



Public Safety Commission Meeting

December 7, 2023, 10:00 a.m.

6100 Guadalupe, Building E

Austin, TX 78752

Summary

(This report represents a summary of events of the meeting, and is not necessarily complete nor an exact transcript of testimony.)

The Public Safety Commission convened as posted to consider and take formal action, if necessary, on the following agenda items:

I. CALL TO ORDER

10:00 am – Chairman Steven Mach called the meeting to order. In attendance: Chairman Steven Mach, Commissioner Nelda Blair, Commissioner Larry Long, Commissioner Dale Wainwright, and Commissioner Steve Stodghill. A quorum was present. Also, present were Deputy Director Freeman Martin, and General Counsel Phil Adkins.



II. INVOCATION

Chaplain Ferman Carpenter gave the invocation.

III. PLEDGES

Trooper Marcus Wetcomb led the meeting in the Pledge of Alliance and the Texas Pledge of Allegiance.

IV. APPROVAL OF MINUTES

A motion was made by Commissioner Wainwright to approve the minutes from the October 26, 2023, Public Safety Commission Meeting and seconded by Commissioner Blair. The motion passed.

V. PRESENTATIONS

(The DPS Public Information Office provided the following information from today's meeting.)

DEPARTMENTAL SERVICE AWARDS:

The following employees will be presented a certificate in recognition of their **30 years** of service and accomplishment with the Texas Department of Public Safety:



Beverly Foust (Driver License Division)



Timothy Preece (Regulatory Services Division)



Denise Reyes (Infrastructure Operations Division)

The following employee will be presented a certificate in recognition of her **40 years** of service and accomplishment with the Texas Department of Public Safety:



Sandra Uzzell (Texas Highway Patrol Division)

DIRECTOR'S CITATION:



Kevin King (THP)



Steven Tellez (THP)

On May 24, 2022, the community of Uvalde experienced the horrendous event of a mass shooting at Robb Elementary School resulting in the loss of innocent lives. At the request of Uvalde Consolidated Independent School District's superintendent for DPS security and presence, Governor Greg Abbott directed the Department to commence a school safety initiative to rebuild the community's trust in law enforcement agencies that bear the responsibility of creating a safe environment for students and staff at the eight (8) campuses. Captain Steven Tellez and Lieutenant Kevin King nobly volunteered to serve as ambassadors and lead the school safety initiative during the 2022-2023 school year. Through their leadership, professionalism, and forward thinking, Captain Tellez and Lieutenant King have built a positive and safe environment for students, faculty, and the entire Uvalde community. They made it a priority to be visible and accessible for all members of the school community, and they spent time in classrooms and cafeterias, at sporting events and after school activities, getting to know the students and listening to their concerns. They have adopted a more holistic approach to school safety, focused on de-escalating conflicts and taking a proactive approach through education to address issues such as the reporting of "Threat to Life" events and the proper

application of laws in an educational environment. They collaborated with other Department divisions to address threats and further investigations until appropriately concluded. Captain Tellez' and Lieutenant King's efforts have undoubtedly had a positive impact on the student disciplinary issues over the past school year. Students, parents, teachers, and the community have expressed great gratitude for their efforts and credit their presence in helping make Uvalde schools feel safer and more welcoming for all.

In recognition of their significant and professional efforts in building a positive relationship with, and safe environment for the Uvalde Consolidated Independent School District, **Captain Steven Tellez and Lieutenant Kevin King are hereby awarded the Director's Citation.**

DIRECTOR'S CITATION & DIRECTOR'S AWARD



Damian Conner (THP)

Joseph Sherman (THP)

Michael Abay (THP)

Chief Jay Tidwell Lance Lewis Michael Bustamante Joshua Lascano

On January 31, 2023, Trooper Curtis Putz was crushed between a concrete barrier and his patrol unit while investigating a traffic crash. Troopers Michael Abay, Damian Conner, and Joseph Sherman were on the scene,

investigating other traffic crashes due to the icy roadways. Trooper Abay ran toward the patrol unit and realized Trooper Putz was pinned underneath. Trooper Sherman was close by and notified communications of a trooper down and requested two (2) ambulances. The driver who struck Trooper Putz was in and out of consciousness and Trooper Abay broke the driver's side window to access the driver. Trooper Conner was informed that Putz was having trouble breathing and the patrol unit needed to be lifted. Conner retrieved his floor jack and wheel chocks and verified the patrol unit was in park and that the emergency brake was set. Trooper Sherman continued to communicate with Trooper Putz while Trooper Abay and Richland Volunteer Fire Chief Jay Tidwell began to lift and stabilize the patrol unit. During this time, Michael Bustamante, a tow truck operator, arrived on the scene and worked quickly to lift the patrol vehicle off Trooper Putz. Lance Lewis, another tow truck operator, assisted Mr. Bustamante with moving the patrol vehicle while protecting Trooper Putz from further injury. Off-duty Glen Heights Firefighter Joshua Lascano observed the crash and immediately provided an

assessment of Putz' injuries. As Mr. Bustamante lifted the patrol unit, Troopers Sherman and Abay, and Firefighter Lascano, pulled Trooper Putz out from under the patrol car.

In recognition of their significant and professional response to a life-threatening situation, **Troopers Michael Abay, Damian Conner, and Joseph Sherman are hereby awarded the Director's Citation.**

In recognition of their significant and professional response to a life-threatening situation, **Volunteer Fire Chief Jay Tidwell, Firefighter Joshua Lascano, Michael Bustamante and Lance Lewis are hereby awarded the Director's Award.**

LIFESAVING AWARD:



Jacob Morrow (THP)

On August 14, 2023, while deployed to Operation Lone Star, Trooper Jacob Morrow observed a female and two juvenile subjects approach the Rio Grande River, in Mexico. Trooper Morrow encouraged the subjects to walk to the nearest point of entry to seek access to the U.S., but the subjects began to cross the river in an area that is known to be quite deep. Trooper Morrow began to hear screams for help as he observed the subjects go under water multiple times. Morrow directed a National Guardsman to lower the concertina wire while he retrieved his throw bag. As Morrow approached the river and began to crawl

over the wire, he could only see the juveniles above water. He deployed his throw bag into the river and instructed the juvenile subjects to grab the rope as he began pulling them to the riverbank. As Trooper Morrow began pulling, the mother surfaced, blue in the face and gasping for air. All three subjects were pulled to shore by Trooper Morrow. A National Guard medic advised that the female subject would not have survived much longer in the water. Once EMS personnel arrived on the scene, all three subjects were transported to a local medical center for further treatment.

In recognition of his decisive and professional response to a life-threatening situation resulting in the saving of a life, **Trooper Jacob Morrow is hereby awarded the Lifesaving Award.**

UNIT CITATION:



On Thursday, March 30, 2023, the North Texas Region Aircrew, consisting of Lieutenant Pilot Jordan Teel and Staff Sergeant Tactical Flight Officer (TFO) Frank Gunnels, was dispatched to assist the Kaufman County Sheriff's Office with the pursuit of a stolen vehicle. Within minutes, the aircrew intercepted the pursuing vehicle, which was traveling more than one hundred miles per hour and using all lanes of the roadway to avoid numerous attempts by officers to spike the vehicle's tires. After the suspect's vehicle struck a civilian vehicle and spun out of control, the suspect exited the vehicle with a firearm and began engaging officers with gunfire. Even as the aircrew was receiving gunfire, they continued to maintain overwatch of the suspect and guide officers to areas of safety and tactical advantage. The suspect fled into a neighborhood, and then into a wooded area, ultimately hiding in a creek, out of view of officers and the aircrew.

During this time, Lieutenant Clay Lacey, who had just completed his shift and was at his residence, messaged the entire duty station and advised AOD personnel of the situation. Captain Saben Emery, who was off duty and out of state, began monitoring the incident via digital downlink and began notifying additional personnel and arranging for additional assets. An additional aircrew from Austin, consisting of Lieutenant Pilot Justin Foyt and Staff Sergeant Chris Gates, was requested to relieve the aircrew currently on station. Staff Sergeant TFO Justin Kaiser was sent to the scene to assist with his DPS issued drone. Lieutenant Jason Roland responded immediately to coordinate with the command post, and Lieutenant Kris Edgmon was placed on standby as a relief pilot. Staff Sergeant TFO Bobby Maeker and Garland PD TFO Robin Mondragon, who were in Houston for training, drove through the night to assist with the ongoing incident. Approximately sixteen hours later, the suspect surrendered after hiding his firearm. AOD personnel assisted with the search and recovery of this firearm, which was vital in this investigation. The actions of these AOD personnel were fundamental in protecting the lives of officers on the ground and citizens in the area.

The employees commended for their hard work and dedication include **Captain Pilot Saben Emery, Training Captain Pilot Jason Roland, Lieutenant Pilots Jordan Teel, Clay Lacey, Kris Edgmon and Justin Foyt, Staff Sergeant Tactical Flight Officers Frank Gunnels, Justin Kaiser, Robert Maeker, and Chris Gates and Garland Police Tactical Flight Officer Robin Mondragon.**

They are hereby awarded the Unit Citation.

VI. PUBLIC COMMENT

(Members of the public wishing to address the Commission are subject to a time limit of 5 minutes and must complete a Public Comment Registration Card located at the entry. Should a member of the public bring an item to the Commission for which the subject was not posted on the agenda of the meeting, state law provides that the Commission may receive the information but cannot act upon it at the meeting. The Commission may direct staff to contact the requestor or request that the issue be placed on a future agenda for discussion.)

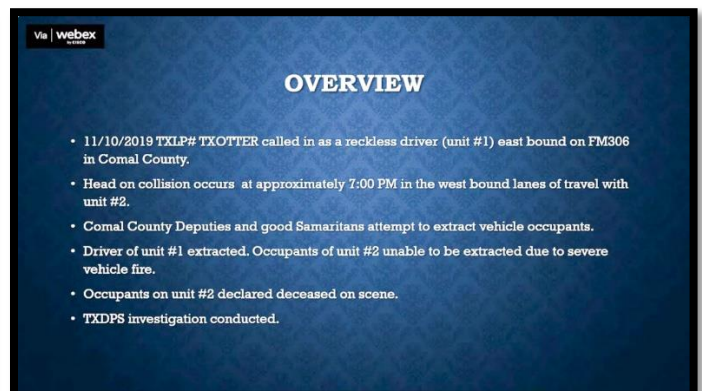
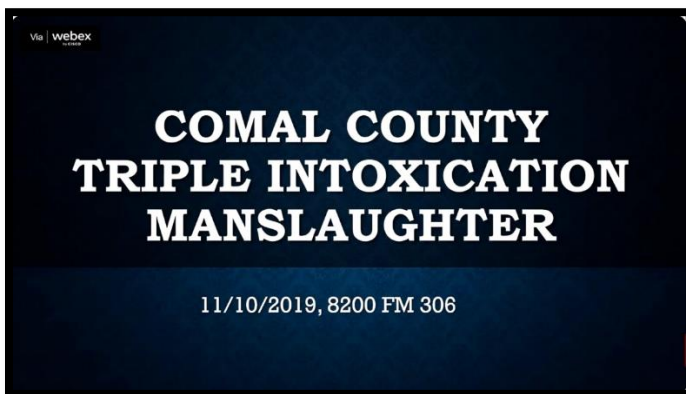
Chairman Mach stated that one individual signed up to speak before the Commission, and that if any others wish to speak, they should complete and submit a request to speak card.

Falicia Tamao, Government Affairs with the City of El Paso, spoke with concern regarding the increase in high-speed pursuits and the danger that those pursuits pose to the public. She stated that there were 65 reported pursuits in 2022 and another 268 high-speed pursuits reported in 2023. 270 of those pursuits exceeded 100 mph. Of the 268 pursuits in 2023, there were 25 crashes that resulted in injuries and some deaths. She spoke of two incidents that happened within a 9-day period that sent a total of 13 to the hospital. In one of the accidents, 6 of the injured were immigrants and 3 were bystanders. She asked that DPS consider different approaches that reduce the risk of injuries to the citizens.

VII. DIRECTORS REPORT

A. Case Update: Comal County Intoxication Manslaughter Case

Director McCraw asked Chief Orland Alanis, Highway Patrol, to introduce Calvin Ayalla, who has recently been promoted to Special Agent in CID, to report on a Comal County intoxication manslaughter case. Special Agent Ayalla asked Comal County Assistant District Attorney Jessica Frazier to join him in the presentation. The following slides of the presentation lay out the details of the incident.



Via | webex

INVESTIGATION OVERVIEW

- Standardized Field Sobriety test conducted. Horizontal Gaze Nystagmus administered in the ambulance.
- Crash scene evidence marked, photographed, and collected.
- Blood search warrant drafted and executed. Lab results yielded .175 BAC.
- Search warrants drafted for both vehicle black boxes, unit #1 driver's cell phone, and buccal swab sample to match DNA.
- Arrest warrants issued due to extended hospital stay.
- Unit #1 driver arrested 11/21/2019 after being released from the hospital.

Via | webex

LOCATION REFERENCE

Via | webex

CRASH DIAGRAM

- Unit #1 toward New Braunfels
- Unit #2 towards Canyon Lake/Spring Branch

Via | webex

CRASH SATELLITE IMAGE

Via | webex

UNIT #1

Via | webex

UNIT #1

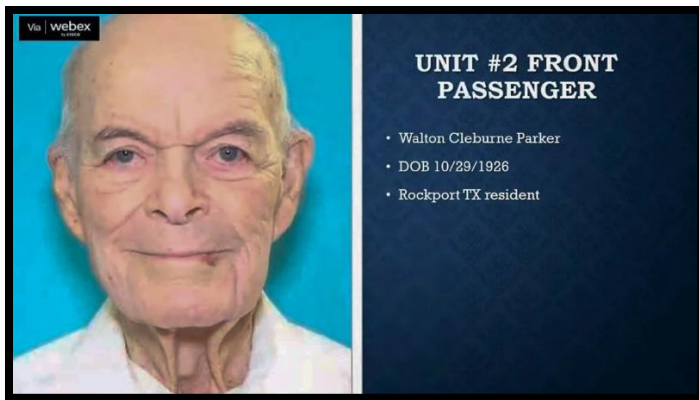
Via | webex

UNIT #2

Via | webex

UNIT #2 DRIVER

- Melissa Leigh Edwards
- DOB 11/11/1978
- Spring Branch TX resident



Jessica Frazier stated that this case was one of the most difficult investigations ever in Comal County. She stated that Highway 306 is one of the most dangerous roadways in the state, and that the hills, curves, and narrow 2 lane highway results in numerous crashes each year. She also noted that Veterans Day marks the start of the annual New Braunfels Wurst fest, an event that historically generates numerous DWI arrests. She also said that the maximum penalty for this offense is 60 years and that they were able to get a 58-year sentence, which shows their commitment to enforcing DWI laws.

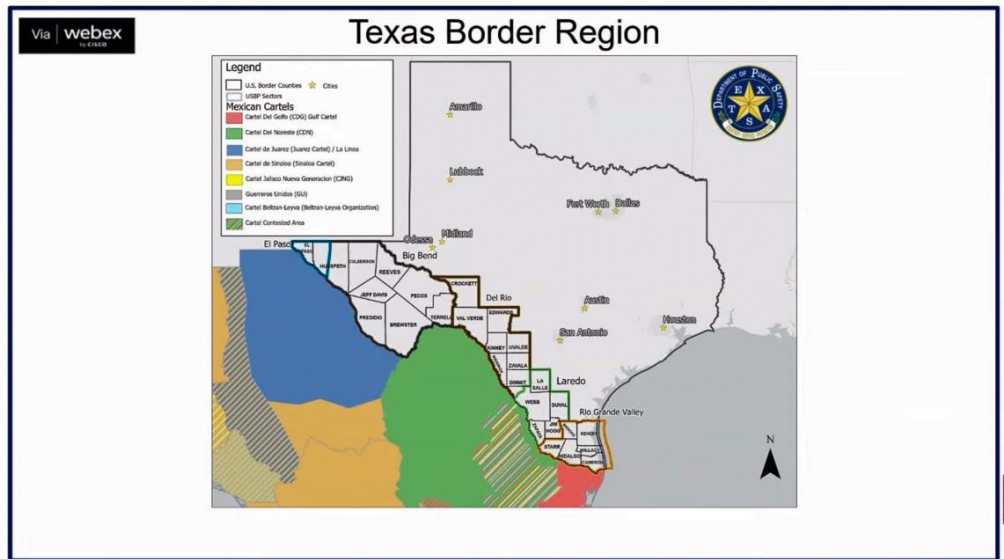
Commissioner Blair said that she has family that lives in Comal County that regularly drive on Highway 306, and she thanked DPS and the Comal County law enforcement and the District Attorney's office for working to keep the highways safe.

Chairman Mach also thanked Special Agent Ayalla and Jessica Frazier for their report and for helping to keep our roads safe.

B. Operation Lone Star Update



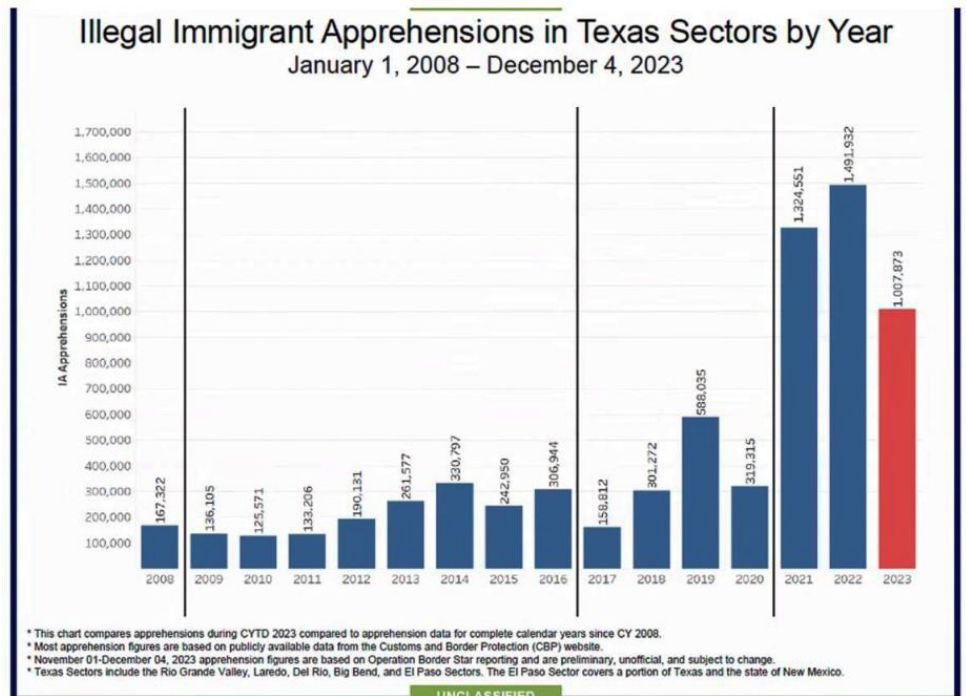
are involved in human smuggling and drug trafficking. Recently, the media have been reporting on pre-OLS and pos-OLS numbers. With the 2021 and 2022 surge of illegal crossings at the border, we have shown a 572% increase in the numbers. This surge has changed law enforcement's role from pro-active to reactionary, and now to processing. When Title 42 was discontinued, we began operating under Title 8 sanctions, which are harsher than those in Title 42. This resulted in a significant drop in the number of illegal crossing, but only for a couple of months. When word got out that the US was releasing Title 8 detainees, the surge renewed.



The Del Rio sector, and more specifically Eagle Pass, is now the center of gravity for illegal crossings. We have recently had to close one of the crossing bridges.

McCraw went on to discuss how the cartels have weaponized fentanyl. Fentanyl and meth are synthetic drugs and with the proper chemicals and know how, can be produced in large quantities. Waiting for the poppies to grow and be harvested to produce heroin is no longer necessary. And cartels are producing look-a-like copies of common prescription drugs (almost exact replications) such as

Adderall, Xanax, Oxycodone, Valium, Percocet, etc., using minute amounts of fentanyl to produce similar effects. The problem is that very small amounts of fentanyl can be lethal, and the cartels do not care about that. These counterfeit pills are flooding across the U.S., increasing the number of addicted people in the big lake region, the Northeast, the Southeast, and the Midwest. In Texas we



are finding 6 out of every 10 illegal pills confiscated contain a potentially lethal amount of fentanyl in them. Fentanyl is also being mixed with cocaine and meth. Many consumers believe that they are purchasing legitimate versions of the drugs when they are not.

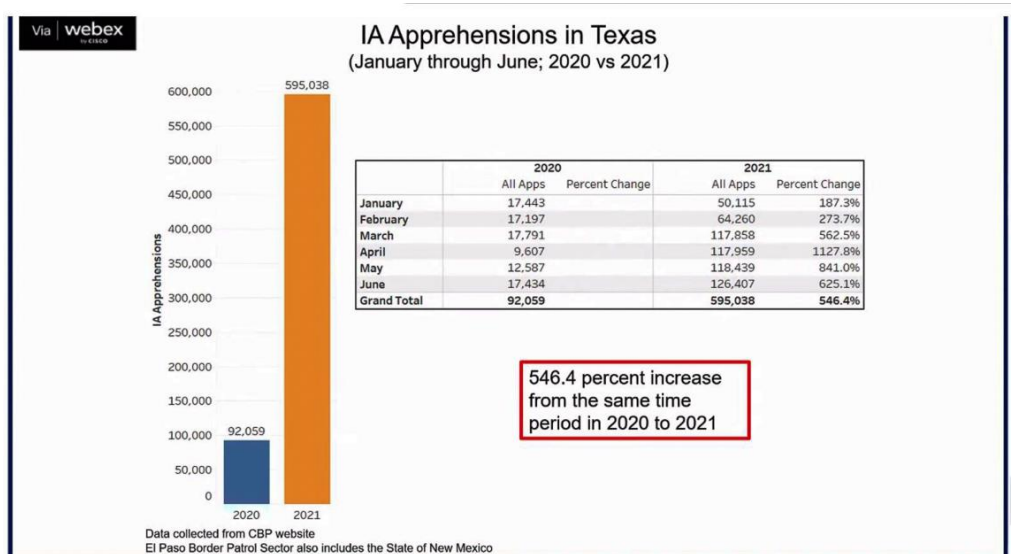
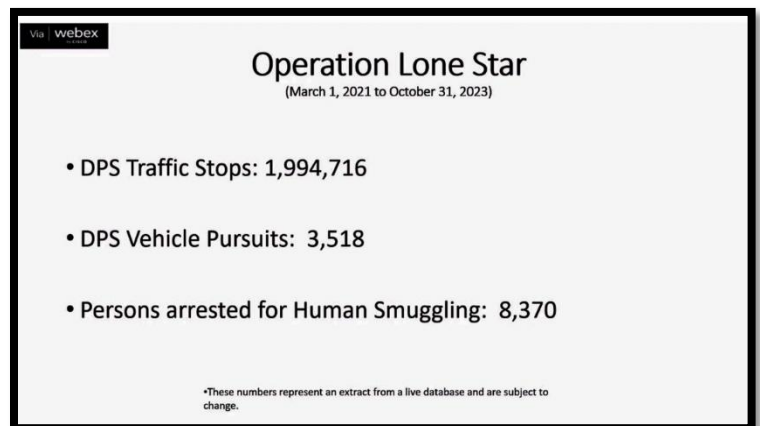
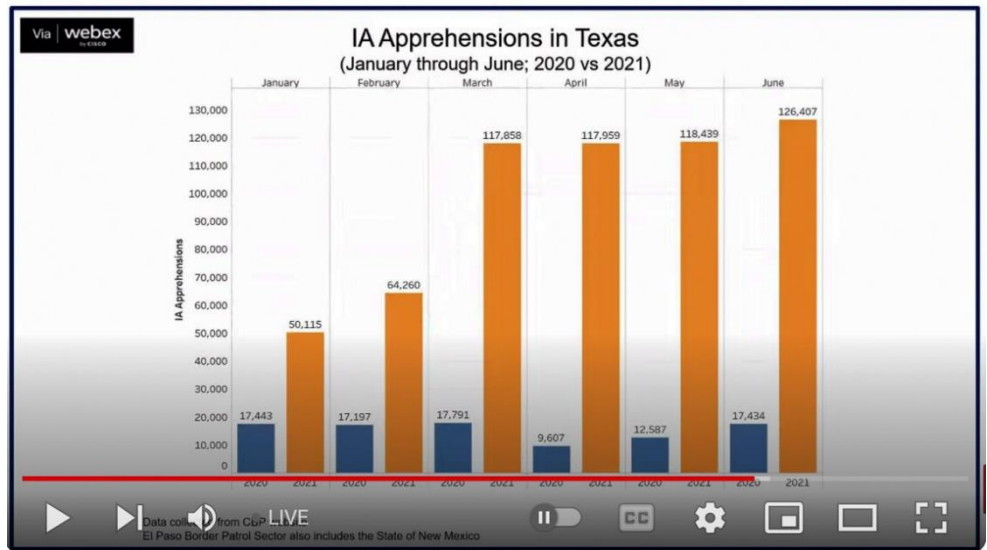
As for our high-speed pursuits, we train our troopers to use their best judgement as to when such a pursuit is warranted. The time to stop a pursuit is built into the policy manual. Troopers must make tough calls in the heat of the moment. He noted that when a car is pulled over for a traffic violation, the perpetrator does not run unless there is more serious criminal activity involved. We find that many migrants are victims of human trafficking and are not aware of it because they have been promised good jobs in the hospitality and service industries. These jobs never materialize, and many are forced into the sex industry or indentured work situations. Cartels do not care.

DPS troopers and special agents are often involved in rescue operations when migrants attempt illegal crossings of the Rio Grande River. They are often poor swimmers and find the water too deep and get caught up in rapids where the undertow sweeps them away.

Cartels use social media to recruit and tempt victims with money. It evolves into a money or lead option. They use low tech tactics such as bail outs and caltrops to avoid arrest.

Our troopers are trained to pursue judiciously and to assess the risks.

As for accountability, body and dash cameras are the best things to happen in law enforcement in a long time. In most cases, video footage from these cameras exonerates the officer, showing that procedure was followed, and no laws were broken.



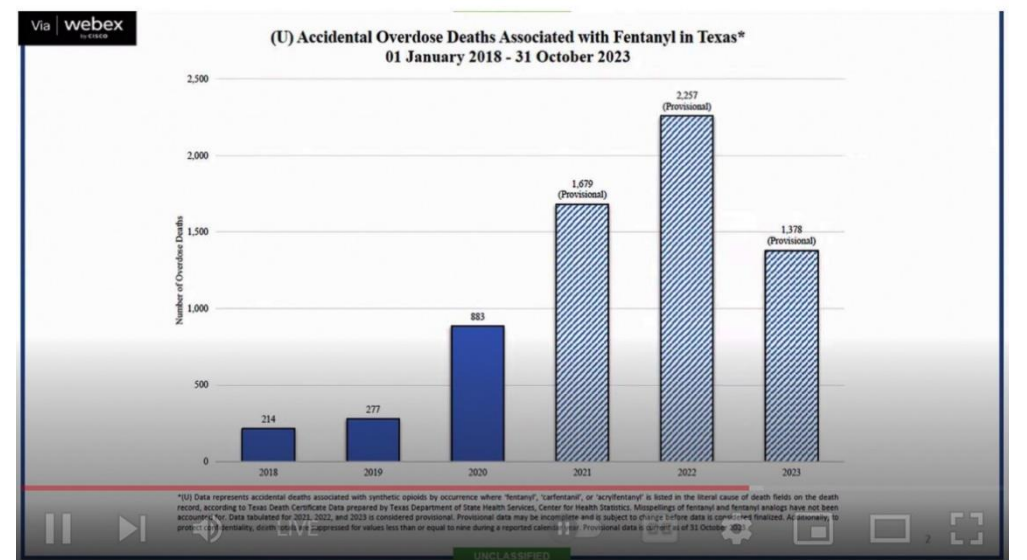
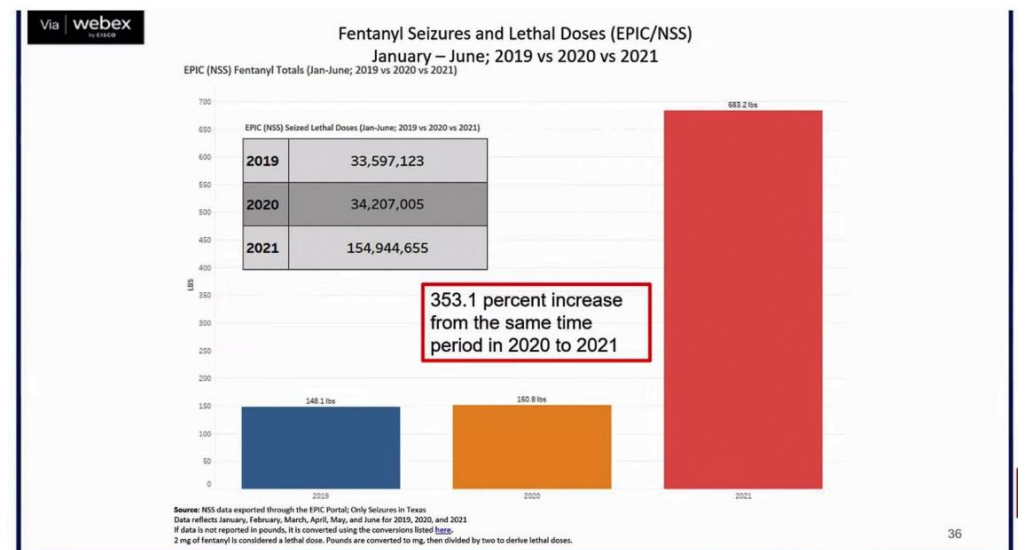
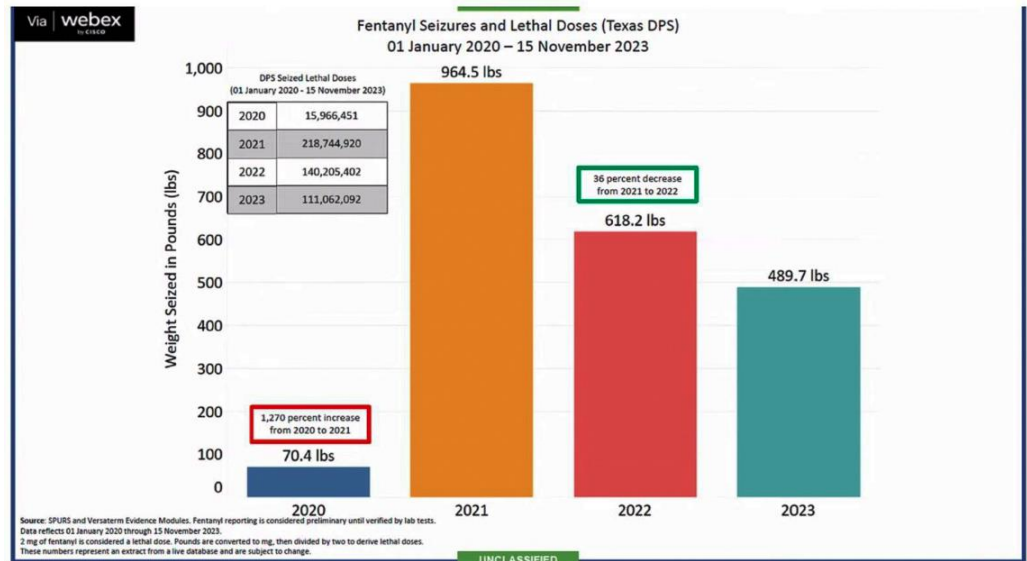
Troopers do more to prevent crashes than to cause crashes. Troopers are not reckless, but we cannot capitulate when public safety is at risk.

Commissioner Long commented that fentanyl is getting a lot of press in the Dallas area, and it appears that Operation Lone Star is working to stem the tide of this threat. Getting the word out seems to help.

Director McCraw stated that he is reluctant to equate the fall in numbers as success. He said that Commissioner Long hit the nail on the head in that education of the public is the key to stemming this crisis. Fewer deaths are a better barometer of success.

Director McCraw asked Deputy Director Freeman Martin to report on some statistics.

DD Martin said that since March of 2023 (including the two months that the special operation was suspended) 17 lbs. of fentanyl had been seized in Austin by DPS. This equals approximately 3,800,000 lethal doses. Additionally, 627 lbs. of meth were seized. This is in just one city. Despite the amount that we are catching, there is still a lot that is getting through the cracks.



Commissioner Long commented that he doesn't think that the citizens are aware of the sophistication of the cartels' operations.

McCraw responded that all the cartels are violent. They recruit heavily, and raise members through the ranks including scout, hit men, gatekeepers, and leadership. The city of Juarez is now a war zone and not safe to visit.

TEXAS HIGHWAY PATROL MANUAL, CHAPTER 5

EMERGENCY AND PURSUIT OPERATIONS

05.04.95.00 EMERGENCY AND PURSUIT OPERATIONS ([Rule 1.91, Texas Administrative Code, Title 37, Part 1, Chapter 1, Subchapter N](#))

05.04.95.01 The Texas Department of Public Safety complies with [Texas Transportation Code, §546.004](#), requirements that promulgate exceptions to the operation of an authorized emergency vehicle that is used for law enforcement purposes. The exceptions relate to operation without the use of audible and visual warning devices.

05.04.95.02 In deciding not to operate the emergency lights or siren in compliance with the provisions of [Texas Transportation Code, §546.004](#), the driver of the emergency vehicle should consider the safety of others.

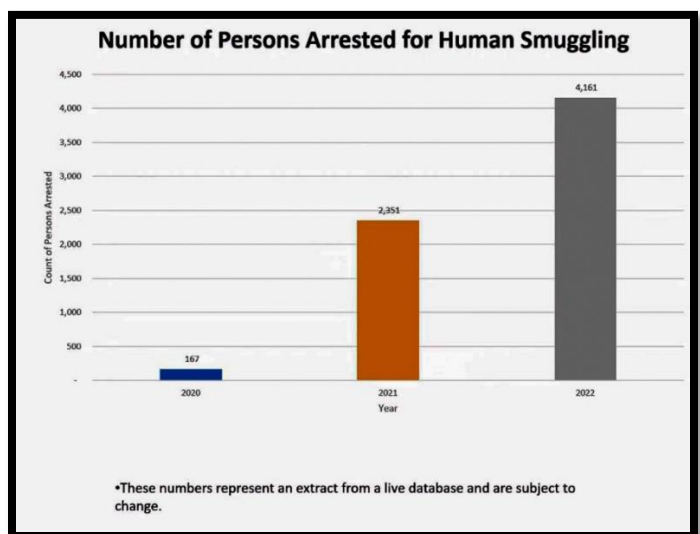
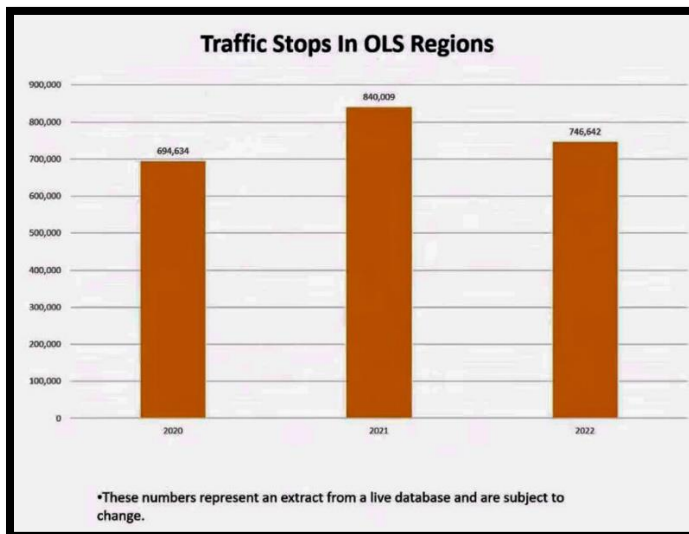
05.04.95.03 Policy. Members have an obligation to the citizens of the state of Texas to protect their lives and property, especially on the highways.

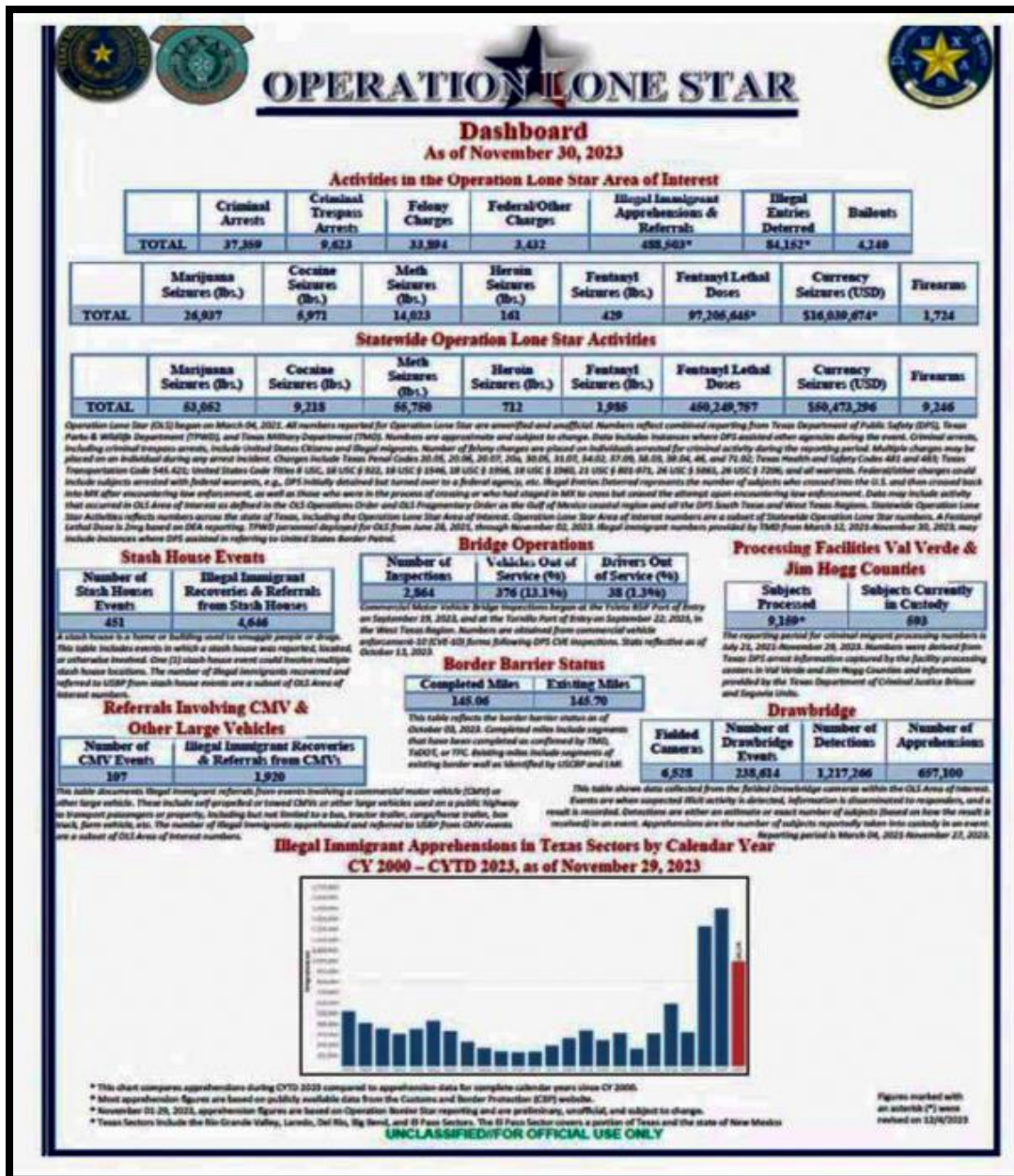
1. On routine assignment, the Trooper should always give consideration to the traffic conditions existing, the terrain, and the condition of the roadways in their area. The mission of apprehension cannot be accomplished if the officer is involved in a collision.
2. The Department recognizes that while it is the trooper who initiates the traffic stop, it is the violator who initiates a vehicle pursuit. There are many times when it is not practicable to continue pursuit of a violator. The decision of when to abandon pursuit can only be made by the officer involved. When, in the judgment of the officer, the mission of the Department can no longer be served or when it becomes evident that continued pursuit will bring about unwarranted danger to the public or to the officer, they should delay the arrest or abandon the pursuit and take whatever legal action is practicable. Strong consideration on abandoning a pursuit should be given especially if the suspect's identity is known, later apprehension can occur, and there's no immediate threat to the public safety other than the threat created by the offense of evading.

Chairman Mach thanked Director McCraw for an excellent report.

Commissioner Wainwright said that we are dealing with unprecedented increases in crime, and it calls for the heroic response that DPS and other law enforcement agencies are providing.

Director McCraw said that our role is in support of local law enforcement and to serve and protect.





VIII. NEW BUSINESS

A. Discussion and possible action on the re-appointment of a member to the Vehicle Inspection Advisory Committee

Chief Wayne Mueller, Regulatory Services Division, stated that DPS appoints 8 of the 9 members to the Vehicle Inspection Advisory Committee. The PSC approved two appointees at the last Commission meeting, and he is now recommending the re-appointment of Julie Clausen to the committee due to her extensive experience as an inspector and operator. If appointed, her appointment will expire in August of 2026.

A motion was made by Commissioner Long and seconded by Commissioner Wainwright to approve the re-appointment of Julie Clausen to the Vehicle Inspection Advisory Committee.

The motion passed.

B. Final Determination in Contested Cases – consideration and possible action on Proposals for Decision:

Chief Wayne Mueller, Regulatory Services Division, stated that there were 6 cases to be considered, with 5 of the cases involving clear scanning.

1. SOAH Docket No. 405-23-20827.MVI – Jose Romero Amaya
DPS Regulatory Services recommended a 1-year suspension of his license and a \$500 fine for clear scanning. SOAH affirmed this recommendation.

2. SOAH Docket No. 405-23-19233.MVI – Batool Arsalan
DPS Regulatory Services recommended a 1-year suspension of his license and a \$500 fine for clear scanning. SOAH affirmed this recommendation.

3. SOAH Docket No. 405-23-20269.MVI – Mynar Inspection
DPS Regulatory Services recommended a 1-year suspension of the station's license and a \$500 fine for clear scanning. SOAH affirmed this recommendation.

4. SOAH Docket No. 405-23-21145.MVI – Nihar Shah
DPS Regulatory Services recommended a 1-year suspension of his license and a \$500 fine for failure to complete all required inspection tasks. SOAH affirmed this recommendation.

5. SOAH Docket No. 405-23-22224.MVI – Jesus Manuel Solis
DPS Regulatory Services recommended a 1-year suspension of his license and a \$500 fine for clear scanning. SOAH affirmed this recommendation.

6. SOAH Docket No. 405-23-21148.MVI – Stickers-N-More Pearland
DPS Regulatory Services recommended a 1-year suspension of his license and a \$500 fine for clear scanning. SOAH affirmed this recommendation.

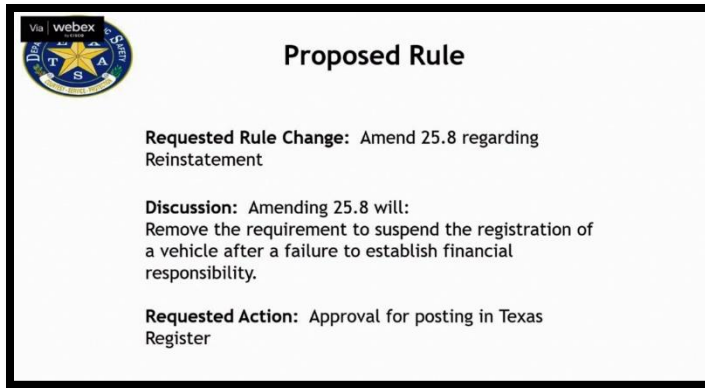
Chief Mueller asked that all 6 SOAH recommendations be adopted.

A motion was made by Commissioner Blair and seconded by Commissioner Stodghill to adopt the recommendations of SOAH on all 6 cases.

The motion passed.

C. Report, discussion, and possible action on the following rule proposals for publication to receive public comment:

1. Proposed amendment to 37 TAC Section 25.8, concerning Reinstatement.
Chief Sheri Gipson said that this amendment would bring the rule into compliance with HB3224 that was passed in the last full legislative session. She asked the commission for approval to publish the amendment in the Texas Register for public review and comment.



A motion was made by Commissioner Blair and seconded by Commissioner Long to approve this amendment for publication in the Texas Register.

The motion passed.

2. Proposed amendments to 37 TAC Section 36.60, concerning Administrative Penalties

Chief Wayne Mueller, Regulatory Services Division, said that this amendment would bring the rule into compliance with changes made by the legislature. He asked the commission for approval to publish the amendment in the Texas Register for public review and comment.

A motion was made by Commissioner Wainwright and seconded by Commissioner Blair to approve these amendments for publication in the Texas Register.

The motion passed.

D. Intelligence Threat Briefing (Clearance Required – Executive Session Expected)

This item was handled in executive session.

Chairman Mach recognized legislative representatives from the Capitol who were in attendance and thanked them for their interest and support.

IX. ONGOING BUSINESS

A. Discussion regarding Compassionate Use Program

Chief Wayne Muller, Regulatory Services Division, stated that since contracting with a consulting firm with experience working with other states regarding compassionate use programs, DPS made it our #1 priority to address the issue of adding additional licenses if necessary. After preliminary reviews and discussions with the consultants, I have determined that more work is needed, and we will not likely have our final recommendation on this issue by the February PSC Meeting but hopefully will have one for the April 2024 meeting. We continue to take a very cautious and deliberate approach on adding new licenses.

Commissioner Long asked if the Commission will be briefed and perhaps shown some of the report data prior to the meeting. Commissioner Blair echoed that request and said it would be great to review the consultant's report prior to the meeting.

Chief Mueller assured them that he could facilitate their request.

- B.** Report, discussion, and possible action regarding the modification of the DPS organizational structure and the appointment, promotion, ratification, employment, evaluation, reassignment, duties, discipline, or dismissal of a member of the Department or Commission management team

Director McCraw announced that Chief Travis Considine would be leaving us shortly as Office Chief of Media and Communications. He's moving on after 3 years of service. Director McCraw asked to appoint Erica Miller as the next Chief of Communications as of January 1, 2024.

A motion was made by Commissioner Blair and seconded by Commissioner Wainwright to appoint Erica Miller to Chief of Communications.

The motion passed.

Director McCraw said that at the last PSC Meeting the Commission appointed Jessica Ballew as Interim Chief of the Innovation Office. Due to the critical need for innovation in many areas of the department, he asked the Commission to make her position permanent.

A motion was made by Commissioner Long and seconded by Commissioner Blair to appoint Jessica Ballew to Chief Innovation Officer.

The motion passed.

When Jessica Ballew took leave of her position as Chief of Infrastructure Operations Division, the Commission approved Jason Hester to be the Interim Chief of Infrastructure Operations Division. I now ask that we appoint Jason Hester to be the Chief of infrastructure Operations Division.

A motion was made by Commissioner Blair and seconded by Commissioner Long to appoint Jason Hester to the position of Chief of Infrastructure Operations Division.

The motion passed.

- C.** Report, discussion, and possible action regarding ongoing criminal investigations pursuant to Government Code § 411.0041 (Executive Session anticipated)

This item was handled in Executive Session.

X. REPORTS

- A.** Commission member reports and discussion

There were no Commission member reports.

- B.** Finance Report

There was no Finance Report.

- C.** Chief Auditors Office

There was no Chief Auditor Office report.


D. Division status reports on activities and action

Interim Chief Jason, Infrastructure Operations Division, asked Michael Parks to make the following presentation. Michael Parks said that he was very proud that the Department, through the hard work of Jessica Ballew and staff and those before her, was removed from enhanced monitoring for contract formation and award, and contract monitoring. He stated that there were two improvements that he would like to emphasize; 1. Enhanced procurement documentation and reporting; 2 improved contract monitoring.

Via | webex

Annual Assessment and Report of DPS Contract Management

PER SUNSET ADVISORY COMMISSION STAFF REPORT
RECOMMENDATION 7.1




10/01/2022

Via | webex

Contract Compliance

The procurement process and contracting practices for a Texas state agency require adherence to the Texas Government Code, Texas Administrative Code (TAC), and other requirements set by oversight agencies, such as the Comptroller of Public Accounts (CPA) and the Department of Information Resources (DIR).

All DPS employees involved in procurement and contracting activities must also adhere to the regulations in Chapter 28 of the DPS General Manual.



ANNUAL ASSESSMENT AND REPORT OF CONTRACT MANAGEMENT

Via | webex


FY23 SAO Contract Monitoring Assessment

The State Auditor's Office assigns a contract monitor rating to each of the 25 largest state agencies identified by the LBB.

Previous assessments had removed DPS from enhanced monitoring for contract formation and award and contract monitoring, although DPS had remained on the list for procurement planning.

DPS P&CS worked with internal stakeholders (CAO), and SAO to focus our efforts and conduct targeted remediation.

In FY23, the SAO assigned DPS a rating of "No additional monitoring warranted".



ANNUAL ASSESSMENT AND REPORT OF CONTRACT MANAGEMENT

Via | webex

Significant Improvements in FY23

Implemented 28 major improvements within the planning, contract formation and award, and contract management phases of the procurement lifecycle:

- Enhanced procurement planning documentation and reporting
- Eliminated PPP-1 form
- Evaluation process revisions (ECG, CCG, Scoring matrix)
- Eliminated NOA and utilize CAPPS contract with signature
- Maximized contract terms
- Post award QA process
- Contract Oversight process refinement
- Purchase Liaison monthly reviews by CQC
- Finalized ECRB/CRB Pilot program

Organizational Changes


- Realignment of staff and refine functionality within teams to ensure all procurement lifecycle phases are supported
- PCS Framework/responsibility matrix development

Implemented 7 major improvements in Business Operations and HUB to support purchasing activities:

- Agency sponsoring Mentor-Protégé team
- HUB equal opportunity forums/events
- CMCORS
- DocuSign
- Automated reports through Tableau

Developed and revised multiple trainings to support/expand Division and P&CS personnel in procurement and contract knowledge:

- Procurement Planning
- Requisition
- Contract Oversight/Monitor certification
- Purchase Liaison Certification
- Evaluator Certification
- HUB
- LBB reporting
- Encumbrance
- Statement of Work




ANNUAL ASSESSMENT AND REPORT OF CONTRACT MANAGEMENT

Via | webex

Historically Underutilized Business Program

FY23 HUB performance toward Statewide Goals

Procurement Category	Statewide HUB Goals	DPS Annual HUB FY23
HEAVY CONSTRUCTION	11.20%	33.07%
BUILDING CONSTRUCTION	21.10%	48.08%
SPECIAL TRADE	32.90%	42.99%
PROFESSIONAL SERVICES	23.70%	N/A
OTHER SERVICES	26.00%	17.24%
COMMODITIES	21.10%	24.17%



ANNUAL ASSESSMENT AND REPORT OF CONTRACT MANAGEMENT

Via | webex

FY23 Significant Statistics


Major Contracts
P&CS awarded more than 90 major contracts valued at over \$549,000,000.

DPS actively manages 325 major contracts (\$500K+) valued at over \$2,356,238,663.

Purchasing Volume
DPS issued 19,471 POs with 54,107 lines valued at \$410,994,512.

Non-competitive purchases
Non-competitive purchases represent approximately 15.72% of total purchases in FY23 (\$57.5M non-competitive vs. \$365.7M total purchases). \$28.7M of the Non-competitive procurements were executed due to a declared emergency (Operation Lone Star, Uvalde Shooting, and DPS Emergency). Without the Disaster and DPS Emergency related procurements, non-competitive procurements would be \$28.8M (approximately 7.88% of total purchases). Processes have been developed that require significant justification for purchases that deviate from established processes.

These numbers are from the CAPPS system.




ANNUAL ASSESSMENT AND REPORT OF CONTRACT MANAGEMENT

Signification Improvements for FY24

Planned key improvements:

- Continue to refine P&CS functionality through the creation of three new teams: Enterprise Contract Monitoring HUB, Policy and Procedures, and Business Systems Management.
- Refine Procurement Planning processes, training, and reporting.
- Refinement of liquidated damages policy, standardization, definitions as they relate to each specific contract, and develop related training.
- Implement a Lessons Learned analysis group to review the repository and develop process improvement recommendations for internal P&CS review.
- Implement increases in the Purchase Liaison's authority, develop refresher trainings, revise all PL resources and forms, and implement a Purchase Liaison Workgroup to provide improvements to the program.
- Design and publish a framework for agile procurements.
- Revise Standard Operating Procedures by eliminating current structure and replacing with process-driven documents that require critical thinking by P&CS staff and desk references for guidance concerning any step-by-step requirements.
- Enhance CMCORS and Tableau reporting capabilities to reduce manual processes
- Expand on training programs offered such as Evaluator training, Contract Monitoring, Purchase Liaison, HUB, , Requisition submission, Legislative changes, etc.



ANNUAL ACCOUNTING AND REPORT OF CONTRACT MANAGEMENT

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Commitment

DPS is committed to continuing to improve service delivery, ensure ongoing compliance with all applicable requirements, and attain best value for DPS and the State of Texas.




ANNUAL ACCOUNTING AND REPORT OF CONTRACT MANAGEMENT

Commissioner Blair said that she was privileged to work with the division on this (in a minor way) and that they have made great strides, and she can't overemphasize the upgrades being made.

Philip Ayala, Inspector General, reported on a complete investigation of Operation Lone Star prompted by complaints by 6 officers regarding issues in the Shelby Park area of Eagle Pass. With the unprecedented surge at the border, some had concerns regarding policy and strategies. In general, their investigation found no reasonable case against the Department or its leadership, nor did they find any violations of policies, procedures, or laws.

Via | webex



INSPECTOR GENERAL

1. Not providing immigrants with water.

Water was provided as necessary, but not issued to everyone.

2. Denied medical care.

The complaint centered on one claim by a 19-year-old female that she had a miscarriage trying to get across the barriers. It was determined that the fetus was alive and healthy, and she was given instructions for further care in Spanish. The other incident involved a boy with a broken leg. Our investigation showed that the boy's leg had been broken 7 weeks earlier in Colombia. He was treated and given crutches as well as care instructions in Spanish.

3. Criminal trespassing offences arrests

Most were released to Border Patrol. If detained, one adult would be arrested while the mother and children would be released to Border patrol.

4. Push back into the river.

We found that no order was given to use physical force.

5. Use of force

No incidence of indiscriminate use of force was found.

6. Bodily injuries caused using concertina wire on the banks of the river.

Signs were posted and long-range acoustic devices were used to warn the migrants to cross at designated border crossings.

We found that some operational modifications were made that did not violate any laws or policies.

Inspector General Ayala thanked his team including Travis Rudolf, Lt. Rick Lopez, Lt. Raphael Ortiz, and Captain Patrick Heintz.

Director McCraw asked the Chief of Training Operations to provide a report.

Chief James Thomas reported 124 recruits for the A-24 class with a few still pending. That class will begin on January 29 for the 30-week training school. 120 is a full class, so I'm excited that we will likely exceed that number. It has been helpful to recruiting that the \$5,000 signing bonus and increased salary and overtime were approved. We plan to have 3 classes in 2024, and 3 more in 2025. I'm in discussions with Director McCraw about having 3 classes in both 2026 and 2027. We anticipate training north of 1,100 to 1,200 cadets over the next 2-4 years.

Tomorrow at 10:00 am we are graduating 127 troopers which includes the 79 previously commissioned officers who completed the advanced training.

Chairman Mach said that the previously commissioned officers are a great addition but may need special re-training to comply with the DPS policies.

Chief Thomas said that he was very confident in the Division's assimilation process for previously commissioned officers. He complimented his staff for their excellent efforts in this area. He also stated that these officers often bring new ideas and tremendous experience and are a great asset to the Department.

XI. CONSENT ITEMS

All the following items may be enacted with one motion. These items are typically self-explanatory or have been previously considered by the Commission. There will be no separate discussion of these items unless a commissioner so requests.

- A.** Advice and consent regarding director's determination that a certain probationary employee was found unsuitable for work during November 2023
- B.** Discussion and possible action on appointments of Special Rangers and Special Texas Rangers pursuant to Government Code Chapter 411, Secs. 411.023 & 411.024: Special Rangers: David Blake Burnett, Rhyann Cory Drodty, Pamela Rochelle Hatchett, Bryan Gerard Jarzombek, Roger Paul Kucera, Bryan Thomas Little, Cliff Thomason Manning, David Ray Morris, Chad Douglas Olive, Billy Antonio Shelton, Christopher Clay Shelton, Jerry Earl Simpson, Jr., and Larry Don Watson
- C.** Donations:
 - 1. Additional donation items, as needed.

Chairman Mach asked Lieutenant Colonel Mathis if there were any changes or concerns with any of the consent items.

Lt. Colonel Mathis said he had reviewed all the candidates for Special Ranger and there were no changes or concerns.

A motion was made by Commissioner Wainwright and seconded by Commissioner Blair to approve all the consent items.

The motion passed.

XII. ITEMS FOR FUTURE AGENDA

Chairman Mach asked that the Commissioners send any items for future agendas to Sophie Yanez or Phil Adkins.

XIII. DATE FOR FUTURE MEETING

Discharge hearings will be scheduled for February 14, 2024; and the regular Public Safety Commission meeting is scheduled for February 15, 2024.

The next Public Safety Commission meeting will be held on Thursday, February 15, 2024.

XIV. ADJOURN INTO EXECUTIVE SESSION

(If required) to consult with legal counsel regarding pending or contemplated litigation or settlement offers or to receive legal advice on items posted on this agenda; deliberation regarding real estate matters; consideration of any other items authorized by law, including personnel matters, the director's action of discharging employees as identified in this agenda; ongoing criminal investigations.

Chairman Mach adjourned the meeting to Executive Session at 12:15 PM.

XV. ADJOURN

The Commission may take items out of the order in which they are posted on this agenda. Also, an item that has been adopted, passed upon, delayed or tabled for a later meeting may be considered or reconsidered at the same meeting.

The Public Safety Commission may meet and discuss in Executive Session and have action taken in an Open Meeting where required on the following items:

Government Code Sec. 551.071 Consultation and deliberation with legal counsel about pending or contemplated litigation or a settlement offer, or on a matter where the Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, and to discuss the Open Meetings Act and the Administrative Procedures Act with their attorney.

Government Code Sec. 551.074 Appointment, employment, evaluation, reassignment, duties, discipline or dismissal of director, assistant director, and persons appointed to management team positions pursuant to Govt. Code Sec. 411.0071

Government Code Sec. 551.076 Deliberations about security audits, security devices, including deployment and implementation of security personnel and devices Government Code Chapter 411, Sec. 411.0041 Ongoing criminal investigations Government Code Sec.

551.072 Deliberation of the purchase, exchange, lease, or value of real property, if deliberation in an open meeting would have a detrimental effect on the position of the government body in negotiations with a third person Government Code Sec. 551.073

Deliberation of a negotiated contract for a prospective gift or donation to the state or the governmental body if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

