
SENATE COMMITTEE ON BORDER SECURITY

TEXAS SENATE

INTERIM REPORT 2024

A REPORT TO THE

TEXAS SENATE

89TH TEXAS LEGISLATURE

SEN. BRIAN BIRDWELL

CHAIRMAN



SENATE COMMITTEE ON BORDER SECURITY

November 26, 2024

The Honorable Dan Patrick
Lieutenant Governor
& Members of the Texas Senate
PO Box 12068
Austin, Texas 78711

Dear Governor Patrick and Fellow Senators:

Thank you for the opportunity to address important issues facing Texas today through your charges to the Committee to study during the interim. The Senate Committee on Border Security, having conducted public hearings and received public and invited testimony, is pleased to submit its final report with recommendations for consideration by the eighty-ninth Texas Legislature.

Respectfully submitted,

Sen. Brian Birdwell, Chairman

Sen. Pete Flores, Vice Chair

Sen. Juan "Chuy" Hinojosa

Sen. César Blanco

Sen. Phil King



November 25, 2024

The Honorable Brian Birdwell
Chairman
Senate Committee on Border Security
P.O. Box 12068
Capitol Station
Austin, TX 78711

Dear Chairman Birdwell,

Thank you for your continued leadership and the tireless work of your staff within the Senate Committee on Border Security throughout this interim session. We look forward to continuing to collaborate with you on this important committee. While we are lending our signatures to this report, we offer dissenting comments on some of the assertions and recommendations proposed.

While we acknowledge that Congress's failure to pass meaningful immigration reform with efficient paths to citizenship has burdened states with a humanitarian crisis, it is still our fundamental belief, as per the Constitution of the United States, that border security and immigration is the responsibility of the federal government. Furthermore, considering the incoming administration's stated intentions of carrying out mass deportations in this country, we cannot and will not support the State of Texas using Operation Lone Star (OLS), state taxpayer dollars, or any auxiliary resources to assist the federal government with carrying out mass deportations. Instead, the federal government should prioritize passing comprehensive immigration reform with pathways to citizenship that are fair, humane, secure, and meet the needs of our economy.

Due to OLS' handling of high-speed pursuits which have resulted in numerous fatalities, injury, and substantial property damage in border communities, concerns with enforcement tactics and potential racial profiling related to S.B. 4, 88(3), and the fact border communities are among the safest cities in the United States, we continue to have fundamental disagreements with OLS.

It was made clear to the committee that agencies and localities involved in OLS have been hard at work to fulfill their respective responsibilities within the operation. Many of these activities have taken place in our border counties, many of which have limited resources to keep up with the strain placed on them from equipment to personnel costs. We are in strong agreement with the recommendations to provide continued support to these localities, so the financial implications of border operations do not fall on local taxpayers. The report provides sound recommendations to

Chairman Brian Birdwell

Page 2

November 25, 2024

shore up resources for border communities, strengthen public safety against Transnational Criminal Organizations, and address the fuel crimes occurring in our communities.

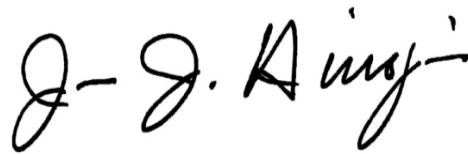
For these reasons, we have agreed to offer our signatures to this report, as the committee has been receptive to testimony and shown a willingness to support border communities, who are disproportionately impacted by the humanitarian crisis, drug and human trafficking, terrorism, and the unintended consequences of OLS. Additionally, the committee has shown a commitment to the judicial process with recommendations to invest more resources in the Border Prosecution Unit, and the Office of Court Administration to improve due process. We are eager to continue collaborating with our colleagues on this committee to implement technology and practices at the border to ensure the safety and well-being of all border residents, as well as the State of Texas.

Again, thank you for your hard work and collaboration with committee members throughout the interim. It is an honor to serve with you on this Senate committee. We look forward to continuing working with you and this committee in the 89th Texas Legislature.

Respectfully,



César J. Blanco
Texas State Senator
District 29



Juan "Chuy" Hinojosa
Texas State Senator
District 20

Table of Contents

| | |
|---|----|
| 1. Securing the Texas-Mexico Border: Review state and local agencies’ participation in border security..... | 1 |
| BACKGROUND..... | 1 |
| Office of the Governor | 2 |
| Department of Public Safety..... | 3 |
| Texas Military Department..... | 4 |
| Local Law Enforcement | 5 |
| Office of the Attorney General..... | 8 |
| Office of Court Administration | 9 |
| Border Prosecution Unit | 11 |
| Texas Department of Criminal Justice | 12 |
| Texas Parks and Wildlife Department..... | 13 |
| Texas Alcoholic Beverage Commission..... | 14 |
| Texas Commission on Jail Standards..... | 15 |
| Texas Commission on Law Enforcement..... | 17 |
| CONCLUSION | 17 |
| RECOMMENDATIONS..... | 18 |
| 2. Securing the Texas-Mexico Border: Examine the impact of transnational criminal activity on commerce including, but not limited to, organized crime fuel theft to fund criminal operations. Make recommendations to support and strengthen interagency border operations to combat criminal enterprises. | 19 |
| BACKGROUND..... | 19 |
| TESTIMONY | 22 |
| CONCLUSION | 28 |
| RECOMMENDATIONS..... | 29 |
| 3. Support for Border Security Personnel: Consider the effect on personnel who have actively served or participated in Operation Lone Star and the impact of their service on their health and well-being, and their regular employment or assignments outside of Operation Lone Star. Study the challenges and barriers that affect the recruitment and retention of personnel engaged in border security efforts..... | 30 |
| BACKGROUND..... | 30 |
| TESTIMONY | 30 |
| CONCLUSION | 35 |
| RECOMMENDATIONS..... | 35 |

4. Monitor the implementation of legislation addressed by the Senate Committee on Border Security passed by the 88th Legislature, as well as relevant agencies and programs under the committee’s jurisdiction. Specifically, make recommendations for any legislation needed to improve, enhance, or complete implementation of the following: 36

[a.](#) Senate Bill 602, relating to the law enforcement authority of federal border patrol agents;..... 36

BACKGROUND36

TESTIMONY36

CONCLUSION AND RECOMMENDATIONS.....38

[b.](#) Senate Bill 1133, relating to a program to compensate landowners for property damage caused by certain criminal activities; and 38

BACKGROUND38

TESTIMONY39

CONCLUSION42

RECOMMENDATIONS.....42

[c.](#) Senate Bill 1484, relating to a border operations training program for peace officers employed by local law enforcement agencies. 43

BACKGROUND43

TESTIMONY43

CONCLUSION AND RECOMMENDATIONS.....44

LONG TERM CONSIDERATIONS OF THE SENATE COMMITTEE ON BORDER SECURITY45

INTERIM STUDY CHARGES BACKGROUND, FINDINGS AND RECOMMENDATIONS

1. Securing the Texas-Mexico Border: Review state and local agencies' participation in border security.

BACKGROUND

Border security and immigration enforcement have long been and remain responsibilities of the United States federal government. However, due to the current administration's malicious malfeasance in regard to securing our southern border, the State of Texas is spending at an unprecedented level in an attempt to fill the void where it has the authority to do so.

In May 2021, Governor Greg Abbott issued a disaster declaration as a response to the federal government's reckless border policies. Texas continues to take historic action to fill the gaps left by the Biden administration's failure to enforce the law which has created a disastrous border crisis. Operation Lone Star is a multi-agency effort, including the Department of Public Safety (DPS), the Texas Military Department (TMD), and numerous other state and local agencies, to combat the record-high levels of illegal immigration, weapons, and deadly drugs like fentanyl spreading across the state.

Since the launch of Operation Lone Star, this multi-agency effort has led to over 516,300 illegal immigrant apprehensions and more than 45,300 criminal arrests consisting of more than 39,400 felony charges.¹ In the fight against drugs, Texas has seized over 504 million lethal doses of fentanyl, enough to kill every man, woman, and child in the United States and Mexico combined during this border mission.²

Beyond law enforcement operations, Texas continues to pursue physical barriers as well as legal measures to protect the state and nation. Texas is the first and only state to build its own border wall, with approximately 31.3 miles of wall having been installed to date. Additionally, Texas National Guard soldiers work around-the-clock to install, reinforce, and repair razor wire in efforts to deter and repel illegal entry. Furthermore, Texas continues to challenge the Biden administration in federal court – whether it be suing the federal government or defending the State from it.

The State of Texas invested over \$5 billion during the 88th Legislative Session across 13 state agencies for border security funding. This funding addresses all aspects of the mission from personnel costs, legal processing, and assisting local governments whose budgets are overwhelmed by the influx of illegal drugs and illegal immigrants. Until the federal government fulfills its obligation to protect the border, the State of Texas must continue to fund and operate

¹ Operation Lone Star: Quick Facts. Numbers as of 7/19/2024. <https://www.dps.texas.gov/operationlonestar>.

² *Id.*

border security efforts to ensure the safety of its people.

Office of the Governor

The Office of the Governor (OOG) serves as central command for the State of Texas and, therefore, leads the state's border security initiative at the direction of the Governor. In January 2023, Governor Abbott announced the new position of Texas Border Czar within the Office of the Governor. The Border Czar oversees the state's border security efforts and serves as a liaison between state agencies and the Office of the Governor. Mike Banks was hired as Special Advisor on Border Matters to the Governor and serves as the State of Texas' first-ever Border Czar. Banks has over thirty years of federal law enforcement experience, with a majority spent in border security operations and administration along the Texas-Mexico border.

In his duties as Border Czar, Banks reports directly to the governor, ensures border security strategies are fully executed, and collaborates daily with the Texas Military Department (TMD), the Department of Public Safety (DPS), and other local, state, and federal agencies as well as Texas landowners to carry out the mission of Operation Lone Star (OLS). Banks advises the governor on border security situations and strategies, including the planning of operations ahead of anticipated illegal immigrant surges. According to Banks, Texas has embedded itself through various means within Customs and Border Patrol offices, which encourages cooperation and helps maintain effective working relations.

As the liaison, Banks consistently receives and reports new metrics that demonstrate the state's success in securing the border. Although there have always been seasonal trends and cycles of border crossings, these trends have shifted since the launch of OLS. Typically, summer has the highest peak months, but the impending November election has made trends atypical.

In addition to maintaining metrics, Banks collaborates with DPS and TMD to explore new avenues to secure the border. Research and collaboration focus on the placement of the physical border wall, new technology advancements, and collaboration with local law enforcement, landowners, and businesses to find viable solutions to protect Texas.³

Public Safety Office

OOG was appropriated the most of any agency during the 88th Legislature: \$3.188 billion. Border funding through the Public Safety Office (PSO) is used to increase security along the Texas-Mexico Border and international water borders. Grants provide resources for increased patrols to detect, deter, and disrupt drug, human, and other contraband trafficking and crimes. Supplementary funding is used to provide additional training and prosecution resources to handle cases related to the border.

In 2022, the PSO was able to award \$100 million in local grants - \$28 million specifically for border adjacent counties and \$72 million open to solicitation. To be eligible for grants, applicants must be located or providing services to a declared disaster county and have a county attorney letter of support. Approved grants have supplied additional resources including increased surveillance capacity, enhanced law enforcement presence, increased border crime arrests and prosecutions, and improved court administration efficiencies.

³ Banks, Michael. 2024. *Special Advisor, Office of the Governor* (June 11).

While such grants are necessary for local communities across the border region, the PSO raised concerns over funding availability as the office continues to get requests in excess of available funding. For the 2025 fiscal year, \$130 million has been requested thus far with the state only able to budget \$50 million per year. More applications for assistance than available resources has been a consistent trend since the start of OLS and requires the PSO to be very selective in the grant application process.

Department of Public Safety

The Texas Department of Public Safety continues to serve as an integral part of Operation Lone Star (OLS). Since 2021, DPS has been a strong and consistent presence in the border region through rotating personnel deployments. According to DPS, the recent trends of illegal immigration are proving that Texas' efforts to combat the border crisis are working.

In April 2022, the state reached its biggest milestone as the trend of illegal immigration shifted westward to California. At the beginning of Operation Lone Star, illegal immigration was overrunning the Rio Grande Valley (RGV). Through the state's continuous efforts under OLS, the trend has shifted from the RGV to Del Rio and Eagle Pass to El Paso to Tucson. In June 2024, the primary location of illegal crossings occurred in San Diego. The continual westward shift of mass migration from the RGV to California proves that Texas' border security strategies are having an impact by forcing cartels to pay a hefty price in money, time, and inconvenience by moving to parts of the U.S.-Mexico Border with the least resistance.

As part of Operation Lone Star, DPS rotates commissioned officers to the border region to work alongside local, state, and federal partners. Most personnel completing border rotations are voluntary; however, the agency must still utilize involuntary border assignments on some postings. Commissioned officers working in support of border security are engaged in a range of law enforcement activities, including patrols, investigations, and other operations. One concern raised in recent months pertains to the agency's use of force policy. DPS officers stationed in the border region use pepper balls as a means to stop or deter individuals from breaching the concertina wire barrier. Officers are trained and instructed to shoot pepper balls at nearby stationary objects, which disperse pepper to the surrounding area upon impact. This intermediate level of force is used when individuals are illegally entering the state, breaching the concertina wire barrier, and remaining non-compliant after being ordered to stop.

In addition to deploying personnel to serve along the Texas-Mexico border, DPS collaborates with other key agencies to explore innovative ways to secure the border and lessen the burden on personnel. Technology now plays a vital role in assisting agencies in identifying and deterring illegal immigration and criminal activity. DPS and the Texas Military Department (TMD) utilize cameras and drones to maintain visibility of the border. The use of this technology helps fill the gaps along the border, serves as a deterrent, and aids in detection as well as search and rescue operations throughout the region.⁴

⁴ McCraw, Colonel Steven. *Director, Texas Department of Public Safety* (June 11, 2024).

Texas Military Department

Since the implementation of Operation Lone Star, the Texas Military Department has maintained the strongest presence of deployed personnel across all agencies. Currently, there are over 4,700 active service members and personnel serving Operation Lone Star. Of all service members deployed, 97% are on voluntary deployments. According to Texas Adjutant General Suelzer, the agency can maintain its current operational tempo as long as the volunteer rate remains high.

TMD's impact on border security goes beyond traditional roles for state deployment in both size and scope. Typically, troops are sent to aid short missions, such as assisting in natural disasters. Throughout the border crisis, many guard members face lengthy deployments to remote areas along the border to work alongside and support DPS and interdict transnational criminal operators. Thus far, service members have engaged in over 1 million migrant encounters, constructed over 72 miles of fencing, and placed 130 miles of concertina wire.

Since mid-2022, TMD has expanded its capabilities to include boat teams that patrol the river, drones and helicopters that detect illicit activity from the air, and brush teams, security points, and roving patrols that block and interdict illegal smuggling on land. With increased appropriations, the Texas Military Department also had the opportunity to expand their ground surveillance by purchasing and operating two mobile multi-sensor systems (M2S2). Essentially, M2S2s are mobile surveillance systems installed in the bed of a truck that can track up to 300 objects at a time. The systems are designed to detect a human at 7.5 miles, a boat at 9 miles, and a car at 18 miles. TMD is expecting to purchase and operate additional units in the near future.

TMD expanded its technology arm beyond the M2S2 by launching its small unmanned aircraft systems (sUAS) program. The program operates through 32 teams with 74 pilots, making it the second largest drone program in the state. The use of sUAS's offers more visibility throughout the border region while occupying a smaller group of service members. TMD and DPS both operate drone programs, which coordinate with one another. With both systems interconnected, this allows the state to maximize its resources so that both agencies can operate in overlaid coordination rather than parallel at the same time.

With the border crisis continuing to impact not only Texas but the entire nation, other states are standing in support of Texas' border security efforts. As a result, 18 states have participated in border security through the Emergency Management Assistance Compact (EMAC), a mutual aid agreement that allows states to share resources during disasters. Overall, 18 states have supported Texas and Operation Lone Star by deploying over 2,400 soldiers and airmen at no cost to the state.⁵

Lastly, deployed service members near Eagle Pass have a new home – Forward Operating Base (FOB) Eagle. Located just seven miles from Shelby Park, FOB Eagle covers over 80 acres and will consist of 95 buildings. According to Governor Abbott, Texas National Guard members have “been scattered across this entire region in cramped quarters, away from fellow soldiers, and sometimes traveling long distances to do their job.”⁶ The new base will house up to 1,800 soldiers, with the capacity to house an additional 500, and will feature a large dining facility,

⁵ Suelzer, Major General Thomas. *Texas Military Department*. (June 11, 2024).

⁶ “Governor Abbott Expands Border Security Operations in Eagle Pass.” *Office of the Governor*. (February 16, 2024). <https://gov.texas.gov/news/post/governor-abbott-expands-border-security-operations-in-eagle-pass>

laundry facilities, a recreation center, internet access, individual rooms for soldiers, chaplaincy programs, and medical and psychological health facilities.⁷

While FOB Eagle is the State’s latest effort to expand border security operations, it is also the State’s latest commitment to support and provide a better quality of life for the National Guard soldiers working tirelessly to defend the state and nation.

Local Law Enforcement

The Senate Committee on Border Security heard from three local law enforcement officials – Val Verde County Sheriff Joe Frank Martinez, Brooks County Sheriff Urbino Martinez, and Brazoria County Sheriff Bo Stallman – on June 11, 2024, to discuss their experiences and observations in the border region. The Texas border region, for purposes of this interim report, is comprised of 32 counties that are within 62 miles of the Rio Grande River.⁸ In September 2024, Governor Abbott renewed the Border Security Disaster Proclamation for the imminent and ongoing threat to public safety and security due to the relaxed border security policies implemented at the federal level. This proclamation declares a disaster for 63 listed counties, 29 of which are located along the border.⁹

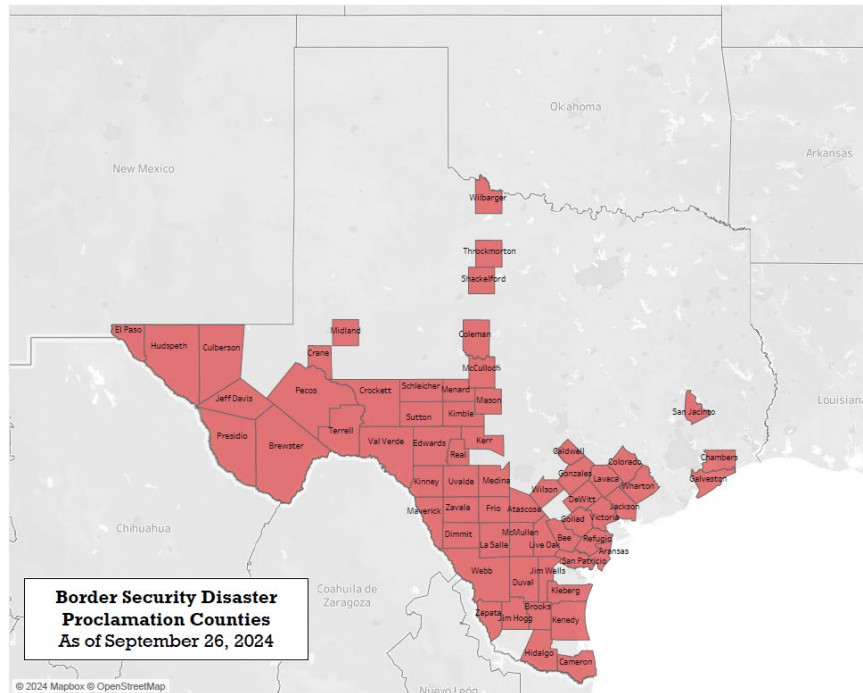


Image courtesy of the Department of Public Safety

According to data metrics and testimony of local law enforcement, Operation Lone Star’s mission to prevent, deter, and interdict is working. The Biden Administration’s failed border security policies have created an unchecked flow of people and drugs into the state and nation. As a result,

⁷ *Id.*

⁸ Office of Border Public Health. *Texas Department of State Health Services*. <https://www.dshs.texas.gov/border-health>.

⁹ Abbott, Governor Greg. 2024. Proclamation. *Governor of the State of Texas*. (September 26). https://gov.texas.gov/uploads/files/press/DISASTER_border_security_renewal_IMAGE_09-26-24.pdf.

transnational criminal organizations have gained a foothold in the United States to operate various illegal operations. Local communities, law enforcement, and the rest of the state truly began to feel the significant impact of the administration's open border policies in 2021 with spikes of smuggling activity, pursuits and bailouts, property damage, stolen vehicles, and transnational criminal activity. This impact forced the state to step in and close the gaps the Biden Administration left open. According to local law enforcement, Operation Lone Star has had a great impact in helping to keep their communities safe and provide additional resources that counties need to operate.

Since 2021, local law enforcement along the border region has been overwhelmed with unprecedented illegal crossings, crime rates, and significant expenditures. In 2021, Val Verde County lost a total of \$266,000 in local and county resources due to arrests under OLS. Soon thereafter, the Val Verde Processing Center was established, which serves seven different counties. To date, over 15,000 individuals have been processed through the center, which continues to alleviate cost burdens that counties would otherwise have if required to process and house all inmates locally.¹⁰ The impact of the State's border security efforts is evident in the Val Verde Processing Center's most recent metrics as numbers have declined overall; however, the number of vehicle pursuits has risen throughout the border region.

In 2024, Val Verde County encountered 11 pursuits in April, 22 in May, and 2 in June at the time of the hearing. Unfortunately, Del Rio experienced 43 vehicle pursuits in April and 27 in May 2024. DPS and local law enforcement try to keep pursuits away from urban areas, if possible, but occasionally, it is unavoidable. Most vehicle pursuits involve human smuggling, which often results in bailouts or accidents. Over the last year, vehicle pursuits have resulted in at least seven encounters at Laughlin Air Force Base with three occasions resulting in a security breach and base lockdown.

The rural landscape that covers much of the border region offers isolated and remote routes that are ideal for illegal immigrant crossings. However, the terrain often subjects them to harsh elements and weather along the way. Since 2021, Val Verde has worked 49 deaths related to drownings as well as those individuals who succumbed to the elements.¹¹ Brooks County, which contains one of the busiest checkpoints and thousands of acres of ranch land, has recovered 949 bodies. Ranches in the county are large and isolated with minimal personnel and security to cover the entirety of the property. Texas has stepped up to help with mortuary affairs, but according to Brooks County Sheriff Urbino Martinez, the federal government is not providing any relief or aid.

Due to the Administration's unwillingness to secure the border or offer any relief to heavily impacted local communities, local law enforcement agencies across the state have joined forces through OLS by creating the Operation Lone Star Task Force. This task force began in March 2022 with nine agency participants. To date, the OLS Task Force has expanded to 24 county sheriff's offices, nine police departments, one county attorney task force, and four federal partners, such as United States Border Patrol and Homeland Security Investigations. Through multi-agency cooperation, this task force has identified primary and secondary smuggling organizations out of the Rio Grande Valley, which are responsible for the smuggling of an estimated 100,000 illegal aliens per year. The success of the task force eventually caused

¹⁰ Martinez, Sheriff Joe Frank. *Val Verde County Sheriff's Office*. (June 11, 2024).

¹¹ Martinez, Sheriff Joe Frank. *Val Verde County Sheriff's Office*. (June 11, 2024).

smuggling organizations to relocate to the Eagle Pass area, but the Task Force continues to work on several long-term investigations.¹²

According to the sheriffs, although they consider Operation Lone Star to be extremely effective and believe it needs to continue, they did raise a few issues of concern of which the legislature should be aware. A few issues of note include costs of ICE holds, recruitment, communication and intelligence sharing, and DPS deployments. According to Sheriff Stallman, Brazoria County has seen a 200% increase in ICE holds since 2020, which has cost the Sheriff's Office \$1.8 million. This trend is fiscally and spatially burdensome to local entities, many of which cannot continue to bear the cost.

Secondly, law enforcement recruitment is down across the State and Nation. This is evidenced by the 12 open vacancies in the Val Verde County Sheriff's Office. With the passage of Senate Bill 22 in the 88th Legislative Session (2023), there are new funds and opportunities that law enforcement agencies can engage in to increase recruitment. While local entities work to fill the void of vacancies, their current staff bear the extended workload to protect their communities and prevent crime. DPS troopers are stationed in local communities across the state and provide support to local law enforcement agencies, many of which have come to depend on the aid of DPS troopers. Unfortunately, with ongoing DPS deployments for Operation Lone Star, local law enforcement agencies have to bear the heightened workload due to DPS' absence as well as vacancies.

Interoperability and communication among law enforcement entities is crucial for efficient public safety and law enforcement operations. The DPS Fusion Center was created to collect and share intelligence to ensure agencies could effectively communicate and collaborate; however, multi-agency communication and cooperation would benefit from improvements. According to the sheriffs on this panel, increased communication between higher level law enforcement officers as well as additional training on multi-agency intelligence sharing could increase efficiency and improve interoperability among agencies.

Lastly, local governments located in or providing services to a declared disaster county may be eligible to apply for border security grants through the Governor's Public Safety Office (PSO). These grants provide additional resources and training vital to border security and public safety in the border region. While local law enforcement expressed great appreciation for state funding, they highlighted improvements that can be made to the state grant process. The process currently maintains strict guidelines for approval, including specified expenditures.

Most agencies are utilizing equipment already in their possession; however, OLS operations have caused significant wear and tear. This may require the agency to replace equipment significantly sooner or more frequently than expected. Nonetheless, if equipment was purchased prior to or for reasons unrelated to OLS specifically, the application for reimbursement is usually denied. Easing such restrictions and providing flexibility in how applicants can utilize border security funding may ease the financial burden on local law enforcement agencies as a result of OLS. For example, Sheriff Martinez of Val Verde suggested that once funds are allocated to a local entity, the entity should have some flexibility on how to spend the grant money if other issues arise that need to

¹² Stallman, Sheriff Bo. *Brazoria County Sheriff's Office*. (June 11, 2024).

be addressed.

Office of the Attorney General

The Office of the Attorney General has filed numerous lawsuits against the federal government since the Biden Administration took office. Ryan Walters, Division Chief of Special Litigation, defined the offensive and defensive role the OAG plays in high-profile litigation and provided an update regarding current litigation related to border security. As an example of the OAG's efforts, Walters explained that, on the first day of the Biden Administration, the administration placed a 100-day pause on all deportations. As a result, the OAG sued in federal court to nullify that action.

While the OAG has a long list of ongoing litigation, Division Chief Walters focused on three current high-profile cases related to border security. The first case, known as the "Concertina Wire" case, was filed after Border Patrol began cutting the concertina wire that the Texas Military Department (TMD) installed along the border to encourage migrants to go through lawful points of entry.¹³ According to the OAG, this lawsuit is at the preliminary level in the 5th Circuit Court of Appeals where they are awaiting a ruling on whether the trial judge should have previously entered a preliminary injunction against the federal government. While the litigation is ongoing, concertina wire is not being cut by Border Patrol and has not been cut for months.

The second high-profile case, known as the "OLS Buoy DOJ" case, is the federal government's challenge to Texas' placement of buoys in a 1000-foot segment of the Rio Grande River in Maverick County, Texas.¹⁴ The district court granted the federal government's preliminary injunction request in September 2023 – ordering that the buoys be removed. The ruling was stayed by the Fifth Circuit Court of Appeals, but the merits panel of the Fifth Circuit upheld the preliminary injunction in December 2023. The en banc Fifth Circuit, meaning all 17 judges of the Fifth Circuit, vacated that decision and recently heard oral arguments on the preliminary injunction. On July 30, 2024, the Fifth Circuit Court of Appeals ruled in Texas' favor and will allow the buoys to remain in the river.¹⁵ In the Fifth Circuit's opinion, the court held that the United States is unlikely to succeed on the merits of its claim. The district court reset the trial date of November 7, 2024, for the final merits determination of the case. The district Court denied Texas' motion for a jury trial. Texas sought mandamus at the Fifth Circuit and a stay pending appeal on July 31, 2024.

The third high-profile case, known as "SB 4," is the State's defense against the federal government's challenge to Texas' Senate Bill 4.¹⁶ This case concerns legislation passed by the Texas Legislature relating to prohibitions on the illegal entry into or illegal presence in this state by a person who is an alien, the enforcement of those prohibitions, related orders, including immunity from liability and indemnification of enforcement actions, as well as authorizing or requiring, under certain circumstances, the removal of persons who violate those prohibitions. This case remains at the preliminary level of litigation as the courts make a determination on a preliminary injunction. In February 2024, the district court granted a preliminary injunction

¹³ State of Texas v. U.S. Dep't of Homeland Security, et al., No. 2:23-CV-00055 (W.D. Tex. 2023).

¹⁴ United States of America v. Greg Abbott, et al., No. 23-50632 (W.D. Tex. 2023).

¹⁵ United States of America v. Greg Abbott, et al., No. 23-50632 (5th Circuit Court of Appeals 2024) <https://www.ca5.uscourts.gov/opinions/pub/23/23-50632-CV1.pdf>.

¹⁶ United States v. State of Texas, et al., No. 23A814 (W.D. Tex. 2024).

against enforcement of SB 4 and Texas immediately appealed to the U.S. Court of Appeals for the Fifth Circuit. Texas defended SB 4 before the Fifth Circuit merits panel in April 2024 and is awaiting a ruling. The trial court proceedings have been stayed pending a determination by the Fifth Circuit.

According to the OAG, the buoy case and the SB 4 case are in preliminary stages, and either party could go to the en banc 17 judge court of the Fifth Circuit, or to the U.S. Supreme Court on the preliminary injunctions. However, any rulings at the preliminary stages could affect the final merits determinations in either case. The OAG was asked to keep the legislature apprised of any updates to the preceding litigation discussed, especially any decisions that could compel the legislature to respond in the upcoming 89th Legislative Session.

Office of Court Administration

The Office of Court Administration (OCA) monitors the statewide impact of the border crisis on Texas' court system. Since 2021, the OCA began and continues to support local court systems impacted by the ongoing border crisis, which includes technical assistance, training, consulting services, and facilitation of central magistration.

Once an individual is arrested, they are brought before a magistrate for a pretrial "admonishment" proceeding called magistration. Generally, magistration consists of a probable cause determination on whether the law was broken, admonishment of various constitutional warnings, appointment of counsel for indigent defendants, and setting of bonds. To alleviate the burden on local court systems, the Temporary Processing Centers in Val Verde and Jim Hogg counties utilize central magistration twice daily, seven days a week. These magistration proceedings rely on visiting judges appointed by the Supreme Court. Currently, there are 11 visiting judges sitting in six counties and 16 visiting judges appointed by the Supreme Court for magistration. OCA provides administrative support for the proceedings, including court interpretation services, as well as support staff, including administrative assistants, court interpreters, a court services manager, special projects manager, and a court consultant who liaises between various court system participants.

OCA continues to use regularly contracted or staffed Spanish interpreters to assist in border security related magistrations. According to OCA, 77% of cases required Spanish interpreters during central magistration. Although most defendants speak either English or Spanish, the OCA continues to utilize a language service called Language Line that supports an additional 238 languages and, when needed, locates and contracts with rare indigenous language interpreters.

According to the OCA, between July 2021 and May 2024, there have been more than 15,227 magistrations by Supreme Court appointed magistrates. Of the total magistrations thus far, 70% have been misdemeanor charges, and Kinney and Maverick counties make up nearly 81% of all OLS magistrations.

Central Magistration Data:

- 14, 628 magistrations
- 91.7% appointed counsel
- 77% use interpreters

Bond Statistics:

- \$2,771 average bond for Criminal Trespass
- \$12,000 median bond for a felony
- \$26,815 average bond for a felony

Criminal trespass and smuggling are two border crimes with the highest percentage of violations. The OCA presented smuggling data collected from border counties between May 2023 to April 2024. According to data, the age range of smuggling defendants is 17 to 71 with an average age of 30. Approximately 40% of detained smugglers had a prior criminal history and 23.6% had a combination of charges. The data further demonstrates that the majority of the detained smugglers are from the United States with 87.2% from Texas.

The OCA has served in a support role since the launch of OLS in 2021. OCA's operations have an effective impact on alleviating the burden felt by the court system throughout the state and, more specifically, the border region. With three years of continuous supportive operations, data collection, and consistent review of effectiveness, OCA identified key issues of concern that need attention.

Courts designated for Operation Lone Star are generally located in rural areas of the border region. OLS dockets are often exceedingly full and require an overwhelming workload, which has resulted in significant staff turnover and shortages. In addition, many of the surrounding communities lack enough qualified lawyers to aid indigent defense. An inefficiently staffed judicial system can pose serious risks to the local communities, the State, and Operation Lone Star. Furthermore, staff vacancies, insufficient resources, and excessive workload make it difficult for courts to fulfill pretrial services, including case filings and supervision. Pretrial case filings are completed by the judge and can range from post magistration indigency reviews to emergency personal bond requests to mental health documentation. Pretrial supervision is necessary for many defendants who are released on bond; however, many rural courts lack adequate pretrial supervision staff and resources. According to OCA, more resources are needed for adequate pretrial supervision, including ankle monitors and drug testing. Overwhelming dockets and the lack of staff and resources are posing risks to the judicial system throughout the border region as well as all rural communities in Texas.

The State's court system also lacks tracking of cumulative metrics for OLS across all courts. While many local entities use state resources for Operation Lone Star, not all OLS cases go through central magistration. Therefore, not all OLS cases or border crimes are reported to OCA or catalogued in a central database. This often results in a discrepancy among metrics reported or provided to the legislature.

Lastly, OCA raised concerns regarding specialty court funding for Operation Lone Star. Most OLS courts operate similarly to a specialty court as they include temporary staff, visiting judges, and only hear cases related to state border crimes. However, because OLS specialty courts are temporary and are funded through the Office of the Governor, they lack stability. The legislature should explore a more stable funding mechanism for such courts. Legislative financial support will not only ensure these courts continue to operate, but may also increase the likelihood of

maintaining qualified, long-term employees.¹⁷

Border Prosecution Unit

The Texas Border Prosecution Unit (BPU) was established in 2009 by the 81st Texas Legislature for the purpose of providing dedicated prosecution resources in aid of state border security operations. In the 84th Legislative Session (2015), House Bill 12 formalized the BPU's duties and responsibilities and designated the BPU to be a unit under the direction of the Governor's Office. The BPU continues to serve an integral role in OLS and operates as a strong force working its lane to secure the border.

As directed by the legislature, the BPU is responsible for targeted investigation and prosecution of border crimes, with a particular emphasis on violent crime (murder, kidnapping, extortion, sexual assault), criminal enterprises associated with cartels and drug trade, financial crimes, and human trafficking. In addition to statutory obligations, the division has implemented threat-based operational benchmarks and procedures targeting cartels, domestic gangs, and other organized criminal operations in Texas - including those in state prisons.¹⁸

Currently, the BPU provides prosecution offices in the border region from El Paso to Brownsville that serves 53 counties and covers the six Texas Anti-Gang Centers outside of the border region in Bexar, Harris, Dallas, Lubbock, McLennan, and Smith counties. BPU has the capacity to staff 63 attorneys across the border region; however, the unit currently has 15 vacancies. Staffing shortages continue to occur across various industries and are likely endemic across the state. According to Tom Krampitz, General Counsel for the BPU and adjunct professor at Texas A&M University School of Law, geography and salary are the biggest culprits of staffing shortages. Many of the staffing locations for BPU are in rural areas and, as with many public service positions, local entities must compete with the salaries offered in the private sector. Elected district attorneys are also facing fiscal challenges as OLS grants are paid by the State to the district attorney who then must allocate the pay to their assistant district attorneys. As a result, assistant district attorneys operating under OLS are qualified as county employees and may be subject to county salary guidelines or available border security grant funding through the Public Safety Office (PSO). Every jurisdiction is different, which increases the complexity of recruitment and retention.

Despite these challenges, BPU is able to maintain their caseload, offer trainings, and provide technical expertise and physical manpower to support local jurisdictions with border prosecutions. BPU works in a community support role and attends local landowner meetings in various counties. These meetings provide the opportunity for landowners and local residents to ask questions regarding OLS and provide feedback on how border crimes impact their communities.

In Fiscal Year 2023, the BPU provided training to 1,091 local and state personnel representing 175 different agencies for a combined 6,945 Texas Commission on Law Enforcement (TCOLE) certified hours at no cost to agencies or attendees. To date in Fiscal Year 2024, the BPU has provided training to 991 law enforcement personnel representing 129 different agencies for a

¹⁷ LaVoie, Megan. "Senate Committee on Border Security: Operation Lone Star." (June 11, 2024).

¹⁸ Ahlschwede, Honorable Tonya. 2024. "Border Prosecution Unit Quick Facts."

combined 3,873 TCOLE certified hours at no cost to them. BPU also offers training and assistance to criminal justice professionals (clerks, coordinators, county judges, TMD) on operations and legal issues surrounding OLS.

Since the establishment of the Border Prosecution Unit (BPU) in 2009, there has been an exponential growth in Operation Lone Star related cases. In 2009, the BPU averaged around 4,000 – 5,000 cases a year, but handled 28,366 cases in Fiscal Year 2023. As an example of the growth in border related crimes, the BPU testified that Edwards County has a population of 1,422 people; however, there have now been more smuggled persons recovered than the total population of the entire county.¹⁹

Texas Department of Criminal Justice

The Texas Department of Criminal Justice (TDCJ) plays an integral role in the criminal justice system statewide as well as border security operations specifically. The TDCJ was appropriated \$25.9 million during the 88th Legislature for border security. This funding is generally expended on staffing, HVAC systems, medical services, and other necessities. Since the launch of Operation Lone Star, TDCJ facilities have been used to assist counties affected by record numbers of illegal aliens crossing the border and committing state crimes.

Since 2021, TDCJ has operated two OLS designated facilities and has since opened a third OLS designated facility. The TDCJ Briscoe Unit, located in Dilly, Texas, was the first facility selected to house inmates for Operation Lone Star. This unit began receiving confinees in July 2021 and has a capacity of 1,008 beds available. Currently, the Briscoe Unit houses 310 individuals charged with a border crime.

Due to an increased need for beds throughout the border region, the TDCJ Segovia Unit in Edinburg, Texas began receiving OLS inmates in September 2021. This facility maintains a capacity of 1,224 beds designated for Operation Lone Star arrests and currently houses 116 individuals.

Throughout Operation Lone Star, there has been an increased need for a separate OLS designated facility to house female inmates arrested for OLS related state crimes. Since the Senate Committee on Border Security's interim hearing in 2022, the TDCJ worked alongside the Commission on Jail Standards (TCJS) and the Texas Commission on Law Enforcement (TCOLE) to open the Lopez Unit. This unit is structurally a part of the Segovia Unit, but it is a stand-alone building separated from the male facility. The Lopez Unit has a capacity of 197 beds and currently houses 89 female inmates.

Individuals who are arrested under Operation Lone Star are processed and magistrated at either Val Verde or Jim Hogg Processing Centers before being transported to one of the three TDCJ operated OLS facilities. Court hearings for individuals housed at one of these three facilities occur either back in the county of arrest or they may be conducted via video conferencing. TDCJ continuously ensures that confinees have access to the courts and legal visits. To date, TDCJ has facilitated over 30,000 in-person and virtual attorney visits. Over 15,000 cases have been processed through dispositions – 9,243 on bond and 5,117 time served. Of the 515 active confinees currently housed in OLS designated TDCJ facilities, 49% were charged with a felony

¹⁹ Honorable Tonya Ahlschwede and Tom Krampitz. *Border Prosecution Unit*. (June 11, 2024).

and 43% were charged with a misdemeanor. According to TDCJ, the highest percentage of primary offenses among OLS confinees are smuggling of persons and criminal trespass. Additionally, 32% of active confinees are citizens of the United States and the remaining 349 are from 15 different countries.²⁰

Lastly, Texas Correctional Industries (TCI) is a department within TDCJ that manufactures goods and provides services for sale on a for-profit basis to city, county, state, and federal agencies. The Prison Made Goods Act, established in 1963, provides work program participants with marketable job skills, helps reduce recidivism, and reduces department costs by providing products and services to TDCJ and other eligible entities.²¹ Currently, TCI is consistently making concertina wire to sell back to the state for use along the border. This marks another significant contribution by TDCJ to Operation Lone Star. TDCJ has a factory near Palestine, Texas that has produced 77.28 miles of concertina wire, 204.75 miles of barbed wire, and 34 miles of chain-link fence that was delivered to the Texas Military Department (TMD).

Texas Parks and Wildlife Department

The Texas Parks and Wildlife Department (TPWD) continues their participation in border security efforts with the deployment of personnel and equipment to support Operation Lone Star (OLS). TPWD's deployment consists of 35-65 Game Wardens and 3-5 State Park Police Officers as well as marine patrol, land based support including drones and K9, supervisors, operations officers, and boat mates.

TPWD currently employs 551 Game Wardens and 125 State Parks Police Officers who are stationed throughout the state. The agency has 209 Game Wardens stationed along the border with 139 permanently stationed along the Texas-Mexico border and 70 stationed along the coastal border of Texas. Those permanently assigned to border counties function just as any other Texas Game Warden and serve as force multipliers to assist other law enforcement agencies with border security operations. The agency's initial involvement in OLS launched a deployment plan for TPWD peace officers to OLS duty every nine days from across the state. While these TPWD peace officers participate in OLS, their absence at their home duty stations leaves a gap in service at home. According to TPWD, peace officers from across the state are deployed for border rotations on a voluntary and involuntary basis. The agency pulls a small number of peace officers from each region and each district so that they do not leave a large gap in any singular area of the state.

TPWD staff that are deployed to the border region operate on a 24-mile stretch of river from the Angie Lewis Park upstream to the Los Ebanos Ferry near the Starr County line by utilizing upwards of 30 patrol vessels on two 12-hour overlapping shifts to offer 24-hour Marine patrols. Texas Game Wardens and State Park Police Officers are only funded by OLS when they are deployed for OLS duties. Despite the large number of TPWD peace officers assigned to the border region, none are dedicated solely to OLS operations.

As part of TPWD's role in OLS and border security related operations, Texas Game Wardens and State Park Police Officers conduct overt and covert land based operations to disrupt illegal

²⁰ Collier, Bryan. *Executive Director, Texas Department of Criminal Justice*. (June 11, 2024).

²¹ Texas Correctional Industries, <https://tci.tdcj.texas.gov/info/about/default.aspx>.

hunting, fishing, trespassing, and transnational criminal organization activity, such as the trafficking of narcotics, humans, stolen vehicles and vessels, firearms, and currency. Additionally, Game Wardens conduct direct enforcement actions as well as gather and provide intelligence feedback to the unified command, referring illegal aliens to Border Patrol and DPS.

TPWD peace officers continue to conduct port of entry inspection operations, which focus on the illegal smuggling of resources as well as inspecting aquatic and wildlife resources imported from Mexico. The agency's contribution to OLS provides rigor to the safety of the citizens of the state. Thus far, Texas Game Wardens and State Park Police Officers have apprehended over 21,000 illegal aliens attempting to cross into Texas and deterred over 4,000 illegal entries as well as made 230 criminal arrests. TPWD peace officers have seized 1,600 pounds of marijuana, 150 pounds of cocaine, 50,000 feet of gillnet, and 1,000 pounds of aquatic resources.

As a result of the agency's ongoing participation in OLS, particularly the consistent nine-day deployments, the TPWD continues to experience extensive wear and tear on equipment. According to TPWD, the agency does not receive reimbursement for replacements or upkeep of equipment deployed or used in OLS operations. During the 88th Legislative Session, the legislature appropriated funds to TPWD to replace boats. The agency prioritized replacing inland boats while maintaining the fleet of vessels in South Texas. While on OLS duty, peace officers utilize a wide variety of equipment to patrol the river. The agency's fleet of water vessels includes, but is not limited to, large 85-foot catamarans used to find illegal Mexican fishermen, 12-14 foot boats to patrol rivers in Texas waterways, 20-foot Majek's for deep water patrol, and 20-25 foot long fiberglass vessels for water safety purposes. Through TPWD's normal daily functions and OLS duties within their scope of law enforcement authority, the agency is a full-service law enforcement department, enforcing both the penal code and wildlife code.²²

Texas Alcoholic Beverage Commission

The Texas Alcoholic Beverage Commission (TABC) regulates all phases of the alcoholic beverage industry in Texas. TABC has a law enforcement division that investigates organized crime at all TABC-licensed businesses, including those located in counties designated as part of the Texas-Mexico border region. This region includes counties that adjoin the border and those along the Intracoastal Waterway (ICW).

TABC engages in border security efforts in two primary ways: (1) by investigating suspected organized criminal activity with a nexus to the alcohol industry and (2) by maintaining a presence at ports of entry along the Texas-Mexico border to collect personal importation taxes and prevent dangerous, illegal products from entering the United States.

TABC's enforcement operations serve on the front lines of dismantling human trafficking organizations with connections to the alcoholic beverage industry. According to TABC, criminal organizations use alcohol retailers, which are known to be cash intensive businesses, to disguise their illegal enterprises. The agency created a special investigations unit to combat organized crime including, but not limited to, narcotics, human trafficking, money laundering, and other related felony offenses. Both the enforcement and the licensing divisions work to shut down businesses that the cartels use to launder drugs and money. While the enforcement division

²² Jones, Colonel Chad. *Texas Parks and Wildlife Department*. (June 11, 2024).

investigates the individuals and the business, the licensing division completes background checks of individuals, audits the books, and completes depletion analyses. Unlike other law enforcement agencies, TABC has the regulatory authority to access a business's financial records to look for discrepancies and has the administrative authority to cancel a business's permit, which effectively shuts down the business.

TABC has continuously been successful in securing indictments against persons and shutting down licensed businesses connected to human trafficking operations. Since 2013, TABC special units have closed over 1,000 organized criminal activity investigations, which have resulted in 141 permit cancellations, and 71 of those cancelled permits were in Texas' border region. Additionally, TABC has closed more than 100 investigations related to human trafficking or other organized criminal activity in each fiscal year since 2014. Thus far in Fiscal Year 2024, from September 1, 2023 through May 31, 2024, TABC has closed 124 investigations relating to trafficking or other organized criminal activity.

Currently, TABC has 23 agents within its Special Investigations Unit (SIU) and Financial Crime Unit (FCU) that carry an organized criminal activity specific case load. These 23 agents have 681 open investigations (including cases awaiting trial) and have conducted 1,417 Investigative Activities during Fiscal Year 2024. On average, each agent carries a case load of 29.6 investigations.

Of the nearly \$7 million appropriated, \$1.2 million funded an additional six agents who are stationed in the border regions and work alongside various task forces, including anti-gang centers and major organized crime. TABC's collaboration with law enforcement partners makes Texas a safer place and creates a fair market place in which responsible establishments are not forced to compete with businesses that benefit from illegal operations. Every effort to shut down illegal business operations contributes to the economic development in the border region and across the state.

Texas Commission on Jail Standards

The Texas Commission on Jail Standards' (TCJS) participation in Operation Lone Star is integral to ensure that the justice system is meeting standard requirements. TCJS was originally assigned the responsibility of ensuring that Texas Department of Criminal Justice (TDCJ) facilities used for OLS met jail standards. For OLS facilities specifically, TCJS oversaw the retrofitting of the Briscoe Unit, the Segovia Unit, the Lopez Unit, as well as the processing centers in Val Verde and Jim Hogg.

Currently, over 16,000 individuals have been processed by the State's two processing centers. The temporary processing centers serve a dual purpose: a facility to process inmates in and out of the Texas justice system. Despite the temporary structure of each center, both have been able to endure the high volume of traffic passing through each facility. Both Val Verde and Jim Hogg processing centers were established and continue to operate as *temporary* centers, which initially and contractually have a lifespan of three years. Val Verde's three-year term is near its expiration and Jim Hogg's expiration will follow a year later. Each facility will require a review of the center prior to renewal and, if renewed, will require yearly renewals unless permanent processing centers are opened in their place.

TCJS also follows reporting requirements that monitor and maintain data of inmates housed in such facilities. According to TCJS, there are over 6,200 inmates in Texas county jails with Immigration Detainers issued by Immigration and Customs Enforcement (ICE), also known as ICE holds. These inmates consume 140,000 bed days and the self-reported cost by county was \$12 million. Despite the bed availability in TDCJ facilities, some counties choose to house detainees in their local county jail. TCJS assists these counties to ensure that they have all the necessary resources for them to maintain minimum jail standards. Although some counties choose to house inmates rather than transfer them to one of the three OLS units, the cost and impact of housing inmates with an ICE detainer is significant as reflected below.²³

The chart below covers a 12-month period from April 2023 to April 2024 and is broken down into three categories: ²⁴

- OLS TDCJ: Inmates that were arrested as part of Operation Lone Star and transferred to one of the three TDCJ units. There is no cost to the county as the state absorbs the cost of confinement.
- Border Counties: Number of inmates housed in any of the 31 counties as defined by the legislature as a border county with an ICE detainer.
- Total: Total number of inmates housed in Texas County Jails with an ICE Detainer (including those housed at OLS-TDCJ and in Border Counties).

| | OLS TDCJ | Border Counties | Total |
|-----------|----------|-----------------|-------|
| Apr 2023 | 593 | 1117 | 6282 |
| May 2023 | 670 | 1009 | 6319 |
| June 2023 | 515 | 1104 | 6242 |
| July 2023 | 976 | 1054 | 6925 |
| Aug 2023 | 1106 | 1008 | 6686 |
| Sept 2023 | 639 | 1075 | 6099 |
| Oct 2023 | 690 | 1021 | 6272 |
| Nov 2023 | 630 | 1139 | 6245 |
| Dec 2023 | 478 | 1124 | 6217 |
| Jan 2024 | 399 | 1155 | 6167 |
| Feb 2024 | 580 | 1143 | 6447 |

²³ Wood, Brandon. *Executive Director, Texas Commission on Jail Standards*. (June 11, 2024).

²⁴ Following the June 11 Committee hearing, the above chart was provided by TCJS at the request of Chairman Birdwell. The chart contains additional data regarding immigration detainees.

| | | | |
|----------|-----|------|------|
| Mar 2024 | 663 | 1198 | 6507 |
| Apr 2024 | 277 | 1446 | 6227 |

Texas Commission on Law Enforcement

The Texas Commission on Law Enforcement (TCOLE) operates in an investigatory capacity when dealing with possible infiltration of cartels or other criminal elements into law enforcement agencies (LEAs) operating on the border. TCOLE continues to work alongside the Texas Department of Public Safety (DPS) to advance border security efforts across the state. According to TCOLE, there are currently three key developments of significance.

First, TCOLE and DPS are collaborating on the law enforcement agency’s ability to intake out-of-state peace officers who are operating in Texas under mutual aid in support of Operation Lone Star (OLS). TCOLE is responsible for maintaining all records, including the names of all out-of-state peace officers and their licenses. To date, six states have participated in this process since the launch of OLS; Florida, Iowa, Nebraska, Ohio, Utah, and Missouri. Generally, in their respective home-duty states, these peace officers are either state troopers or an equivalent of game wardens.

Further, TCOLE worked alongside the Texas Department of Criminal Justice (TDCJ) to expand the licensure of correctional officers. This licensing change would allow licensed correctional officers to also maintain a license as TCOLE jailers to support Operation Lone Star. The training and background investigation process for both licenses are substantially similar, and the agencies worked together to ensure that, despite any differences in the licensing processes, these dual license holders are in compliance with the law. As of mid-June 2024, there were 898 licensed jailers appointed through TDCJ.

Lastly, TCOLE investigators are funded under border security operations to ensure compliance with law enforcement hiring and training standards. During Fiscal Year 2023, the Commission had 52 multi-agency investigations open in the border regions and 118 single-agency investigations with TCOLE opening those alone.²⁵

CONCLUSION

The Biden Administration has willfully failed to uphold the law and secure our southern border resulting in an unprecedented border crisis. The burden befallen the State of Texas to fill this void led to billions of dollars invested in border security funding and strained resources of state agencies and local law enforcement. The success of Operation Lone Star is evidenced by over 516,000 illegal immigrant apprehensions, more than 45,000 criminal arrests, and the seizure of over 504 million lethal doses of fentanyl. Despite the westward shift of illegal immigration crossings, retraction from the current force structure and operational tempo will only invite a return to higher penetration rates across the border. The State of Texas must continue to fund Operation Lone Star and execute its border security operations in order to secure the safety of its

²⁵ Stevens, Gregory. *Executive Director, Texas Commission on Law Enforcement*. (June 11, 2024).

citizens and protect the State of Texas.

RECOMMENDATIONS

The Committee, after deliberative discussion, believes that the Legislature should take the following actions:

- Continue to support and fund Operation Lone Star.
- Grant funding to state agencies and local law enforcement for the wear and tear on equipment used for Operation Lone Star.
- The Committee recommends that the Office of Court Administration create a reporting system and gather metrics from all local and state law enforcement authorities in an effort to streamline data sharing of OLS related cases.
- The legislature should consider a more stable funding mechanism for OLS courts.
- Increase funding for the Border Prosecution Unit.

2. Securing the Texas-Mexico Border: Examine the impact of transnational criminal activity on commerce including, but not limited to, organized crime fuel theft to fund criminal operations. Make recommendations to support and strengthen interagency border operations to combat criminal enterprises.

BACKGROUND

Transnational Criminal Activity

Threats associated with an unsecure border have created numerous challenges for the State of Texas. The constant flow of illegal immigrants and dangerous drugs into local communities poses unprecedented threats to public safety and homeland security. Since the launch of Operation Lone Star, Texas agencies have continuously participated in the apprehension of illegal immigrants and the seizure of an exorbitant amount of illegal drugs such as fentanyl and methamphetamine. Although Texas' border security efforts have resulted in a decline in apprehensions in the state, transnational criminal activity remains a critical threat and top priority for law enforcement.

Mexican cartels facilitate and benefit from human and drug smuggling. They have infiltrated local communities throughout the border region as they conduct their operations on both sides of the border. While some crossing illegally may be victims of crimes such as kidnapping, human trafficking, or assault, others are criminal aliens who may pose a danger to public safety or a terrorist threat to the United States. In 2022, Governor Abbott issued an executive order designating Mexican drug cartels as foreign terrorist organizations.²⁶ This label was further solidified in state statute with the passage of Senate Bill 1900 by Senator Birdwell, which defined and added foreign terrorist organizations to organized crime under state law.

In recent months, the growing presence of the vicious Venezuelan gang, Tren de Aragua (TdA), poses a dangerous and deadly problem for the State and Nation. On September 16, 2024, the Governor announced that Texas would be launching a comprehensive, statewide operation to target TdA and disrupt their criminal operations. He also signed a proclamation declaring TdA as a foreign terrorist organization.²⁷

TdA, which originated in a Venezuelan prison, quickly moved its activity into surrounding countries like Colombia, Peru, and Chile, before expanding operations to the United States. According to the Governor's proclamation, FBI officials in Texas have confirmed that "members of Tren de Aragua have crossed into the United States," and a recent memorandum from the U.S. Department of Homeland Security reveals that the group's leaders have given members "a 'green

²⁶ Abbot, Governor Greg. 2022. *Governor of the State of Texas*. September 21. <https://gov.texas.gov/news/post/governor-abbott-designates-mexican-cartels-as-terrorist-organizations>

²⁷ Abbott, Governor Greg. 2024. *Governor of the State of Texas*. September 16. <https://gov.texas.gov/news/post/governor-abbott-designates-tren-de-aragua-as-terrorist-organization>.

light’ to fire on or attack law enforcement.” TdA has unleashed violence across the country, with crime occurring in Georgia, New York, Wisconsin, Colorado, Texas, and more.²⁸

Law enforcement confirmed that TdA has established criminal operations in Texas, including in El Paso where they converted hotels to house gang members, imprison human smuggling victims, and stage criminal operations. Further, TdA cooperates with local cartels and gangs in human smuggling activity, which gives them an opportunity to gain a foothold in the state and rapidly expand their operations. The continued operations of TdA within the State of Texas must come to an end. While TdA is currently a top priority for law enforcement, other cartels and gangs remain a constant threat to public safety. Transnational criminal activity negatively impacts state commerce and has been linked to vehicle theft; smuggling of weapons, money, drugs, and people; kidnapping; fuel theft; and other crimes threatening public safety.

Transnational Criminal Activity on Commerce

Since 2021, the state has experienced an uptick in nefarious and criminal activity involving motor fuel. In addition to the theft of crude oil and fuel, law enforcement has noticed overweight and off-route fuel trucks, unregulated fuel depots, transloading operations, and falsified transport documentation. These operations pose serious risks to public safety, environmental standards, and negatively impact state commerce.

Standard Regulations

The maximum gross weight of trucks in Mexico is 125,000 pounds, whereas the maximum in the United States is 80,000 pounds unless the operator purchases an overweight permit. Generally, oversize/overweight (OS/OW) permits can be purchased through, and are regulated by, the Department of Motor Vehicles. Additionally, certain public port authorities within the state, such as the Port of Harlingen, were granted the statutory authority to issue overweight permits. For purposes of this charge, the focus relates to port-issued permits due to their relationship to the border. Each port is separately authorized by statute and, therefore, may operate differently. The goal of each port is to provide economical and efficient transportation connections to markets in the State, Nation, and Mexico. In order to support and maintain Texas roads, overweight corridors have been developed to support heavier loads for efficient shipping.

Overweight Corridors

According to the Texas Department of Transportation (TxDOT), there are eight established oversize/overweight corridors in the state. Half of the corridors are inactive and only three of the active corridors are connected to this interim charge.

The purpose of Overweight Corridors is to provide the most direct route from the ports to the international bridges for trucks with oversize/overweight (OS/OW) permits. The permit is not commodity-specific and the fee varies at different ports. For example, the Port of Harlingen and the Hidalgo County Regional Mobility Authority (HCMRA) offered OS/OW permits for \$40. After assessment of road maintenance, the HCMRA raised their OS/OW permit to \$249 to pay

²⁸ Abbott, Governor Greg. Proclamation. 2024. *Governor of the State of Texas*. September 16. https://gov.texas.gov/uploads/files/press/DISASTER_foreign_terrorist_designation_Tren_de_Aragua_DRAFT_09-16-2024.pdf.

for the excessive damage of overweight vehicles. The Texas Department of Transportation receives 85% of the fees collected through these permits and uses them to maintain the roads within the overweight corridors. The remaining funds are then allocated to cover administrative fees and contribute to the state highway fund. To obtain an OS/OW permit, the company must go online through ProMiles, a website used to administer the permits, make the payment, then visit the fuel racks at the Port and present proof of permit purchase before loading the fuel.

Trucks must be weighed prior to entering and exiting a port. A scale ticket must be obtained for an OS/OW permit to be valid. However, statute does not require ports to provide the scales themselves. According to TxDOT's recent audit, the Port of Harlingen had "not implemented necessary controls to ensure appropriate OS/OW permit administration and compliance." Further, 10% of permits tested exceeded the maximum weight per axle group and 100% of permits tested had an invalid or missing scale name.²⁹ The Port of Harlingen is a landlord port and does not have its own scales. Titan Marine Fuel, a tenant at the Port of Harlingen, eventually purchased its own certified scales in house for expediency and to ensure business operations are in compliance with the law.

As a result of cartel activity in Mexico, Mexican trucking companies are generally stopped at the point of entry and would pay a price to cross the international bridge. This payment generally affords safe passage and ensures Mexican Customs officials do not interfere with an expeditious crossing. At the Los Indios Bridge near the Port of Harlingen, criminal activity continues on the Mexican side of the bridge despite extortion payments to the cartel and Mexican officials. Oftentimes, to protect the load and the driver, drivers go off-route of their designated OS/OW corridor and travel to Hidalgo County. Once in Hidalgo County, truckers cross into Mexico via the Pharr Port of Entry. Overweight trucks traveling off-route have caused significant damage to Texas roadways. TxDOT can pay for such damage through regional TxDOT maintenance funds if the roadway is within the state roadway system, such as highways. However, damages to city and county roads are often a financial burden to the local entity responsible for the road. Disregarding overweight corridor routes not only increases the cost of repairing damaged roadways, but it also poses significant risks to public safety outside the corridor.

Transloading and Fuel Depots

As a result of cartel presence on the Mexican side of the border and the apparent lack of state regulation regarding fuel transfers and fuel depots, a new criminal enterprise has emerged. Mexican carriers have resorted to transloading: the illegal transfer of motor fuel. Transloading occurs truck to truck, truck to tank, and tank to truck. Transloading truck to truck commonly includes transferring fuel to a truck that has already reached the legal oversize limit of 125,000 pounds. This occurs in part to ensure fewer trucks are extorted by the cartel at a port of entry. Transfers take place on unregulated, privately owned agricultural land, also known as Fuel Depots. These depots have intentionally been set up to bypass regulatory aspects from the Texas Commission on Environmental Quality (TCEQ). Storage tanks larger than 1,100 gallons are required to register with TCEQ but the agency does not have civil authority granted to them for mobile units. The tanker trucks are only subject to inspection by TCEQ if there is a reported leak. This criminal enterprise has grown exponentially and is a considerable public safety issue as these

²⁹ External Audit Report: Audit of the Port of Harlingen Authority Oversize and Overweight Operations. *Texas Department of Transportation*. 2024. https://ftp.dot.state.tx.us/pub/txdot-info/aud/reports/Audit_of_the_Port_of_Harlingen_Authority_Oversize_and_Overweight_Operations_Final_Report.pdf.

depots are set up in residential areas and are generally unregulated.

Although overweight corridors were created to make overweight transfers more efficient and safe, bad actors have disrupted the system by illegally purchasing overweight permits, falsifying documents, and traveling off-route. DPS investigations have found that trucking companies, as well as cartels, will stage fuel trucks and participate in unregulated fuel transfers. The trucks being used for the illegal transfer of fuel include sand tanks and 3-axle trailers that are not made to carry hazardous material, creating an extremely dangerous public safety issue. These practices not only put people on the road in danger, but also contribute to extensive road damage.

TESTIMONY

The Committee held a public hearing on September 19, 2024, and heard testimony from invited witnesses regarding the interim charge “Securing the Texas-Mexico Border.” Chairman Birdwell first called Colonel Steven McCraw, Director of the Department of Public Safety, to provide testimony on transnational criminal activity generally and its impact on commerce. The Chairman then called up a panel of invited witnesses to discuss the impact of transnational criminal activity on commerce. This panel included testimony from the Department of Public Safety (DPS), the Texas Comptroller’s Office of Public Accounts (CPA), and the Texas Trucking Association (TTA). Generally, governmental agencies, or the regulators, testify first followed by industry representatives, or the regulated. Due to the complexity of this particular issue, Chairman Birdwell made the executive decision to have a single panel consisting of both the regulated entity and the regulator.

Department of Public Safety: Colonel Steven McCraw

Colonel McCraw outlined the current state of border security and detailed challenges Texas continues to face as a result of illegal border crossings and significant organized criminal activity. Local, state, and federal law enforcement are consistently stretched thin due to the overwhelming influx of illegal immigrants and cartel activity from Mexico. Law enforcement and communities throughout the border region are often unable to manage this influx without additional resources. However, through the efforts of the Governor and Texas Legislature, funding to local entities has been effectively used to bolster resources for border security and public safety in local communities.

Through proactive efforts under Operation Lone Star (OLS), Texas has seen a continuous westward shift of cartel activity and illegal crossings along the southern border. Within the past year alone, Texas has significantly reduced apprehensions by 49%. Collaboration among agencies, including DPS, the Texas Military Department (TMD), and U.S. Border Patrol, has been vital in deterring criminal activity. Chairman Birdwell noted that the State has paid an incredible price for the deterrence that it’s gained, and if it were to retract from that, the cost of regaining that deterrence would be higher than the price Texas is paying for maintaining that deterrence now.

Although progress has been made, McCraw warns that the cartels remain powerful and continue to dominate the human and drug trafficking market, particularly concerning fentanyl. Approximately 6,000 migrants are crossing into Texas weekly and are preyed upon by cartels

through stash houses and other means such as human and drug smuggling. The presence of Venezuelan gang activity in Texas, specifically Tren de Aragua (TdA), has increased dramatically in recent years and has developed into a pressing public safety concern. TdA is extremely violent, engages in adaptable tactics, and tends to be more combative and confrontational against security forces than other cartels or gangs. Over recent years, the population of Venezuelans embedded with TdA gang members flowing across the border has significantly increased. Between 2000 and 2023, there has been over 56,000% increase in the number of Venezuelan apprehensions in Texas, most occurring in the Del Rio and El Paso areas.

To date, approximately 492,000 Venezuelan nationals have been apprehended and released in Texas. This poses a severe public safety concern as law enforcement in the United States cannot conduct a proper background check on Venezuelan nationals due to the lack of intelligence databases. This makes it impossible for law enforcement and Border Patrol to identify criminals and has subsequently resulted in the release of violent offenders into the United States. As McCraw stated, there are two kinds of Venezuelan migrants: TdA and their affiliates as well as their victims. TdA is rapidly growing and they operate by working with other cartels to infiltrate communities. As a result of TdA's increased presence in Texas, Governor Abbott declared Tren de Aragua a foreign terrorist organization. The danger TdA poses to public safety is evidenced by events in Texas, including the large scale assault of Guardsmen in 2023 and the recent evictions at the Gateway Hotel in El Paso. Local law enforcement have witnessed firsthand the destruction caused by cartels and gangs and continue to make every effort to prevent gangs from increasing their presence in Texas.

McCraw expressed that the greatest force multiplier is teamwork and stressed the need for continued teamwork among local and state law enforcement. Every law enforcement agency statewide is working some element of gang and cartel activity. Texas operates nine Anti-Gang (TAG) Centers throughout the state, which provides a collaborative space for law enforcement entities at all levels of government to advance investigations and efficiently share intelligence. The tiered approach to assessing and targeting gangs has led to tremendous success in TAG operations and investigations.

Additional consequences of an unsecured border stem from “criminal noncitizens” crossing the border with large groups. “Criminal noncitizens” is a term used by Border Patrol to describe “individuals who have been convicted of one or more crimes, whether in the United States or abroad.”³⁰ As a result, DPS implemented a fugitive program to search for illegal aliens who have violated state law. Since February 2021, there have been approximately 93,000 criminal non-citizens in Texas jails who committed state-based crimes ranging from DWI to homicide to assault. Among these, over 4,100 were felonies with outstanding warrants for their arrest. DPS will continue to operate the fugitive program and prioritize their efforts to locate these criminal non-citizens.

Furthermore, Colonel McCraw addressed the involvement of Mexican Cartels in oil theft and the negative impact it has on the economy of Texas. Whether they are directly involved or two connections removed, Mexican Cartels have long benefited from oil theft and the extortion

³⁰ Criminal Noncitizen Statistics. *U.S. Customs and Border Protection*. <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics#:~:text=The%20term%20%E2%80%9Ccriminal%20noncitizens%E2%80%9D%20refers,criminal%20by%20the%20United%20States.>

related to fuel theft. DPS has ongoing efforts to collaborate with the industry, especially in critical areas like the Permian Basin, to effectively identify and report thefts as well as develop solutions to the problem. While some solutions already exist, additional solutions and resources are needed to effectively address this problem.

Senator Hinojosa followed Colonel McCraw's testimony, highlighting the issue of cartels infiltrating legitimate businesses, of which some are complicit in illegal activities. This has become a significant concern for his district and the entire state. Public officials in Mexico have informed Senator Hinojosa that fuel trucks will pay \$5,000 at the international bridge to customs on the Mexican side. While Texas has no control over what occurs in Mexico, the state must find solutions to address these issues and minimize fuel theft occurring within state lines.

Public safety and the protection of property are top priorities for the Department, especially protection from hazardous materials and consequential incidents involving overweight commercial vehicles on state roadways. Companies are being extorted for each fuel load that crosses the international bridge, subsequently increasing the cost for each truck. As a result, many fuel trucks are participating in transloading, the transfer of fuel from one vehicle to another, in an effort to decrease the number of fuel loads crossing into Mexico. Therefore, rather than paying the extortion fee for 2 trucks weighing 80,000 pounds, a company is likely to transload fuel and run a single overweight truck of 150,000 pounds across the border. Some truckers are also choosing to travel off-route of an overweight corridor in order to pay a lesser extortion fee at another intentional bridge. Colonel McCraw emphasized the need to find solutions that will help protect Texans without rewarding any one cartel over another because of extortion routes. While fuel theft and the dangers associated with it are occurring on both sides of the border, the state cannot risk the safety of Texans by permitting overweight fuel trucks to travel through communities as opposed to direct routes. Texas is already facing challenges from Mexican fuel companies with the types of trucks they are using, hiring unqualified drivers, and surpassing the permitted weight. This issue raises concerns of public safety, environmental quality, economic impact, and infrastructure damage.

Department of Public Safety: Captain Omar Villareal

Captain Omar Villareal began his testimony by describing the fuel theft situation in the Rio Grande Valley (RGV) and providing information on the structure and use of overweight corridors. DPS has seen a plethora of overweight commercial vehicles at various ports going off-route, destroying roadways, and hauling significantly above their permitted weight with hazardous materials. The general maximum weight on Texas roadways is 80,000 pounds, whereas the gross vehicle limit in Mexico is 125,000 pounds. Designated overweight permits may be available for purchase at individual ports, which would allow the truck to haul up to 125,000 pounds. Despite permit requirements and weight regulations, DPS has encountered numerous trucks overloaded to as much as 150,000 pounds. Additionally, the Department has also seen a gambit of licenses, many of which lack the proper qualifications to operate a commercial vehicle carrying hazardous material. When asked by Senator Hinojosa whether these commercial truck drivers are licensed to operate in the States, Captain Villareal explained that Federal regulations require the States to honor the Mexican Licencias Federal de Conductor (LFC), as equivalent to a Texas Commercial Drivers License (CDL). However, DPS operations have found that some of these licenses are invalid because the driver is either not the legitimate

license holder or they lack legitimate CDL qualifications.

At the height of these operations, approximately 1,300 trucks were crossing the border. With a \$5,000 extortion fee for each truck to enter Mexico, the cartel was profiting about \$6.5 million weekly. These operations not only contribute to deadly cartel activity, but also endanger the lives of everyone in the communities surrounding ports and international bridges. Captain Villareal shared an example where an off-route overweight vehicle was traveling up I-69 onto the interstate out of the Port of Brownsville when it rolled and detonated. This accident killed the driver and shut down that portion of the toll road for a month. While this is one example, these operations could cause such an accident at any moment.

The Department has initiated a directed enforcement project, Operation Fuel Stop, to combat transloading operations and has seen more off-route traveling as a result of the effort. The Mexican carriers have adapted their enterprises by redirecting their paths and even entering private agricultural properties. These private properties have been turned into illegal fueling depots, providing an unregulated space to perform illegal fuel transfers from cargo tank to cargo tank.

Texas Comptroller's Office of Public Accounts

First to testify on behalf of the Texas Comptroller's Office of Public Accounts (CPA) was Jim Harris, Chief Director of Law Enforcement. Chief Harris provided a brief overview of the Comptroller's Office and what the agency is witnessing throughout the state. The Comptroller's Office employs 40 full-time state police officers who investigate offenses statewide to deter criminal conduct against over 60 state tax types. Across the state and at the border, the CPA's investigations have identified fuel theft related issues including pump scammers, cloned credit cards, and pulsar device tampering. Chief Harris noted another rising concern is the use of passenger vans as fuel trucks where the backseats are replaced with 250 to 500 gallon tanks filled with fuel. This practice poses serious danger to the public as these vans are unmarked, unregulated, and significantly dangerous. Furthermore, the unregulated transfer of fuel from one vehicle to another, also known as transloading, provides the opportunity to intentionally mix fuels. The mixture of fuels, whether good and bad fuels or regular and diesel fuels, is both dangerous and negatively impacting the economy.

Lieutenant Brett Froh with the Texas Comptroller's Criminal Investigation Division (CID) provided further details on the challenges of cartel activity and fuel theft as well as updates on collaborative investigations with DPS. Texas Tax Code Section 162 grants the Comptroller's Office authority to inspect premises and records related to motor fuel as well as determine tax liabilities for motor fuel activities. The agency's investigators collaborate with other law enforcement agencies and are currently working closely with DPS to address illegal activities involving motor fuel transporters. In April 2024, CID and DPS conducted a joint operation in Webb County and Hidalgo County that resulted in a total of 15 arrests in two days. Over the following two days, no arrests were made in either county, which both CID and DPS attribute to information spreading of their investigation.

The joint operation also exposed inconsistencies with documentation related to motor fuel transportation, including bills of lading and shipping manifests. Bills of lading generally identify who is hauling the truck, the originating and final destinations, what is being hauled, and the

quantity of the load. Further, if trucks stop at a fuel depot, the hauler is supposed to have updated shipping documentation to reflect the destination and quantity. Haulers are required to maintain both documents together; however, this is not occurring. In addition, CID and DPS have found several inconsistencies with the information contained in document, which may be attempts to avoid licensing requirements or transportation regulations. During the joint operation, the CPA received over 200 applications for motor fuel transporters.

CID alongside DPS are also monitoring the dangerous scene unfolding with unregulated fuel depots popping up throughout the border region. Unregulated fuel depots are being used to store and transfer fuel between fuel tanks, fracking tanks, and fuel storage tanks. CPA does not currently have any permitting requirements to regulate such depots, nor does CID have the ability to track activity occurring inside. These transloading facilities provide the opportunity for nefarious actors to circumvent motor fuel tax law and pose significant danger to the public. Many of these facilities are located in close proximity to residential areas and the process of transloading can cause leakage of fuel that contaminates the surrounding agriculture.



**Transloading facility located in Pharr, Texas³¹*

Lastly, Lieutenant Froh addressed non-licensed fuel transporters driving 3-axle Mexican tankers. Trucking standards in the United States permit 2-axle tankers with a capacity of approximately 7,500 gallons of fuel or a maximum gross weight of roughly 80,000 pounds. Mexican trucking standards are quite different and allow for 3-axle tanker trucks with a capacity of up to 14,000 gallons of fuel or a gross weight of roughly 150,000 pounds. While overweight corridors in the RGV may permit a gross weight of up to 125,000 pounds, Mexican tanker trucks have the ability to far exceed that limitation. The excessive weight of these trucks puts undue stress on roads and bridges, therefore accelerating infrastructure wear and tear. Although an accident with any truck transporting fuel would pose a risk to public safety, an accident involving an overloaded and excessively overweight Mexican fuel truck could be catastrophic.

³¹ Written testimony submitted by the Texas Comptroller's Office of Public Accounts to the Border Security Committee, September 19, 2024.

Texas Trucking Association

Next to testify was Texas Trucking Association (TXTA) President John Esparza, who spoke on behalf of the industry. Continuing the conversation of the panel, Esparza emphasized the standard federal regulations of commercial vehicles in the State of Texas and the differences with Mexican fuel regulations. Numerous members of TXTA from along the border, particularly those in the Rio Grande Valley (RGV), have called Esparza reporting an increase in off-route commercial vehicles. TXTA members in Laredo have also called to inquire about fuel depots, which are beginning to move west. This westward shift of overweight trucks and fuel depots raises concerns as they grow closer to the Permian Basin where theft of crude oil and fuel is already a challenge. Esparza noted the proliferation of these fuel depots may also be due to the blending of stolen fuel, which is then moved to Mexico via overweight trucks.

The industry continues to raise concerns over the drastic increase in commercial vehicles traveling outside designated routes, which not only poses risks to the public, but also presents issues for the law-abiding trucking companies in Texas. TXTA emphasizes the importance of knowledge amongst the industry and prioritizes highway safety. The motoring public does not differentiate between a TXTA trucker and a Mexican carrier, thus addressing this issue while maintaining industry standards and safety is crucial.

In closing, Esparza thanked the Legislature for passing House Bill 4337 during the 88th Legislative Session, which provides law enforcement an additional resource to verify and combat fraudulent Mexican licenses. Fraudulent Mexican driver's licenses are being used as an immigration tool to gain entry into the United States. This legislation led DPS to pull numerous commercial vehicles from service, thereby removing unqualified drivers of overweight vehicles from the road. Unfortunately, the Biden Administration disagrees with the passage of this legislation and has threatened to pull federal funding for enforcement of commercial motor vehicles. Esparza hopes that the Texas Attorney General will sue the federal government to address this issue.

Public Testimony

Following the invited testimony on this charge, the Committee heard public testimony.

Justin Marston, CEO and founder of Mithril Defense, testified first highlighting the need for advanced technology to improve border security and counter transnational criminal activity. Partnering with other industry partners the company has formed a consortium, the Texas Security Technologies Repairing Our Nation's Guardians Consortium; Texas STRONG Consortium. The consortium proposed a solution based on remotely piloted drones to be positioned along the Texas border. They believe that a drome centered strategy can have a transformative impact on the fight against transnational criminal enterprises, improving capability, and reducing cost for taxpayers. The consortium believes this approach is superior to existing efforts because the drones allow for autonomous surveillance for greater coverage, and the ability to interdict transnational criminals in both in vehicles and on foot. The conversation between Senator Blanco and Marston emphasized the positive impact technology can have as a force multiplier.

Jessie F. Fuentes testified next on behalf of the Eagle Pass Border Coalition and his business, Epi's Canoe and Kayak Team. Fuentes expressed his concern over the State's confiscation of

Shelby Park and its impact on the community. In his opinion, the State's deterrence efforts are inhumane and unsuccessful, and suggests that the State explore a different approach to border security.

Next to testify was Steve Putegnath, an operator of Titan Marine in the Port of Harlingen. Putegnath highlighted the newness of the industry and Titan's dedication to work alongside DPS and other industry partners to find solutions to these issues and ensure public safety. According to Putegnath, Titan elected to purchase the scales for the Port of Harlingen for expediency. Scales cost approximately \$100,000 a piece and are certified by the Department of Agriculture.

Todd Osborn's testimony highlighted the theft of other commodities such as copper, scrap metal, piping, and the like. In addition to crude oil and gasoline, thousands of dollars worth of scrap material have been disappearing from construction sites and hauled across the border. A truckload of scrap steel can generate over \$30,000. Osborn expressed his belief that this criminal activity is often overlooked and must be prioritized for the interests of the industry and public safety.

Testifying next was Chris Russo on behalf of Texans for Strong Borders. Russo expressed his desire for Texas to remain vigilant in its borders security efforts regardless of the recent reduction in border crossings. Russo proposed numerous proactive recommendations to further bolster border security including the creation of the Texas Department of Homeland Security, extending mandatory E-Verify requirements, ending public subsidies and services such as in-state college tuition for illegal aliens, and continuing border barrier construction.

Selene Rodriguez, the campaign director for the Secure and Sovereign Texas initiative at the Texas Public Policy Foundation, shed light on the collaborative effort between Chinese organized criminal groups and the Cartels. Rodriguez explained the process by which the head of a Mexican cartel can easily purchase legitimate commercial products with laundered money via Chinese money brokers. She informed the committee that her team is developing research to combat this criminal enterprise and expressed her willingness to work with any members wanting to pursue legislation regarding the topic.

Sheena Rodriguez, testifying on behalf of herself and Alliance for a Safe Texas, presented her research regarding the alleged trafficking and abuse of Unaccompanied Alien Children (UACs). Her testimony included numerous data points that reflected her concern for the thousands of minors that have been released to sponsors in Texas. She urged legislators to support legislation by Representative Kitzman that aims to add additional safety requirements to existing state codes regarding housing facilities for UACs.

Jaime Puente, the Director of Economic Opportunity for Every Texan, articulated his opposition to Operation Lone Star, stating that it is wasteful and ineffective. He expressed his belief that OLS has diverted funding from other state priorities and argued that OLS has not significantly reduced the number of apprehensions compared to other states, specifically Arizona. Lastly, Puente noted that according to Every Texan analysis, undocumented Texans have added \$4.9 billion to Texas's state and local taxes.

CONCLUSION

Transnational criminal activity is a constant and evolving issue for Texas and the nation. State and local agencies continue to prioritize the protection of our communities while also combatting

the criminal activity of gangs and cartels. Not only is the state facing the growing presence of TdA, it must also continue to fight against other known transnational gangs and cartels.

In addition to smuggling and other common cartel activity, the state must consistently monitor and combat criminal activity involving motor fuel. This new criminal enterprise has led to fuel theft, tax evasion, extortion, excessively overweight trucks, unregulated transloading and fuel storage, falsified documentation, and significant risks to public safety and the environment. While operations by the Department of Public Safety and the Texas Comptroller's Office are exposing and combatting this new trend of illicit activity, additional resources are needed to increase this effort. The legislature should continue to monitor this issue and explore ways to provide law enforcement additional resources to increase their effectiveness and dismantle cartels and this growing criminal enterprise.

RECOMMENDATIONS

- Amend statute to provide Texas Anti-Gang Centers additional flexibility in identifying and validating gang members.
- Amend current statute to expand entry of suspected gang members into TxGANG intelligence database.
- The Legislature should consider imposing statutory weight limits (80K lbs is federal standard) for motor fuel transporter licensees.
- Create licensing and reporting requirements for fuel depot storage yards, and criminalize knowingly operating a fuel depot for storage and fuel sales without proper inspection and licensing.
- Grant peace officers of the Texas Comptroller's Office Criminal Investigation Division authority to install vehicle trackers.
- The Legislature should consider appropriating additional FTE funding to the Department of Public Safety for commercial vehicle inspectors.
- The Legislature should consider appropriating funding to the Texas Comptroller's Office Criminal Investigation Division for additional FTEs and safety and testing equipment.
- Amend statute to criminalize the act of overloading cargo tanks with hazardous materials, specifically combustible fuels.
- Amend statute to criminalize knowingly driving off a permitted route with combustible materials.
- Amend statute to criminalize the act of knowingly and negligently discharging fuels and harmful chemicals in relation to transloading operations onto land that is owned or belonging to another.
- The Legislature should direct the Texas Commission on Environmental Quality and the Department of Public Safety to collaborate on operations involving unregulated fuel depots to ensure environmental protection.

3. Support for Border Security Personnel: Consider the effect on personnel who have actively served or participated in Operation Lone Star and the impact of their service on their health and well-being, and their regular employment or assignments outside of Operation Lone Star. Study the challenges and barriers that affect the recruitment and retention of personnel engaged in border security efforts.

BACKGROUND

Operation Lone Star (OLS) is an unprecedented state mission in both scope and duration. OLS integrates assets from the Texas Department of Public Safety (DPS), Texas Military Department (TMD), Texas Parks and Wildlife Department (TPWD), and local law enforcement to secure the border with the support of the Texas Alcoholic Beverage Commission (TABC). Throughout the mission, both DPS and TMD have maintained forces of over 1,000 deployed personnel on the border. Today, the Department of Public Safety has at least 1,400 personnel assigned to Operation Lone Star, and the Texas Military Department is safeguarding the border with over 4,500 personnel. Each agency structures its OLS duties and deployments differently depending on the current needs of the mission and other events across the state. Service duration on the border can range between a seven-day rotation to a yearlong deployment.

Although overall morale amongst all personnel in the field remains high, deployments of any length come with hardships. Personnel serving on the Texas-Mexico border face increased travel, separation from home and families, and constant stress-inducing situations. Leadership of each agency recognizes the dedication of personnel who want to serve the state and acknowledges the burden deployments place on them. Agencies are continuously working on improving the quality of life and prioritizing the health and well-being of their deployed personnel by reducing the length and frequency of deployments, improving living conditions, and expanding mental health resources.

TESTIMONY

The Committee heard invited testimony from the Texas Department of Public Safety (DPS), the Texas Military Department (TMD), the Texas Parks and Wildlife Department (TPWD), the Texas Alcoholic Beverage Commission (TABC), the Department of Public Safety Officers Association (DPSOA), and the National Guard Association of Texas (NGAT).

Department of Public Safety and Department of Public Safety Officers Association

The Department of Public Safety (DPS) serves the entire State of Texas with regional offices and thousands of employees spread throughout communities across the state. Although DPS already has duties and responsibilities as the State's law enforcement agency, they also serve as one of

the major muscle movements of OLS. Overall, the Department of Public Safety has 4,728 funded positions, including highway patrol, Texas Rangers, and Special Agents. Since the launch of OLS, however, approximately 38% of this total workforce is either permanently or temporarily assigned to the border region. The Senate Committee on Border Security heard invited testimony from the Department of Public Safety (DPS) and the Department of Public Safety Officers Association (DPSOA) during its September interim hearing regarding the effect of OLS on personnel as well as the impact on their health and well-being.

The significant role DPS serves under Operation Lone Star, albeit imperative to securing the border and protecting communities, does impact the agency as a whole. Officers from all across the state are deployed to the border region, leaving home duty stations understaffed, leaving fewer troopers and local law enforcement to cover the area in their absence. While many local law enforcement agencies have been able to handle the absence of troopers on a rotating basis, the initial impact showcases how vital DPS officers are in local communities. According to DPS and DPSOA, while morale remains good, deployments and overall workload are having an impact on the agency as a whole.

DPS is charged with the mission to help across the state and work closely with and support local partners. The growing demand in which local entities seek DPS' assistance strains resources as the officers are still expected to fulfill their primary assigned duties. When away from their home duty stations, troopers may be deployed to the border, a public disruption, extreme weather, or another event requiring emergency services. The overall workload and stretched bandwidth of the agency can be overwhelming and exhausting with officers having little time off and significant time away from their homes and families. According to DPS, the agency can technically handle multiple deployments at a time, if absolutely necessary, but understands that the intensity and stress of such situations is not ideal or sustainable long term.

Operation Lone Star is a unique mission that has been successful in drastically decreasing the number of apprehensions in the State of Texas; however, this mission does come at a cost. DPS, TMD, and other agencies have had officers and service members deployed to the border on a rotating basis for nearly four years. Today, DPS officers serving along the border operate on a seven-day rotation with 12-hour shifts. For the most part, DPS operates on a volunteer deployment basis but utilizes involuntary deployment when necessary. According to DPSOA, the physical and mental demands of OLS have taken a toll. Extended deployments in high-stress environments resulted in an increase in stress-related conditions, such as anxiety and depression. All deployments, not solely OLS, can increase stress and cause disruption in a trooper's personal life. DPS and DPSOA have communicated and continue to monitor the needs of the troopers on deployment. Officers have access to a wellness program as well as mental health resources both at their home duty stations as well as on the border. Director McCraw also expressed the agency's emphasis on helping care for families while troopers are deployed. Personnel have access to resources through DPS, insurance, and other groups, such as the Texas Commission on Law Enforcement. Although seeking help may be seen as a challenge for some, it is a strength and should be sought without fear of stigmatization or disclosure.

Director McCraw expressed his gratitude and appreciation for the legislature for previously providing additional troopers and funding; however, he noted that for the agency to decrease deployments and increase the visibility of law enforcement across the state, additional funding for personnel and resources is needed. Although many of the agency's vacancies are due to

retirements, some officers are choosing to depart voluntarily. Although DPS attempts to maintain competitiveness, other local and state agencies are able to offer higher salaries and more stability. DPS salary and raises are limited by state regulations whereas local entities may have more flexibility with salary and benefits. In addition, DPS troopers are on a constant rotating deployment schedule, which results in significant time away from families and home duty stations. Many other local and state agencies are not operating on deployments to the border region, thus officers are able to attain more stability in their professional and personal lives. In order to remain competitive with other state and local agencies, DPS should request more troopers as well as consider pay raises, additional benefits, and more employee health services. Every additional effort made by DPS and the legislature will aid in the agency's retention and recruitment efforts as well as the Department of Public Safety's continued strength and security of the state.³²

Texas Military Department and National Guard Association of Texas

The Texas Military Department (TMD) typically deploys Guardsmen for short state missions, such as providing support during natural disasters, which generally last between 15-30 days. Operation Lone Star is the first of its kind in both scope and duration for the state. Guardsmen deployed to serve along the Texas-Mexico border serve a yearlong rotation with the option to extend their service time. Since the launch of Operation Lone Star, TMD has partnered with other agencies in over 518,000 illegal immigrant apprehensions and the decrease in illegal crossings into the state by 85%.

Of the 13,510 members of the National Guard who have served Operation Lone Star since 2021, 4,751 are currently deployed to the border. According to TMD and the National Guard Association of Texas, morale amongst service members remains high largely due to improved quality of life and the desire to serve the state, which is reflected in the 97% volunteer rate for OLS. For the 3% of involuntary members, a majority are low-density skill sets such as doctors, lawyers, and chaplains. TMD completes a screening of involuntary members who have an issue with deployment and submit a hardship request. Approximately half or more of soldiers on the border have an employer waiting for their return or they are self-employed.

TMD recognizes that yearlong deployments require both stability and flexibility in the daily routines of the service men and prioritizes their health and well-being. As part of the effort to improve quality of life, the new Forward Operating Base (FOB) Eagle provides each soldier with their own room, internet connectivity, fitness center, recreation center, and chef-prepared meals. Additionally, medical readiness for Operation Lone Star is 10% higher than the Army Guard across the nation. OLS members receive annual physical and dental exams and have access to 12 behavioral health providers dedicated to the mission. Members also have access to medical care in the communities in which they serve.

The National Guard can be mobilized and deployed on active duty at any time; therefore, Guardsmen must maintain their medical readiness as well as their skill sets. Service to Operation Lone Star has not impacted service members' general assignments nor has it interfered with mandated drills and training. Depending on the skill set and their generally assigned duties, some

³² McCraw, Colonel Steven, *Director, Texas Department of Public Safety* and Taylor, Clay, *Executive Director, Department of Public Safety Officers Association*. (September 19, 2024.)

soldiers return to their home station to train with their organic unit on a monthly basis, while others stay and complete training at their duty location. Mireya Cruz, NGAT President, noted that while many are excited to volunteer for the border mission, it is important to recognize that when soldiers leave the border, they are immediately eligible to deploy on a federal mission.

The Texas Military Department continues to review strategies on how best to execute their mission as part of Operation Lone Star and support their service members. One issue that remains unsolved is the categorization of OLS members as temporary state employees, who do not qualify for retirement benefits, service credits, or vacation time.

Additionally, TMD recognized a drastic increase in requests for State tuition assistance, which is a program for service members who do not have access to other education resources like the Post 9/11 GI Bill or Hazelwood benefits. The service member must be in good standing with the Texas Army National Guard, the Texas Air National Guard, or the Texas State Guard. The program previously had low utilization due to limited funding; however, the 88th Legislature appropriated significant funding resulting in increased utilization. At the current rate, TMD will fully expend funding in 2025.³³ The duration of Operation Lone Star is unknown; therefore, service members want to prepare themselves by earning an education. Expanding educational opportunities and increasing State tuition assistance would provide more service members with the opportunity to prepare for life after their service to the border mission is complete.

While the overall impact of yearlong deployments cannot be completely understood, the Texas Military Department's 102% recruitment strength and 103% retention rate showcase that Texans have the desire to serve and protect the state. Even though TMD has worked to improve the quality of life for service members, the goal to offload responsibilities from guard members so they can return home remains the same.³⁴

Texas Parks and Wildlife Department

The Texas Parks & Wildlife Department (TPWD) is tasked with maintaining public safety as well as managing and protecting the natural and cultural resources of the state.³⁵ TPWD joined Operation Lone Star in January 2022 and immediately began deploying personnel and equipment to support the mission. Game Wardens are pulled from all eight regions across the state for deployments and rotate to serve Operation Lone Star three to four times a year. Although 139 Game Wardens are permanently stationed along the border, they also rotate to specifically serve in OLS. TPWD's deployment schedule consists of 20-65 Game Wardens operating in the border region for a seven-day rotation and 12-hour shifts. The agency is attempting to rotate only 22-24 Game Wardens for OLS while leveraging the increased use of drone technology to serve as additional force multipliers.

Texas Game Wardens and State Park Police Officers have contributed approximately 580,000 hours patrolling for OLS on the Rio Grande River and more than 6 million miles patrolling the

³³ Following the hearing, committee staff reached out to the Texas Military Department for further information and statistics regarding state tuition assistance to gain clarity on the current situation.

³⁴ Major General Thomas Suelzer, Command Sergeant Major Frederick Heard, Colonel Mark Gunn, Command Sergeant Major Dale Williams, Texas Military Department; Mireya Cruz, President, National Guard Association of Texas. (September 2024).

³⁵ Texas Parks and Wildlife Department. *Mission & Philosophy*. <https://tpwd.texas.gov/about/mission-philosophy>.

Rio Grande Valley area. This activity extends far beyond TPWD's standard workload, causing overworked personnel and rapid depletion of equipment. TPWD's primary responsibilities and participation in Operation Lone Star showcase the need for additional personnel and equipment funding. Despite these needs, TPWD proactively implemented safety and wellness initiatives early in their OLS participation.

Patrolling the Rio Grande River poses significant dangers to TPWD officers as Mexican cartels are surveilling at elevated positions in Mexico. The key to operational safety is to maintain appropriate equipment so that Game Wardens can move and respond quickly. Additionally, TPWD personnel are experiencing similar burnout and exhaustion as DPS and TMD. To proactively ensure adequate mental health and wellness resources were available, the agency started a peer support program that allows officers to initiate discussions between each other without the fear of management and leadership involvement. Additionally, the agency ensured leadership teams were equipped with crisis and early intervention training that can be applicable in critical situations involving the staff or the public. Overall, the attitude of Game Wardens reflects difficulty and dedication. As with any long-term mission and stressful situations, the ebb and flow of morale exists, but the majority of Game Wardens have a positive outlook.³⁶

Texas Alcoholic Beverage Commission

The Texas Alcoholic Beverage Commission (TABC), as a supporting agency of Operation Lone Star, continues to achieve great accomplishments in border security efforts. TABC is tasked with ensuring a safe and fair alcoholic beverage industry and the duty to free that industry from the influence of organized crime. This industry is cash intensive and, therefore, many businesses may also operate as criminal enterprises of laundering as well as drug and human trafficking.

TABC is able to combat border security threats and criminal enterprises in a dual capacity. The agency has approximately 60 peace officers assigned to regional offices along the Texas-Mexico border that investigate violations of the alcoholic beverage commission, such as offenses related to narcotics, trafficking, and money laundering. In addition, TABC has over 100 civilian regulatory compliance officers stationed at all 28 ports of entry. The agency's dual authority allows them to not only investigate and arrest individuals engaged in criminal activity, but also allows them to administratively shut down businesses that are illegally carrying out criminal activity.

The state's border security mission has had a positive impact for TABC in its capacity as a supporting agency of OLS. The agency's agents and regulatory compliance officers support other agencies and work closely with them to ensure public safety. TABC personnel have benefitted from the increased law enforcement presence in the region, which has provided additional resources and skills for investigative work. Collaboration amongst state and local agencies ensures a safer Texas and creates a fair marketplace for businesses abiding by the law.³⁷

Public Testimony

The Chairman opened public testimony and heard from several individuals who expressed their

³⁶ van der Roost, Ron, *Interim Law Enforcement Director, Texas Parks and Wildlife Department*. (September 19, 2024).

³⁷ Swenson, Ron. *Chief of Enforcement, Texas Alcoholic Beverage Commission*. (September 19, 2024).

personal perspectives on the impacts of Operation Lone Star (OLS). Ammon Blair, a senior fellow of the Texas Public Policy Foundation, emphasized the program's importance for border security but warned it strains military and law enforcement readiness. He called for a reassessment and proposed modernizing the Texas Military Department and creating a Texas Homeland Security division and Texas Border Force. Priscilla Olivarez, a senior policy attorney with the Immigrant Legal Resource Center, discussed the negative effects of OLS on National Guard members, participating personnel, and local communities; noting at least 17 Guard member deaths and issues like PTSD and suicide. She expressed concerns of perceived racial profiling stemming from OLS and called for a comprehensive evaluation that includes mental health professionals and community input. Alicia Torres expressed her discontent with Director McCraw and his remarks at a press conference regarding TdA preceding the hearing. Torres emphasized that law enforcement officials should uphold high standards of conduct. Chris Harris from the Texas Civil Rights Project called for a reevaluation of the program due to his belief that there are adverse effects such as significant harm to migrants and law enforcement personnel. Harris shared his perspective that OLS has not achieved its goals, pointing out a decline in Border Patrol apprehensions, and raised concerns about unconstitutional policing. Lastly, James Battjes expressed his concern for the mental and spiritual health of border security personnel, stating that federal inaction may undermine the morale of those deployed.

CONCLUSION

The State's border security mission, Operation Lone Star, is a long, rigorous operation, which heavily depends on the deployments and support of state agency personnel as well as the cooperation of local law enforcement agencies. While the impact of deployments is different on individuals, the high rate of personnel volunteering to serve on the border and each agency's actions to expand support for personnel showcases that agencies are continuously making efforts to prioritize the health and well-being of their employees. At the same time, agencies should pursue additional opportunities to expand support services, including education and health resources.

RECOMMENDATIONS

- The Department of Public Safety, the Texas Parks and Wildlife Department, and the Texas Alcoholic Beverage Commission identified the need for additional personnel as well as funding for equipment. The Committee recommends that each agency officially make these requests in their Legislative Appropriation Requests. Grant funding for these agencies to hire additional personnel and repair or purchase equipment.
- The Legislature should explore potential options to add additional or expand current benefits for State Guardsmen serving in Operation Lone Star.

4. Monitor the implementation of legislation addressed by the Senate Committee on Border Security passed by the 88th Legislature, as well as relevant agencies and programs under the committee’s jurisdiction. Specifically, make recommendations for any legislation needed to improve, enhance, or complete implementation of the following:

a. Senate Bill 602, relating to the law enforcement authority of federal border patrol agents;

BACKGROUND

The Committee examined the implementation of Senate Bill 602, relating to the law enforcement authority of federal border patrol agents. S.B. 602 passed during the 88th Regular Session and became effective on September 1, 2023. S.B. 602 grants border patrol agents limited law enforcement authority to arrest for state law violations.

During the 87th interim, the Senate Committee on Border Security heard from two U.S. Border Patrol Agents expressing their interest in expanding the role border patrol agents could play alongside Texas law enforcement. Prior to 2023, Texas statute contained a list of federal agencies authorized to exert police power under state law. U.S. Customs and Border Patrol (CBP) was not on that list. According to the CBP Agents, situations commonly arise where Border Patrol could take action but lack the authority to do so, such as arresting an individual for a DWI or where the confiscation of drugs does not meet federal minimums for arrest. By granting border patrol agents this authority, CBP’s ancillary position with the public could serve as a force multiplier in maintaining public safety and securing the border.

As a result, S.B. 602 sought to grant CBP Agents the law enforcement authority needed to arrest and prosecute individuals violating state law. During the committee hearing on S.B. 602, members voiced concerns about granting felony and misdemeanor police authority to Border Patrol Agents. To address their concerns, S.B. 602 was amended to limit this police authority to state felony offenses occurring at or near ports of entry or border patrol traffic checkpoints. In addition, an agreement between DPS and CBP needs to be signed for CBP Agents to undergo a training program on state law and processes.

TESTIMONY

The Committee heard invited testimony from Assistant Chief Derek Prestridge, Training Operations Division, Texas Department of Public Safety (DPS); Vice President Chris Cabrera, National Border Patrol Council (NBPC); and Tonya Spaeth Ahlschwede, 452nd District Attorney and Chair, Border Prosecution Unit (BPU).

S.B. 602 requires the Department of Public Safety(DPS) to develop a training program for Border

Patrol Agents on state criminal laws, including laws and procedures relating to arrest, search, and seizure. Assistant Chief Derick Prestridge of DPS' Training Academy testified that the program's development is complete and operationally, S.B. 602 is ready to launch. However, border patrol agents are currently still awaiting approval by the federal administration to participate in the training. The training curriculum is set to last approximately eight hours, but the agency is open to potential changes once the appropriate federal officials review the materials and improvements as they conduct the training. The Border Patrol contacts in Washington, D.C. engaged in conversation with DPS as they followed up on the agency's recommended curriculum with questions and requested a list of state felonies. DPS is ready to work with their federal counterparts to ensure the curriculum is sufficient to both parties and is even open to the possibility of co-instructing in the future. DPS is equipped and ready to immediately provide the training pending approval from federal Border Patrol officials.

Chris Cabrera, U.S. Customs and Border Patrol Agent and Vice President of the National Border Patrol Council is currently stationed in McAllen within the Rio Grande Valley, where he has served for nearly 23 years. Under S.B. 602, border patrol agents would have the police authority to arrest, search, and seize individuals at or near ports of entry and checkpoints pursuant to a state felony violation. In his experience, border patrol agents often see violations of state law, like driving while intoxicated, but lack the authority to intervene. For example, if border patrol agents detain a drunk driver with a 15-year-old child in the car, they must let that person go because they do not have the authority to arrest on a state felony crime. The 9,000 border patrol agents, if permitted to carry out this police authority, can serve as a force multiplier within the border region, which could lead to a decrease in similar occurrences. Although border patrol supports this expanded authority, the current federal administration and Secretary Mayorkas continue to withhold official approval. Until approval is granted, border patrol agents may not utilize the state police power granted under S.B. 602.

Tonya Spaeth Alschweide spoke on behalf of the Border Prosecution Unit (BPU), which includes 17 district attorneys across the state and also includes attorneys at each of the State's Anti-Gang Centers (TAGs). The BPU continues working alongside DPS and assisted them with the curriculum development for this training. She stated that the BPU continues to work with border patrol at the state and local levels and is ready to assist with the new training if needed. Border patrol agents have indicated that they are willing to participate and utilize expanded police power authorized in S.B. 602. In Alschweide's opinion, this is common sense for officers located at checkpoints and ports of entry to enforce state law because there is no similar federal component.

The Chairman opened public testimony and heard from a panel of two witnesses on the implementation of Senate Bill 602. Sarah Cruz from the ACLU of Texas testified that she believed this legislation could increase the erosion between state and federal law enforcement. She also expressed her presumption that DPS lacks the transparency and ability to train U.S. Border Patrol Agents and that Operation Lone Star has caused an increase in racial profiling. Priscilla Olivarez, a senior policy attorney with the Immigrant Legal Resource Center, testified sharing her view that Operation Lone Star and Senate Bill 602 are a waste of taxpayer dollars and emphasized the need to reconsider the cost of the state's border security efforts. She again criticized the racial profiling and high-speed pursuits as consequences of OLS.

CONCLUSION AND RECOMMENDATIONS

Senate Bill 602 went into effect September 1, 2023, but the federal administration's failure to authorize border patrol agents to act on this new authority demonstrates the federal government's hostility to having Texas assist in securing the southern border. According to the Department of Public Safety and the Border Prosecution Unit, Senate Bill 602's training program is fully formed and ready for operation when approval is granted by officials in Washington, D.C. The Committee does not have any recommendations relating to the implementation of the bill at this time. However, future approval by the federal government could warrant further monitoring and study.

b. Senate Bill 1133, relating to a program to compensate landowners for property damage caused by certain criminal activities; and

BACKGROUND

The Committee monitored and examined the implementation of Senate Bill 1133, relating to a program to compensate landowners for property damage caused by certain criminal activities. S.B. 1133 passed during the 88th Regular Session and became effective on September 1, 2023.

During the 88th interim, the Committee heard from local residents and landowners of the border region who have witnessed firsthand the devastation and destruction as a result of failed federal border policies. As a result of increased illegal border crossings and law enforcement activity since 2021, landowners have continuously been left with record financial losses and property damage, including, but not limited to, broken fences, damaged farm equipment, lost livestock, and excessive trash strewn across their property. In an effort to help landowners, the Senate passed S.B. 1133, which directed the Office of the Attorney General (OAG) to establish a new grant program to compensate landowners who suffered property damage on agricultural land caused by trespass in connection with a border crime. Landowners who are approved for the grant are eligible to receive up to \$75,000 in damages per application and there are no limitations on the number of applications an individual can submit. The program does contain a time limitation as landowners must file claims within 90 days of the incident causing the damage. Any and all damages need to be documented in a written law enforcement agency report for the application to be eligible for compensation.

In September 2023, the OAG began the process of developing the program and charged the Crime Victims Services Division (CVSD) with establishing and administering it. In order for an agency to implement new legislation and establish a new program, they must adhere to the rulemaking guidelines provided in the Administrative Procedures Act (APA). The APA requires a public notice and comment period for any new proposed rule. Throughout the rulemaking process for the landowner compensation program, stakeholders and landowners had the opportunity to voice

their opinions on the makeup of the program's policies and procedures. In May 2024³⁸, after finalizing program details, the OAG officially launched the active online application and informational webpage.³⁹ By the September hearing, although the program had only been active for a few months, the panel of invited witnesses were able to provide well-rounded insight into the program as well as positive feedback to improve it.

TESTIMONY

The Committee heard invited testimony from Chief Lane Brown, Crime Victim Services Division (CVSD), Attorney General's Office of Texas (OAG); Charles Maley, Advocacy Director, South Texas Property Rights Association; State Director Warren Cude, District 6, Texas Farm Bureau; and Special Ranger Joey Aguilar Jr., Texas & Southwestern Cattle Raisers Association.

Chief Lane Brown of the Attorney General's Office testified before the Senate Committee on Border Security discussing the development of the program as well as the progress of applications since the agency launched the program. Within eight months of the bill's effective date, the CVSD drafted and finalized administrative rules as well as program policies and procedures. In addition, the CVSD launched an active online application portal, management system, and website. Brown went on to explain the program and application in more detail. All applications and supporting documentation may be uploaded to the portal or sent through e-mail. Once the CVSD receives an application, it is reviewed for completeness. At this point, the agency communicates with the appropriate law enforcement agency to retrieve the incident report and may request additional documentation from the applicant. In the review process, the agency confirms that the applicant is the landowner or authorized agent, the damage was caused by a trespasser in connection with a border crime, and the law enforcement report is sufficient. Upon completion of a review, the agency determines the compensation amount based on a receipt, invoice, or calculation using fair market prices.

Brown provided data on the success or usefulness of the program thus far. As of the September hearing, OAG had received a total of 47 applications. A total of 10 applications had been approved and a total of \$36,358.52 has been paid out. Among all applications, the primary causes of damage cited are broken fences, property damage from vehicles, destroyed buildings, and excessive trash. According to OAG, 13 applications were denied primarily because the incident occurred prior to the effective date of the program or the crime cited in the law enforcement report didn't qualify as a border crime. OAG is still waiting on additional information for 10 applications and three applications are pending payment. Brown said they believe that the limited amount of applicants is largely attributed to a lack of awareness of the program. OAG staff will continue their outreach efforts to ensure that all landowners know of the program and answer any questions that they may have.⁴⁰

³⁸ Paxton, Attorney General Ken. 2024. *Office of Attorney General of Texas*. May 9.

<https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-launches-landowner-compensation-program-those-affected-border-crime>.

³⁹ Office of Attorney General of Texas. Landowner Compensation Program. <https://www.texasattorneygeneral.gov/crime-victims/landowner-compensation-program>.

⁴⁰ Brown, Lane. 2024. *Chief of the Crime Victims Services Division, Office of the Attorney General*. (September 2024).

Landowner Associations

The remaining invited witnesses on the panel – representing the South Texans Property Rights Association, Texas Farm Bureau, and the Texas & Southwestern Cattle Raisers Association – testified on behalf of their members and both expressed their appreciation for the grant program and identified concerns they have with the application process.

Since 2021, landowners and residents in the border region have experienced consistent devastation and destruction as a result of federal border security policies. Although landowners are grateful to the State of Texas for Operation Lone Star, residents continue to face burdensome financial losses and property destruction as a result of illegal border activity. In addition to feeling unsafe in their homes, ranchers and farmers face daily challenges such as damage and destruction to their property done by trespassers, smugglers, and even law enforcement activity that results in bailouts and vehicle rollovers. Witnesses identified the two primary complaints residents face: fences and trash.

Border ranchers and farmers continuously face financial losses due to damaged fences, destroyed crops, and lost livestock. Fences are constantly either run through by vehicles or cut open by illegal immigrants crossing through their property. Open gaps in a fence, whether made by cut holes, run-down posts, or opened gates, allow livestock or game animals the opportunity to wander from the property; posing a safety concern for drivers and increased liability for the animal owner. Due to the frequency of trespassers and consistent fence damage, ranchers and farmers must regularly check their fence lines to avoid further financial losses; however, daily or weekly property inspections and repairs are both time consuming and costly. The damage left from mobility corridors that illegal aliens use to cross property or evade law enforcement pursuits, also known as bailouts, also commonly result in the destruction of crops. Trespassers continuously traversing private properties and leaving behind a trail of trash can also lead to contaminated fields resulting in the failure of producing and harvesting crops. Trash and litter scattered across the property leave residents with the financial burden of maintaining proper trash and waste disposal, which can be costly due to the risks associated with potential exposure to fentanyl or other hazardous chemicals.⁴¹ Although the costliness and safety risks associated with trash disposal, this type of damage is not eligible for compensation within the current program.

While the grant program was created as a means for landowners to recoup the cost of repairs for property damages, landowners have voiced their concerns and identified barriers that exist in both the program's structure and makeup. All three invited witnesses testifying before the Committee in September emphasized their appreciation for the program, but only wished to improve the program to ensure it accomplishes what the legislature intended. Throughout the discussion on S.B. 1133, the invited witnesses identified two major issues that likely caused the low number of applicants: (1) lack of public awareness and (2) complicated or overwhelming program requirements.

Public Awareness and Perception

All four invited witnesses largely attribute the limited quantity of applicants to a lack of public awareness and believe that more is needed to promote the program. OAG has and continues to

⁴¹ Senate Border Security Interim Report. 2022.

engage in outreach initiatives with local and state law enforcement agencies, associations, and landowners. The agency attended several events throughout the state held by stakeholders and participants, such as Texas and Southwestern Cattle Raisers and the Texas Wildlife Association. Additionally, the agency created informational brochures and a law enforcement checklist to spread awareness of the program requirements. OAG will continue their outreach efforts by attending future events and remaining available to provide support and answer questions. Texas and Southwestern Cattle Raisers, South Texans Property Rights Association, and the Texas Farm Bureau will also continue their outreach efforts to spread awareness of the program and provide support to their members throughout the process.

While OAG and associated groups work on improving outreach, the program may also need improvements elsewhere. Charles Maley with the South Texans Property Rights Association (STPRA) testified that while the program is beneficial to some, others have a negative perception of the program overall. According to Maley, some feel as though the program acts more like a band-aid – just another government-run program that does not work in reality. By improving some of the programmatic issues, the public perception may also improve across the border communities.

Programmatic Improvements

Overall, OAG has a checklist of application requirements and necessary supporting documentation. While a simple list may not seem daunting, for ranchers and farmers who are preoccupied with managing their land and businesses, the checklist for this program may be overwhelming. In fact, Maley stated that many residents may start the process but abandon the effort quickly because of the extensive requirements and the time it would take to complete.⁴² Moreover, Maley likens the makeup of the application as placing the landowner in a defendant role, which casts the assumption that their intent is to take advantage of the state's resources. The witnesses identified three main issues with the requirements of the program as outlined in statute and the rules adopted by OAG: (1) the law enforcement report; (2) the exhaustion of all collateral resources; and (3) who is eligible to apply and receive compensation.

The application requires a law enforcement report detailing the incident, including the time and place where the incident occurred as well as the specific border crime committed. The issue with this requirement is two-fold: the law enforcement report may be difficult to create in the first place or obtain later in the process. Jurisdictions throughout the border region are vast and often cover hundreds of miles. Law enforcement agencies throughout this region already face staffing issues and a lack of bandwidth to respond to non-emergency events. As a result, landowners often have difficulty getting law enforcement to respond to cases of property damage. When law enforcement reports are created, they often lack sufficient information or are difficult for OAG to obtain. The crime cited in the report must be a border crime. OAG testified that the statute associates very specifically with trespass in the furtherance of committing a border crime. Maley respectfully disagreed and stated that in STPRA's opinion, crimes committed in the border region already qualify as border crimes because they have a transnational nexus. Unfortunately, due to the requirements set by OAG, law enforcement reports require specific language and crime citations for an application to be eligible. Insufficient law enforcement reports that fail to meet those specific requirements can lead to an application's delay or denial. Landowners rely on law

⁴² Maley, Charles. 2024. *Advocacy Director, South Texans Property Rights Association*. (September 19, 2024).

enforcement agencies to file the report in accordance with statute despite the fact that no one is usually present when a crime occurs. Maley recommended more flexibility with both the eligible crime definition as well as the law enforcement reporting requirements.

OAG can offer deadline flexibility for applications when a law enforcement entity is not timely in submitting a report. However, the time constraints for applicants are not flexible and are part of the second primary issue with the program. As provided in statute, landowners must exhaust all other avenues of funding for property damage before they can apply for this program. All collateral resources include filing with insurance as well as applying for all local, state, and federal programs. Insurance and all other avenues of relief must be applied for and denied before an applicant is eligible to apply for the state's new program, which must be filed within 90 days of the incident. This is overly burdensome on ranchers and farmers due to the requirement to search and apply for other programs, obtain and organize all supporting documents, and apply for the program in a limited time span while also balancing the need to repair the damages as quickly as possible. Many landowners also fail to apply to the program because of the insurance declination requirement as they fear their premiums will rise if they apply through their insurance. While the inclusion of this requirement is understandable, this portion of the process may be too burdensome for many individuals who are in need of the State's help.

Furthermore, although ranchers and farmers manage the property daily, they are not always eligible to apply or even receive funds following an approved application. The Committee's invited witnesses testified that the program fails to understand the mechanics of agricultural ranches and farms in the border region. Many ranches and farms in the region are managed by lessees, rather than landowners. Lessees are responsible for day-to-day operations and upkeep and often bear the brunt of damages. Unfortunately, although they may be able to apply, they are not eligible for direct compensation because they are not the official landowner of the property. This poses an unnecessary burden on the lessee, who needs to recoup the cost of repairs but must coordinate with the landowner who oftentimes resides elsewhere, in order to receive the funding.

CONCLUSION

The Landowner Compensation Grant Program was created in response to landowner testimony of significant property damage as a result of the federal government's willful failure to secure the border. The Office of the Attorney General launched the program in May 2024, allowing for only a few months of active applications prior to this Committee's hearing. Despite the short time frame, witnesses were able to provide a well-rounded update on the implementation of Senate Bill 1133. As with any new government program, issues with the program rules and application have arisen. While landowners are grateful to the legislature for creating this program, their concerns need to be addressed.

RECOMMENDATIONS

- Examine and make recommendations to make the insurance declination process less cumbersome.
- Change statute to expand the Landowner Compensation Grant Program to help landowners clean up debris left by illegal immigrants who passed through their property.

- Change statute to expand the definition of border crime within the Landowner Compensation Grant Program.
- Advise the Office of the Attorney General to work with landowners and law enforcement agencies to streamline the law enforcement reporting requirement of the grant program application.

c. Senate Bill 1484, relating to a border operations training program for peace officers employed by local law enforcement agencies.

BACKGROUND

The Committee monitored and examined the implementation of Senate Bill 1484, relating to a border operations training program for peace officers employed by local law enforcement agencies. S.B. 1484 passed during the 88th Regular Session and became effective on September 1, 2023. S.B. 1484 directs the Department of Public Safety (DPS) to establish a specialized training program for local law enforcement officers to combat illegal activities along the Texas-Mexico border. The program would aim to prepare officers to interdict, investigate, and prosecute criminal activity in the region, including the trafficking of people and drugs. Completion of this program will earn officers continuing education hours recognized by the Texas Commission of Law Enforcement.

TESTIMONY

The Committee heard invited testimony from Assistant Chief Derek Prestridge, Training Operations Division, Texas Department of Public Safety (DPS) and Greg Stevens, Executive Director, Texas Commission on Law Enforcement (TCOLE).

As directed by S.B. 1484, the DPS spearheaded the development of the new border security training program with assistance from TCOLE. Assistant Chief Derek Prestridge testified that DPS has devised and developed a curriculum to teach local law enforcement border security related laws and processes. In particular, the program will emphasize education on handling cases of human smuggling and trafficking, use of force guidelines, and de-escalation techniques to use in the field. As of the September 19th hearing, DPS had provided the training program to one class in El Paso, Texas. Prestridge stated that the agency received positive feedback in the evaluation as well as suggested modifications to improve the class. The agency is working to implement those modifications and was scheduled to provide another session in the Midland-Odessa area in October 2024 at the time of this hearing.

Executive Director Greg Stevenson testified on TCOLE's role in the development of the training program. According to Stevenson, the program developed under S.B. 1484 provides participants with the basic knowledge needed when partnering with state and local law enforcement and conducting border operations. Law enforcement officers who complete the program are eligible

for TCOLE credit or continuing education credit.

The Chairman opened public testimony and Priscilla Olivarez with the Immigrant Legal Resource Center was the only witness to step forward. In her testimony, Olivarez requested an assessment of the cost of implementation as she believes S.B. 1484 is another extension of Operation Lone Star, which already wastes taxpayer dollars. Through her expression of distrust of the Department of Public Safety (DPS), Olivarez requested that the curriculum be provided to Texans and that any training program by DPS be independently monitored.

CONCLUSION AND RECOMMENDATIONS

The testimony the Committee received was informative and allowed members to attain pertinent information related to the training program. As a result of the testimony provided, there appears to be no need for additional monitoring of Senate Bill 1484 as the development of the program is currently adequate.

LONG TERM CONSIDERATIONS OF THE SENATE COMMITTEE ON BORDER SECURITY

Due to the Biden Administration's failure to secure the border and the overwhelming number of illegal immigrants and dangerous narcotics infiltrating our communities, the State of Texas took necessary action to protect the people of Texas. The State's investment in securing the border is not only demonstrated by the appropriation of billions of dollars in border security funding, but also the dedication of personnel and their countless hours of work to protect Texas and maintain public safety. While border security funding appears to be available over the coming biennium, the real question is: how long can we ask the current personnel strength to maintain such a high operational tempo? At the current tempo, we risk burning out personnel if there is not additional funding for new law enforcement officers to disperse and diffuse the current tempo among more personnel.

As the 2nd Trump Administration prepares to take office, Texas should expect to have a cooperative federal partner, and Texas should cautiously expect some form of federal relief of our current operational tempo in the coming months. I would caution that while federal aid is welcome, complete cessation of Operation Lone Star (OLS) is ill-advised. If, at the end of the 2nd Trump Administration the southern border reverts to conditions which required OLS, the state would potentially have to re-launch a second OLS. Texas should maintain some level of its current border security operations in order to supplement our new faithful partner, and maintain institutional knowledge should such a relaunch of OLS be required again after January of 2029.