deputy commissioners, the medical director, or facility superintendents. These employees serve at the pleasure of the agency head.

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The inability to make personnel changes for reasons such as poor performance, may prevent the Department from moving quickly to address existing or potential management problems.

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Selecting key management staff is essential to the proper management and ultimate success of an organization.

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Without the authority to appoint key management staff, the Director cannot be singularly held accountable for the performance of the Department.

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▼ **Providing greater authority for the Director to select key management staff could allow the Department to better address administrative needs and ensure greater accountability of the Director's position.**

- ▶ Selecting key management staff is essential to the proper management and ultimate success of an organization. The ability to assemble a management team increases a director's ability to change the direction of an agency when needed. For example, a Sunset staff review of state agencies that had effectively addressed past management difficulties found that the ability of directors to replace executive management teams was instrumental in improving agency performance. Specifically, the Department of Protective and Regulatory Services, which experienced management problems during the early 1990s, has, under the direction of new leadership, more effectively addressed its management shortcomings. The agency's Executive Director attributed authority to bring in a new management team as a primary reason for the agency's turnaround.<sup>4</sup>
- ▶ Vesting greater authority in the Director to control the make up of a key management team, would enhance employee accountability to the Director. In addition, the Commission and Legislature would be able to hold a single position, the Director, more directly responsible for the Department's performance.

### **Conclusion**

Most individuals who work for state government are at-will employees, serving at the pleasure of the director or policymaking body. However, some state employees, including those employed by DPS, are considered for-cause and any personnel action must occur based on a documented infraction or violation. While for-cause status allows greater job security, it also impedes the authority to make management changes to address poor performance or to change management direction or philosophy. Often, the first action taken to improve the performance of an agency is to install a capable management team that is compatible with the director's vision. Providing greater flexibility to appoint key management staff will allow the DPS Director to better manage the Department and enhance the accountability to, and of, the Director.

## Recommendation

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### Change in Statute

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- **Authorize the reassignment or demotion of key management staff at the Director's discretion.**
- **Require the Public Safety Commission to approve criteria used by the Director to appoint key management personnel.**
- **Authorize the Director to appoint an Assistant Director with the approval of the Public Safety Commission.**

This recommendation would not change the for-cause status of the Department's employees for purposes of dismissal. Rather, it would authorize the Director to demote or reassign management staff, commissioned and non-commissioned, without documenting a specific violation of a Commission rule. Specifically, these employees would be major division heads and those within the Director's own staff. The Director would be authorized to appoint an employee to a key management position under criteria determined by the Director and approved by the Commission. Requiring Commission approval of all criteria used by the Director to designate a key management position would establish proper oversight to ensure they are made for the good of the organization as a whole.

Additionally, the Director could take personnel action, such as demotion or reassignment, against employees in management positions based on the Director's discretion. An employee appointed to a key position, upon demotion or reassignment, would be assigned to an equivalent position or returned to the rank the employee held, or its equivalent, immediately before the appointment.

This authority would provide greater flexibility in assembling staff to manage the Department, but not allow the Director to take action in an arbitrary manner. Management staff would still have the ability to appeal any dismissal action to the Commission or take advantage of the Department's employee appeal process for other disciplinary actions. Additionally, any dismissed management employee would still have recourse through the judicial system.

This recommendation would also authorize the Director to appoint the Assistant Director subject to Commission approval. This would provide additional management flexibility for the Director.

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## Fiscal Impact

This recommendation would not have a fiscal impact to the State. The recommendation does not require or authorize additional positions and no added expenditures would be incurred by the Department.

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<sup>1</sup> Texas Gov't. Code Ann., Section 411.007(e).

<sup>2</sup> Op. Tex. Att'y. Gen., No. JM-941, 1988.

<sup>3</sup> Texas Health & Safety Code Ann., Section 551.022(d)(3).

<sup>4</sup> Interview with Jim Hine, Executive Director, Texas Department of Protective and Regulatory Service, Austin, Texas, September 30, 1998.

# Issue 5

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## Strengthen Oversight and Accountability of Seized and Forfeited Assets.



### Background

The Department of Public Safety (DPS) is the state agency responsible for collecting, managing, and disbursing assets seized by and forfeited to the State under the Texas Code of Criminal Procedure, and those received by the State by participating in the Federal Equitable Asset Sharing Program. The text box, *Federal Equitable Sharing Program for Federally Forfeited Assets*, provides more information on the federal program.

The State can receive seized and forfeited assets if they were used in violation of the Texas Penal Code, Texas Controlled Substance Act, or State Securities Act. Assets used in the violation of federal laws related to drug trafficking and money laundering may also accrue to the State. These assets — such as vehicles, land, currency, and stocks — can be seized by and forfeited to local, state, and federal law enforcement agencies. Federal forfeitures are generally allocated to local, state, and federal law enforcement entities based on the level of participation each entity had in the investigation. For state forfeitures, local and state law enforcement entities enter into sharing agreements that determine each party's share.

Within DPS, authority over the use of seized and forfeited assets, collectively known as seized assets, lies within the Director's Office. All purchase orders using seized assets must be signed by the Director or Assistant Director. However, since the primary reason for seizing and using these assets is for criminal programs or activities, responsibility for accounting and administering these state and federal seized assets has been split between the Accounting and Budget Section of the Director's Office and the Narcotics Section of the Criminal Law Enforcement Division. The expenditure of seized assets is limited to law enforcement purposes, such as the training of criminal investigators and the purchase of equipment and evidence. These expenditures must be an increase in the Department's budget and may not replace appropriated funds.

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The expenditure of seized assets is limited to law enforcement purposes.

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### FEDERAL EQUITABLE SHARING PROGRAM FOR FEDERALLY FORFEITED ASSETS<sup>1</sup>

**Purpose:** Law enforcement.

**Goal:** To deter criminal activity by depriving criminals of profits from illegal activities and to enhance cooperation among federal, state, and local law enforcement agencies through the equitable sharing of federal forfeiture proceeds.

**Federal Decision Makers:** Primary decision maker is the U.S. Attorney General who has discretionary authority to share forfeited assets. For deciding on each law enforcement entity's share in a federal forfeiture, the decision maker is the federal agency under whose authority the seizure took place. For example, if the seizure and forfeiture took place under the authority of the U.S. Department of Justice's Justice Forfeiture Program, the Justice Department acts as the decision maker and decides the proportionate share of all participants.

**Eligibility:** Any law enforcement agency that participates in investigation or prosecution resulting in forfeiture may request a share of the net proceeds.

**Types of Seized Assets:** Seized assets can be conveyances, such as vehicles, vessels, aircraft; real estate, such as land and any improvements; and tangible or intangible property, such as currency, investment securities, jewelry, or firearms.

**Sharing Percentage:** Share is usually based on the degree of direct participation by each law enforcement entity involved in the investigation that lead to the federal forfeiture.

**Permissible Uses of Shared Forfeiture Assets:** Activities that enhance future investigations, law enforcement training, law enforcement equipment and operations, detention facilities, drug education and awareness programs, pro rata funding (costs associated with multi-agency items), and asset accounting and tracking. Priority should be given to supporting community policing activities, training, and law enforcement operations that support future seizures and forfeitures.

**Impermissible Uses of Shared Forfeiture Assets:** Payment of salaries for existing positions, use of forfeited property by non-law enforcement personnel, payment of non-law enforcement expenses, uses not specified in the federal guidelines, use contrary to the laws of the state and local jurisdiction, non-official government use, and extravagant expenditures.

**Receipt and Use of Funds:** State and local law enforcement agencies receive federal forfeiture assets directly from the overseeing federal agency. Shared assets can be used by the receiving state and local entity without authorization from federal authorities.

**Other Key Program Restrictions and Requirements:** Shared assets must be spent on programs and activities that support law enforcement. Assets must be used to increase the resources of the receiving law enforcement agency and may not supplant or replace state or local funding for law enforcement purposes. Sharing monies should not be retained unnecessarily and should not remain unspent for more than two years. Anticipated shared property should not be budgeted before it is received.

In evaluating this DPS activity, Sunset staff assessed whether the State has the necessary oversight of seized assets to ensure accountability in how they are used. The staff looked at how seized assets are managed by the Department and whether the State could benefit from requiring additional controls over these types of public assets.

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Sunset staff assessed whether the State has the necessary oversight of seized assets to ensure accountability.

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## Findings

▼ **Asset forfeiture and seizure activities generate a significant amount of revenue.**

- ▶ In the last four fiscal years, DPS collected in excess of \$17 million in total revenue from seized and forfeited assets. Roughly half of these seized assets have been received by DPS from participation with federal agencies. All state and federal seized asset funds are maintained and tracked in separate accounts in the State Treasury. The table, *Seized Assets Collections*, shows the amount of revenue that has been generated from these programs and activities by DPS since fiscal year 1995.

| Seized Assets Collections |                    |                    |                    |                    |                     |
|---------------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| Source                    | 1995 <sup>2</sup>  | 1996 <sup>3</sup>  | 1997 <sup>4</sup>  | 1998 <sup>5</sup>  | Total               |
| Federal Forfeiture Funds  |                    |                    |                    |                    |                     |
| U.S. Dept of Justice      | 2,094,386          | 635,397            | 902,506            | 1,895,714          | 5,528,003           |
| U.S. Dept of Treasury     | 955,614            | 1,283,658          | 135,055            | 632,078            | 3,006,405           |
| U.S. Postal Service       | 0                  | 16,022             | 12,117             | 0                  | 28,139              |
| State Forfeiture Funds    | 1,645,406          | 1,664,307          | 1,789,736          | 3,521,066          | 8,620,515           |
| <b>TOTAL</b>              | <b>\$4,695,406</b> | <b>\$3,599,384</b> | <b>\$2,839,414</b> | <b>\$6,048,858</b> | <b>\$17,183,062</b> |

- ▶ Because factors affecting the amount of seized assets change from year-to-year, predicting the future amount of seized assets is difficult. However, based on the last four years of federal and state seizures, the average amount collected by the State is about \$4.3 million per year. Factors that generally affect future seizures and forfeitures relate to crimes that are subject to these actions, changes in state and federal laws that control these actions, and changes in the way these assets are shared among law enforcement agencies.

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While current processes do not provide the same level of oversight for seized assets as is required for other public funds, federal guidelines do provide this accountability.

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▼ **The current level of oversight of seized assets does not provide adequate accountability for how these funds are used.**

- ▶ Current processes do not provide the same level of oversight for seized assets as is required for other public funds. Both state and federal seized assets are managed and reported separately from all other DPS funds. Seized assets are not part of the agency's strategic planning and budgeting process or overseen by the Legislature's appropriation process. All decisions regarding use of seized assets are at the discretion of the agency's Director and Assistant Director. No input from the Legislature, the Public Safety Commission, or the public is required.
- ▶ Accounting separately for seized assets is appropriate and required in the case of federal seizures. However, discretionary spending authority by agency management without required approval or notice does not allow adequate oversight of how the Department uses these funds.

▼ **The lack of accountability for spending seized assets limits assurances that funds are spent in line with public goals.**

- ▶ Without adequate accountability, seized assets may not be used to address critical law enforcement needs, as identified in agency strategic planning documents. The lack of independent oversight increases the chance that the use of funds does not comply with state and federal fund disbursement requirements. In addition, the failure to consider the use of seized assets within broader public policy decisions can adversely affect the quality of decisions being made. Similar concerns were raised by the State Auditor's Office in its review of the Department's seized assets completed in August 1997.<sup>6</sup>
- ▶ Federal guidelines on state management of federal forfeiture assets envision the same level of accountability as is provided by the State to other public assets. For example, the federal program participation agreement requires that both the law enforcement agency and its governing body be involved in managing federal seized assets. Federal guidelines define governing body as an institution with the ultimate power to

determine its own policies and control its law, including the power to tax and to appropriate public money.<sup>7</sup> Despite these federal guidelines, DPS is currently participating in the federal program as both the law enforcement agency and governing body. For the Department to serve this dual role dilutes the level of oversight and budgetary accountability intended in federal guidelines.

▼ **Accountability would be improved by treating seized assets more like all other public funds entrusted to state agencies.**

- ▶ The State Auditor’s Office recommended that DPS plan and budget for seized assets within the state level strategic planning and budgeting process. The State Auditor’s report noted that many federal funds that have similar federal compliance requirements already go through the State’s regular appropriation process.<sup>8</sup> For example, federal funds with similar spending and budgeting or appropriation restrictions — such as a requirement not to supplant or replace regular funding or a requirement for funds to be used for specific purposes — are also available to the Texas Youth Commission and Texas Department of Criminal Justice for the construction of facilities for violent offenders. Both agencies plan and budget for these federal funds as they do for other state appropriated funds, allowing for legislative and public involvement.<sup>9</sup>
- ▶ Whether the Legislature, under federal requirements, can directly appropriate seized asset funds is subject to debate. However, Sunset staff identified other steps that could be taken to increase oversight of how DPS spends these funds, as detailed in the recommendation.
- ▶ Overseeing the spending of seized assets would improve decision making on the use of these funds. More oversight would also reduce the risk of being out of compliance with federal requirements prohibiting the use of these funds for inappropriate expenditures.<sup>10</sup>

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Strengthening  
oversight of seized  
assets would improve  
decision making  
regarding the use of  
these funds.

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## Conclusion

Forfeited and seized assets generate a significant amount of revenue for the Department and the State. Because the planned and actual use of seized assets by DPS is not required to be approved by the Public Safety Commission or reported to the Legislature, the State does not have adequate oversight and control of these public assets. This creates the risk for the possible misuse of limited state law enforcement resources.

## Recommendation

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### Change in Statute

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- **Require the Public Safety Commission to approve all Department seized asset expenditures and adopt, by rule, an approval process.**

This recommendation would require the Public Safety Commission to approve all expenditures of Department seized assets. In addition, the Commission would have to adopt rules specifying the approval process for the use of seized assets. Specifically, in approving the use of seized assets, the Commission would ensure that the intended or requested use of these seized assets supports or is consistent with the critical law enforcement needs and priorities of the Department, as identified in the Department's strategic plan. Use of seized assets for law enforcement purposes that are not considered a priority in either the Department's strategic plan or in applicable state and federal laws must be clearly explained and justified.

- **Require the Department to annually report to the Legislature on its expenditures and planned future uses of seized assets as follows:**
  - **regarding receipts — the court that adjudicated a seized asset case and the nature and value of the assets;**
  - **regarding disbursements — the departmental control number and category, the division making the request, the specific item and amount requested, the amount the Commission approved, and the actual amount expended per item; and**
  - **regarding planned disbursements — a description of the broad categories of anticipated disbursements and how they relate to the Department's strategic plan and priorities in applicable state and federal laws.**

The requirement to annually report on the expenditure of these assets would reflect an existing appropriations rider requiring reporting on the disbursement of seized assets. Specifically, the Department should file the plan with the Governor's Office and the

Legislative Budget Board, no later than October 1 of each year, and disclose information that summarizes planned disbursements, receipts, and fund balances for the fiscal year for both federal and state sources.

The Department should file a supplemental report if the planned use or actual expenditure of seized assets deviates from the information presented in the annual report. The current practice of authorizing use of all seized assets within the Department by the Director or Assistant Director should continue to comply with the federal agreement.

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## Fiscal Impact

This recommendation would not have a fiscal impact to the State. The Department is already required by appropriations rider to report to the Legislature regarding the use of seized assets.

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<sup>1</sup> U.S. Department of Justice, *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies*, Washington, D.C., March 1998; U.S. Department of Treasury, *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies*, Washington, D.C., October 1996.

<sup>2</sup> Department of Public Safety, Narcotics Service, *Seized Asset Report, FY 1995*.

<sup>3</sup> *Ibid.*, for fiscal year 1996.

<sup>4</sup> *Ibid.*, for fiscal year 1997.

<sup>5</sup> *Ibid.*, for fiscal year 1998.

<sup>6</sup> U.S. Department of Justice, *A Guide to Equitable Sharing of Federally Forfeited Property for State and Local Law Enforcement Agencies*, Washington, D.C., March 1998; U.S. Department of Treasury, *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies*, Washington, D.C., October 1996.

<sup>7</sup> U.S. Department of Treasury, *Guide to Equitable Sharing*, (Washington, D.C., October 1996), Appendix C.

<sup>8</sup> *Ibid.*, p. 35-36

<sup>9</sup> Interview with Bill Parr, Budget Analyst, Legislative Budget Board, Austin, Texas, October 15, 1998.

<sup>10</sup> U.S. Department of Justice, *A Guide to Equitable Sharing*, (Washington, D.C., March 1994), p. 12.



## Issue 6

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### Authorize the Department to Conduct Driver's License Transactions Electronically.



#### Background

Electronic commerce, the paperless exchange of information, is transforming the way both the private and public sectors do business. Increased productivity and efficiency as well as the minimal impact on state and federal resources make electronic commerce options, such as electronic funds transfer and Internet commerce, all the more attractive. Electronic commerce can help agencies, like the Department of Public Safety (DPS), provide a multitude of services to the general population on a daily basis.

The Department administers the State's driver's licensing services. Applying for an original driver's license or identification card requires a visit to one of about 240 drivers license offices in the state where an application, proof of identity, fingerprints, and fee payment must be provided. Driver's license applicants must also show proof of liability insurance and pass a driver's test. In fiscal year 1997, the Department issued about 683,000 original driver's licenses and 410,000 original identification cards.

A license renewal requires a visit to a drivers license office, unless the renewal transaction is completed through the mail. To renew a driver's license, the driver provides proof of liability insurance and pays a fee. In fiscal year 1997, more than 3.3 million driver's licenses and approximately 164,000 identification cards were renewed. The total number of persons licensed in the state is about 13 million.

To conduct license transactions, the Department employs civilian technicians and examiners. Technicians are responsible for processing driver data; verifying and evaluating documents, such as birth certificates, insurance and social security cards; collecting fees; photographing; thumb printing; and reviewing eye and driver's license tests. The examiners primarily administer road tests and represent the Department during administrative hearings by providing expert testimony on driver records and histories.

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In fiscal year 1997,  
more than 3.3 million  
driver's licenses were  
renewed.

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Sunset staff sought ways to help DPS provide licensing services more quickly and efficiently.

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Because of the volume of driver's license transactions, Sunset staff sought ways to help the Department provide these services more quickly and efficiently. The review focused on ways to improve license services to Texans without requiring additional resources.

## Findings

### ▼ **The current processing of driver's license transactions is labor and resource intensive.**

- ▶ The Driver License Division relies heavily on personnel to provide services to driver's license and identification card applicants. Full-time employees working in the Division comprise 24 percent of the total employees at DPS. As the State's population grows, the demand for licenses increases. The Department has responded to that growth by adding personnel to field offices. Since 1988, DPS has added 225 full-time employees, doubling the number of personnel in drivers license offices.<sup>1</sup>

The Department has also added a renewal by mail program for drivers with a safe driving record. Despite the introduction of the mail option, most drivers still renew their driver's licenses in person. In fiscal year 1997, DPS invited approximately 1.7 million drivers to renew by mail and received a 35 percent response rate. The program does not include identification card renewals.

Despite more staff and the mail option, a 1998 time study by the Department determined that many drivers license offices still had significant delays.<sup>2</sup> In response to this situation, the Department has recently requested an additional 118 driver's license technicians and 64 examiners, at an estimated cost for the biennium of about \$6 million.<sup>3</sup> The Department hopes the additional personnel will rectify customer dissatisfaction with applicant waiting time in drivers license offices.

- ▶ In addition to personnel, the Department has continued to build, add, or renovate drivers license offices. In the past 10 years, 10 new buildings and 12 additions or renovations were completed. Currently, nine more buildings are under construction. Eight new facilities and 11 additions or renovations are planned for completion by the year 2000. In

total, these capital improvements will cost more than \$28.5 million.

▼ **The Department lacks specific statutory authority to engage in electronic commerce for driver's license purposes.**

- ▶ Although the Department is allowed to renew driver's licenses by mail, the statute does not expressly allow DPS to conduct driver's license transactions by telephone or the Internet. The statute also requires applicants for original and renewal driver's licenses to provide physical evidence of financial responsibility, which is another barrier to implementing electronic commerce.
- ▶ In addition to statutory impediments, DPS would need to resolve issues regarding acceptance of credit card payments and surcharges for driver's license renewal transactions. While state law permits agencies to accept credit card payments and to impose a surcharge to cover the cost of credit card transactions, the Department has not pursued this as an option due to the current statutory limitations on engaging in electronic commerce for driver's licenses.

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The statute does not expressly allow DPS to conduct driver's license transactions by telephone or the Internet.

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▼ **Texas agencies, including DPS, have moved to electronic commerce to become more efficient and meet demands for computerized services.**

- ▶ The State Strategic Plan for Information Resources Management, prepared by the Department of Information Resources, sets out the State's goal to apply innovative technology to perform an agency's business functions and to improve the delivery of needed services and information. This goal was supported by the Electronic Commerce Taskforce, created by the Legislature in 1997 with staff support from the General Services Commission and several other state agencies and universities. The taskforce studied the feasibility of agency procurement on the Internet as part of the State's strategy for electronic commerce. The taskforce concluded that an electronic marketplace was feasible, and it is currently looking to implement the necessary infrastructure.

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The Legislature has recognized the benefits of electronic commerce and enacted several provisions promoting its use.

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- While a number of agencies have engaged in the electronic transfer of funds for such activities as collecting taxes and fees, agencies are increasingly looking to the telephone and Internet for conducting more of their business. DPS, for example, currently accepts credit card payment over the Internet for criminal history checks. The Texas Public Utility Commission and the Texas Department of Transportation also accept credit card payments through the Internet. In total, 16 state agencies currently accept credit card payment for services conducted either in person or by telephone.
- The Legislature has recognized the benefits of electronic commerce by authorizing state agencies to use technology to achieve greater efficiency in government services and operations. In 1997, the Legislature enacted several provisions promoting electronic commerce in state operations, including the authorization of digital signatures, the approval of electronic travel vouchers, and establishment of state agency e-mail.

▼ **Several states have begun to use electronic commerce to provide licensing and registration services.**

- A Sunset staff survey found 10 states — Arizona, Alaska, Florida, Illinois, Indiana, Maryland, Massachusetts, New Mexico, Virginia, and Wisconsin — that use an automated phone system or Internet commerce to allow either driver's license or motor vehicle registration renewal. Although electronic commerce has been mostly used for motor vehicle registration renewals, Florida, Illinois, and Virginia have implemented an automated phone system for driver's license renewals. Of the 10 states listed above, most are ready to diversify their electronic services for driver's license renewal.
- The Illinois Driver Services Department has created a Safe Driver Renewal program to allow drivers to complete the renewal process by telephone. Drivers in good standing can renew their driver's license through an automated phone system with the use of a credit card. In about one week, drivers receive renewal stickers to place on their driver's licenses.
- New Mexico has engaged in electronic commerce in its Motor Vehicle Division. New Mexico does not require proof of

liability insurance, but does require drivers to have insurance. This law has allowed the New Mexico Motor Vehicle Division to provide Internet and phone transactions.

▼ **Electronic commerce would allow the Department to improve service delivery while saving money.**

- ▶ As the population of Texas grows, DPS needs to meet the challenge of providing additional services to Texas citizens. As a measure of efficiency for taxpayers, the Department needs to emphasize, develop, and support customer service systems designed to prevent or postpone additional expenditures on personnel and buildings. Specifically, given the authority to conduct electronic commerce for license transactions and information requests, the Department may reduce its need for more positions and facilities.
- ▶ The ability to electronically conduct license matters would improve customer service by eliminating the need to visit a drivers license office, thereby reducing the inconvenience currently experienced by Texas drivers. Providing services by telephone or over the Internet would allow Texans to take care of licensing requirements any time of the day or night.

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Electronic means  
would allow Texans to  
take care of licensing  
requirements any  
time of day or night.

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## Conclusion

The Department of Public Safety's existing process for issuing and renewing driver's licenses is labor and resource intensive and does not allow the use of technology. As a result, the Department continues to seek additional personnel to try to address customer concerns about long wait times in drivers license offices. The Department has not implemented electronic means to address this situation, such as conducting business by telephone or on the Internet, because it lacks the specific authority. However, the trend in state government is to develop and implement electronic commerce as a more efficient way of conducting the State's business and as a convenience to citizens. The Department, itself, uses electronic commerce for transactions regarding criminal history information. Enabling electronic commerce for driver's license transactions would allow the Department to consider solutions that serve a greater number of people and prevent or postpone increased expenditure of State funds.

## Recommendation

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### Change in Statute

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- **Authorize the Department to conduct driver's license and identification card transactions by phone, Internet, or other electronic means.**
- **Authorize the Department to accept credit or debit card payment in person, by mail or phone, and over the Internet.**
- **Remove the requirement for evidence of financial responsibility for driver's license renewal transactions.**
- **Authorize the Department to include identification card renewals in the renewal by mail program.**
- **Authorize the Public Safety Commission, through rule, to:**
  - **set a fee for the use of credit cards; and**
  - **set eligibility standards to use the phone or Internet for license transactions.**

This recommendation would provide the Department of Public Safety with more flexibility to engage in electronic commerce. DPS would not be required to change its current system of licensing, but would no longer be limited by statute to continue its labor and resource intensive licensing system. If it chooses, DPS would have the ability to use the phone and Internet and accept credit and debit card payment to meet the licensing needs of a growing population. Specific transactions that DPS could conduct electronically include driver's license renewals, identification card renewals, changes of addresses, and requests for information. This recommendation would also authorize the expansion of the renewal by mail program to include identification card renewals.

The requirement to review evidence of financial responsibility for driver's license renewals would be eliminated by this recommendation. This would allow the agency to use electronic commerce more easily without having to establish a mechanism to check proof of insurance. An annual check on proof of insurance is already required by the Texas Department of Transportation for vehicle registration and at inspection stations for an annual vehicle inspection. Further, with the transition from the four-year to the six-year license, the significance of checking for proof of insurance in driver's license transactions has been diminished. Eliminating this requirement in the interest of faster and easier service would not significantly jeopardize the State's financial responsibility requirement for drivers. However, like mail renewal, the Department would decide who would be eligible to use the phone or Internet to conduct license transactions.

The Department should consider implementing electronic commerce in phases. DPS should first study the available options for establishing and implementing electronic commerce for licensing purposes. Based on the results of the study, DPS may want to consider pilot programs for electronic services on a limited basis, before implementing a statewide program.

Several state agencies use a variety of methods to pay for electronic commerce and credit card transactions that DPS could use as models. One method is to absorb the costs associated with credit card transactions, making up the difference in the long run with reduced personnel and buildings for driver's license functions. Another method would be to contract with a third party, as DPS did with Internet criminal history requests. Due to credit card and information security concerns, many states have contracted with the private sector — where a demonstrated expertise in the area of credit card and database security already exists — to handle their electronic commerce programs.

However DPS decides to pay for electronic commerce, the Department should work with the Comptroller's Office. This office has coordinated agency efforts to provide electronic processing of credit cards, including over the Internet, and has worked out a contract with credit card service providers to obtain low-cost, credit card transactions.

This recommendation also authorizes the Commission, through rule, to require the payment of a service charge for a credit card payment in addition to the license renewal fee. This authority is consistent with past legislative action concerning credit card transactions by state agencies.

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## Fiscal Impact

This recommendation would result in additional costs to the Department to implement the computer and telephone systems required for electronic commerce. However, this cost would be offset by long-term savings. Conducting a greater number of driver's license and identification card transactions through electronic means could significantly reduce the Department's long-term need for additional personnel or facilities. A precise fiscal impact could not be determined for this report.

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<sup>1</sup> For the purposes of this report, Sunset staff did not include 165 replacement personnel in this number.

<sup>2</sup> Department of Public Safety, Driver License Division, *Driver License Customer Waiting Time Survey*, Austin, Tex., August 4, 1998. (interoffice memorandum)

<sup>3</sup> Department of Public Safety, *Legislative Appropriation Request for Fiscal Years 2000 and 2001*, (Austin, Tex., August 14, 1998), pp. 251 - 2.



# Issue 7

## Improve the Enforcement of Commercial Vehicle Laws through Greater Use of Non-Commissioned Staff.



### Background

The Department of Public Safety is the State's lead agency in enforcing federal and state commercial motor carrier safety laws and regulations, known as the Motor Carrier Safety Assistance Program. These laws regulate the size and weight of vehicles, vehicle safety, commercial driver licensing, vehicle registration, and the shipment of hazardous materials. These regulations are designed to protect the traveling public by ensuring the safe operating condition of commercial motor vehicles and their drivers on the State's highways. The Department has been involved with the Motor Carrier Safety Assistance Program since 1989. The text box, *Commercial Motor Vehicle Terms*, provides definitions used throughout this discussion.

The Department ensures compliance with motor carrier safety regulations through two sections of the Traffic Law Enforcement Division: the Motor Carrier Bureau and the License and Weight Service. The Bureau supports the Service by maintaining information on motor carrier activities, such as accident records and complaints. The Bureau also ensures compliance with regulations by conducting on-site compliance review audits, using License and Weight troopers, to check the records, operations, and policies of motor carriers. These audits generally include checks for policies on alcohol and drug testing, driver qualifications, driver log hours, and vehicle inspection, repair, and maintenance. Audits may result in enforcement actions including the issuance of administrative penalties.

The License and Weight Service enforces regulations in the field through the use of troopers stationed throughout the state. The Service enforces license and weight standards at border crossings, through highway patrols, and through weigh and inspection stations located on major highway corridors. When conducting safety inspections, troopers may check both the driver and vehicle for compliance using inspection levels that range from a full inspection, requiring up to one hour to complete, to a more limited inspection that includes a specific examination of a particular item or standard. In addition, similar to the Highway Patrol, License and Weight troopers can

#### Commercial Motor Vehicle Terms

##### *Motor Carrier*

- Individual, association, or corporation that controls or operates transport vehicles for people or cargo.

##### *Commercial Motor Vehicle*

- A cargo-carrying motor vehicle weighing more than 26,000 pounds;
- A vehicle designed to transport more than 15 passengers; or
- A vehicle used to transport hazardous materials under the federal Hazardous Materials Transportation Act.

issue citations to the general public, including seatbelt and speeding violations.

The Sunset staff examined the Department's role as the lead agency in traffic enforcement of commercial vehicles to see if its operations are adequate to handle the increased growth of commercial motor vehicle traffic. Specifically, the review focused on the ability of the License and Weight Service and the Motor Carrier Bureau to maximize the use of staff resources in carrying out its duties. The staff also evaluated the adequacy of existing enforcement tools.

## Findings

### ▼ **Increased commercial vehicle traffic requires greater enforcement to ensure compliance with motor carrier safety and weight regulations.**

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In 1997 alone, 486 people died in accidents involving commercial vehicles in Texas.

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- ▶ While commercial vehicles are driven by professional drivers, the large size and weight of trucks make them difficult to maneuver in traffic and to avoid accidents, often endangering the traveling public's safety. Recently, the combination of more trucks and a growing population has had a deadly result — the number of fatal accidents involving commercial vehicles has ranked the state first in the nation in 1996 and 1997. In 1997 alone, 486 people died in accidents involving commercial vehicles in Texas.<sup>1</sup>
- ▶ The State spends a greater amount of tax dollars each year to repair damage that overweight vehicles cause to highways and bridges. Since 1987, state budgets for the maintenance of the highway system have increased \$310 million or 71 percent.<sup>2</sup> An estimated 35 percent of highway repair costs result from truck-related damage.<sup>3</sup> For example, a legally operating 80,000 pound commercial truck, the maximum legal federal and state weight limit, can cause the same amount of pavement damage as 9,600 passenger vehicles.<sup>4</sup> Illegally operating overweight trucks can cause even greater damage because most roadways are not engineered to withstand such heavy loads. Enforcement of state weight laws is essential to preventing greater damage from occurring.
- ▶ The recent passage of the North American Free Trade Agreement (NAFTA), along with the continued expansion of

the Texas economy, has resulted in a dramatic increase in commercial motor vehicle traffic in the state. More truck traffic places tremendous stress on state law enforcement and infrastructure resources, while also having an impact on the safety of the traveling public. The increase in commercial vehicle traffic due to NAFTA can be represented in several ways and is summarized in the following material.

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Texas has the highest volume of truck traffic in the nation based on vehicle miles traveled.

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Texas has the highest volume of truck traffic in the nation based on vehicle miles traveled. In 1996, trucks traveled more than 16 billion miles, or an increase of 19 percent since 1993.<sup>5</sup> In addition, Texas has more than 32,000 intrastate motor carriers and more than 795,000 total commercial motor vehicles, both intrastate and interstate.<sup>6</sup>

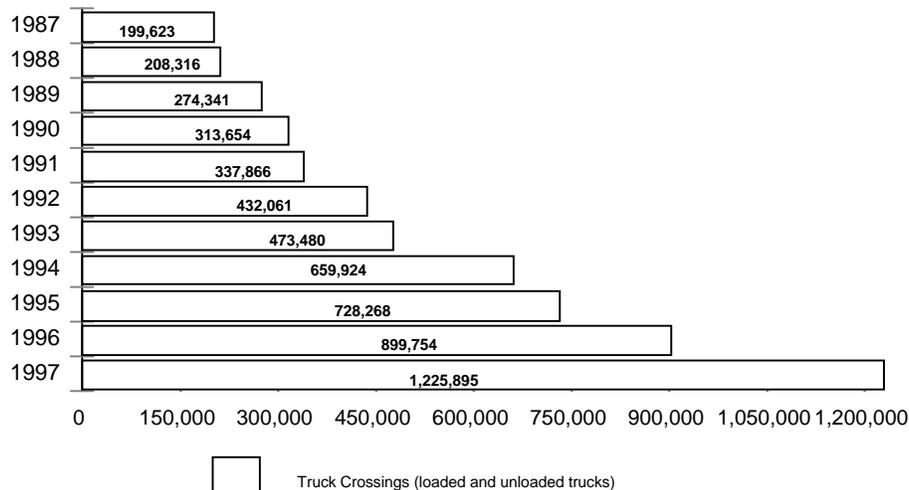
Commercial motor vehicles crossing the Texas border with Mexico carry more than 75 percent of the total trade value between the U.S. and Mexico, and their numbers have increased 266 percent between fiscal years 1987 and 1997.<sup>7</sup> At Laredo alone, the number of border crossings this year by northbound trucks is more than six times greater than in 1987—an increase of more than 1 million trucks per year. This increase in commercial traffic has made Laredo the busiest port-of-entry between the U.S. and Mexico. The graph, *Northbound Border Crossings Through Laredo — Fiscal Years 1987 to 1997*, summarizes this trend.<sup>8</sup>

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Trucks crossing the Texas border with Mexico carry more than 75 percent of the total trade value between the U.S. and Mexico.

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**Northbound Border Crossings Through Laredo  
Fiscal Years 1987 to 1997**



U.S. Customs estimates that more than 2 million trucks will cross through Laredo by 2010 — almost doubling the number that crossed in 1997.<sup>9</sup> Since most U.S.-Mexico trade is dependent on trucks to transport goods, the increase in commercial truck traffic will have a continuing impact on traffic enforcement, Texans' safety, and the state's transportation infrastructure.

▼ **The Department has not strategically used its limited staff resources to meet increased motor carrier responsibilities.**

- ▶ Limited staff resources restrict the Department's ability to complete an adequate number of compliance review audits. Only 46 License and Weight troopers are responsible for compliance audits of more than 32,000 motor carrier operations. In fiscal year 1998, these troopers were only able to audit 2 percent of the intrastate motor carriers in Texas.

| <b>Motor Carrier and License and Weight Statistics<br/>Fiscal Years 1996 to 1998</b> |                                  |                         |                                   |   |                                     |                                      |
|--|----------------------------------|-------------------------|-----------------------------------|---|-------------------------------------|--------------------------------------|
| <b>Fiscal Year</b>   | <b>Intrastate Motor Carriers</b> | <b>Audits Performed</b> | <b>Troopers Conducting Audits</b> | <b>Registered Commercial Motor Vehicles</b> | <b>Safety Inspections Performed</b> | <b>License &amp; Weight Troopers</b> |
| 1996   | 30,871                           | 211                     | 26                                | 756,520                                     | 88,789                              | 216                                  |
| 1997   | 27,556                           | 449                     | 46                                | 767,306                                     | 105,474                             | 318                                  |
| 1998   | 32,585                           | 630                     | 46                                | 795,159                                     | 91,000*                             | 321                                  |

\* Estimated total.

The table, *Motor Carrier and License and Weight Statistics — Fiscal Years 1996 to 1998*, shows the trends in compliance reviews conducted and enforcement actions taken since fiscal year 1996 compared to the growth in the number of commercial vehicles and available staff.<sup>10</sup>

- ▶ The Department solely uses commissioned License and Weight officers to conduct both motor carrier compliance audits and commercial vehicle safety inspections. Troopers must complete their academy training, additional classroom courses, and one year of on-the-job training with a certified trooper before becoming certified to conduct safety inspections. Additional training and certification is required to perform compliance review audits.

Due to the level of specialized training commissioned officers receive, they are the most expensive employees for DPS to use in meeting its assigned duties. All troopers commissioned by DPS must complete the 26-week trooper school conducted by the Department. While in training, trooper candidates receive a salary equivalent to approximately \$21,000 per year.

In addition, upon being commissioned, a trooper is assigned a pursuit vehicle, uniform, dry cleaning allowance, personal firearm, and other equipment. The initial cost of this equipment is approximately \$44,000 with annual operating costs of \$6,000.<sup>11</sup> While this extensive training is essential to meet the requirements of a commissioned peace officer, it is not necessary to conduct audits of motor carriers or inspections of commercial motor vehicles.

- Due in part to the high cost of commissioned positions, the Legislature has been unable to fund the requested number of positions to sufficiently staff the Department’s motor carrier responsibilities. As a result, the growth in staff resources has been limited when compared to the overall growth in commercial vehicle responsibilities. The Department has had difficulty in adequately staffing weigh stations located throughout the state. Of the 40 fixed-scale stations, only 10 are required to operate 40 hours per week, two of which are operated in conjunction with ports-of-entry at the Mexico border.<sup>12</sup> The other stations’ operation depend on the availability of troopers, traffic volume, and emphasis placed on a station by individual supervisors. Currently, the Department has 321 License and Weight troopers to conduct vehicle and driver safety inspections.

The Department has had difficulty in adequately staffing weigh stations located throughout the state.

- To address the increasing responsibilities associated with commercial motor vehicle traffic, DPS has routinely requested additional positions and funding for commissioned troopers from the Legislature. The table, *Legislative Appropriation Requests for License and Weight Troopers*, summarizes the Department’s past three appropriation requests for additional troopers for its license and weight programs.<sup>13</sup>

| Legislative Appropriation Requests for License and Weight Troopers |           |                  |
|--|-----------|------------------|
| Biennium   | Requested | Received         |
| 1996-1997  | 175       | 85               |
| 1998-1999  | 127       | 5                |
| 2000-2001  | 68        | NA <sup>14</sup> |

While state law currently requires that safety inspections be performed by commissioned personnel, federal law does not. Also, neither state nor federal laws require commissioned personnel to perform compliance review audits. However, the Department has never requested civilian positions to perform these audits and has not sought a change in law to allow them to conduct safety inspections. Federal regulations only require agencies to have the legal authority, resources, and qualified personnel to enforce motor carrier safety regulations.

▼ **The federal government and other states use non-commissioned staff to conduct motor carrier compliance review audits and safety inspections.**

- ▶ In Texas, the U.S. Department of Transportation (DOT) uses civilian truck inspectors at various international border checkpoint facilities to conduct truck safety inspections. DOT initiated this program two years ago as a result of increased commercial traffic due to NAFTA.<sup>15</sup> DOT also uses civilian employees to conduct compliance reviews in Texas on interstate carriers. These inspections and audits are identical to those conducted by License and Weight troopers.
- ▶ Among the 10 most populous states, five — California, New York, Illinois, Ohio, and Michigan — use civilians to conduct both compliance review audits and truck safety inspections.<sup>16</sup> In addition, New Jersey uses civilians to conduct audits on commercial buses while Pennsylvania uses civilians to perform truck safety inspections.

California, which ranks second to Texas in the number of commercial motor vehicle border crossings, uses civilians to conduct both audits and inspections.<sup>17</sup> Commissioned officers supervise civilian inspection activities. Audits occur primarily at a terminal or at a motor carrier's principle place of business, and inspections occur at weigh stations. California officials have identified cost savings as a benefit of using civilians without compromising public safety.

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The Legislature has required DPS to reduce the use of commissioned officers to perform regulatory or licensure functions.

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▼ **The Legislature has previously required the Department to make better use of existing resources by using non-commissioned staff to perform similar functions.**

- ▶ Within the last decade, the Legislature has required DPS to reduce the use of commissioned officers to perform regulatory or licensure functions in both the Vehicle Inspection and Driver License Services.

Vehicle Inspection certifies garages as inspection stations and trains and certifies inspectors. Non-commissioned staff conduct compliance audits and inspections of stations by examining records, checking equipment and inspected vehicles, and observing station operations. These audits and

inspections, while not as extensive, are similar to audits of motor carriers and inspections of trucks and their drivers. Between 1991 and 1998, the number of commissioned officers in Vehicle Inspection decreased from 119 to 20 positions.<sup>18</sup>

The Driver License Division is responsible for licensing safe drivers and taking improvement action on unsafe drivers. In 1991, Driver License had 388 commissioned officers, whose primary responsibility was to determine an applicant's eligibility for a license by conducting a driving test.<sup>19</sup> As of June 1998, Driver License had 123 commissioned officers, who were primarily assigned to assist driver license personnel with the apprehension of wanted individuals.<sup>20</sup>

- Using non-commissioned staff instead of commissioned officers has resulted in annual cost savings to the Department of \$13,350 for each position in Vehicle Inspection and \$21,000 for each position in Driver License. The total savings after five years resulting from both changes are estimated at \$21.3 million.

▼ **The greater use of non-commissioned staff could allow the Department to more efficiently perform expanded motor carrier functions.**

- The Department could reduce costs by using non-commissioned staff to conduct compliance reviews and perform safety inspections. The Department would not incur the costs associated with the 26-week training academy or the additional operating and salary costs associated with a commissioned position. These civilians could be supervised by commissioned officers who would be present during safety inspections.
- The use of non-commissioned staff to conduct compliance review audits could allow the Department to reassign more License and Weight troopers to patrol the highways. The visible presence of more troopers on the highway has a direct enforcement and public safety benefit that extends beyond the regulation of commercial motor vehicles by controlling speed and ensuring the safe operation of all vehicles. The Department could also better target the efforts of its commissioned officers on important law enforcement

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The Department could reduce costs by using non-commissioned staff to conduct compliance reviews and perform safety inspections.

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The Department's reliance upon commissioned troopers to conduct regulatory functions such as audits and inspections is not the best use for those positions.

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activities, such as citing speeding commercial motor vehicles or stemming the flow of illegal narcotics carried by trucks. In addition, the civilian staff, adequately trained in conducting inspections of commercial motor vehicles, would be better able to conduct an intensified level of inspection at ports-of-entry, improve processing time for inspection reports, or expand the operating hours of weigh stations.

## Conclusion

The Department is responsible for ensuring the traveling public's safety and protecting the State's transportation infrastructure. A primary way that DPS accomplishes this is by enforcing commercial motor vehicle safety regulations. However, because of limited staff resources, the Department currently faces a difficult challenge of regulating an increasing volume of commercial motor vehicle traffic on the State's highways. While the Department has requested additional commissioned personnel and resources to meet this challenge, it has not adequately assessed its ability to accomplish its commercial motor vehicle responsibilities in the most efficient manner. The Department's reliance upon commissioned troopers to conduct regulatory functions, such as audits and inspections, is not the best use of those positions. Instead, using trained non-commissioned staff to conduct motor carrier audits and inspections would reduce costs while allowing the Department to reassign troopers to maintain a higher law enforcement presence on the State's highways.

## Recommendation

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### Change in Statute

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- **Require the Department to use non-commissioned staff to conduct routine compliance review audits of motor carrier operations.**
- **Authorize non-commissioned staff to perform truck safety inspections at weigh stations and border checkpoints.**

This recommendation would require the Department to use non-commissioned staff to conduct routine compliance review audits and extends existing statutory authority for non-commissioned staff to enter a motor carrier's place of business to also include conducting safety inspections. The use of non-commissioned staff in other states and at the federal level demonstrates civilians can successfully perform these functions without jeopardizing the public's safety. The Department could still use commissioned staff to conduct audits in special circumstances, such as when a motor carrier who refuses to allow the Department to enter their property or access records.

The Department should hire qualified applicants with a commercial motor vehicle background and ensure that they have received training in truck safety inspections or audits that is the same as training given to commissioned officers. In addition, the certification process for a civilian conducting these inspections and audits would remain the same. The Department should ensure that civilian inspectors are supervised by commissioned troopers. Any required enforcement action issued against a motor carrier would be issued by a commissioned officer. The recommendation does not provide non-commissioned staff any peace officer authority.

This recommendation will not reduce the number of authorized commissioned positions within the Department, although some commissioned positions could be reassigned from the Motor Carrier Bureau to the License and Weight Service. In addition, as vacancies occur within the License and Weight Service, the Department should fully consider filling the positions with non-commissioned staff. This recommendation does not prevent the use of commissioned officers to conduct safety inspections.

## Management Action

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- **The Department should report, along with their legislative appropriations requests, a hiring schedule for non-commissioned staff within the License and Weight Service.**

The Department should detail a hiring schedule of non-commissioned staff within the License and Weight Service in its legislative appropriations requests. Providing additional information, such as a staffing ratio for commissioned to non-commissioned staff, that can be considered alongside the Department's budget request, will allow State budget writers an opportunity to assess DPS' compliance with this recommendation. In addition, the information should detail the Department's plan to phase in the use of non-commissioned staff. The phasing in of non-commissioned staff could occur over several years and mirror the approach taken to use non-commissioned driver license and motor vehicle inspection personnel. The Department should continue to report, on a biennial basis, the number of civilians trained, the number of civilians actually performing compliance review audits and safety inspections, and the number of License and Weight troopers reassigned to other tasks. To allow the Department adequate time to hire and train non-commissioned License and Weight staff, DPS should submit this information with its next legislative appropriations request and implementation should coincide with the fiscal year 2002-2003 biennium.

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## Fiscal Impact

This recommendation will have a long-term positive impact on the State Highway Fund. While greater staffing efficiencies can be anticipated, the total fiscal impact cannot be determined at this time. This recommendation would not change current authorized commissioned positions. Requiring the use of non-commissioned staff to fulfill regulatory responsibilities currently staffed by commissioned officers will reduce salary, training, and equipment costs. The total current cost to train and equip a new trooper for license and weight duty is \$112,000. The cost to similarly train and equip a civilian would be only \$45,000.<sup>21</sup>

Currently, on average, the Department's costs are more than \$39 per hour for the activity of a License and Weight trooper. This hourly cost, when recalculated using non-commissioned staff, drops to \$19.16 per hour, or a 51 percent savings.<sup>22</sup> Additionally, the Department would not incur the additional training and equipment costs. While future commercial motor vehicle enforcement activity and Department staffing cannot be predicted, the use of non-commissioned staff would be expected to have significant cost savings.

Better enforcement of license and weight requirements would also result in long-term savings to the State Highway Fund by reducing the need for costly highway maintenance to repair damage from illegally-operating overweight vehicles.

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- <sup>1</sup> Department of Public Safety, "Persons Killed or Injured: Accidents Involving a Commercial Motor Vehicle," 1997.
  - <sup>2</sup> Interview with Jefferson Grimes, Texas Department of Transportation, Austin, Tex., October 1998.
  - <sup>3</sup> Texas Comptroller of Public Accounts, "Paving the Way", *Fiscal Notes*, (Austin, Tex., May 1998) p. 7
  - <sup>4</sup> Interview with Jefferson Grimes, Texas Department of Transportation, Austin, Tex., October 1998.
  - <sup>5</sup> Texas Department of Transportation, "Truck Mileage Increase of 19 Percent," October 23, 1998.
  - <sup>6</sup> Interview with Monte Chamberlin, Motor Carrier Division, Texas Department of Transportation, Austin, Tex., September 28, 1998.
  - <sup>7</sup> U.S. Customs Service, Cargo Administration Office, "Port of Laredo Monthly Traffic Statistics, 1993 - 1995," Laredo, Tex., October 1998; U.S. Customs Strategic Research Group, Dallas, Tex., information provided by the Texas Department of Transportation, October 1998; U.S. Department of Transportation, Bureau of Transportation Statistics, "Incoming Truck Crossings, U.S.- Mex. Border, 1997" Online. Available: [http://www.bts.gov/programs/itt/cross/trk\\_mex.html](http://www.bts.gov/programs/itt/cross/trk_mex.html), Accessed: October 19, 1998; Department of Public Safety, "Effectiveness of Motor Carrier Enforcement on the Mexican Border," Austin, Tex., October 1998.
  - <sup>8</sup> Ibid.
  - <sup>9</sup> Texas Comptroller of Public Accounts, *Bordering the Future*, Online. Available: <http://www.window.state.tx.us/border/ch06/ch06.html>, Accessed: September 8, 1998.
  - <sup>10</sup> Information provided by the Department of Public Safety, October 1998, and the Texas Department of Transportation, September 1998.
  - <sup>11</sup> Department of Public Safety, License and Weight Service, "Cost per Trooper," October 1998.
  - <sup>12</sup> Ibid.
  - <sup>13</sup> Department of Public Safety, *Legislative Appropriations Request for Fiscal Years 2000 and 2001*, (Austin, Tex., August 14, 1998), p. 311.
  - <sup>14</sup> Number of troopers appropriated is not determined at this time.
  - <sup>15</sup> Telephone interview with Charles Neismeth, Office Of Motor Carriers, Federal Highway Administration, Dallas, Texas, September 1998.
  - <sup>16</sup> Telephone interviews with several State Program Managers in the Office of Motor Carrier in Federal Highway Administration regional offices: Merritt Sergeant -Region 1, Kevin Burk- Region3, Darren Jones - Region 5, and Eric Ice - Region 9, September 1998
  - <sup>17</sup> Telephone interview with Debbie Vertar and Greg Alvarez, California Highway Patrol, September 1998.
  - <sup>18</sup> Texas Comptroller of Public Accounts, *Breaking the Mold*, vol. II, part II, July 1991, pp. 38-39, 42-43.
  - <sup>19</sup> Ibid.
  - <sup>20</sup> Information provided by the Department of Public Safety, June 1998.
  - <sup>21</sup> Sunset calculation based analysis of information provided by House Appropriations Committee, October 1998.
  - <sup>22</sup> Sunset calculation based on analysis of information provided by the Department of Public Safety, November 1998.



## Issue 8

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### Formalize Planning Efforts Between the Department and the Texas Department of Transportation to Ensure Proper Enforcement of Truck Safety Laws.



#### Background

Over the past decade, the state has seen tremendous growth in the number of commercial motor vehicles traveling on Texas highways. The contributing factors to this growth include the growing state population and economy and the North American Free Trade Agreement (NAFTA), which has made Texas a major gateway for trade between the U.S. and Mexico.

The Department of Public Safety's (DPS) License and Weight Service is responsible for enforcing traffic laws and standards on commercial motor vehicles, such as:

- restrictions on size and weight;
- safety of vehicles and drivers;
- validity of vehicle registration, insurance, and fuel permits; and
- safe transport of hazardous materials.

License and Weight troopers inspect trucks to ensure that they operate safely and do not exceed size and weight limits, thus reducing the risk of traffic accidents and highway damage. To regulate the increased flow of commercial traffic, the Service concentrates its enforcement efforts at checkpoints on the Mexican border and at weigh stations on major traffic corridors. Troopers also patrol the State's highways and can perform roadside inspections using portable inspection equipment.

The Texas Department of Transportation (TxDOT) ensures that the State's highways are durable and safe. The agency develops transportation infrastructure projects, oversees their construction, and maintains 77,000 miles of existing highways and 33,000 bridges statewide.<sup>1</sup> The agency also studies ways to improve traffic safety, registers commercial vehicles, and issues permits for vehicles to exceed standard size and weight limits.

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DPS is responsible for regulating commercial motor carriers and vehicles.

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TxDOT ensures that the State's highways are durable and safe.

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In its review, Sunset staff examined the Department's efforts to deal with increasing truck traffic and the adequacy of existing supporting facilities. The staff focused on the Department's ability to provide effective traffic enforcement statewide, specifically within the border region. The staff also focused on efforts to improve coordination between DPS and TxDOT to address issues related to both transportation infrastructure and traffic law enforcement.

## Findings

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The State's ability to effectively enforce commercial motor vehicle regulations has become increasingly difficult due to the large increase in truck traffic.

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▼ **Weight and inspection facilities are essential to enforcing commercial motor carrier regulations and protecting the State's transportation infrastructure.**

- ▶ The Department currently operates a total of 40 weigh stations statewide, staffed by commissioned DPS troopers, that assist in the enforcement of safety and weight regulations for commercial motor vehicles. In fiscal year 1998, a total of 321 troopers and 48 supervisors comprised the staff resources available to the Department to perform this responsibility.

The State's ability to effectively enforce commercial motor vehicle regulations has become increasingly difficult due to the large increase in truck traffic. While the Department uses various enforcement approaches, including conducting roadside inspections, weighing and inspection vehicles at fixed-site facilities is essential to its efforts. The table, *DPS Inspection Activity — 1997*, summarizes the total number of trucks inspected by inspection level at fixed sites compared to other methods. The table shows that fixed-site facilities are central to the Department's ability to inspect, specifically when performing intensive Level One inspections, which provide the highest level of public safety by ensuring both the vehicle and driver are in compliance with applicable regulations. Other inspection levels are less intensive and may only require a check of the vehicle, driver, or records.

| DPS Inspection Activity — 1997 <sup>2</sup> |               |               |               |            |                |
|---|---------------|---------------|---------------|------------|----------------|
|   | Level 1       | Level 2       | Level 3       | Level 4    | Total          |
| Fixed Site                                  | 17,549        | 18,425        | 8,546         | 38         | 44,558         |
| Other                                       | 5,896         | 47,372        | 27,084        | 943        | 81,295         |
| <b>TOTAL</b>                                | <b>23,445</b> | <b>65,797</b> | <b>35,630</b> | <b>981</b> | <b>125,853</b> |

- ▶ State weight and inspection facilities are designed, constructed, and funded by TxDOT with state highway funds. Since 1994, \$9.2 million has been spent for the construction or upgrade of 10 weigh stations, most of which have been designated as NAFTA weigh stations by the Department.<sup>3</sup> These facilities

are located on major highway corridors throughout the state and are designed to have state-of-the-art equipment, such as weigh-in-motion scales and trenches for inspecting underneath trucks.

The construction of these facilities is in response to the increasing volume of truck traffic in Texas. Statewide, 10 facilities are designated as NAFTA weigh stations located on the state’s heaviest traffic corridors. NAFTA stations have longer operating hours than the other 30 facilities in an attempt to increase the visibility of enforcement efforts and gain greater voluntary compliance with weight and safety regulations. The table, *Texas NAFTA Weigh Stations*, summarizes the location and corridor of these facilities.<sup>4</sup>

| Texas NAFTA Weigh Stations             |                                |
|--|--------------------------------|
| Location                               | Corridor                       |
| San Marcos in Hays Co.                 | Interstate 35; north and south |
| Riviera in Kleberg Co.                 | US 77                          |
| Queen City in Cass Co.                 | US 59; north                   |
| El Paso                                | Loop 375; east and west        |
| Devine in Medina Co.                   | Interstate 35; north and south |
| Mount Pleasant in Titus Co.            | Interstate 30; east and west   |
| Penwell in Ector Co.                   | Interstate 20; east and west   |
| Alamo in Hidalgo Co.                   | US 83; east                    |
| Falfurrias in Brooks Co.               | US 281; south                  |
| Huntsville in Walker Co.*              | Interstate 45; north           |
| *Anticipated completion in March 1999. |                                |

- The increasing number of trucks has caused damage to the State’s transportation infrastructure, raising maintenance costs. While highways are built to last about 20 to 30 years, TxDOT often must rebuild highways in less time due to the growth in traffic, but more commonly because of the increase in the weight of trucks.<sup>5</sup> Many of these repairs are to the interstate highway system which is the most costly — up to \$5,600 a year for one lane mile.<sup>6</sup> TxDOT budgets for these repairs through routine and preventive maintenance funds. From 1987 to 1997, these maintenance costs increased \$310 million, or 71 percent. In total, the State spent \$746 million last year for road maintenance.<sup>7</sup>

Trucks cause more damage to roads due to their larger size and heavier weight compared to passenger vehicles. Damage increases as the weight of a truck increases. Specifically, a truck weighing 84,000 pounds will damage a road five times faster than a truck with a legal weight of 80,000 pounds.<sup>8</sup>

- The State’s ability to provide effective enforcement of weight and safety regulations for trucks will be even more difficult in the future. For instance, the volume of trucks on the State’s highways could increase more rapidly if, under NAFTA, Mexican trucks are allowed to drive farther into the state.

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The increasing number of trucks has caused damage to the State’s transportation infrastructure, raising maintenance costs.

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Currently, Mexican trucks are limited by the federal government to operating up to five miles beyond border city limits. The U.S. has postponed lifting the limits indefinitely until officials are assured that Mexican trucks will be operated safely.

▼ **Existing state facilities used in the enforcement of commercial motor carrier weight and safety regulations are inadequate.**

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The facilities that DPS relies upon to weigh and inspect commercial motor vehicles do not adequately meet its needs.

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- ▶ The facilities that DPS relies upon to weigh and inspect commercial motor vehicles do not adequately meet its needs. Many of the State's facilities were designed to only weigh trucks and do not incorporate sufficient space to safely conduct truck inspections. Consequently, a typical weigh station on a major traffic corridor may only have room for a few trucks to be inspected or removed from service.

- ▶ Several of the newly constructed or remodeled NAFTA stations fail to fully meet the Department's enforcement needs. For example, the facility located on Highway 59, near Atlanta, does not have a trench for inspecting underneath commercial vehicles and is located on an easily-circumvented stretch of highway. A second facility, located near Devine on Interstate 35 — a major trade corridor with Mexico — has parking space for only three vehicles, often requiring the Department to choose between only weighing vehicles or periodically closing the facility to prevent truck traffic waiting to be inspected from backing up onto the highway.<sup>9</sup>

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The State has no weight or inspection facilities located at the international border crossing with Mexico and must rely on U.S. Customs facilities.

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- ▶ Additionally, the State has no weight or inspection facilities located at the international border crossings with Mexico. Instead, the Department must rely on existing facilities operated by U.S. Customs. Since Customs usually needs all of its available space and DPS is only a guest at the checkpoints, the Department can only conduct inspections of trucks when Customs provides space. As a result, in fiscal year 1997, DPS was able to only inspect a small portion — just 0.2 percent — of Mexican trucks coming into Texas. The table, *Major Ports-of-Entry on the Texas-Mexico Border*, illustrates the small number of vehicles weighed and inspected by DPS compared to the larger number of truck crossings.<sup>10</sup>

| Major Ports-of-Entry on the Texas-Mexico Border |  |           |                        |       |                          |       |
|---|--|-----------|------------------------|-------|--------------------------|-------|
| Port-of-Entry                                   | Northbound Truck Crossings <sup>11</sup> |           | Total Vehicles Weighed |       | Total Vehicles Inspected |       |
|   | 1996                                     | 1997      | 1996                   | 1997  | 1996                     | 1997  |
| Laredo <sup>12</sup>                            | 1,015,905                                | 1,251,365 | 1,930                  | 153   | 1,801                    | 771   |
| Hidalgo/Pharr                                   | 186,569                                  | 234,800   | 161                    | 214   | 651                      | 1,145 |
| El Paso <sup>13</sup>                           | 556,134                                  | 582,707   | 138                    | 185   | 857                      | 2,404 |
| Brownsville                                     | 226,430                                  | 247,578   | 1,164                  | 1,375 | 1,566                    | 1,014 |
| <b>TOTAL</b>                                    | 1,985,038                                | 2,316,450 | 3,393                  | 1,927 | 4,875                    | 5,334 |

▼ **No formal state-level coordination exists to address facility needs for commercial motor carrier regulation.**

- The Department of Public Safety and the Texas Department of Transportation are the State’s main transportation-related agencies — TxDOT plans, builds, and maintains highways, while DPS ensures the public’s safety on highways by enforcing traffic laws. Despite this relationship, DPS has not played a significant role in the planning of TxDOT projects that directly affect DPS operations. While the two agencies have agreed in the past to build and upgrade weigh stations to address increasing commercial vehicle traffic, these projects did not fully provide for DPS’ operational and enforcement needs.

For example, the statutorily-mandated Statewide Transportation Plan — developed by TxDOT in 1994 with the assistance of other state and local agencies, private companies, and public interest groups — addresses transportation issues and needs well into the next century. While the plan includes a strategy to re-engineer border-clearance procedures and relocate border-related processing activities, DPS was not involved in the plan’s development.

- Careful planning of weight and inspection facilities is essential to ensuring that they are an effective enforcement tool and adequately support the State’s interest in protecting the highway system and the public’s safety. For instance, the NAFTA facility near Atlanta in East Texas, which cost \$1.1 million to construct, is located where trucks can easily avoid being weighed or inspected, reducing its enforcement effectiveness. Better planning for the facility’s location would

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DPS has not played a significant role in the planning of TxDOT projects that directly affect their operations.

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Careful planning of weight and inspection facilities is essential to ensure they are an effective enforcement tool.

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A lack of coordination and planning between DPS and TxDOT could result in missed opportunities to receive federal funds for transportation projects.

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have ensured the proper investment of limited state highway funds.

- A lack of coordination and planning between DPS and TxDOT could result in missed opportunities to receive federal funds for transportation projects that benefit both agencies. For example, as of October 1998, no formal meeting between TxDOT and DPS has taken place to develop a joint application for the first year of federal funding through the Transportation Equity Act for the 21st Century, known as TEA-21. The application deadline for the first year of TEA-21 funding is January 1999.

Specifically, TEA-21 includes \$700 million in discretionary federal highway funds through the National Corridor Planning and Development and Coordinated Border Infrastructure Programs, which will be distributed over a five-year period to all NAFTA-affected states. These funds are earmarked to improve the safe movement of people and goods across the border and to plan and construct traffic corridors that facilitate growth and trade.

▼ **Strengthening coordination between DPS and TxDOT could improve the State's response to the public safety and infrastructure needs created by increasing truck traffic.**

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Coordinated planning efforts for weight and inspections facilities could improve their effectiveness in reducing road damage and ensuring the public's safety.

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- Coordinated planning efforts for weight and inspections facilities could improve their effectiveness in reducing road damage and ensuring the public's safety. For example, while TxDOT may be most interested in developing and constructing facilities that can weigh large numbers of commercial vehicles quickly, the benefits to the State increase when facilities are designed and built in a manner that also meets DPS' inspection responsibilities.
- Formal planning for commercial motor vehicle enforcement facility needs would allow the Legislature and the Transportation Commission to fully assess and prioritize these facilities among other funding needs. Without planning, the State risks being unable to adequately support DPS enforcement efforts regarding increasing truck traffic.

- D A coordinated response to increasing truck traffic could improve the chances of receiving federal funds, such as TEA-21 funds, for projects that affect both DPS and TxDOT. Federal and state agency officials have indicated that Texas could be more successful in receiving these funds with a coordinated plan showing the State's priorities and level of support among affected agencies.<sup>14</sup>

## Conclusion

Both DPS and TxDOT must deal with the effects of more commercial motor vehicles on the State's roadways — in terms of enforcing traffic laws and building and maintaining the transportation infrastructure. TxDOT's highway projects often have a direct impact on DPS' operations. Failure to coordinate strategies compounds infrastructure and traffic enforcement problems and hurts the State's chances of receiving federal funds for needed infrastructure improvements. Requiring more formal coordination between DPS and TxDOT would be beneficial in assessing long-term enforcement and infrastructure needs and in determining the best use of available federal funds.

## Recommendation

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### Change in Statute

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- **Require the Public Safety Commission and the Transportation Commission to formalize, through an interagency agreement, a planning process when developing transportation infrastructure projects that affect both agencies. The agreement should:**
  - allow DPS to provide ongoing input to TxDOT on statewide transportation planning efforts that affect traffic law enforcement;
  - require DPS and TxDOT to define their respective roles relating to transportation infrastructure efforts; and
  - require a jointly developed statewide plan for how best to apply for and use federal funds to address infrastructure needs that affect enforcement efforts.
- **Require DPS and TxDOT to develop and implement the interagency agreement by January 1, 2000, periodically review the interagency agreement, and formally adopt all revisions to the agreement.**
- **Require DPS to develop a long-term infrastructure needs assessment for the enforcement of commercial motor vehicle regulations.**

This recommendation would improve planning through a formalized interagency agreement for transportation infrastructure projects that affect both DPS and TxDOT. A formal process would improve the communication and coordination between DPS and TxDOT and provide a platform to resolve competing interests, integrate ideas, and find common solutions.

This recommendation would give DPS the chance to provide its expertise to TxDOT's highway building and maintenance projects that potentially affect DPS' operations and enforcement abilities. This recommendation also allows both agencies to jointly determine those areas of the state in need of greater commercial motor vehicle enforcement, such as near the border.

A statewide plan would be developed on how best to apply for and use federal funds to address the infrastructure and traffic law enforcement needs of Texas. The plan's purpose is to ensure that the State is maximizing its federal transportation dollars by including both affected agencies, DPS and TxDOT. The interagency agreement should be completed to meet the second year deadline for applying for TEA-21's Border Infrastructure Program and Corridor Planning and Development Program and other future funding opportunities.

The recommendation would require the Department to develop a long-term needs assessment for the enforcement of commercial motor vehicle regulation. The assessment should include, but not be limited to, the following items:

- inventory of current facilities, including types of scales, structures, space, and other equipment;
- enforcement activity, including trend information, at fixed-site facilities, including number of trucks weighed and inspected and enforcement actions taken;
- staffing levels and operating hours for each facility; and
- needed infrastructure improvements, associated costs, and projected increase in activity that would result.

The report should be submitted on a biennial basis to the legislative appropriation committees and Transportation Commission, beginning in fiscal year 2000. The report should be completed in conjunction with the Department's legislative appropriations request.

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## **Fiscal Impact**

No fiscal impact is anticipated from the implementation of this recommendation. Both DPS and TxDOT could incorporate the recommended actions in the course of their usual planning responsibilities.

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- <sup>1</sup> Texas Comptroller of Public Accounts, "Thunder Roads", *Fiscal Notes*, (Austin, Tex., May 1998), p. 7
- <sup>2</sup> Department of Public Safety, License and Weight Service, "1997 Inspection Activities" (Austin, Tex., 1997).
- <sup>3</sup> Texas Department of Transportation, "DPS Weigh Stations Program Status," March 21, 1997.
- <sup>4</sup> Department of Public Safety, License and Weight Service, October 1998.
- <sup>5</sup> Information provided by Doug Mink, Texas Department of Transportation, November 1998.
- <sup>6</sup> *Fiscal Notes*, p. 9
- <sup>7</sup> Information provided by the Texas Department of Transportation, October 1998.
- <sup>8</sup> Texas Comptroller of Public Accounts, *Bordering the Future*, Online. Available: <http://www.window.state.tx.us/border/ch06/ch06.html>, Available: September 8, 1998.
- <sup>9</sup> Information provided by the Department of Public Safety, November 1998.
- <sup>10</sup> Information provided by the Department of Public Safety, October 1998.
- <sup>11</sup> Includes loaded and unloaded trucks.
- <sup>12</sup> Combines the data of both Laredo ports-of-entry.
- <sup>13</sup> Includes the Bridge of the Americas, the Zaragosa/Ysleta Bridge and two weigh stations operating nearby.
- <sup>14</sup> Telephone interviews with Rob Draper, Office of Motor Carriers, Federal Highway Administration, Washington, D.C., September 1998 and David Soileau, Texas Department of Transportation, Austin, TX, September 1998.



## Issue 9

### Continue the Department of Public Safety for Six Years.



#### Background

To enforce the State's laws protecting public safety, the Legislature created the Department of Public Safety (DPS) in 1935 by merging the Highway Patrol and the Texas Rangers. The original mission of the Department — prevention and detection of crime, enforcement of criminal and traffic laws, apprehension of violators, and public safety education — has remained relatively unchanged. However, the Legislature has added many functions and programs to DPS' responsibilities, broadening its role from law enforcement to include information and emergency management, licensing programs, and regulatory activities.

To accomplish its mission and accommodate new program responsibilities, the Department has organized its operations through five major divisions: Traffic Law Enforcement, Criminal Law Enforcement, Rangers, Driver License, and Administration. In addition, the Director's staff houses many essential functions such as information management, accounting and budgetary control, human resources, and legal services. The organizational structure reflects the many significant changes, both organizationally and programmatically, that DPS has experienced since its creation.

Beyond administering state-level programs and activities, the Department also supports local law enforcement agencies throughout the state. For example, DPS assists in difficult investigations and maintains databases of criminal history information, driving records, and warrant information for local police departments and sheriff's offices. In addition, DPS operates a communications system statewide that helps link city, county, state, and federal law enforcement as well as fire and emergency personnel. The Governor has designated the Department as the lead coordinator of preparedness and recovery operations in times of disasters.

In a Sunset review, continuation of an agency and its functions depends on certain conditions being met, as required by the Sunset Act. First, a current and continuing need should exist for the state to provide the functions. In addition, the functions should not duplicate those currently provided by any other agency. Finally, the potential benefits of maintaining a separate agency

The Department's original mission — prevention and detection of crime, enforcement of criminal and traffic laws, apprehension of violators, and public safety education — has remained relatively unchanged.

Beyond administering state-level programs and activities, the Department also supports local law enforcement agencies.

must outweigh any advantages of transferring the Department's functions or services to another agency. The evaluation of the need to continue DPS and its functions led to the following findings.

## Findings

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Only a state-level organization can coordinate the law enforcement and public safety activities that cross jurisdictional boundaries.

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▼ **The function of the Department of Public Safety — to coordinate statewide law enforcement and public safety activities — continues to be needed.**

- ▶ The Department has four main functions — traffic law enforcement, criminal law enforcement, disaster emergency management, and license regulation — that support public safety in the state. While many of these functions are duplicated by cities and counties, only a statewide organization can coordinate the law enforcement and public safety activities that cross jurisdictional boundaries.
- ▶ DPS' enforcement of traffic law on rural highways contributes to statewide public safety and continues to be important. In 1997, DPS' Highway Patrol troopers made 940,000 arrests and investigated 64,000 accidents on Texas roadways.

The need for the Department's efforts to ensure the safe operation of commercial motor vehicles is evident. Texas has become the nation's leader in fatal accidents involving commercial vehicles and truck traffic has increased due to the North American Free Trade Agreement. DPS enforces commercial driver's license laws, highway weight and vehicle safety laws, and traffic laws on commercial vehicles through both its Highway Patrol and License and Weight Services. In 1997, among other enforcement efforts, DPS License and Weight troopers conducted 126,000 roadside inspections that resulted in placing 31,000 commercial vehicles out of service for serious safety violations.

- ▶ The Department's efforts to control criminal activities by assisting local law enforcement agencies continues to be needed to protect public safety. Although Texas' overall crime rate has decreased in nine of the past 10 years, the rate of violent crimes — such as murder, rape, robbery, and aggravated assault — has increased 8.4 percent.<sup>1</sup> The table, *Texas Crime Rate by Offense*, summarizes the number of crimes per 100,000

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Although Texas' overall crime rate has decreased in nine of the past 10 years, the rate of violent crimes — such as murder, rape, robbery, and aggravated assault — has increased 8.4 percent.

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persons in Texas for violent and property crimes in 1997.

An agency with statewide jurisdiction is essential to plan and coordinate effective responses to crime and to provide technical assistance. For example, the Department coordinates drug trafficking enforcement by participating in multi-agency drug enforcement task forces, such as the High Intensity Drug Trafficking Area effort in South and West Texas and the Houston area. DPS also assists local law enforcement agencies by providing crime records information, statewide telecommunications, training for criminal investigators, crime laboratory services, and by directly assisting in high profile or difficult investigations. The Department has two units — Texas Rangers and the Special Crimes Service — specifically dedicated to assisting local investigators. In fiscal year 1997, the Rangers assisted in 4,001 investigations and Special Crimes investigators assisted in 2,830 investigations.

| Texas Crime Rate by Offense |                      |           |
|-----------------------------|----------------------|-----------|
| Offense Type                | Offense              | 1997 Rate |
| Violent Crime               | Murder               | 6.8       |
|                             | Rape                 | 41.2      |
|                             | Robbery              | 157.0     |
|                             | Aggravated Assault   | 397.3     |
|                             | Violent Crime Total  | 602.3     |
| Property Crime              | Burglary             | 1,033.8   |
|                             | Theft                | 3,319.0   |
|                             | Motor Vehicle Theft  | 523.1     |
|                             | Property Crime Total | 4,875.9   |

- D The Department’s Division of Emergency Management reduces the State’s vulnerability to damage, injury, and loss of life or property from natural and man-made disasters by coordinating local efforts. In 1997, the Division responded to 13 major disasters, such as the Jarrell tornado and central Texas floods; and 2,300 incidents, such as flash floods, tornadoes, and airplane crashes. While the Division works closely with local officials and emergency managers to establish response plans specific to area needs, local governments do not have the perspective to coordinate the statewide or regional effort that many disasters require.
  
- D Licensing functions performed by DPS, such as driver’s license issuance and control and regulation of the concealed handgun program, continue to be needed functions that require performance by a state agency. In 1997, the Department issued 5.6 million driver’s licenses and 60,000 concealed handgun permits. Because licensing functions require a single agency to keep records and establish standards, a state agency is needed to perform these functions.

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Local governments do not have the perspective to coordinate the statewide or regional effort that many disasters require.

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Each state has recognized that ensuring public safety is an essential and appropriate state-level function.

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While responsibilities of the Department have become more diverse, the majority of the Department's efforts remain law enforcement in nature and are unique from other state agencies.

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▼ **While organizational structures may vary, all states and the federal government use an agency similar to DPS to coordinate public safety functions.**

- ▶ Each state has recognized that ensuring public safety is an essential and appropriate state-level function. While some states have established separate agencies, or combinations of agencies, to provide public safety and law enforcement programs, all states oversee these functions on a statewide level.

Specifically, while DPS' jurisdiction on rural state highways duplicates the jurisdiction of county sheriff's offices, the Department's statewide enforcement actions actually support and complement local efforts. Additionally, cities, counties, and other local governments are ill-prepared to assume responsibilities for the criminal law enforcement programs administered by DPS. While these entities are fully capable of serving local needs in their jurisdiction, they do not have the resources or the expertise to serve larger, statewide needs. Were the Department to cease rural traffic control or criminal law enforcement efforts, counties and localities would be forced to greatly expand their funding of law enforcement.

- ▶ The federal government has also seen fit to provide national coordination of law enforcement through the Federal Bureau of Investigation (FBI). The FBI functions similarly to DPS in many ways — the FBI provides training to local peace officers, crime lab services, and advanced investigatory services. The FBI also steps in to handle or coordinate major cases that cross jurisdictional boundaries in the same way that DPS does.

▼ **No substantial benefits or savings would result from transferring the Department's functions to another agency.**

- ▶ While responsibilities of the Department have become more diverse in recent years, the majority of the Department's efforts remain law enforcement in nature and are unique from other state agencies. The State's other law enforcement agencies, the Texas Alcoholic Beverage Commission and the Parks and Wildlife Department, also train and commission peace officers to enforce state laws. However, both agencies provide fewer functions and are much smaller than DPS. Few savings could

be achieved by transferring the Department's traffic and criminal law enforcement programs.

- D The Sunset staff review examined the Texas Department of Transportation (TxDOT) for the possibility of consolidating certain functions of DPS. These two agencies share several common purposes and programs — before creation of DPS, the Legislature had assigned Highway Patrol functions to TxDOT. In many states, such as California, DPS' function of issuing driver's licenses and TxDOT's function of registering motor vehicles are consolidated in a department of motor vehicles. The staff review considered the degree of coordination between the two agencies in this area and concluded that the drivers license function has a significant public safety component that justifies its placement within DPS.
- D The Division of Emergency Management (DEM) is assigned to DPS through an Executive Order issued by the Governor. Although the Governor may remove this order at any time, the Sunset staff review concluded that DEM is properly placed within DPS because of the resources that the agency can bring to bear during emergencies, such as the Highway Patrol. The Executive Order ensures that DEM coordinates its efforts with other state and local agencies and volunteer groups by placing these groups on DEM's advisory council.
- D Several state agencies house licensing programs similar to driver's and concealed handgun licensing programs. Two state agencies, the Commission on Law Enforcement Officer Standards and Education and the Board of Private Investigators and Private Security Agencies, issue licenses for public safety reasons. However, neither agency would be prepared to take over a function as large as the drivers license program. Additionally, because the maturing of the handgun licensing program is causing a reduction in the number of new licenses issued, few savings could be realized by transferring administration of this program. No other licensing agency with similar functions to DPS could be found.

The essential public safety elements of DPS' major licensing functions also merit performance of these functions through a state agency and not by a private business. Although elements of a licensing function — such as production of the licenses

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Few savings could be  
 achieved by  
 transferring the  
 Department's traffic  
 and criminal law  
 enforcement  
 programs.

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themselves or processing of paperwork — may be privatized, the granting of licenses to drive or carry concealed handguns have large public safety implications. While the Department and other states have contracted with private companies to produce driver's licenses, no state has completely privatized a driver's licensing function.

▼ **A re-examination of the Department in six years is needed.**

- ▶ The Department is in a period of uncertainty as a result of concerns that may require additional time to address. These concerns — including questions about the Department's computer systems and interest in the way the Department has administered its programs — have contributed to expanded oversight of DPS activities. This includes legislatively-required special reviews of the Department by the State Auditor, Sunset Commission, and the Quality Assurance Team.
- ▶ The State Auditor, in a report released in August 1998, recommended a number of management changes to improve the Department as well as a complete assessment of its business practices. The Auditor recommended this re-engineering effort to be initiated by September 1, 1999 so that implementation of needed changes could be made by the 77th Legislature.
- ▶ A shorter Sunset review period is needed to fully assess the Department's response to the changes imposed by legislatively-required reviews, including Sunset's. A six-year period would allow the Legislature to ensure that the Department has taken requested action and effectively addressed legislative concerns. This would also place the agency back in its normal Sunset review cycle when other state regulatory and law enforcement agencies will be reviewed, such as the Texas Alcoholic Beverage Commission.

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A shorter Sunset review period is needed to fully assess the Department's response to the changes imposed by legislatively-required reviews, including Sunset's.

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## Conclusion

Public safety is a high priority for Texas. The functions performed by the Department of Public Safety are essential to ensuring the public safety of Texas citizens and are appropriately placed in a state agency. As long as the Department is responsible for statewide public safety programs, such as traffic enforcement on state rural highways, concealed handgun regulation, criminal records maintenance, emergency preparedness and response, and local law

enforcement agency assistance, a state agency is needed to coordinate and support local governments. Although some functions could be transferred to other agencies, consolidating the Department with another state agency would not likely increase benefits to the State or significantly reduce costs.

Recent management problems in the Department have brought a high level of legislative attention. Because of the need for the Department to address these management concerns, a shorter than normal Sunset date would ensure that the Legislature is able to examine the Department's efforts to solve its problems.

## Recommendation

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### Change in Statute

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#### ■ Continue the Department of Public Safety for six years.

This recommendation would continue the functions of DPS for six years, putting it back on schedule with its original Sunset date — September 1, 2005. This shorter review time frame would allow the State to monitor the Department's progress in addressing legislative concerns and to revisit any concerns that may remain unresolved.

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## Fiscal Impact

If the Legislature continues the functions of the Department of Public Safety with the current organizational structure and duties, the Department's annual appropriation of approximately \$305 million would continue to be required for the operation of its functions.

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<sup>1</sup> Department of Public Safety, *Crime in Texas 1997*, (Austin, Tex., 1997) p. 14.

<sup>2</sup> Office of the State Auditor, *Management Controls at the Department of Public Safety*, Report No. 98-056, (Austin, Tex., August 1998), p. 7.

<sup>3</sup> Tex. H.B. 1, 75th Leg., R.S. (1997); Art. IX, Sec. 188, *Year 2000 Conversion*, Department of Information Resources, *Going Forward: Biennial Report on Information Resources Management*, (Austin, Tex., November 1996), p. 3.



# **ACROSS-THE-BOARD RECOMMENDATIONS**

| <b>Department of Public Safety</b> |   |
|------------------------------------|---|
| <b>Recommendations</b>             | <b>Across-the-Board Provisions</b>  |
|                                    | <b>A. GENERAL</b>   |
| Already in Statute                 | 1. Require at least one-third public membership on state agency policymaking bodies.  |
| Already in Statute                 | 2. Require specific provisions relating to conflicts of interest.   |
| Already in Statute                 | 3. Require that appointment to the policymaking body be made without regard to the appointee's race, color, disability, sex, religion, age, or national origin. |
| Already in Statute                 | 4. Provide for the Governor to designate the presiding officer of a state agency's policymaking body.   |
| Update                             | 5. Specify grounds for removal of a member of the policymaking body.  |
| Update                             | 6. Require that information on standards of conduct be provided to members of policymaking bodies and agency employees.   |
| Apply                              | 7. Require training for members of policymaking bodies.   |
| Already in Statute                 | 8. Require the agency's policymaking body to develop and implement policies that clearly separate the functions of the policymaking body and the agency staff.  |
| Already in Statute                 | 9. Provide for public testimony at meetings of the policymaking body.   |
| Update                             | 10. Require information to be maintained on complaints.   |
| Already in Statute                 | 11. Require development of an equal employment opportunity policy.  |



# **BACKGROUND**

# Background

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## AGENCY HISTORY

Law enforcement in Texas began in 1823 when Stephen F. Austin hired 10 men to protect the colonists. Later, these men became known as the Texas Rangers, the first law enforcement organization with statewide jurisdiction in North America. By the late 1920s, increasing truck and automobile traffic on Texas roads damaged highways and bridges, endangering the public's safety. As a way to enforce vehicle laws and highway regulations, the State Highway Patrol was created under the Texas Highway Department. Recognizing that both crime prevention and traffic control were essential to public safety, the Legislature created the Department of Public Safety (DPS) in 1935 by transferring the Texas Highway Patrol from the State Highway Department and the Texas Ranger Force from the Adjutant General. Although much has changed since its creation, the mission of the Department — to enforce the laws protecting public safety and provide for the prevention and detection of crime — has essentially remained the same.

In its history, DPS has undergone significant organizational changes in both its field and central operations. In 1957, the Legislature commissioned a study by the Texas Research League to examine the organizational structure of DPS. The study recommended establishing a regional system to coordinate the agency's operations with its field structure by establishing six regional commands, each under a commander reporting directly to Headquarters. Subsequently, the Rangers reorganized into six companies assigned to the same boundaries as the regional commands. After operations were restructured regionally, DPS focused on reorganizing Headquarters by centrally locating law enforcement activities into major divisions. In 1968, both the Criminal Law Enforcement and Traffic Law Enforcement Divisions were created to streamline command and improve regional operations of law enforcement activities. In 1973, the Administration Division was created as a way to manage Headquarter activities, direct regulatory services and operational responsibilities, and provide administrative support to other major divisions. In 1998, DPS reorganized its driver's license operations into a new Driver License Division.

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The Department's mission, to enforce laws protecting public safety and prevent and detect crime, has essentially remained the same since its creation.

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Increases in program responsibility has broadened the focus of public safety in Texas and significantly affected DPS operations and how it provides for the public's safety.

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The Department has also experienced an expansion of public safety responsibilities. While the basic foundation of public safety in Texas has been law enforcement involvement in traffic control and crime detection and prevention, since its creation, DPS' mission has evolved to include many specialized functions. State and federally-mandated regulatory programs, information management systems, technical support functions, and emergency management, along with factors such as an increase in high-tech and white collar crime, commercial vehicle traffic, and drug trafficking have all had dramatic influences on the Department. The result of these changes is a broadened focus and definition of public safety, with diverse law enforcement tools, which have significantly affected DPS operations and how it provides for the public's safety. The chart, *Evolution of DPS — Programs and Activities*, provides a timeline of significant additions to the Department's responsibilities.

## POLICYMAKING BODY

The Department is governed by the Public Safety Commission, a three-member, part-time Board appointed by the Governor with the advice and consent of the Senate. When appointing members, the Governor considers the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability. Board members serve, without compensation, for six-year staggered terms. The Governor appoints the Chair from among the members. The Commission meets at times and places specified by rule or at the call of the Chairman or any two members. During fiscal year 1997, the Commission met 10 times.

Statutory responsibilities of the Commission include formulating plans and policies for the:

- enforcement of state criminal, traffic, and safety laws;
- prevention of crime;
- detection and apprehension of persons who violate laws; and
- education of citizens in the promotion of public safety and observing laws.

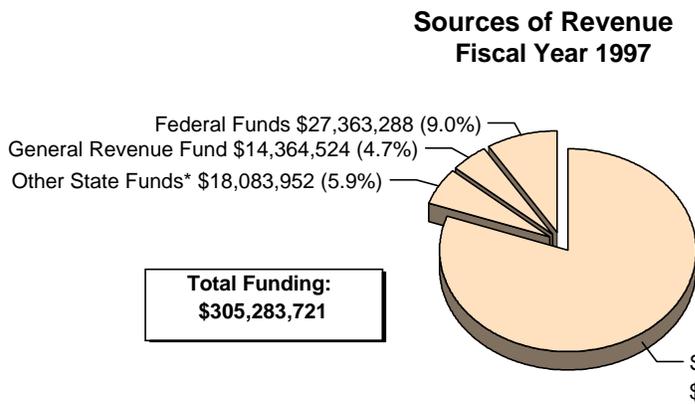
Also, the Commission appoints the Director and Assistant Director. Finally, the Commission organizes the Department within statutory guidelines, supervises its operations, and adopts rules considered necessary for carrying out the Department's work. The Commission has no subcommittees.

### Evolution of DPS — Programs and Activities

- 1935 Creation of Department by consolidating the Texas Highway Patrol from the State Highway Department and the Texas Rangers from the Adjutant General.
- 1937 Responsibility for driver's licensing, as well as the creation of the Narcotics Section. Headquarters crime lab established.
- 1950 Establishment of the Texas Law Enforcement Telecommunications System.
- 1951 Responsibility for the enforcement of the Texas Motor Vehicle Inspection Act providing for annual inspections of safety related mechanical features of motor vehicles.
- 1952 Passage of the Safety Responsibility Act requiring all motor vehicle owners to pay for damages to others.
- 1957 Establishment of regional crime labs to support main headquarters lab.
- 1963 Transfer of the State Civil Defense Office, responsible for disaster relief preparations, from Governor's Office to DPS. Later renamed the Division of Emergency Management.
- 1973 Establishment of the Texas Crime Information Center which provides information on criminal histories, wanted persons, protective orders, sex offenders, and concealed handgun licenses.
- 1982 Passage of the Missing Child Act requiring all pertinent information on missing children to be entered into the National Crime Information Center Missing Persons file.
- 1986 Passage of the Texas Missing Persons Clearinghouse to serve as an information repository on missing persons.
- Passage of the federal Commercial Motor Vehicle Safety Act mandating a national uniform testing and licensing program for commercial vehicle drivers, requiring DPS to issue safety examinations to commercial drivers.
- 1989 Establishment of the Automated Fingerprint Identification System to provide identification of those arrested with prints on file and to analyze prints found at crime scenes.
- 1991 Establishment of the Sex Offender Registration Program, requiring registration, community notification, and public access to a database file.
- 1993 Establishment of the Administrative License Revocation Program, to address driving while intoxicated incidents by suspending licenses of persons who are arrested and fail or refuse a breath or blood alcohol test.
- 1995 Passage of the Concealed Handgun Law requiring DPS to investigate and issue concealed handgun licenses to prospective applicants.
- Establishment of the Vehicle Emissions Program to comply with provisions of the federal Clean Air Act in areas of the state not meeting clean air standards.
- Establishment of the Combined DNA Index System, a database of DNA profiles on sex offenders.
- Transfer of motor carrier duties from the Texas Railroad Commission.
- 1997 Establishment of the Fugitive Apprehension Unit and the Complex Crime Unit.

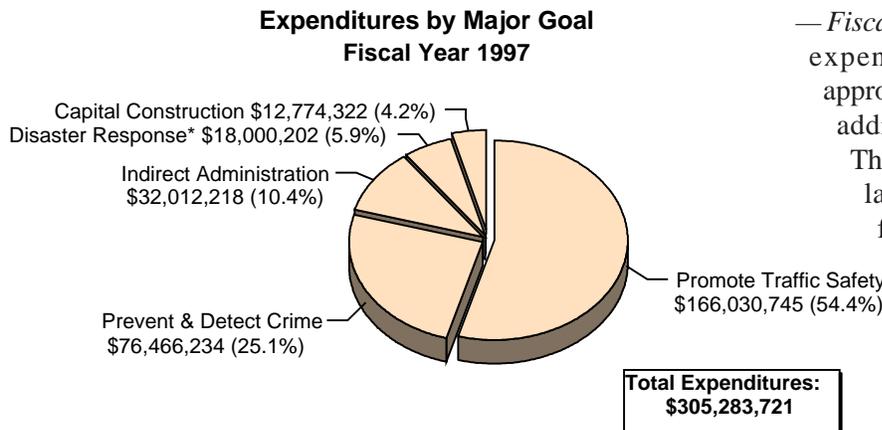
## FUNDING

The Department is funded primarily from the State Highway Fund, which comprises approximately 80 percent of the agency’s revenue. The remainder of funds comes from federal funds, general revenue, and other state funds. Federal funds make up nine percent of total revenue, while general revenue comprises 4.7 percent. The chart, *Sources of Revenue — Fiscal Year 1997*, shows total revenues by funding source.



\*Other state funds include: Interagency Contracts, Appropriated Receipts, Concealed Handgun Licenses, and Motorcycle Education

The Department collects more than 40 different fees that generate revenue. The revenue is deposited to funds such as the General Revenue Fund and the State Highway Fund. Among the fees collected, DPS is reappropriated some fee revenue raised from concealed handgun licenses, triplicate prescriptions, blood alcohol tests, and criminal histories. In fiscal year 1997, DPS collected a total of more than \$228.9 million in fees with more than \$199.4 million deposited to the General Revenue Fund and the remaining \$29.4 million to other funds. Of the total fees collected, DPS is reappropriated approximately \$9.7 million. Appendix B provides detail on the collected fees.



\*Includes federal funds for state and local agencies.

The chart, *Expenditures by Major Goal — Fiscal Year 1997*, shows the amounts expended within four major appropriation goals of DPS, with the addition of capital construction. The promotion of traffic safety, the largest expenditure, accounted for 54.4 percent of total expenditures. The table, *Expenditures By Division — Fiscal Year 1997*, breaks down expended amounts in detail by strategies within functional areas of the Department.

| <b>Expenditures by Division<br/>Fiscal Year 1997</b> |                      |
|--|----------------------|
| <b>Division</b>                                      | <b>Expenditures</b>  |
| <i>Director's Staff</i>                              |                      |
| Central Administration                               | <b>\$5,542,445</b>   |
| <i>Traffic Law Enforcement Division</i>              |                      |
| Highway Patrol                                       | 76,013,913           |
| Commercial Traffic Patrol                            | 21,491,783           |
| Vehicle Inspection                                   | 10,192,663           |
| Education and Training                               | 1,895,251            |
| Capitol Police                                       | 8,235,259            |
| Breath and Blood Testing                             | 1,585,200            |
| Regional Administration                              | 8,785,867            |
| <b>TLE Sub-Total</b>                                 | <b>\$128,199,936</b> |
| <i>Criminal Law Enforcement Division</i>             |                      |
| Vehicle Theft Enforcement                            | 5,950,755            |
| Criminal Intelligence (Special Crimes)               | 6,214,435            |
| Technical Assistance                                 | 7,327,608            |
| Narcotics Enforcement                                | 24,388,188           |
| <b>CLE Sub-Total</b>                                 | <b>\$43,880,986</b>  |
| <i>Driver License Division</i>                       |                      |
| Driver License Records                               | 49,905,994           |
| Traffic Accident Records                             | 2,605,272            |
| <b>DLD Sub-Total</b>                                 | <b>\$52,511,266</b>  |
| <i>Administration Division</i>                       |                      |
| Information Services                                 | 12,671,654           |
| Other Support Services                               | 5,012,252            |
| Handgun Licensing                                    | 5,276,880            |
| Operational Assistance                               | 12,830,022           |
| Education and Training                               | 2,340,669            |
| Planning Assistance                                  | 6,749,983            |
| Recovery and Mitigation                              | 11,147,513           |
| Response Administration                              | 102,706              |
| <b>Administration Sub-Total</b>                      | <b>\$56,131,679</b>  |
| <i>Texas Rangers Division</i>                        |                      |
| Texas Rangers  | <b>\$6,243,087</b>   |
| <i>Capital Construction</i>                          |                      |
| Physical Plant                                       | <b>\$12,774,322</b>  |
| <b>TOTAL</b>   | <b>\$305,283,721</b> |

## HUBs

The Legislature has encouraged agencies to make purchases with Historically Underutilized Businesses (HUBs). The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews. In fiscal year 1997, DPS purchased 16.8 percent of goods and services from HUBs in the amount of about \$9.8 million. The chart, *Purchases from HUBs — Fiscal Year 1997*, provides detail on HUB spending by procurement category and compares these purchases with the statewide goals for each category. The chart shows that while DPS met or exceeded most state goals for HUB purchases, the Department fell significantly short of the goals for purchases of special trade and other services.

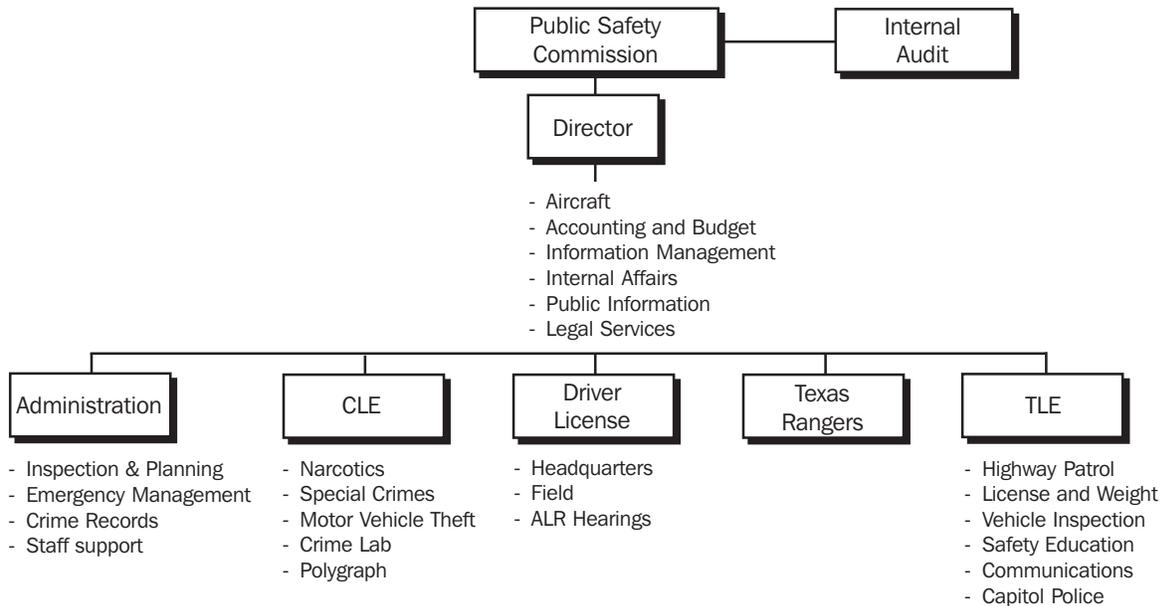
| Purchases from HUBs<br>Fiscal Year 1997 |                |                    |         |                |
|---|----------------|--------------------|---------|----------------|
| Category                                | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction                      | N/A            | N/A                | N/A     | 11.9%          |
| Building Construction                   | \$5,497,251    | \$1,450,541        | 26.4%   | 26.1%          |
| Special Trade                           | \$962,843      | \$233,881          | 24.3%   | 57.2%          |
| Professional Services                   | \$536,852      | \$210,368          | 39.2%   | 20.0%          |
| Other Services                          | \$15,612,650   | \$2,522,972        | 16.2%   | 33.0%          |
| Commodities                             | \$35,562,417   | \$5,347,278        | 15.0%   | 12.6%          |
| <b>TOTAL</b>                            | \$58,172,013   | \$9,765,040        | 16.8%   |                |

## ORGANIZATION

In fiscal year 1997, DPS had a staff of 7,054 employees with 2,150 located at Headquarters in Austin. Before June 1998, DPS was organized into four major divisions: Administration, Criminal Law Enforcement, Traffic Law Enforcement, and Texas Rangers. In June, the Department added a fifth division, Driver License, pulling together all of the driver's license functions that had been shared between the Traffic Law Enforcement and Administration Divisions, and legal services. Each division is headed by a Chief who reports directly to the Director. The current organization of the agency's divisions is illustrated in the chart, *Department of Public Safety Organizational Chart*.

To provide assistance to law enforcement and criminal justice agencies throughout the state, the Department has established geographic regions with

## Department of Public Safety Organizational Chart



each region divided into districts and subdistricts. Because certain regions are more populated than others and, consequently, require varying amounts of effort from the Department, DPS divisions and services are not equally represented in all districts. The Director's Office and Administration Division work out of Austin, while Traffic Law Enforcement, Criminal Law Enforcement, Driver License, and the Texas Rangers have offices throughout the state with administrative functions in Austin. Traffic Law Enforcement and Driver License are divided into six regions while each service of the Criminal Law Enforcement Division has its own district structure. The Texas Rangers Division is divided into six field companies with headquarters located in Austin.

The Department employs both commissioned peace officers and non-commissioned employees. Commissioned peace officers require extensive training in law enforcement practices and must hold a peace officer certificate from the Texas Commission on Law Enforcement Officer Education and Standards. The text box, *DPS Commissioned Officers*, contains information about the qualifications, training, and chain of command for commissioned officers,

### DPS Commissioned Officers

**Qualifications**  
To qualify to become a trooper, applicants must:

- be 20 years of age;
- have 60 hours of college credit, prior law enforcement experience, or 24 months of military service;
- have good moral character; and
- be physically fit.

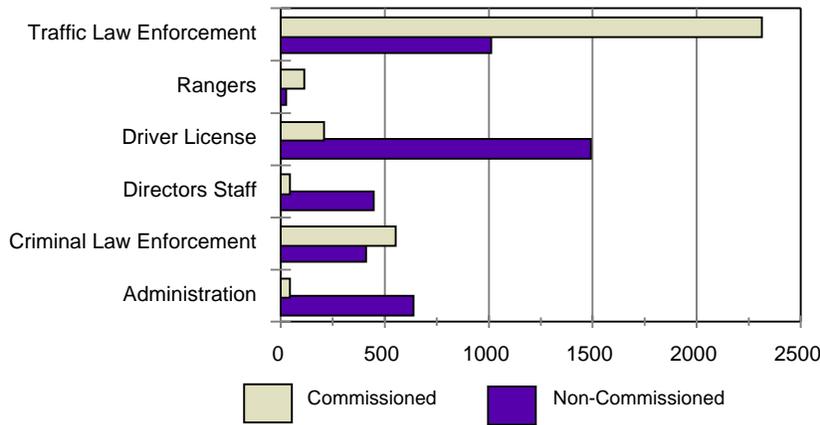
**Training**  
All prospective troopers must complete the 26-week DPS Academy training. Major topics of instruction include:

- traffic and criminal law enforcement,
- driver licensing,
- state law,
- firearms training,
- emergency aid, and
- physical and defense training.

**Ranks**  
DPS commissioned officers can advance through the following ranks:

|                      |                    |
|----------------------|--------------------|
| Probationary Trooper | Lieutenant         |
| Trooper I            | Captain            |
| Trooper II           | Major or Commander |
| Trooper III          | Assistant Chief    |
| Trooper IV           | Chief              |
| Senior Trooper       | Lieutenant Colonel |
| Corporal             | Colonel            |
| Sergeant             |                    |

### Divisional Breakdown of Commissioned and Non-Commissioned Employees



beginning as troopers. The breakdown of each division by type of employee is shown in the graphic, *Divisional Breakdown of Commissioned and Non-Commissioned Employees*.

A comparison of the Department’s workforce composition to state goals is shown in the chart, *Department of Public Safety Equal Employment Opportunity Statistics — Fiscal Year 1997*. DPS has generally met Civilian Labor Force levels in most job

categories but still had significant room for improvement. Most notably, the Department fell short of the civilian labor force percentage for females in the officials and administrators, professionals, and protective services job categories. The Department also fell short of the workforce percentage for Blacks and Hispanics in the para-professionals job category.

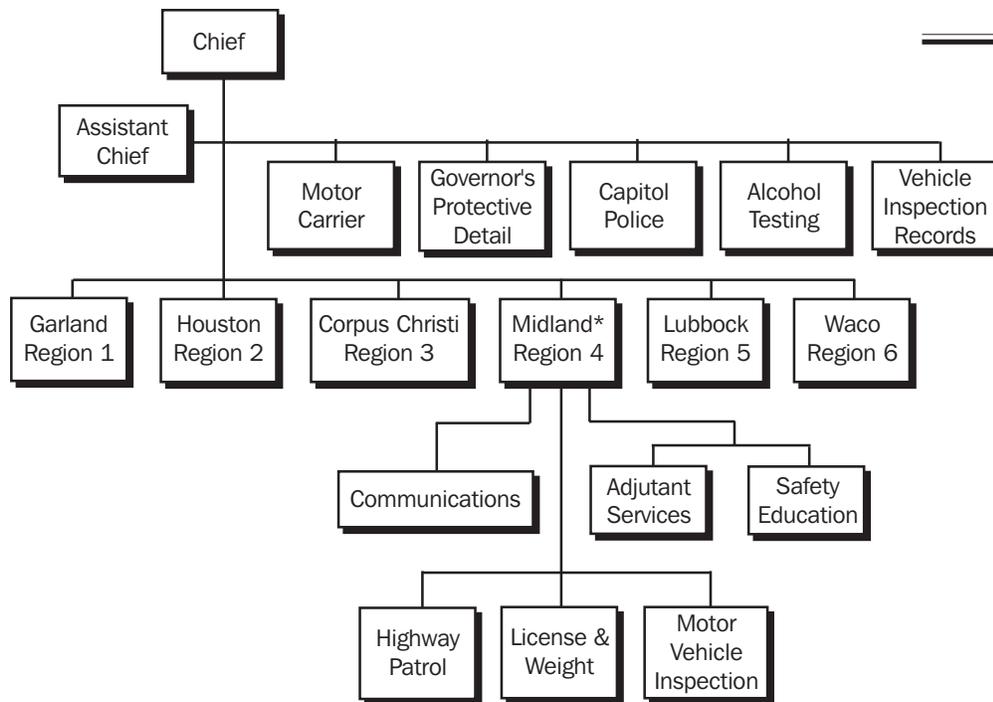
| Department of Public Safety<br>Equal Employment Opportunity Statistics<br>Fiscal Year 1997 |                 |                                |                      |          |                      |        |                      |
|--|-----------------|--------------------------------|----------------------|----------|----------------------|--------|----------------------|
| Job Category   | Total Positions | Minority Workforce Percentages |                      |          |                      |        |                      |
|  |                 | Black                          |                      | Hispanic |                      | Female |                      |
|  |                 | Agency                         | Civilian Labor Force | Agency   | Civilian Labor Force | Agency | Civilian Labor Force |
| Officials/Administration   | 70              | 7%                             | 5%                   | 6%       | 8%                   | 17%    | 26%                  |
| Professional   | 556             | 6%                             | 7%                   | 13%      | 7%                   | 31%    | 44%                  |
| Technical  | 1,248           | 9%                             | 13%                  | 17%      | 14%                  | 46%    | 41%                  |
| Protective Services  | 2,482           | 11%                            | 13%                  | 21%      | 18%                  | 6%     | 15%                  |
| Para-Professionals   | 1,240           | 11%                            | 25%                  | 22%      | 30%                  | 93%    | 55%                  |
| Administrative Support   | 772             | 15%                            | 16%                  | 18%      | 17%                  | 87%    | 84%                  |
| Skilled Craft  | 100             | 12%                            | 11%                  | 15%      | 20%                  | 7%     | 8%                   |
| Service/Maintenance  | 187             | 33%                            | 19%                  | 28%      | 32%                  | 26%    | 27%                  |

## AGENCY OPERATIONS

The Department of Public Safety’s range of duties include enforcing traffic laws on the state’s rural highways, regulating commercial traffic, enforcing criminal laws, administering assigned regulatory programs, managing information databases, and directing emergency management activities in Texas. The Department’s operations provide public safety services to different levels of clients. Some services, such as driver’s licenses, are provided directly to the citizens of Texas, while others, such as the crime laboratory, are provided to criminal justice agencies and local law enforcement. This section describes the functions of the Department’s five divisions.

The Department’s range of duties include enforcing traffic and criminal laws, administering regulatory programs, managing information databases, and directing emergency management activities.

### Traffic Law Enforcement Division



\*All regions have substantially the same organization

The Traffic Law Enforcement Division is the largest and most publicly visible division in the Department. In fiscal year 1997, the Division had 3,307 employees and a budget of approximately \$128 million. The Division provides several services from Headquarters — the Drug Detector Canine Program, Dive Recovery Team, State Accident Reconstruction Team, Adjutant Services, and the Governor’s Protective Detail — that support the

daily operations of Division field services. These support services, except for the Governor's Protective Detail, have assigned staff throughout the state that support the daily operations of the field services.

In addition to support services, the Division houses the Capitol Police District. The objective of the District is to maintain public safety and security in the Capitol Complex. The District provides security for the State Capitol and grounds and other state office buildings by monitoring rallies, conducting police patrols, investigating crimes that occur in the capitol complex, and administering capitol parking and locksmith services. The Capitol Police has 133 commissioned officers and 110 support personnel.

The Division's field services are located within six geographical regions with headquarters in Garland, Houston, Corpus Christi, Midland, Lubbock, and Waco. Each region is overseen by a Major who is responsible for the administration and operation of all Traffic Law Enforcement activities in the region. The activities of the Traffic Law Enforcement Division are carried out at the regional level by five specialized field services: Highway Patrol, License and Weight, Vehicle Inspection, Safety Education, and Communications.

## HIGHWAY PATROL SERVICE

Highway Patrol is the Department's most visible function. When citizens think of DPS, a Highway Patrol trooper typically comes to mind. With over

| <b>Highway Patrol Activity<br/>Fiscal Year 1997</b> |           |
|---|-----------|
| <i>Citations / Arrests</i>                          | 981,646   |
| Speeding  | 471,123   |
| Seatbelt  | 111,369   |
| Insurance   | 105,539   |
| DWI   | 22,363    |
| Other   | 271,252   |
| <i>Warnings</i>                                     | 1,202,774 |
| Speeding  | 415,617   |
| Seatbelt  | 79,639    |
| Insurance   | 53,442    |
| Other   | 654,676   |
| <i>Criminal Arrests</i>                             | 19,709    |
| Felony  | 5,008     |
| Misdemeanor   | 14,701    |
| <i>Stolen Vehicles Recovered</i>                    | 836       |
| <i>Motorists Assisted</i>                           | 40,134    |
| <i>Accidents Investigated</i>                       | 164,249   |

1,700 officers, the objective of the Highway Patrol Service is to provide traffic and criminal law enforcement on rural state highways. Patrols are designed to prevent violations by the visual presence of marked police units along the roadways and by the apprehension of violators. Violations that contribute to the severity of traffic accidents, such as driving while intoxicated, speeding, and failure to use seatbelts, are enforcement priorities. During peak holiday traffic periods, troopers from License and Weight and Vehicle Inspection, as well as the Driver License Division, may be assigned to conduct routine traffic safety patrols. Criminal law enforcement priorities for the Highway Patrol are the interdiction of illegal drugs and the apprehension of fugitives. The Service made or issued almost one million arrests or citations and issued over 1.2 million warnings in fiscal year 1997. Fines collected for traffic violations issued by the Highway Patrol are used by counties and for court costs, such as victims compensation or fugitive apprehension. Performance measures for the Highway Patrol are summarized in the text box, *Highway Patrol Activity — Fiscal Year 1997*.

## LICENSE AND WEIGHT SERVICE

The License and Weight Service enforces state and federal 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 ensure proper payment of registration fees. License and Weight troopers inspect and weigh commercial trucks at border checkpoints and 40 weigh stations statewide. In addition, troopers patrol roadways conducting inspections and weighing commercial vehicles with the aid of portable scales. State and federal regulations concerning size and weight, registration, insurance, safety, hazardous materials, and speed are emphasized by the troopers. When violations are found, a warning or citation may be issued, or the truck or driver may be taken out of service. Fines associated with safety and weight violations are paid to the local jurisdiction — either the municipal or county court. However, 50 percent of any gross weight violations are deposited with the State for the purpose of enforcing commercial vehicle weight laws.

License and Weight troopers emphasize state and federal regulations concerning vehicle size and weight, registration, safety, and speed.

Recent economic events, such as NAFTA and Texas’ expanding economy, have dramatically increased the number of commercial trucks on Texas roads, increasing the workload of the License and Weight Service. The chart, *License and Weight Statistics — 1995 to 1997*, show recent trends in motor carrier enforcement efforts by the Department.

| License and Weight Statistics<br>1995 to 1997 |         |         |         |
|---|---------|---------|---------|
|   | 1995    | 1996    | 1997    |
| Vehicles stopped                              | 557,482 | 613,942 | 823,588 |
| Inspections                                   | 63,519  | 88,806  | 125,853 |
| Vehicles weighed                              | 272,403 | 267,499 | 452,207 |
| Drivers placed out of service                 | 8,994   | 12,186  | 13,743  |
| Vehicles placed out of service                | 21,358  | 25,383  | 31,093  |
| Citations                                     | 109,511 | 112,500 | 130,025 |
| Warnings                                      | 67,076  | 76,550  | 86,621  |

The Motor Carrier Bureau supports the enforcement efforts of the License and Weight Division by maintaining files and developing safety profiles on motor carriers using information from accident and violation reports, as well as safety complaints. The Bureau reports to a federal database that maintains information on safety violations by trucking and transportation companies. The Bureau reviews carrier profiles to identify which motor carriers to audit. Assigned License and Weight troopers perform the actual audit. The Bureau also assesses administrative penalties and conducts informal hearings to settle disputed issues. Unsettled cases are referred to the State Office of Administrative Hearings.

## **VEHICLE INSPECTION SERVICE**

The Vehicle Inspection Service, through the use of non-commissioned staff, administers the state vehicle inspection program. The objective of the program is to ensure that vehicles on the road are safe by requiring an annual inspection of the vehicle's operating condition. Inspections are administered at vehicle inspection stations that are privately operated. The Service oversees inspection operations by conducting routine and covert quality control checks, training and testing inspectors, and investigating citizen complaints. The Department may take administrative enforcement action, such as license revocation, against inspection stations and certified inspectors who are found to be in violation of vehicle inspection laws. The Service has 20 troopers who investigate the theft and counterfeiting of vehicle inspection stickers.

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The Vehicle Inspection Service helps ensure that vehicles are safe by enforcing annual inspections of their operating condition.

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The Vehicle Inspection Service is also responsible for the enforcement of the state vehicle emissions program, known as the Texas Motorist's Choice Program. Vehicles in the counties not meeting federal clean air standards, Dallas, Tarrant, Harris, and El Paso, are required to have vehicle emissions testing done in conjunction with the vehicle's annual safety inspection. The program is funded through fees collected from the emissions testing portion of the vehicle inspection program. To assist in enforcing clean air standards in these counties, the Service has contracted with a provider to detect vehicles with gross emissions problems through the use of remote sensing equipment. Violators are sent warnings by mail and are advised to correct the problem. Failure to correct the problem can result in a fine or denial of a vehicle registration.

## **SAFETY EDUCATION SERVICE**

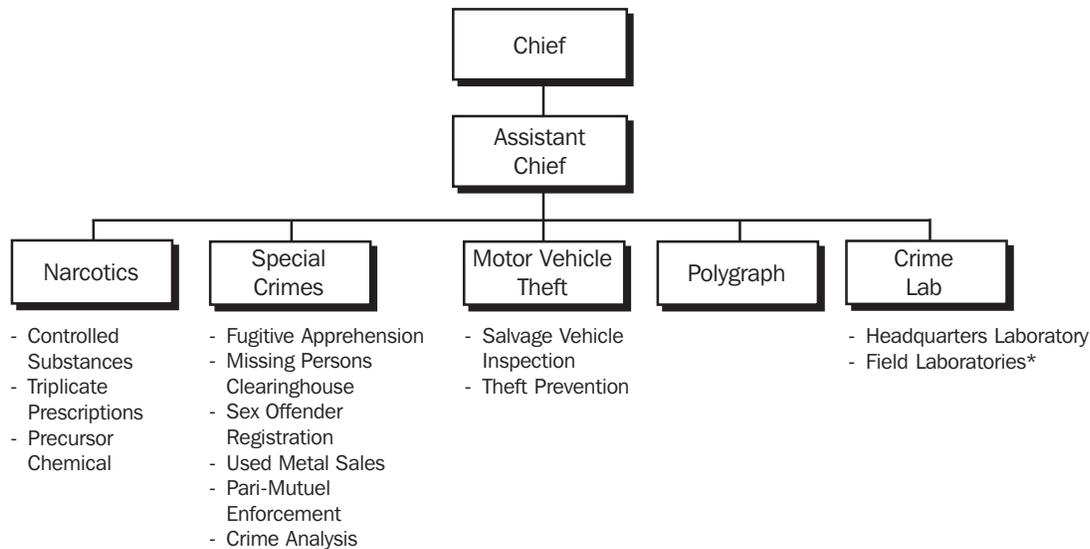
The Safety Education Service seeks to educate the public to voluntarily comply with the state's traffic laws. The Service promotes and coordinates national, state, and local programs on crime prevention and detection, drug education, and traffic safety. Information is provided to the public on topics including child safety seat use, bicycle safety, and drunk driving awareness. The Service also serves as the Department's regional public information offices by providing information to citizens and the news media during holidays, natural disasters, and major accidents.

## **COMMUNICATIONS SERVICE**

The Communication Service provides voice and data communications to both the Department and other law enforcement agencies. The Service operates a statewide network of 35 communication facilities using radio, telephone, and land line communication systems, which are staffed 24-hours

per day. Each facility has access to numerous data files through the Texas and National Law Enforcement Telecommunications Systems containing information on wanted persons, criminal histories, driver licenses, and vehicle registrations. The information in these files helps to coordinate the response of law enforcement agencies in emergency situations and provides criminal history information to officers. The facilities also play a vital role in the State's disaster management plan by providing alternate forms of communication when conventional means are rendered unusable during a disaster.

### Criminal Law Enforcement Division



\* Abilene, Corpus Christi, Garland, Laredo, McAllen, Tyler, Amarillo, El Paso, Houston, Lubbock, Midland, Waco

The Criminal Law Enforcement Division is composed of five services: Narcotics, Special Crimes, Motor Vehicle Theft, Crime Laboratory, and Polygraph. The Division primarily works on multi-jurisdictional crimes that local law enforcement agencies have difficulty solving, such as narcotics trafficking, motor vehicle theft, gambling, fraud, and counterfeit documents. The Division also performs regulatory functions, such as Salvage Vehicle Inspection, Controlled Substances Registration, Triplicate Prescription, Precursor Chemical, Sex Offender Registration, Secondhand Metal Sales, and Pari-Mutuel Racing. In 1997, the Division had 942 employees and a budget of approximately \$62 million.

### NARCOTICS SERVICE

The Narcotics Service has four areas of responsibility: enforcement against illegal drug traffic, administration of the triplicate prescription requirements

for addictive prescription drugs, reporting of precursor chemical activities, and supervision of controlled substances registration. The Narcotics Service is divided into seven districts with each establishing its own investigative priorities based on drug trafficking patterns and with the approval of the Narcotics Commander.

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Narcotics efforts include surveillance, wiretaps, drug buys, and infiltration of drug operations.

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The primary effort of the Narcotics Service is to take drug enforcement actions, either on its own initiative or jointly with local or federal agencies. When drugs or currency are found by the Highway Patrol during routine traffic stops, the Narcotics Service conducts investigations to determine the supplier and intended buyers of the drugs. Surveillance, use of wiretaps, undercover drug buys, and infiltration of drug operations are also used to combat the manufacture, growth, distribution, and sale of illegal drugs. The Service works extensively with local and federal drug task forces to assist in special targeted enforcement efforts. The results of the Service's work is displayed in the table, *Narcotics Service Arrests and Seizures — Fiscal Year 1997*.

| <b>Narcotics Service<br/>Arrests and Seizures<br/>Fiscal Year 1997</b> |             |
|--|-------------|
| Felony Arrests   | 1,580       |
| Drug Seizures in Pounds  |             |
| Marijuana  | 108,664     |
| Cocaine  | 8,771       |
| Heroin   | 15          |
| Methamphetamine  | 362         |
| U.S. Currency Seized   | \$1,087,878 |

The Narcotics Service is also responsible for tracking the receipt and disbursement of assets generated from both the federal and state seized asset forfeiture and seizure programs. The Legislature, through rider, provides the authority to expend seized assets. The Director has final authority concerning the use of funds generated through seized assets. While the Department is required through rider to report seized asset expenditures, the Legislature does not review proposed expenditures prior to their use.

The Post Seizure Analysis Team, within the Narcotics Service, develops significant intelligence on drug trafficking organizations that can be shared throughout the country to aid narcotic trafficking and money laundering investigations. The Team is a multi-agency initiative housed at DPS Headquarters. Agencies include DPS, U.S. Drug Enforcement Administration, U.S. Customs, FBI, IRS, and the National Guard.

The Triplicate Prescription program began in Texas in 1982 and is intended to prevent potentially addictive prescription drugs from being diverted from legitimate medical uses for illegal purposes. Under the program, when doctors prescribe drugs with a high potential for abuse, they must complete a triplicate

form provided by DPS. The Department receives the original copy and maintains the information in a database. The doctor keeps one copy of the prescription form and the third copy is taken by the patient to the pharmacy. Before the Triplicate Prescription program, doctors often wrote prescriptions on an office pad, which made forgery of prescriptions easy. The first year of the program produced a 52 percent reduction in the number of controlled substance prescriptions filled in Texas, indicating that half of all prescription drugs were possibly being diverted for illegal purposes. Beginning in the year 2000, the Triplicate Prescription program will be replaced by a new program that requires practitioners to affix a DPS supplied sticker to standard prescription drug forms. Pharmacies will be allowed to electronically transmit the name of the prescribing physician and patient to DPS.

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The Triplicate Prescription program has significantly reduced the diversion of prescription drugs for illegal purposes.

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The Precursor Chemical program controls the diversion of chemicals that may be used in the illegal manufacture of drugs, primarily methamphetamine and amphetamine. The statute requires individuals who want to sell, transfer, furnish, or purchase precursor chemicals, and the laboratory equipment that could be used to manufacture them, to be permitted by DPS. A database of all buyers and sellers of the chemicals and equipment is used as an investigative tool by law enforcement agencies nationwide. The Controlled Substances Registration Program serves the same purpose by requiring individuals who manufacture, distribute, analyze, or dispense controlled substances for legitimate purposes, such as scientific testing and medical research, to register with DPS.

### **SPECIAL CRIMES SERVICE**

The Special Crimes Service focuses on organized crime, statewide criminal activities, special investigations, and security for state officials and visiting dignitaries. The Special Crimes Service performs these functions through a diverse set of investigative and regulatory functions that are explained in the text box, *Special Crimes Activities*. The Service also

#### **Special Crimes Activities**

*Drivers License Photo Section* – Provides photos from driver's licenses to law enforcement officers to help identify and apprehend suspects.

*Missing Persons Clearinghouse* – Serves as a central repository for information on missing persons in Texas.

*Forensic Artist* – Assists law enforcement agencies with composite drawings, age progression updates, courtroom displays, computer facial imaging, postmortem drawings, and skull reconstructions.

*Sex Offender Registration Program* – Maintains a database of sex offenders in Texas. All persons convicted of a sex offense must register their name and address with DPS under state law.

*Used Metal Sales* – Regulates secondhand metal dealers in large purchases of copper, brass, bronze, and aluminum to reduce the theft of metal pipes and fixtures. The law requires used metal dealers to report all purchases to DPS.

*Interpol Liaison* – Enables foreign countries to request assistance from and provide information to Texas peace officers. This function is valuable in tracking international crimes and criminals.

*Crime Bulletin* – Distributes bimonthly notice to law enforcement agencies in Texas and surrounding states. It contains information on unsolved crimes, prison gang activity, and sex offender parolees which can aid investigations and lead to arrests.

*Pari-Mutuel Wagering* – Provides law enforcement at pari-mutuel horse and dog tracks to ensure the racing industry's integrity.

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A Complex Crime Unit has been created to investigate the theft or misapplication of government property.

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provides support to other law enforcement agencies through investigative assistance and providing services, such as a forensic artist. In fiscal year 1997, the Service conducted 2,830 investigations resulting in 541 arrests and the recovery of more than \$423,000 in stolen property.

Special Crimes has provided computer analysis training to investigators within the Service. This training is to enable proper investigation of crimes that involve computers, including criminal activity on the Internet. Also, a rider in the General Appropriations Act called for the creation of a Complex Crime Unit within the Service. The purpose of this unit is to investigate offenses involving theft or misapplication of government property. The Service has developed a contingency plan for this type of investigation.

Two other important functions of Special Crimes are crime analysis and fugitive apprehension. The Crime Analysis Section employs eight analysts who specialize in information on particular crimes, such as gambling and gang activities. These analysts assist investigators from city, county, state, and federal law enforcement agencies in solving crimes. Special Crimes also has a Fugitive Apprehension Unit which is charged with locating and arresting violent parolees who have violated parole and have a warrant for their arrest.

### **MOTOR VEHICLE THEFT SERVICE**

The Motor Vehicle Theft Service acts as a resource for outside agencies to identify and recover stolen property. Field personnel primarily work on organized vehicle theft rings. In 1997, the Service recovered 2,740 stolen vehicles, made 775 arrests, and recovered stolen property worth more than \$32.6 million.

A priority of the Service is preventing the export of stolen vehicles to Mexico and the recovering of stolen vehicles from Mexico. The Border Auto Theft Information Center acts as a link between Mexico and U.S. law enforcement through a toll-free telephone number so that Mexican officials can call to check on vehicles that may have been stolen in this country. This program, funded through an Automobile Theft Prevention Authority grant, resulted in the recovery of 1,463 vehicles from Mexico valued at over \$17 million in fiscal year 1997.

To combat the dismantling of stolen vehicles and sale of their parts, the Motor Vehicle Theft Service also operates a salvage vehicle program to inspect rebuilt vehicles. With some exceptions, the Texas Department of Transportation cannot issue titles for rebuilt vehicles unless a DPS inspector certifies that the vehicle identification number and part identification numbers

are accurate and that the applicant proves ownership of the parts used in the repair.

**CRIME LABORATORY SERVICE**

The Crime Laboratory Service provides expert forensic laboratory services to all law enforcement agencies in Texas. The Service is divided into two Bureaus — Field Laboratories and the Headquarters Laboratory. The 12 field laboratories located throughout the state examine drug evidence, conduct blood alcohol analysis on DWI and DUI suspects, examine trace evidence, and perform serology and DNA analysis on biological evidence. The Headquarters Laboratory in Austin provides criminal justice agencies with laboratory services in drug analyses, trace evidence, toxicology, firearms, toolmarks, latent prints, forensic photography, document verification, serology, and DNA analysis. The volume and types of cases on which the crime laboratory works are displayed in the text box, *Completed Crime Laboratory Cases — Fiscal Year 1997*.

| <b>Completed Crime Laboratory Cases<br/>Fiscal Year 1997</b> |        |
|--|--------|
| Controlled Substances  | 33,178 |
| DNA  | 603    |
| Blood Alcohol/Toxicology                                     | 5,640  |
| Trace Evidence   | 3,085  |
| Firearms   | 453    |
| Latent Fingerprint   | 1,153  |
| Document   | 334    |

One resource provided by the crime lab is the Combined DNA Index System (CODIS) program, a database of DNA profiles. Convicted sex offenders are required to submit a blood sample to be DNA tested and entered into the database. The database is used to identify suspects in crimes where biological evidence is left by the perpetrator. To date, the CODIS program has had one match between the database and crime scene evidence that has led to an arrest. The Department anticipates an increase in arrests once more information is entered into the database.

The Crime Laboratory’s DRUGFIRE program uses technology to identify firearms used in committing a crime from fired shell casings. This program functions by cataloging images on a computer database where they may be easily examined by agency forensic scientists to develop matches. DRUGFIRE has been used successfully to identify participants involved in four crimes where a shooting occurred. The matches have led to two convictions and two arrests.

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New technological resources, such as the CODIS and DRUGFIRE programs, have been used to successfully solve crimes.

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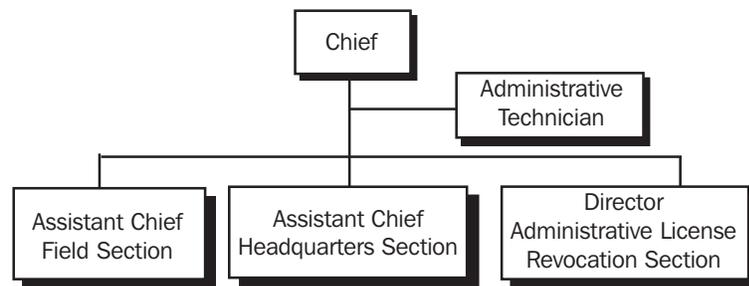
**POLYGRAPH SERVICE**

The Polygraph Service provides assistance to local, state, and federal governmental agencies through the administration of polygraph examinations. Suspects, witnesses, and victims are routinely scheduled for examinations in order to verify alibis, obtain additional leads, discover the location of evidence or wanted individuals, and clear persons wrongly accused or suspected. Polygraphs are used frequently in investigations in which physical

evidence is typically unavailable, such as cases of sexual assault of children. In 1997, the Polygraph Service administered 2,159 polygraph examinations in 200 different counties. The Service also includes the DPS Law Enforcement Polygraph School that trains officers from Texas and across the nation in an 11-week course in the proper use of the polygraph as a law enforcement tool.

The Service works closely with the Texas Polygraph Examiners Board. The Board licenses qualified applicants and enforces the Polygraph Examiners Act. The Board also investigates consumer complaints, approves academic standards for polygraph schools, and inspects approved polygraph schools and licensees. The Supervisor of the Polygraph Service serves on the Board.

## Driver License Division



The Department of Public Safety established a new Driver License Division on July 1, 1998 to streamline operations and create efficiency for all driver's licensing procedures. Driver's license functions, once scattered throughout the agency, have been centralized in one Division. The Driver License Division also has all of the activities related to the Administrative License Revocation program.

### FIELD SECTION

The Field Section of the Driver License Division has 1,050 employees, located in more than 240 driver's license offices, who administer the process of issuing licenses to the more than 13 million Texans licensed to drive in the state. Of these employees, 848 are non-commissioned and 202 are commissioned.

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Texas has more than 13 million licensed drivers.

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Non-commissioned employees act primarily as technicians and examiners. Technicians handle the license issuance process by entering data; verifying and evaluating documentation, such as birth certificates, insurance, and social security cards; collecting fees; photographing; thumb printing; and reviewing

vision and driver's license tests. The examiners administer road tests and represent DPS during administrative hearings by providing expert testimony on driver records and histories.

Commissioned troopers conduct law enforcement activities through technology and data available in driver's license offices. For example, Texas Crime Information Center and National Crime Information Center data allow commissioned officers to check driver's license applicants for outstanding traffic and criminal warrants and make arrests or notify the appropriate law enforcement agency. In 1997, driver license troopers served 18,851 traffic warrants and apprehended 5,965 people for felony and misdemeanor criminal warrants. These troopers also conducted 7,804 criminal investigations.

Although the Field Section has been organized under a new Division, the process of applying for a driver's license or identification card has remained almost the same. Another recent change to drivers license office procedures is the transition to a six-year driver's license, as required by the Legislature in 1997. The Department is staggering the implementation of the six-year license so that, by 2002, one-third of driver's licenses will be renewed every two years. Commercial and motorcycle licenses will also transition to the six-year renewal process. In addition, the Department has extended driver's license office hours and reallocated personnel in an attempt to reduce line times at certain locations.

## HEADQUARTERS SECTION

The Headquarters Section in Austin is comprised of six bureaus: License Issuance, Driver Records, Accident Records, Driver Improvement and Control, Safety Responsibility, and Customer Service. These bureaus license, enforce, and assist with compliance of driver's license laws in Texas. Headquarters also oversees cost recovery, business analysis and program compliance efforts.

### License Issuance

The License Issuance Bureau receives documents from the drivers license field offices and reviews and verifies documentation, creates licenses, and mails licenses to applicants. Typically, the applicant receives the license within 10 to 14 days. The Bureau also assists field office personnel with application procedures and history information.

In fiscal year 1997, the Bureau processed more than 5.6 million driver's license and identification card transactions. This total includes original, renewal, and duplicate issues. The table, *License Issuance Transactions* —

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The Department has extended driver's license office hours and reallocated staff in an attempt to reduce line times.

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The Department processed more than 5.6 million driver's license and identification card transactions last year.

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*Fiscal Year 1997*, summarizes the bureau's level of activity. In addition, the Bureau processed or handled more than 198,000 instructional permits, 587,000 mail-in renewals, 9,600 out-of-state licenses, and 50,000 mail address changes. The Bureau also is responsible for three new programs, Blindness Education, Parent Taught Drivers Education, and Failure to Appear.

| <b>License Issuance Transactions<br/>Fiscal Year 1997</b> |                         |                            |
|---|-------------------------|----------------------------|
| <b>Type of Issuance</b>                                   | <b>Driver's License</b> | <b>Identification Card</b> |
| Original  | 683,428                 | 409,700                    |
| Renewal   | 3,351,534               | 164,857                    |
| Duplicate   | 961,812                 | 103,440                    |
| <b>TOTAL</b>  | <b>4,996,774</b>        | <b>677,997</b>             |

### **Driver Records**

The Driver Records Bureau is the centralized data warehouse for all drivers records in the state. On an ongoing basis, Driver Records enters all driver data from drivers license offices or the other bureaus into a database that includes driver's license information and driver history, such as traffic violations, convictions, and traffic accidents.

As of June 1997, the Bureau must comply with the Privacy Protection Act. The Act allows drivers to opt out of having their driver's records made public by checking a box on the license application. When an individual or organization makes a request, the Act prevents the release of personal information by individuals who requested that their driver record remain private.

| <b>Motor Vehicle Accident Statistics<br/>1993 to 1997</b> |             |             |             |             |             |
|---|-------------|-------------|-------------|-------------|-------------|
|   | <b>1993</b> | <b>1994</b> | <b>1995</b> | <b>1996</b> | <b>1997</b> |
| Accidents   | 390,417     | 414,614     | 351,073     | 298,143     | 305,989     |
| Injuries  | 298,891     | 326,837     | 334,259     | 350,397     | 347,811     |
| Deaths  | 3,037       | 3,142       | 3,172       | 3,738       | 3,508       |

### **Accident Records**

The Accident Records Bureau serves as the repository for vehicle accident records. In 1997, it reported 305,989 motor vehicle accidents in Texas in which 3,508 people were killed and 347,811 were injured. Compared to 1996 figures, the number of accidents increased by 2 percent in 1997, but the number of persons killed decreased by 6.2 percent. The table, *Motor Vehicle Accident Statistics, 1993 to 1997*, shows the trend in the number of accidents and persons killed and injured since 1993.

Accident data are used for many purposes. For example, the Texas Department of Transportation combines roadway and accident data to determine the safety of Texas' roads and to identify roads that may need renovations to improve their safety. The Legislature uses accident information to measure effectiveness of driver and road safety legislation. In addition,

DPS' Traffic Law Enforcement Division uses records to find accident areas that may need more enforcement.

**Driver Improvement and Control**

The Driver Improvement and Control Bureau enforces traffic laws by monitoring driver's records and suspending licenses of persons suspected of abusing license privileges. Three procedures exist to suspend driver's licenses based on the type of violation. First, the Bureau can schedule a hearing with a judge or justice of the peace who can suspend or revoke driver's licenses. Driver's license examiners represent the Department to enforce the type of violations outlined in the text box, *Reasons for Driver's License Suspension or Revocation*. Second, the Bureau enforces automatic suspensions for violations such as driving while intoxicated or driving under the influence. Third, the Bureau may impose suspensions when a driver causes an accident while driving without liability insurance or has received a second violation for driving without liability insurance.

| <b>Reasons for Driver's License Suspension or Revocation</b> |   |
|--|---|
| 1.   | Operation of a motor vehicle with a suspended or revoked license, or without a license;                                     |
| 2.   | Responsibility as a driver for any accident resulting in death;   |
| 3.   | Habitual recklessness or negligent driving;   |
| 4.   | Habitual violations of the traffic laws;  |
| 5.   | Unlawful or fraudulent use of a driver's license;   |
| 6.   | Commission of an offense outside the state that, if committed in this state, would be grounds for suspension or revocation; |
| 7.   | Responsibility as a driver for any accident resulting in serious personal injury or serious property damage;                |
| 8.   | Conviction of two or more moving violations within a 12-month period for holders of provisional licenses;                   |
| 9.   | Violation of a restriction on the use of a license; or  |
| 10.  | Commission of an offense of fleeing or attempting to elude a police officer.  |

Source: Transportation Code, Sec. 521.29

A DWI or DUI charge is an automatic suspension and the license cannot be reinstated without a judge's ruling. If drivers dispute the charge, they must request an administrative license revocation hearing conducted by the State Office of Administrative Hearings with DPS attorneys representing the Department.

**Safety Responsibility**

The Safety Responsibility Bureau is responsible for collecting licenses that have been suspended for offenses such as DWI or DUI. The Bureau works with DPS field staff to retrieve licenses of suspended drivers who do not return their licenses to the Bureau or pay reinstatement fees. The Bureau reinstates suspended driver's licenses by accepting compliance documents, fees, and certificates of education. Four types of fees have been established, as explained in the chart, *Fees for Reinstating Suspended Licenses*.

| <b>Fees for Reinstating Suspended Licenses</b> |               |                              |
|--|---------------|------------------------------|
| <b>Type of Fee</b>                             | <b>Amount</b> | <b>Reason</b>                |
| Safety Responsibility Reinstatement            | \$50.00       | Driving without insurance    |
| Administrative License Revocation              | \$100.00      | DWI or DUI violation         |
| Driver Improvement and Control                 | \$50.00       | Traffic law violations       |
| Occupational License                           | \$10.00       | Restricted driving privilege |

Source: DPS, Bureau of Safety Responsibility

Safety Responsibility also issues occupational licenses to individuals whose licenses have been suspended but who have been allowed restricted driving privileges by the courts. Occupational licenses allow individuals to drive on certain days, at certain times, such as to and from work. The drivers must demonstrate a need to drive as well as an inability to pay the fee to have their licenses reinstated. The drivers hold the occupational licenses for the period of suspension.

### **Customer Service**

The Customer Service Bureau has three main operations: switchboard, telephone bank, and front lobby. The switchboard and telephone bank handles calls made to the DPS main number — about 4,800 calls per day. The front lobby staff serves individuals who wish to handle their driver's license issues in person and sells inspection stickers to authorized vehicle inspection station attendants, accident reports, and other DPS publications.

### **ADMINISTRATIVE LICENSE REVOCATION SECTION**

The Administrative License Revocation Section administers the Administrative License Revocation (ALR) law, which went into effect in January 1995. ALR is the administrative process by which DPS suspends the driver's licenses of individuals arrested for driving while intoxicated or under the influence. ALR is separate from the process for prosecuting DWI or DUI as a criminal offense and is intended to provide a method for getting suspected drunk or impaired drivers off the road while their cases work their way through the judicial system. The Section has 46 attorneys in five field offices located in Austin, San Antonio, Houston, Garland, and Midland.

Drivers charged with a DWI or DUI are served a notice of license suspension. If the driver takes a breath or blood test, their license is suspended for a minimum of 60 days. If the driver does not take a breath or blood test, and they are charged with DWI, they receive a 90-day suspension. Appeals to the State Office of Administrative Hearings (SOAH) must be requested within 15 days. If a driver does not request a hearing, the suspension goes into effect 40 days after notice was served. The flow chart, *Administrative License Revocation for DWIs and DUIs*, illustrates the process for adults.

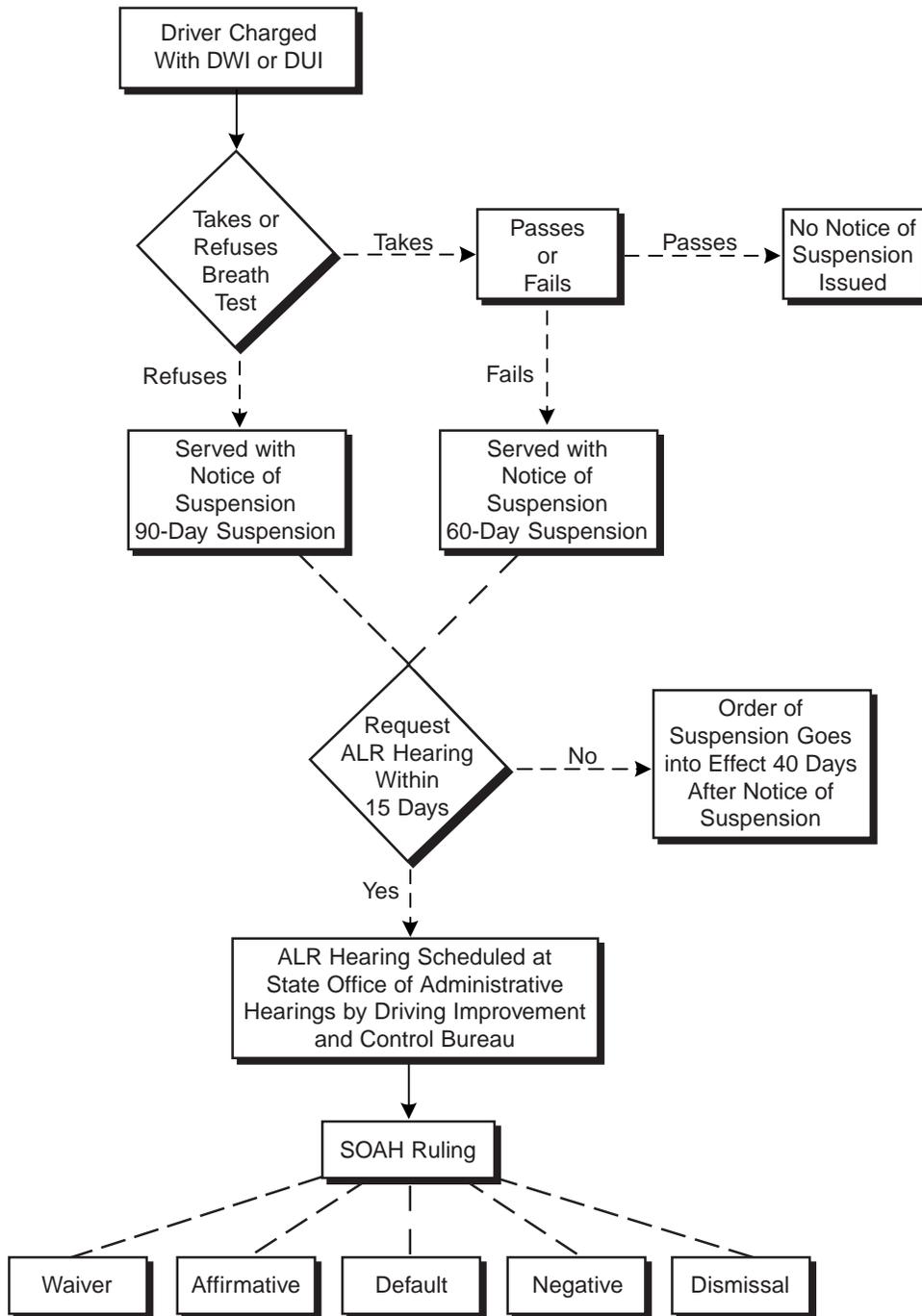
As of September 1997, Texas became a zero tolerance state for minors who commit an offense if they drive with any detectable amount of alcohol in their system. DPS is authorized to suspend the minors driver's license under provisions of ALR program.

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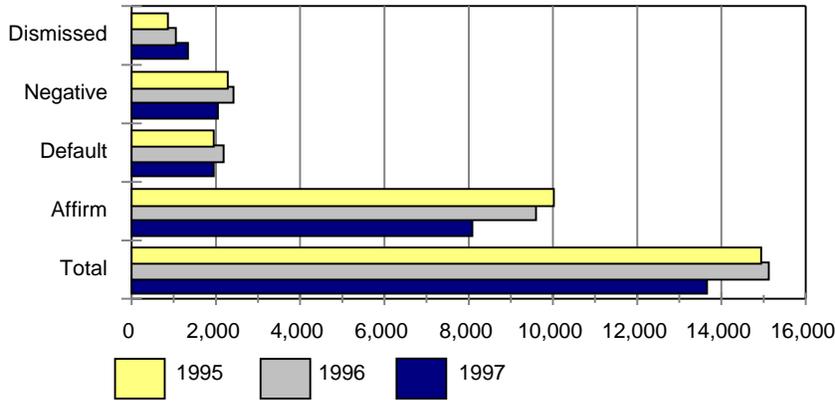
ALR is the administrative process by which DPS suspends the driver's licenses of individuals arrested for driving while intoxicated or under the influence.

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## Administrative License Revocation for DWIs and DUIs



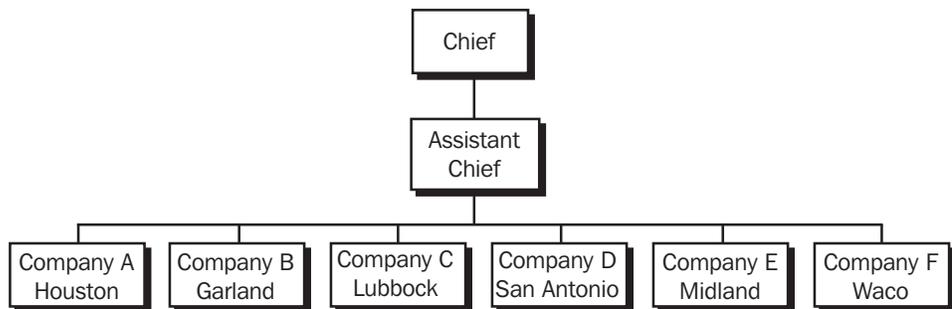
**Administrative License Revocation Rulings**  
Fiscal Years 1995 to 1997



Out of more than 70,000 DWI arrests last year, 15,000 resulted in requests for a hearing. The ALR Section represents the Department in these hearings before SOAH. From these hearings, SOAH judges order suspensions in 11,857 cases. The judge may rule in favor of the defendant in which no license suspension and no penalty is ordered. However, if the judge rules in favor of the Department, the judge may suspend the person's license for 60 days and order the

person to pay a \$100 fee. Drivers may appeal a license suspension to the county court in the county of arrest. In 1997, ALR defendants filed 1,312 appeals to reinstate their driver's licenses. The chart, *Administrative License Revocation Rulings — Fiscal Years 1995 to 1997*, shows that two-thirds of the Department's ALR cases have been sustained by SOAH judges.

### Texas Ranger Division



The Texas Rangers specialize in criminal investigation, and coordinate their investigative and crime detection methods with federal, state, and local agencies who have a concurrent interest in criminal investigations. The Rangers generally focus on rural law enforcement because smaller agencies often require more investigative assistance. Rangers are stationed throughout the state and are given considerable autonomy for working within their assigned areas. When a local official, such as a district attorney or sheriff, requests assistance, they can contact the local Ranger directly.

The Rangers assist local law enforcement with crimes, such as homicide, kidnapping and frequently help with high profile cases, such as the Branch Davidian siege in Waco, the Republic of Texas standoff in Fort Davis, and the racially-motivated homicide in Jasper. In the last 10 years, the Rangers

have seen an increase in requests for investigative assistance in public corruption cases involving elected officials, state and local agencies, and police officers. The Rangers also assist with protection of the Governor and work with the Department’s Internal Affairs to investigate all shootings involving DPS personnel.

An eligible Ranger applicant must have eight years of law enforcement experience, with the last four years as a DPS officer. The Texas Ranger Division has 107 commissioned officers that are divided into six field companies. In fiscal year 1997, the Rangers conducted 3,288 investigations resulting in 633 felony arrests, 589 indictments, and the recovery of approximately \$2.8 million in property.

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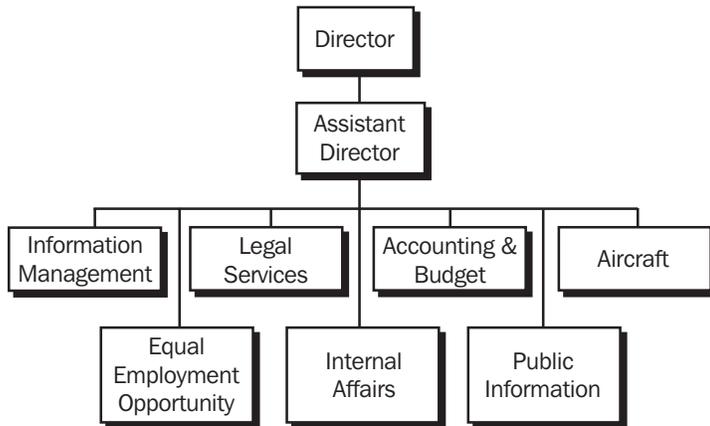
Texas Rangers assist  
with the protection  
of the Governor.

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**Director’s Staff**



The Director’s Office consists of 392 staff assigned to various sections that perform agency-wide functions, such as equal employment opportunity, budgetary and legal services, and information management. The Equal Employment Opportunity Officer is responsible for coordinating the development and implementation of the Affirmative Action Plan. The Officer also monitors selection and promotion activities and makes recommendations as necessary to improve employment of protected classes. The Accounting and Budget Control Section provides financial services, such as accounting for all revenues and expenditures, preparing legislative appropriation requests, and purchasing all supplies, equipment, and services. Legal Services advises agency personnel and the Public Safety Commission in legal matters, handles litigation against the Department in conjunction with the Attorney General, and coordinates legislative activities.

Of growing importance is DPS’ information management duties. In 1998, the Information Management Service was created and placed in the Director’s Office. The Service provides the equipment, personnel, and administration

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TLETS is a network of computer systems linking local law enforcement agencies to programs of the Department and other state and the federal agencies.

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necessary to furnish electronic data processing and information retrieval services. The Service is also responsible for formulating policies for the use of information systems and for data security, contingency planning, quality assurance, records management, long-range planning, and procurement.

The Information Management Service provides much of the technical and logistical support for the electronic information systems operated by other divisions within the Department. The Service also assists DPS divisions with information systems that operate jointly with other agencies. One such system, the Criminal Justice information System, combines information about offenders from the Texas Department of Criminal Justice with criminal history information that is used to solve crimes and protect public safety. The Service maintains the Texas Law Enforcement Telecommunications System (TLETS), an on-line 24-hour-per-day, 7-day-a-week computer system that contains all driver's license records, all criminal offender records, and a warrant database. TLETS is the centerpiece of a network of computer systems linking local law enforcement agencies to programs of the Department and other state and the federal agencies. Appendix C illustrates the different computer systems linked to the Department.

The Aircraft Section maintains seven helicopters and eight airplanes that are based at the six regional headquarters and Austin, San Antonio, and McAllen. This section supports DPS and other law enforcement agencies in activities such as rescues, criminal surveillance, and manhunts. All aircraft pilots are commissioned officers of the Department.

Internal Affairs was created in 1978 to investigate complaints against Department employees. Internal Affairs investigates firearms discharges, employee misconduct cases, matters relating to the Department's Affirmative Action Plan, and provides investigative assistance to Legal Services in ongoing civil litigation.

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The Public Information Office serves as the Department's liaison to the entertainment industry.

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The Public Information Office represents DPS before the public and media. The Office's duties include issuing press cards to the news media providing access to disasters or major crime scenes, issuing news releases and public service announcements, teaching effective communication skills and media relations at the DPS training academy, and serving as the Department's liaison to the entertainment industry which often seeks assistance in creating motion picture and television productions.

## Administration Division



The Administration Division supports the four major divisions and provides information and assistance to the public. The Division consists of Inspection and Planning, Emergency Management, Crime Records, and Staff Support Services.

### INSPECTION AND PLANNING SERVICE

The Inspection and Planning Service monitors Department programs to ensure compliance with agency policies and procedures, and assess management and operational activities. Inspections of the Department’s functions and services, such as regional headquarters operations, are conducted by the Service to see that records are complete, procedures are followed, and equipment is adequate. Reviews of programs are often at the request of management. If a deficiency is found, written findings are included in an inspection report and forwarded to the Chief of the Administration Division. During legislative sessions, the staff provides legislative and fiscal note analysis for the Director. The Service also updates the Department’s policy manuals and other documents, such as the Department’s strategic plan.

### EMERGENCY MANAGEMENT SERVICE

The Emergency Management Service attempts to reduce the vulnerability of citizens and their property to injury and damage by providing a system for mitigation, response, and recovery from disasters. The Service responds to disasters including natural, man-made, and paramilitary actions. The Service is established as a Division of the Office of the Governor by statute, and an Executive Order by the Governor appoints the Director of DPS as Director of the Division of Emergency Management. The Director appoints the state coordinator to run the Emergency Management Service. The funding for the Service comes almost equally from state sources and the Federal Emergency Management Agency.

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The Emergency Management Service attempts to reduce the vulnerability of citizens and their property to injury and damage.

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The Service maintains an Operations Center, which is staffed 24-hours a day, monitoring routine and emergency events. The Operations Center houses the State Emergency Management Council comprised of 34 representatives of state agencies and other organizations, such as the American Red Cross and the Salvation Army, that either could be affected or lend expertise in a disaster. Council members are available on a 24-hour basis and may be convened in the Operations Center to mobilize state resources in the event of a disaster. Through the Council, the Service provides local governments with disaster assistance such as security, communications, search and rescue, evacuation, and crisis counseling. An example of a monitored situation is the drought in the summer of 1998. The Service oversaw surveillance of the dry conditions and coordinated responses to fires by firefighting aircraft and ground-based firefighters, preventing wide-scale fire damage. In addition to constantly monitoring the state for emergencies, the Service conducts training for local governments in emergency management and hazardous materials.

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The manual classification, search, and verification of fingerprints has been mostly replaced by the Automated Fingerprint Identification System.

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### **CRIME RECORDS SERVICE**

The Crime Records Service is divided into two areas: Fingerprint and Records Bureau and Crime Information Bureau. Through these activities, the Service maintains arrest records, fingerprint files, criminal justice information, and statistical data on crime in Texas. It also issues concealed handgun licenses.

In 1997, the Fingerprint and Records Bureau maintained over five million fingerprint files. The manual classification, search, and verification of fingerprints has been mostly replaced by the Automated Fingerprint Identification System (AFIS). AFIS uses a computer program to analyze and identify fingerprints much faster than can be done manually. A recent initiative with AFIS is an effort to collect and transmit fingerprint images electronically. Under the new system, suspects' fingerprints are transmitted from one of 30 remote live-scan sites throughout the state directly into the AFIS computer database. Arrests submitted from the 30 remote live-scan sites will represent more than half of all arrests reported to DPS annually.

The Crime Information Bureau is composed of the Texas Crime Information Center (TCIC) and Uniform Crime Reporting (UCR). TCIC is a computerized filing system of information on wanted criminals, both in Texas and across the nation — through a link with the Federal Bureau of Investigation and the National Crime Information Center. These state and federal databases are available to law enforcement and criminal justice agencies 24-hours a day through TLETS. UCR provides statistical data about the crimes committed in Texas to the federal government. Local law enforcement agencies provide the crime statistics to DPS which organizes and forwards the data to the U.S. Department of Justice to track crime rates.

The Bureau also administers the concealed handgun program. The Concealed Handgun Section receives applications, processes information, and issues concealed handgun licenses to qualified applicants. The Department began taking applications for concealed handgun licenses in November 1995. The Service is responsible for mailing applications upon request, processing original and renewal applications, certifying handgun safety instructors, and maintaining records of licensees and instructors. The Service has issued 183,321 licenses since the inception of the program, in addition to processing 8,569 renewals and certifying 2,907 instructors. In 1997 alone, over 60,000 concealed handgun licenses were issued generating revenue of almost \$6.5 million.

### **STAFF SUPPORT SERVICES**

Staff Support Services is responsible for the administration and operation of departmental activities related to personnel, training, supplies, building and grounds maintenance, and the procurement and maintenance of the automotive fleet and communications systems. The Service has 292 full-time employees working in six bureaus: Human Resources, Training Academy, General Services, Building Program, Fleet Operations, and Motorcycle Safety.

The DPS Academy provides training to Department personnel and other Texas law enforcement agencies. The Academy operates a 26-week trooper school that each candidate must successfully complete. On average, the Academy conducts one trooper school each year. The trooper schools meet the basic course requirements established by the Texas Commission on Law Enforcement Officer Standards. Subjects taught include firearm use, communication equipment skills, use-of-force laws, advanced first aid, DWI detection, and fundamental Spanish. The Academy is also responsible for training and certifying all concealed handgun instructors in Texas.

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The Department began taking concealed handgun applications in November 1995 and has since issued 183,321 licenses and certified 2,907 instructors.

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# **APPENDICES**

## APPENDIX A

### 07.52.00 Grievance Procedure (Nondisciplinary)

**52.01 Policy** Section 06.10.00 of this manual sets forth the Department of Public Safety Ten General Orders, two of which provide an avenue through which an employee may voice opinions, complaints, and seek relief for problems concerning himself or his position. The two General Orders referred to are as follows:

Number 8. To take up matters affecting me and my position with my immediate superior and through proper channels.

Number 9. To submit through proper channels constructive suggestions for the betterment of the Department and its services.

**52.02 Procedure** Based on these two written orders which have been in existence since the creation of the Department, each employee is assured of methods in which he may seek a solution for a problem or grievance. If at any level of the chain of command the employee believes he has not been satisfied with his grievance or problem, he may proceed to the next supervisor in the chain of command until the office of the Director is reached. At this point the employee will receive an audience with the Director's Office. A request for review at each higher level will contain the specific points of contention to be discussed. This procedure is available to all employees of all positions.

**52.03** The policy and procedures outlined in no way displace or otherwise should be confused with routine contacts between employees and supervisors necessary for each in carrying out their responsibilities. The employee should never hesitate to exercise his rights outlined herein through concern of placing himself in a position of disadvantage with his supervisors.

**Fees Collected by the Department of Public Safety — Fiscal Year 1997**

| Description  | Current Fee                                     | Number Issued                                    | Fee Revenue     | Revenue Deposited To  | Fee Set By Statute | Fee at Statutory Limit |
|--|---|--|-----------------|---|--------------------|------------------------|
| <b>Criminal Law Enforcement</b>                            |   |  |                 |   |                    |                        |
| Triplicate Prescriptions <sup>1</sup>                      | \$8/100 forms                                   | 2,080,600  | \$166,452       | General Revenue   | yes                | yes                    |
| Salvage Inspections  | \$50 - Trailer<br>\$100 - Cycle<br>\$200 - Cars | 6,790  | \$1,229,154     | General Revenue   | yes                | yes                    |
| Controlled Substance Registrations                         | \$5   | 31,698 <sup>2</sup>                              | \$158,490       | General Revenue   | yes                | yes                    |
| Blood Alcohol Test (BAT) Results                           | \$0.42  | 4,797  | \$2,014.93      | State Highway Fund  | no                 | N/A                    |
| Laboratory Drug Analysis<br>Restitution                    | \$140   | 4,892  | \$684,958.68    | State Highway Fund  | no                 | N/A                    |
| Polygraph School Training Fees                             | \$3,000   | 13 students                                      | \$39,000        | State Highway Fund  | no                 | N/A                    |
| Polygraph Refresher Fee                                    | \$75  | 7 students                                       | \$525           |   |                    |                        |
| Statement Analysis Fee                                     | \$45  | 64 students                                      | \$2,880         |   |                    |                        |
| <b>Vehicle Inspection Records</b>                          |   |  |                 |   |                    |                        |
| Vehicle Inspection Station<br>License Fee                  | \$30  | 7,901  | \$237,030       | General Revenue   | yes                | yes                    |
| Vehicle Inspection One –<br>Year Certificates              | \$5.50  | 7,951,828  | \$43,735,054    | General Revenue - \$27,831,398<br>Clean Air Fund Account \$15,903,656                     | yes                | yes                    |
| Vehicle Inspection Two –<br>Year Certificates              | \$14.75   | 1,133,209  | \$16,714,832.75 | General Fund - \$12,818,996.75<br>Clean Air Fund Account - \$4,532,836                    | yes                | yes                    |
| Vehicle Inspection<br>Commercial Certificates              | \$10  | 33,972   | \$3,379,720     | General Revenue   | yes                | yes                    |
| Vehicle Inspection Safety<br>Emission One-Year Certificate | \$7.25  | 3,002,037  | \$21,764,768.25 | General Revenue - \$14,439,797.97<br>Clean Air Fund Account - \$7,324,970.28 <sup>3</sup> | no                 | N/A                    |
| Vehicle Emission Test Only<br>Certificate                  | \$1.75  | 21,480   | \$37,590        | General Revenue - \$28,138.80<br>Clean Air Fund Account - \$9,451.20 <sup>4</sup>         | no                 | N/A                    |
| Vehicle T/M Certificate for<br>Mopeds                      | \$5.50  | Included with one year certificates <sup>5</sup> |                 |   | yes                | no                     |
| Dishonored Checks  | \$15  | 405  | \$6,075         | General Revenue <sup>6</sup>  | yes                | yes                    |
| <b>Safety Responsibility Bureau</b>                        |   |  |                 |   |                    |                        |
| Reinstatement Fee for SR                                   | \$50  | data not collected                               | \$4,587,833.88  | General Revenue   | yes                | yes                    |
| Reinstatement Fee for ALR                                  | \$100   | data not collected                               | \$4,398,275.18  | General Revenue   | yes                | yes                    |
| Fee for Issuance for a Year of<br>Occupational License     | \$10  | data not collected                               | \$95,391.41     | General Revenue   | yes                | yes                    |

**APPENDIX B**

| Fees Collected by the Department of Public Safety — Fiscal Year 1997 |              |                    |                                  |                      |  |                        |
|--|--------------|--------------------|----------------------------------|----------------------|--|------------------------|
| Description  | Current Fee  | Number Issued      | Fee Revenue                      | Revenue Deposited To | Fee Set By Statute                                       | Fee at Statutory Limit |
| Reinstatement fee for DIC  | \$5 - \$40   | data not collected | \$416,457.41                     | General Revenue      | yes  | yes                    |
| Reinstatement fee for Minor for DIC                                  |              |                    |                                  |                      |  |                        |
| Reinstatement fee for FTP  |              |                    |                                  |                      |  |                        |
| Search Fee   | \$7          | data not collected | \$53,431                         | State Highway Fund   | no   | N/A                    |
| Fee for Abstract of Judgement  | \$20         | data not collected | \$940,160                        | General Revenue      | no   | N/A                    |
| <b>Driver Records Bureau</b>   |              |                    |                                  |                      |  |                        |
| Type 1 - Status <sup>7</sup>   | \$4          | 19,934             | \$40,880,791<br>(total of all 3) | General Revenue      | yes  | yes                    |
| Type 2 - 3 Year <sup>8</sup>   | \$6          | 8,811,051          |                                  |                      |  |                        |
| Type 2A - 3 Year Certified <sup>9</sup>                              | \$10         | 6,579              |                                  |                      |  |                        |
| Type 3 - Complete <sup>10</sup>                                      | \$7          | 47,784             |                                  |                      |  |                        |
| Type 3A - Complete Certified <sup>11</sup>                           | \$10         | 414,109            |                                  |                      |  |                        |
| Sale of entire File/Weekly Updates                                   | \$1,600/\$57 | data not collected | \$207,735                        | General Revenue      | no   | N/A                    |
| <b>Accident Records</b>  |              |                    |                                  |                      |  |                        |
| Provide copy of peace officer's accident report                      | \$4          | 25,216             | \$101,264                        | General Revenue      | yes  | yes                    |
| Special search of accident file by accident location                 | Fee per GSC  | 224                | \$22,585.38                      | General Revenue      | no   | N/A                    |
| Sale of Accident File on Computer Tape - 1 per year                  | \$402.50/yr  | 6                  | \$2,415                          | General Revenue      | no   | N/A                    |
| <b>Crime Records Service</b>   |              |                    |                                  |                      |  |                        |
| Concealed Handgun Fees:  |              |                    |                                  | General Revenue      | yes (note: renewals which are half price are set by DPS) | yes                    |
| a. standard  | \$140        | 31,348             | \$4,444,720                      |                      |  |                        |
| b. prorated  | \$70         | 10,419             | \$729,330                        |                      |  |                        |
| c. senior citizen  | \$70         | 10,975             | \$8,680                          |                      |  |                        |
| d. indigent  | \$70         | 124                | \$8,680                          |                      |  |                        |
| e. retired federal officer   | \$25         | 107                | \$2,675                          |                      |  |                        |
| f. retired peace officer   | \$25         | 180                | \$4,500                          |                      |  |                        |
| g. active judicial officer   | \$25         | 143                | \$3,575                          |                      |  |                        |
| h. retired judicial officer  | \$25         | 11                 | \$-                              |                      |  |                        |
| i. prosecutor  | -            | 64                 | \$96,325                         |                      |  |                        |
| j. duplicates and modifications                                      | \$25         | 3,853              | \$96,325                         |                      |  |                        |
| k. instructors   | \$100        | 1,170              | \$117,000                        |                      |  |                        |
| l. certificates  | \$5          | 60,281             | \$301,405                        |                      |  |                        |
|  |              |                    | \$6,476,735                      |                      |  |                        |

**Fees Collected by the Department of Public Safety — Fiscal Year 1997**

| Description  | Current Fee             | Number Issued             | Fee Revenue        | Revenue Deposited To                              | Fee Set By Statute   | Fee at Statutory Limit |
|--|-------------------------|---------------------------|--------------------|---|----------------------|------------------------|
| <b>Regulatory Fee Revenue and Statutory Fee Levels</b> |                         |                           |                    |   |                      |                        |
| DL Issuance Fee  | \$5 - \$40              | 4,996,774                 | \$71,681,468.33    | General Revenue                                   | yes                  | yes                    |
| DL Renewal Fee   | \$16                    | Data not available        |                    | General Revenue                                   | yes                  | yes                    |
| Class M Renewal Fee                                    | \$5                     | 140,409 <sup>12</sup>     | \$702,045          | General Revenue                                   | yes                  | yes                    |
| Provisional Renewal Fee                                | \$5                     | Data not available        |                    | General Revenue                                   | yes                  | yes                    |
| Instruction Permit Fee                                 | \$5                     | 198,604 <sup>13</sup>     | Data not available | General Revenue                                   | yes                  | yes                    |
| Occupational License Issuance Fee                      | \$10                    | <sup>14</sup>             |                    |   | yes                  | yes                    |
| DL Examination Fee                                     | \$10                    | Data not available        |                    | General Revenue                                   | yes                  | yes                    |
| Identification Certificate Fee (under 65)              | \$10                    | 677,997                   | \$6,901,251        | General Revenue                                   | yes                  | yes                    |
| Identification Certificate Fee (over 65)               | \$5                     | 24,147 <sup>15</sup>      | Data not available | General Revenue                                   | yes                  | yes                    |
| Disability/Health Condition Certificate Fee            | N/A                     |                           |                    |   | yes                  | yes                    |
| Duplicate License/Identification Certificate Fee       | \$10                    | 103,260 <sup>16</sup>     | Data not available | General Revenue                                   | yes                  | yes                    |
| Duplicate Disability/Health Condition Certificate Fee  | N/A                     |                           |                    |   | yes                  | yes                    |
| Commercial Driver License (CDL) Fee                    | \$24-40                 | 45,714<br>(1st time CDLs) | Data not available | General Revenue                                   | yes                  | yes                    |
| Duplicate CDL Fee                                      | \$10                    |                           | Data not available | General Revenue                                   | yes                  | yes                    |
| CDL Examination Fee                                    | \$10                    |                           | Data not available | General Revenue                                   | yes                  | yes                    |
| MCCA Administration Penalties                          | Average \$2,276.59      | 320                       | \$728,509          | General Revenue                                   | set by USDOT formula | N/A                    |
| Motor Carrier Certification Fees                       | Average \$64.09         | 90                        | \$5,768            | State Highway Fund                                | no                   | N/A                    |
| Individual Parking Permit Fee                          | \$10 Mt + Tax           | 6,084                     | \$65,664.85        | City, County, MTA and SPD Sales Tax Trust Account | no                   | N/A                    |
| Agency Parking Permit Fee                              | \$10 Mt                 | 13,909                    | \$139,090          | State Parking Fund Account                        | no                   | N/A                    |
| Complex Parking Fine                                   | \$10 each, \$12 if late | 15,366                    | \$189,633          | General Revenue <sup>17</sup>                     | no                   | N/A                    |

| Fees Collected by the Department of Public Safety — Fiscal Year 1997   |             |               |                         |                      |                    |                        |
|--|-------------|---------------|-------------------------|----------------------|--------------------|------------------------|
| Description  | Current Fee | Number Issued | Fee Revenue             | Revenue Deposited To | Fee Set By Statute | Fee at Statutory Limit |
| <b>TOTAL COLLECTED</b>   |             |               | <b>\$228,904,400.05</b> |                      |                    |                        |
| <p><sup>1</sup> CRITERIA/STATUTE Health &amp; Safety Code 481.075 (b) DPS shall issue forms ... for a fee covering actual costs of printing and processing the forms, mailing containers, and binders, and the actual cost of mailing the forms at 100 forms/pkg.</p> <p><sup>2</sup> Effective 02/01/97, an eleven (11) month staggered registration renewal process was implemented to more evenly distribute the workload of the section. During this transition year, most registration expiration dates were extended from one (1) month to eleven (11) months thereby resulting in the decreased number of renewal applications processed this fiscal year.</p> <p><sup>3</sup> \$1.75 of each emissions fee is dedicated to program implementation. The money is deposited into Fund 001 and appropriated in amounts not to exceed \$1.3125 per vehicle emission tested to DPS and \$0.4275 to TNRCC. Even though appropriated from Fund 001 this program is considered a fee based program.</p> <p><sup>4</sup> \$1.75 of each emissions fee is dedicated to program implementation. The money is deposited into Fund 001 and appropriated in amounts not to exceed \$1.3125 per vehicle emission tested to DPS and \$0.4275 to TNRCC. Even though appropriated from Fund 001 this program is considered a fee based program.</p> <p><sup>5</sup> Trailer and motorcycle figures are included with one (1) year certificates. 118,864 certificates were issued to trailer and motorcycles. The amount sold may somewhat vary from the number issued.</p> <p><sup>6</sup> The fee's associated to dishonored checks are captured separately. During fiscal year 1997 DPS collected \$75,613 in fees on 5,040 dishonored checks. The amount reported above represents an estimate for vehicle inspection.</p> <p><sup>7</sup> TRC § 521.045 ... information relating to an individual's date of birth, current license status, and most recent address as shown in [DPS]'s records</p> <p><sup>8</sup> TRC § 521.046 ... information regarding each reported motor vehicle moving violation, ... resulting in a traffic law conviction and each motor vehicle accident in which the individual received a citation, by date and location, within the three years preceding the date of the request</p> <p><sup>9</sup> TRC § 521.048 information under TRC § 521.046 is certified by the custodian of records</p> <p><sup>10</sup> TRC § 521.047 ... information relating to a license holder ... that include the individual's driver's license number or the individual's full name and date of birth... [also, information on ] the current license status of the individual, the individual's most recent address, the completion of an approved driver education course by the individual, ... individual's reported traffic law violations and motor vehicle accidents, by date and location</p> <p><sup>11</sup> TRC § 521.048 ... information under TRC § 521.047 is certified by the custodian of records</p> <p><sup>12</sup> Count included in DL issuance fee.</p> <p><sup>13</sup> Count included in DL issuance fee.</p> <p><sup>14</sup> Count included under Safety Responsibility.</p> <p><sup>15</sup> Count included in Identification Certification fee above.</p> <p><sup>16</sup> Count included in Identification Certification fee above.</p> <p><sup>17</sup> Includes fines issued previous fiscal year but collected during fiscal year 1997.</p> |             |               |                         |                      |                    |                        |

## APPENDIX C

### Texas Law Enforcement Telecommunication System Network

The Texas Law Enforcement Telecommunication System, or TLETS, is the computer switching system that facilitates the process of law enforcement information requests and responses. As a primary conduit of information, TLETS assists a Traffic Law Enforcement dispatcher to get information on a driver's record, a Criminal Law Enforcement investigator to review an individual's crime record, or an employee at Driver Improvement and Control Bureau to get Texas Department of Transportation driver's registration information. Mostly, TLETS passes electronic information from the databases that contain the information to the individual who requests the information, allowing law enforcement information resources to be widely shared.

Currently, 1,300 organizations and agencies, use TLETS on 18,000 terminals for their law enforcement information needs. An organization must be approved to use TLETS, usually under certain access restrictions. Users must have been granted access before they can:

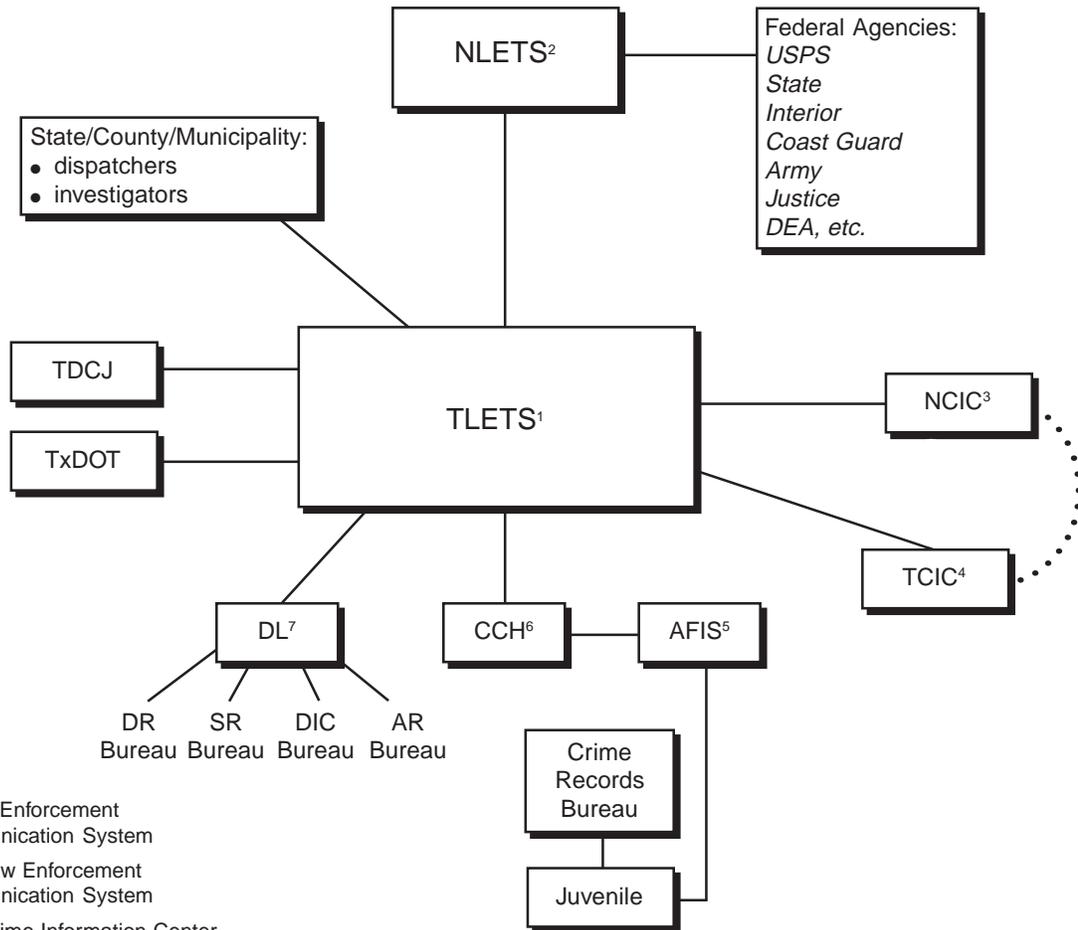
- conduct general administrative functions;
- inquiry into Computerized Criminal History database;
- inquiry into Texas Criminal Information Center; and/or
- conduct file maintenance.

Most users can only read TLETS, rather than change or manipulate databases while others can gain file maintenance access to actually change database information.

The flow chart, *Texas Law Enforcement Telecommunication System Network*, demonstrates some of the major users as well as the flow of information through TLETS. TLETS includes connection to:

- National Crime Information Center (NCIC) and the Texas Crime Information Center (TCIC), which contains warrant information on a federal and state level, respectively;
- DPS databases, such as the Driver's License System and Computerized Criminal History;
- other state agencies, as well as other police department personnel, that request information through TLETS; and
- NLETS, the National Law Enforcement Telecommunication System, which helps access other federal or state law enforcement databases.

### Texas Law Enforcement Telecommunication System Network



- <sup>1</sup> Texas Law Enforcement Telecommunication System
- <sup>2</sup> National Law Enforcement Telecommunication System
- <sup>3</sup> National Crime Information Center
- <sup>4</sup> Texas Crime Information Center
- <sup>5</sup> Automated Fingerprinting Information System
- <sup>6</sup> Computerized Criminal History
- <sup>7</sup> Drivers License System



**DEPARTMENT OF PUBLIC SAFETY**

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