

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, SEPTEMBER 24, 2001

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: Allan Shivers, Jr., Chairman; John T. Steen, Jr., Member and Gail Madden, Member. Staff present: Rolando Garza, Administrator; Randy Yarbrough, Assistant Administrator; Jeannene Fox, Director of License & Compliance; Greg Hamilton, Chief of Enforcement; Sam Smelser, Assistant Chief of Enforcement; Denise Hudson, Director of Resource Management and Brad Bearden, Radio Shop. Visitors included: Russell Gregorczyk, Jansen & Gregorczyk; Alan Gray, Licensed Beverage Distributors, Inc.; Robert Sparks, Licensed Beverage Distributors, Inc.; Tom Spilman, Wholesale Beer Distributors of Texas; Dale Szyndrowski, DISCUS, Inc.; Fred Marosko, Texas Package Stores Association; Jack Martin, TABLS and Galt Graydon, Jenkens & Gilchrist.

The agenda follows:

1:30 p.m. - Call to order.

1. Recognition of agency employees with 20 or more years of service.
2. Approval of minutes of August 27, 2001 meeting; discussion, comment, possible vote.
3. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement; and
 - c. discussion of management controls.
4. Acknowledge acceptance of a laptop computer from the Bexar County DWI Task Force to assist in investigations of all alcohol-related accidents in Bexar County that involve underage drinking and/or licensed premises.
5. Fiscal stewardship of agency; discussion, comment, possible vote.
6. Presentation of internal auditor's report on Internal Audit of Ports of Entry; discussion, comment, possible vote.
7. Consider approval of 2002 Fiscal Year Audit Plan; discussion, comment, possible vote.
8. Public comment.

Announcement of executive session.

9. The commission will convene in executive session to confer with the general counsel regarding litigation pending against the agency under the authority of Government Code, §551.071.

Continue open meeting.

10. Take action, including a vote if appropriate, on topics listed for discussion under executive session.
11. Adjourn.

The meeting was called to order at 1:38 p.m. by Chairman Shivers.

MR. SHIVERS: I call this meeting of the Alcoholic Beverage Commission to order on September 24, 2001, at one thirty-eight.

Before we start, I'd like to ask everyone to take a moment of silence to remember the police, firefighters, military personnel and the others who were lost in the bombings in New York and Washington. Thank you.

First, I'd like to recognize employees who have been with the agency 20 years or more. It is my great pleasure to call up someone we all know well here at headquarters, Sam Smelser, our Assistant Chief of Enforcement, who continues to climb up the ladder. He joined the TABC on September 1, 1976 as an Inspector I in our Houston Enforcement Office. Assistant Chief Smelser is an experienced, hard-working and trustworthy employee. He consistently steps up to the plate and faces all challenges with extreme confidence. We congratulate Sam on his 25 years of dedicated service to the TABC and the State of Texas. Sam, come up here.

MR. SMELSER: Thank you.

MR. SHIVERS: Next is Erasmo Banda, a Taxpayer Compliance Officer II at our Progreso Port of Entry. He joined the TABC in 1981. As noted in previous evaluations, "Mr. Banda produces quality work and is always willing to do more than what is expected of him." We congratulate Mr. Banda on his 20 years of service to the TABC and the State of Texas. He could not be with us today, and his certificate is being sent to him.

Administrator's report. Mr. Garza?

MR. GARZA: Mr. Chairman, Commissioner Madden, Commissioner Steen, this month I briefly want to report that the agency has completed another fiscal year. We have particularly been able to handle our business in compliance with the various limits or caps set on all agencies, including travel, salaries, full-time equivalent positions, FTE's and capital budget.

With respect to our performance measures, Assistant Chief Smelser is still climbing up that ladder within the agency. He is now in charge of our video and power point presentations, and he will be bringing you a presentation momentarily on some of the performance measures within the enforcement division.

In the area of licensing, I would tell you that our folks have been extremely busy this past year having processed more than 99,000 applications. With respect to originals, I believe that 99 percent of those originals were processed within 14 days. A good portion of those were processed within six to seven days. I think that speaks volumes for the work ethic and the determination of people up in licensing, even in light of the very severe turnover that we experienced this past year there. I think very strong congratulations and compliments goes out to the folks upstairs under the leadership of Jeannene and Brian Guenther and other folks in our licensing area.

In compliance, our folks were once again successful in meeting their performance measures. I would draw your attention to our ports of entry program where those folks again showed a pretty busy year in terms of four million, eight hundred thousand somewhat alcoholic beverage containers and stamps being applied to those containers as well as to cigarette packs. Those folks, from Brownsville all the way to El Paso, had another busy year with the agency.

I would also report at last month's meeting, Mr. Steen, there were some questions that came up regarding fiscal stewardship, and we told you we would be looking into our reporting of that data. Ms. Hudson and I have visited with Mike McElhaney over at the Governor's Office, and he says that his office is still extremely interested in getting those reports. We will make sure that we submit them to that office on a timely basis.

With respect to the ethics policy that Governor Perry's Office submitted to you, our general counsel and ethics advisor, Mr. Bright, has been looking at that policy. A copy of the agency's current ethics policy has been set before you for your review. We will be taking a look at that policy and will compare it to the one submitted from the Governor's Office, and Mr. Bright will make some recommendations as to whether we need to revise or amend our policy to reflect some of those elements. We should have something by next meeting.

We have also been looking at an area that's drawing ongoing interest

within the enforcement division, and that centers on a discussion of our promotional policy, promoting individuals to the ranks of sergeants, lieutenants and captains. Under the current policy that the agency uses, an individual on a promotional list, once he or she is offered an assignment and they choose to decline, for whatever reason, their name goes down to the bottom of that list. A list is usually kept active for one year. The chief and the assistant chief have asked for input from throughout the state as to whether or not that policy should be revised with consideration given to allowing the individual, if he so chooses to decline an offer, to retain his or her spot on that list. Interestingly, most of the feedback has been almost divided right down the middle, where some people believe that the current policy is fair. If they offer you an assignment to some geographic area in the state and you decline that, your name should go down to the bottom of the list. Other individuals have said that, perhaps, you should retain your spot until a geographic region to your liking comes up.

What we are proposing to do, and we are crafting that policy right now to send it out to the field, is a compromise, where once we build those promotional lists, an individual will essentially have two opportunities to accept an offer. If he or she declines the first geographic assignment, they still retain their spot on the list so, at the next opening, we come back to them again. If they decline the second offer, their name would be moved down to the bottom of the list. Should their name come up a third time during the life span of that list - during that year - and they reject that third offer, then their name would be taken off that list. That's the proposal we are currently crafting, and we will be sending that out for input from the field sometime during this month, and we hope to be able to report to the commission next month in terms of the adopted policy.

- MS. MADDEN: Have you checked with any other agencies that might have the same organizational structure that we have and see how they handle promotions?
- MR. GARZA: We've tried to benchmark with DPS, and I believe their current policy allows for two offers. If after the second offer you turn that down, then you are off the list altogether.
- MS. MADDEN: What is the downside of having more than two?
- MR. GARZA: The downside having more than two offers?
- MS. MADDEN: Yes. What if you opened it up to four?
- MR. GARZA: I think you will find that regardless of the policy that we adopt, there will not be any total consensus and support one way or the other. One of the things that's always been made clear to me is this agency, being an enforcement agency in that respect, that we don't want to give up the authority that we have to move manpower wherever there is a need to do so, and to make it a list whereby the individual would retain his or her right to choose a location to whatever point, I think, may be giving up more than we want to in that respect, because there will be times when the chief or the assistant chief may have to make a decision to transfer an individual. There will be times where an individual may come up on that list and he or she may not be the person we feel that we need in that spot at that time. There are some other factors that come into play with respect to promotional lists.
- MS. MADDEN: You make a good case.

MR. GARZA: There is no question that an individual being allowed to stay close to his or her own home is a desirable result for the individual involved, but that sometimes doesn't mirror the agency's needs, and we have to be able to balance that.

MR. SHIVERS: Do you have the ability, within your policies, for someone who would like to move to a different geographical area of the state, for family or personal reasons, to trade with someone in a similar rank, to swap positions?

MR. GARZA: I don't believe we currently have a swap. I will tell you that before we start a promotional process, if we have three openings out there...

MR. SHIVERS: Say you have a sergeant in Houston that, for some family reason, they would rather be in San Antonio or El Paso or Dallas or wherever, and there's a sergeant there who's willing to make the change, do you have any ability to do that?

MR. GARZA: Greg, have we ever entertained that?

MR. HAMILTON: There is not a policy in place but, as far as our practice, we would try to accommodate those people.

MR. GARZA: Before we start the promotional list, we always allow the incumbents who are in that slot to put in for a transfer. For example, if we have three openings in Houston, Dallas or San Antonio, we will ask people internally if they want to go to those areas first before we put those out for promotion.

MR. SHIVERS: Okay.

MR. STEEN: Mr. Garza, is the list determined solely on the basis of the test results?

MR. GARZA: Yes, sir. It's a test, an aptitude test. There is an interview that's done, and we've also done, I believe, an assessment of sorts that we've used in the past.

MR. STEEN: So, it's not only the test? There are other things that you do?

MR. GARZA: There is a board that interviews these candidates and that comes up with your cumulative score and that determines the placement on that list. Right now, the lieutenants' list that we have available is active until mid-October and the sergeants' list is active until December. We have about nine or 10 captains, about 17 lieutenants and 23 sergeants currently in the agency.

MR. STEEN: Under the current system, are you aware we've had some situations where people aren't doing as well on the tests as they could be?

MR. GARZA: I believe that some of those discussions have entered into the decision that we've come up within terms of revising this policy. I remember from my previous eight-year stint here, Mr. Steen, there were individuals who would come up with all sorts of reasons as to why they didn't fare as well as they could have. Some of it may have been lack of interest or lack of effort on their part, but it is our goal to make those promotional processes such a way that they want to come up and do their very best possible and enhance their career development within the agency.

MR. STEEN: Thank you.

MR. GARZA: That's all I would have to report on, Mr. Shivers.

MS. MADDEN: I have a couple of housekeeping questions. What is the difference in the numbers under the licensing and compliance division, in the ports of entry section there is a column for revenue collected. That versus, under revenue report, fees, taxes and other revenue, where it says taxes, excise, direct, cigarette and airline beverage. What is the difference between those two numbers?

MR. GARZA: I'm going to defer to Ms. Fox on that, if I could?

MS. FOX: You are looking at the section that says, ports of entry, their revenue collected, correct?

MS. MADDEN: Yes. Licensing and compliance division, ports of entry section, revenue collected.

MS. FOX: That \$3,495,156.06? Is that the figure you are looking at?

MS. MADDEN: Yes.

MS. FOX: That figure comprises the administrative fee that's collected on each bottle that comes across as well as cigarette tax and the alcoholic beverage excise tax.

MS. MADDEN: Okay.

MS. FOX: That's what that represents. When you go back to the revenue report on the last page, you are looking at taxes, where it says excise, direct, cigarette and airline beverage?

MS. MADDEN: Yes.

MS. FOX: That is all the excise tax, as an agency, that we collect. It includes the taxes from the wholesale distribution of alcoholic beverages, the excise tax, as well as the airline beverage service fees and the cigarette tax. It's just shown in two different ways. Neither one are comparable figures, because they include different things. Parts of each but other different things added to it.

MS. MADDEN: I noticed that both of those numbers are down. Do you think that's because of the tightened security on the border crossings?

MS. FOX: As far as the direct excise taxes from the sale of alcoholic beverages, those figures are basically the same. Airline beverage may be a little down, but I won't say that without actually looking. As far as the revenue collected on ports of entry, the revenue total is up. The excise tax collected and the administrative fee collected from the importation of alcoholic beverages is down around nine percent. The collection of tax on cigarettes is up about 89 percent, so there is a little bit of both in there. One has gone down, and cigarettes have really exploded in the number that come across the bridge.

MS. MADDEN: Thank you.

MR. SHIVERS: Questions, John?

MR. STEEN: No.

MR. SHIVERS: I'm going to go back. I failed to ask for approval of the minutes of the last

meeting which have been sent to the commissioners. Any changes?

MS. MADDEN: I move that we approve them.

MR. STEEN: Second.

MR. SHIVERS: I have a motion and a second. All in favor, say aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Opposed?

Once again, another county organization has been nice enough to help out the TABC by donating a laptop computer. This comes from the Bexar County DWI Task Force to assist us in investigations of all alcohol-related accidents in Bexar County that involve underage drinking and/or licensed premises. Under Senate Bill 183, passed by the 76th Legislature, we need to acknowledge the acceptance of anything that has a value greater than 500 dollars. Do I have a motion to accept?

MR. STEEN: So move.

MS. MADDEN: Second.

MR. SHIVERS: All in favor, say aye.

MR. STEEN: Aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye, gratefully. Thank you. Write them a nice letter.

MR. GARZA: Mr. Chairman, if I could, since Assistant Chief Smelser spent all that time preparing his report, I forgot to mention I'd like to include that as part of the administrator's report. He's got a brief power point presentation to show us.

MR. SHIVERS: Sam?

MR. SMELSER: The brevity will depend on how many questions you ask.

MR. SHIVERS: Is that a plea or a warning?

MR. SMELSER: I'll try to be as brief as possible and still explain how the enforcement division fared, where we met our goals or we didn't meet our goals and what we intend to do to remedy the situation.

The measures that I'll talk about came from our Strategic Plan 2001-2005, which was submitted to the LBB and approved. The key measures that I'll talk about came out of Senate Bill 1 or the General Appropriations Act. If you will note on the first couple of objectives, the percent of licensed establishments inspected annually, the goal was 70 percent. We were within plus or minus five percent of that particular goal and, according to the rules that we play under, if we make it by plus or minus five percent, we've effectively attained those goals.

The next measure talks about the percent of criminal cases resulting in

convictions. Again, we made within plus or minus five percent. The first measure will be a key measure in 2002, and the second measure was a key measure in 2001, and they effectively swapped places. The next biennium, we will be looking at the first measure as a key measure.

MR. STEEN: Mr. Smelser?

MR. SMELSER: Yes, sir?

MR. STEEN: May I interrupt you?

MR. SMELSER: Yes, sir.

MR. STEEN: On the licensed establishments inspected annually, what constitutes an inspection? What does that mean?

MR. SMELSER: We have about five different categories for an inspection. The first is a normal routine inspection where we go by, we go in and visit with the permittee and ask them if they have any problems or questions that we can help them with. We have an undercover code that we use when we go in and work a place in an undercover capacity, where they may or may not know that we were ever there, which counts as an inspection. We have surveillance where we sit and watch the place, maybe not going in, but that counts as an inspection. I don't mean a drive by where we are going by at 30 miles an hour. We actually sit there and watch the place. I'm thinking there's a couple more...

MR. HAMILTON: That's it, Sam. You go by undercover, the surveillance - and complaints.

MR. SMELSER: I'm sorry. Complaint investigations, where we actually go out and go in. That's the category of licensed premise inspections that we are talking about.

MR. STEEN: How many licensed establishments are there?

MR. SMELSER: There's about 39,000 total.

MR. STEEN: You covered 68 percent of those?

MR. SMELSER: Yes, sir.

MR. STEEN: That's a lot of work.

MR. SMELSER: Yes, sir. The next slide will represent the percent of administrative cases resulting in suspension or cancellation. Our goal was 98 percent, and we attained plus or minus five percent of those.

The next category talks about the percent of persons demonstrating a greater knowledge in program content. That refers to our *Project SAVE* program, the educational programs that we teach and the increase in knowledge base after we get through. As you can see, we were close to 16 percent upside down on that figure. We did not attain that goal. In visiting with our field agents, the folks that actually teach those, we were told that there are several probable reasons, nothing that we can actually put our fingers on, but the program may not have been taught as it was designed in that the conditions have restricted some of our agents from teaching two classes per group.

I'll refer you to a situation in Abilene where the Abilene School District

said you can only come in one time. The program calls for two separate sessions, a pretest and a post test and, in between, the classroom teachers are supposed to give some enrichment programs or mention it and talk about the program between the time we come in the first time and the second time. Some of the teachers have indicated they are not able to administer the enrichment lessons provided for between due to time constraints and various other things.

The main reason, in my mind, that I think we did not attain this is the many different variables that we have with regard to the education levels of the children that we're teaching. If they have a greater knowledge, and we think that they do due to prior TABC courses and industry programs that have come about in the last few years - the industry has a lot of programs out there - point of sale advertising about drinking and driving and underage drinking and different things that the industry has put out in the last few years. With the increase in knowledge of the kids...when we go in on the first session, if their knowledge is greater, we see that shrinking down, the percent of increase in knowledge. In my mind, that's one of the more plausible excuses that we have for that, and there's so many different variables. We will have from a 35 percent increase to over a 1,000 percent increase, depending on the different schools that we go to. I'm not smart enough to figure out why. I can give you some reasons, but we haven't yet figured out exactly why that increase of knowledge fluctuates so much. It's many different reasons.

The next slide talks about the percent of agency contacts rating the enforcement actions satisfactory or above. Our goal was 82 percent and we attained that within plus or minus five percent.

The next goal talks about the percent of complaint investigations closed within 60 days. Again, we attained that within plus or minus five percent.

Our next set of goals are output measures. The first goal talks about the number of inspections made. Commissioner Steen, this is the total number of inspections, both license inspections and non license inspections, so we are talking about that total. We projected 107,207. We were able to attain 97,063. We were short quite a bit on this measure. If you will allow me, I'd like to go into that a little deeper when we get through with the measures, themselves, to see if I can explain what we think we did wrong or what we need to correct.

The next two measures are the number of persons instructed. We projected 320,000. We attained quite a bit over that. The number of youth instructed and, again, we projected 240,000, and we are over on that count as well. We were a little over 51,000 on the middle goal there, the number of persons instructed. If you will think about that measure as we go a little bit further along, maybe I can explain it some. The number of inspections made was a key measure in 2001 and will remain a key measure through the next biennium.

In the next set are our efficiency measures. We talk about the average cost per inspection. We projected \$134.59. We attained \$160.68. So, we were quite a bit over on this particular measure, but we received about 1.6 million dollars in additional funds in the last biennium to fund Schedule C pay raises. That was the law enforcement pay raises that we received in the last biennium. We requested an adjustment from the LBB but, because it was a key measure, they were unable to change that \$134.59 figure and adjust it upward according to the amount of monies that they had given us. The LBB adjusted our goal to 142 dollars per inspection to accommodate

these increases for 2002, but there's probably going to be another problem because we got a four percent across-the-board raise.

- MR. SHIVERS: You are saying salaries is the primary reason for the difference there?
- MR. SMELSER: Yes, sir, that's correct, and we can't adjust our goals. We have this and other goals that we plan on meeting with Mr. Val Shepherd, our analyst, and seeing if there's some way we can adjust how we count the monies, because any monies that we get...you can see the next measure that we made that within one cent of our goal, the cost per person instructed. Anything that we can't count for education goes into the top measure, average cost per inspection. So, if we get a large amount...the only way we can affect that measure is by either doing more inspections or spending less money, so we are going to try to adjust how we...what the rules are about how you put the monies into that.
- MR. SHIVERS: Have you looked at all the components of your cost per inspection to see if there are some ways to make it more efficient to lower those costs?
- MR. SMELSER: One of the things that you look at, Mr. Shivers, is they don't let us look at what it costs us to do the inspection. What they say is, or what we have said to ourselves is that all the money that you can account for in education goes to the bottom figure. Anything else, all the other salaries, everything, goes up into the average cost per inspection. We feel like there's a lot of money that we receive as a division that goes into that average cost per inspection that doesn't have anything to do with inspections.
- MR. SHIVERS: That's not quite my question. Let me ask it a different way. Other than salary, what is in that cost per inspection?
- MR. SMELSER: Everything.
- MR. SHIVERS: Give me an example of everything.
- MR. SMELSER: The grant monies that we received from the Governor's Office for CrisNet, the 160,000 dollars is in there...
- MR. SHIVERS: That's the revenue side. What's in the cost side?
- MR. SMELSER: The cost is what it costs us to make inspections...
- MR. SHIVERS: Other than the agents' time to do the inspection, what else...
- MR. HAMILTON: Vehicles.
- MS. FOX: Telephone, radio.
- MR. SMELSER: We haven't looked at the equipment cost, the training cost and tried to break those out because, according to the rules, we can't.
- MR. SHIVERS: I'm not concerned particularly about the rules. I'm concerned about how to get the cost down.
- MR. YARBROUGH: Mr. Chairman, the issue is that we can do some of that. It won't impact it because the total expenditure...I mean unless we just don't spend some of the money. For example, the definition is part of the problem here. If it's money that we need to spend, if it can't be attributed to education 100 percent, whether it's used for inspections or not, it's going to be counted

into that number because that's the definitional allocation of it. I think we understand what you are saying. Can we identify those costs? Yes, we can identify them, but if we spend that money, if we save 100,000 dollars and then spend it in something besides education, it will still be reflected in this measure, because the measure is everything that you spend for the year that's not attributable to education. That's simply a definitional problem that we are trying to remedy.

MR. SHIVERS: We want to make sure we are not driving...our activities aren't being excessively driven by these measures that may have incentives that are contrary to an efficient operation. I didn't say that very clearly, but...

MR. YARBROUGH: I think we would agree 100 percent. That is the reason we are trying to clarify the definition because sometimes we come up with just a simplification way to measure things that don't reflect either what the legislature's intent was nor what our real intent is as an agency.

MR. STEEN: How do you go about changing it?

MR. YARBROUGH: We have to petition the Legislative Budget Board, and we are starting that with Mr. Shepherd who is our performance measure analyst, to go through and if we can get him to agree, then to take that to the full board to make the change in that measure.

MS. FOX: You can also generally look at your definitions during your strategic planning process and develop new definitions at that time. You do have to have approval of the Legislative Budget Board after you've gone through that process. They have to approve it. You can't just automatically adopt it, but that's generally a time when we look at our measures and the definitions.

MR. SMELSER: We think sometimes we are our own worst enemies, so what we are trying to do is go back to the folks and see if we can make some reason in how we figure this particular measure. It's not something that I think is very fair right now, so we are looking at changing that. It will remain a key measure in 2002, so it's an incentive that we are going to have to go and look at.

The next few slides, as an explanation, talk about how we work in the enforcement division. Those are the things that we looked at as to why we didn't meet some of our goals with regards to inspections. We started looking at the persons instructed per agent over a period of years. As you can see the chart, how it pretty much rises and remains the same. Remember that we were a little over 51,000 folks on this particular measure, so we did more. We maintained our efforts and kind of over achieved in that particular area.

We looked at our inspections per agent and what we have done since '97 over a period of time. You can see that in the middle of 2000, we peaked and then we drop off to the middle of 2001. This represents about 7,500 inspections that we were short. If we had attained that goal, we would have been within plus or minus five percent of our efficiency measure and made that particular goal.

MR. SHIVERS: What do you attribute to the drop off?

MR. SMELSER: That's what I'm leading into right now. We looked at what we did with our criminal cases per agent, and we find basically that the graphs or charts pretty much mirror each other as far as the decline, especially with

criminal cases and inspections which show the downward trend. We went ahead and looked at why these trends seem to be taking place, so we looked at the criminal violations by the day of the week. As you see in 1996, Fridays and Saturdays are when we detect most of our criminal violations and that holds true throughout the years. You can see that that trend is pretty much the same until you get to about 2000, then it starts going down. The trend stays the same with regards to the day of the week that we work and detect a violation, but the numbers go down.

The next chart shows us when we are detecting, what time of the day. You can see that about 11 p.m. in the evening is when we detect most of our violations. Without anything else to compare it to, we can say that's when most of the violations are occurring, then we go look at when do we work. What days of the week do we work? The red indicates the agents' and sergeants' hours and the upper green area indicates the lieutenants and the captains. So, you can see that we spend quite a bit of time working through Friday and then we pretty much drop off towards the weekend. The other chart showed us what we were doing, and this one indicates when we are doing it. In presenting this to our supervisors, we hope to get a buy-in from the fact that working more hours on Tuesdays, Wednesdays and Thursdays made little sense if we detect and apprehend the majority of our cases on Friday and Saturday, with Sunday still being in question. As you look at the charts, keep in mind that our workday for accounting work attributed to any given day starts at six a.m. and ends at five fifty-nine the following day.

The next slide indicates the percent of night hours worked...

MR. SHIVERS: Does this have anything to do with your senior supervisors not working Saturdays and Sundays?

MR. SMELSER: They are not working hardly anything at all on Saturday or Sunday. We've addressed that with them. The chief and I visited with them in August and presented these same slides to them.

While looking at the hours of those days that they do work, we wanted to see what percent of the time they spend at night. We looked from 1997, when we spent 40 percent of our time working nights, and over the years this chart would indicate a decline in the time we are spending out at night when we feel like most of the violations occur, or most of the folks are out there and we should be able to be out there with them.

MR. SHIVERS: Until you showed me this slide, I had some hopes that our education efforts were paying off in terms of a decrease in violations, but it looks like we are just not out there in force.

MR. SMELSER: That's my point, sir. I hoped to ease into that, but you pretty much hit the nail on the head.

We don't have anything to compare that with, no other agency. So, we took the alcohol-related crashes that DPS keeps those statistics for, and the current crashes that we have are 1999, and we reduce those to a graph and you can see that the light blue area talks about the fatal crashes and the non-fatal crashes and when they occur. The chart pretty much bears out the common sense factor in that those are occurring on Friday and Saturday and, surprisingly, quite a bit on Sunday. Remember that DPS keeps their statistics and they end at 12 midnight, so a lot of those Sunday crashes and fatality accidents are what we would normally consider Saturday night after midnight, actually early Sunday morning.

We looked at the hours that these occur in thinking when...again, the orange area at the bottom represents the folks that were killed in the crashes and that peaks at about two a.m. The next figure shows you those that are just related to crashes, and that peaks again at two a.m. when our bars close.

We feel like that we certainly need to take a close look at our shifting patterns. In closing, we submit that we failed to shift our direction towards inspections once we attained our goals in education, but because we used little additional resources in over achieving education, this could not be the main reason, the education factor, because we over achieved in that area. We feel we've discovered a pattern that needs to be addressed regarding the days and the time of day we place our work emphasis on. This has been communicated to our supervisors, and we are looking forward to a detectable change by the end of the first quarter of this fiscal year.

Is there anything I can add to that?

MS. MADDEN: How are you encouraging them to get out on the weekends?

MR. SMELSER: We're pretty much just telling them to.

MR. SHIVERS: That generally works pretty well.

MR. SMELSER: We wanted to have a buy-in with these charts. A lot of times we send them so much information that they, I think, in reality they may just be overwhelmed with it. But in reducing it to this, where we walked through...the excuses were, "Gosh, we spend so much time with education, we don't have time to do this." In reality, you are not out there doing it during the times when it's occurring, so you need to change your work ethic or patterns a little bit.

MR. SHIVERS: The number of people that each agent presents a program to is sort of meaningless if you are not meeting the retention goal on the knowledge imparted. Who cares if they stand up in front of 1,600 people if only five of those 1,600 get the message? We are not getting through to the people we need to so maybe we need to redirect our efforts in some way.

MR. SMELSER: I'm not sure that getting through to them...what I hope that we will be able to do is to take that educational effort to a level where we can tell what you are going to do four years down the road. If I'm talking to a fourth grader or fifth or sixth or seventh grader, I don't have any way to measure that. I don't have any way to say that I've changed your perspective or your ethic toward alcoholic beverages without looking at it a ways down the road. We haven't come up with a way to do that.

MR. SHIVERS: I think education is very important. It's not only something we need to be doing, and the industry does it, and we all need to be working together on this, whether it's us or the industry, but I'm hesitant to ask the schools to do anymore. School teachers, I know, hearing them talk about their jobs, they are overburdened as it is with work, not only administrative detail, having to keep up with all the requirements and measurements the school districts ask them to do and everything else. They simply don't have enough hours in the day to take on any more. I'm not sure asking them to do any follow-up teaching is going to be very effective. We have to somehow engage parents and everybody else. Chief?

MR. HAMILTON: Ms. Madden had asked a question about what are we doing to insure that

the agents are going to be out at night working? One of the things that we have done, we have changed to more of a focus on sale to intox. As all of you are well aware, the State of Texas leads the nation in alcohol-related fatalities. There is research that has shown that over 50 percent of the individuals that are arrested for DWI's are coming from bars. That's one of the things that our agents have been charged with focusing on, addressing that particular issue of sale to intox. I think we will have an impact on reducing that number of alcohol-related fatalities.

MR. SHIVERS: Part of that measure, of course, has something to do with our geography in the state. We have a lot of highway miles and long distances. Do we have a number or can you get us a number, just out of curiosity, how many of those alcohol-related crashes occur on rural roads versus urban streets?

MR. SMELSER: Yes, sir, it's broken down, I believe.

MR. SHIVERS: I'm just kind of curious to see how that compares with other states if that information is available.

MR. HAMILTON: Something else I'd like to say...

MR. SHIVERS: I was trying to compare states. I think the only other state that has more road miles than Texas may be California, isn't it? Do you know offhand?

MR. SMELSER: I'm not sure.

MR. HAMILTON: I thought Texas had more road miles than California.

MR. SHIVERS: It may.

MR. HAMILTON: One of the other things I'd like to say about education, the reason the amount of man hours didn't go up - I think it went up .5 percent - is that we have begun to have more requests for the *Shattered Dreams* program and that's a one time deal, and you are hitting 3,000 or 4,000 kids, so that's why that number raises as high as it does.

MS. MADDEN: I think it's hard to hit a balance between education and enforcement, because we all know that we don't have enough enforcement officers, and that's a sad thing. I'm so glad, and Mr. Hamilton taught me this, but I'm so glad we are taking a look at DWI's that start in the bars and we are trying to do something about it, because when I was in Washington three weeks ago trying to do some PR work for the TABC, I was telling this gentleman at NHTSA, that Mr. Hamilton set me up with, that we were in the top five in alcohol-related fatalities. He said, "Ms. Madden, I hate to break this to you, but you are number one." It is a big problem. I think Texans right now are so focused on underage drinking that maybe they haven't computed about this other problem. A lot of these fatalities are actually starting at the restaurants, and what have you, where their serving practices are a little bit out of kilter, let's say. I'm glad to see us focusing on it now and hopefully we can do something about it. We sure have to get those supervisors out on the weekend or we are not going to have a chance.

MR. SMELSER: One of the things we've changed our emphasis in, as far as education, is shifting that pattern to retailers and the employees that work for those permittees and licensees in trying to develop programs where we can go in and teach them what they need to be doing, what the rules are and how we expect them to serve the alcoholic beverages.

MS. MADDEN: Thank you.

MR. STEEN: As you are talking to these people about changing their work patterns, are you running into any difficulties?

MR. HAMILTON: Are you talking about the agents out in the field?

MR. STEEN: If you have people that are working during the week from eight to five and now you are telling them, "We want you to shift the emphasis and it's weekends and late hours."

MR. HAMILTON: Quite frankly, my take on this was that we did receive buy-in from the supervisors. The supervisors are going back and taking that message to the agents. I haven't heard any negative about that.

MR. STEEN: But, if you are talking about people working late on weekends, do they then get time off during the week?

MR. HAMILTON: Yes, sir. They still work only 40 or 43 hours. When these agents first started working here at TABC, they understood that their hours were from six to four, working the night shift addressing the particular issues. Then, with the influx of different programs going on, they had to draw some of the manpower to do some of the activities during the daytime. I just think it was a poor manpower allocation. We have brought that to the attention of our supervisors. I believe that we have buy-in from all of the agents on this particular issue.

MR. STEEN: Thank you.

MR. SHIVERS: Fiscal stewardship? I think, Denise, you have sent us a memo on this. Do you have any elaboration you'd like to make or comments?

MS. HUDSON: On the legislative caps, we were under on all four of those caps. We'll see some changes in the travel cap this next year. Instead of it being an in-state and out-of-state travel cap, next year it will just be a travel cap on our out-of-state travel. This one may be a little tight for us. It's based on the year 2000. During that year, we did not travel out of the state very often. We hosted here in the state some of the conferences. So, this particular cap may be a little tight next year.

We will be filing the Biennial Operating Plan sometime this fall. This is an action plan that describes how we manage our IT resources. We haven't received all the instructions for that plan yet, but that should be wrapped up probably before Christmas.

We are continuing to participate in the Radio Task Force. The emphasis of this task force has changed a little bit. It's now more of an inter-agency cooperative agreement. They are still looking at ways to improve communications between the law enforcement agencies, and we have with us Brad Bearden from the warehouse if you have any questions on this task force or where it's going.

MR. SHIVERS: Brad, this has been an issue I've been interested in for some time. Do you see any change in the philosophy among our fellow agencies about sharing frequencies or inter-agency communications? That's always seemed to me to be the main sticky point there. There is a frequency spectrum out there. It's just somebody says, "It's ours and you can't talk on it."

MR. BEARDEN: Not so much in the frequency spectrum, but I have seen a big change in the

cooperation of all the agencies since we've been working together. About a year ago, just for an example, we had a repeater in Abilene that we were paying rent for. I was able to contact TxDOT, find a tower that they had up there that would accommodate our repeater. We moved it over there and, thus, we saved rent in Abilene. We are going to continue to look at the other towers that we have to see if we can consolidate some of those with other agencies. We also had a big project with just DPS and TABC on installing some solar power equipment on Franklin Mountain in El Paso. That went real well. We both chipped in with funds and manpower to get the installation complete. That's been up and operational since August a year ago. I see a big change in the cooperation of some of the bigger agencies.

MR. SHIVERS: Is there any movement by the FCC to put all public safety on similar frequencies so there are transparent communications so public safety agencies can communicate with one another?

MR. BEARDEN: Just recently, the FCC let go, or is going to let go, some frequencies in the 700-megahertz band. That's currently occupied by some of the TV channels. In the next four to five years, they expect most of the TV channels to go to high definition TV which is a much higher frequency. It's in the gigahertz. What they did is they are allowing each state agency to apply for a license for a particular number of channels in the 700-megahertz band. DPS has already applied for the Texas license through the Governor's Office to obtain the...it's approximately 200 channels in the 700-megahertz band, and that's initially what our...

MR. SHIVERS: You said DPS applied for all of them?

MR. BEARDEN: They applied for them for the State of Texas since they are the lead agency.

MR. SHIVERS: Okay. The FCC coordinator for Texas is at DPS.

MR. BEARDEN: Exactly. He works there at DPS.

MR. SHIVERS: Those channels presumably will be available for sharing with other agencies?

MR. BEARDEN: Absolutely. That would be the optimum plan to be able to develop a statewide plan. We did some research on that, hired some consultants and, as you see in the letter, the cost was very high, eight hundred and some odd million dollars for a plan to cover Texas. Most people think that was conservative as it was. That's a big chunk of money, but that would be the plan to work toward. We are hoping that the hiring of this radio engineering team will help us along that path.

MR. SHIVERS: I hope at some point there's some common frequency everyone can switch to an area, if there is an emergency, where various agencies have to come together, say sheriff, local police, us, DPS.

MR. BEARDEN: That was one thing I skipped over. Back in March, we got together, after a meeting with the House Appropriations Committee, and designed a memorandum of understanding between the agencies that we picked out one channel that we have. It's called a TAC channel, law enforcement TAC channel. We also have two more channels that are inter-agency channels. We signed this memorandum saying we are going to start programming these channels into our radios and monitoring these channels so that if someone was out somewhere and they couldn't contact their own

agency, maybe someone else, another agency would be listening on this TAC channel. That just was signed last March. Our agency signed it. All the other agencies signed it and have begun programming those three frequencies into all the radios with the goal to be completed by August of 2003. They are also working on the written information as to how to correctly use these channels because you will have different priority levels for different types of emergencies and that should be completed by January of next year.

MR. SHIVERS: Okay. Any questions for Brad? John?

MR. STEEN: No.

MS. MADDEN: No.

MR. SHIVERS: Thank you very much.

MR. BEARDEN: Thank you.

MR. SHIVERS: Denise, anything else for us? Questions for Denise?

MS. MADDEN: No, thank you.

MR. STEEN: No.

MR. SHIVERS: Internal auditor's report on the internal audit of the ports of entry.

MR. GREGORCZYK: Good afternoon. A little background on the ports of entry audit, when we developed the audit plan for this past year, fiscal '01, we were under the understanding that an audit had been started by Charlie. Although this wasn't deemed to be one of the highest risk areas, we felt like we should go in and finish that work. In fact, we have now finished that work. We actually began this audit in early summer, and it ran over the course of the summer. It turned out to be a little more in depth audit than I had envisioned. Charlie had done some initial surveys, but he hadn't done as much work as we thought. Really, in essence, we did the whole audit on the ports of entry program. What I'd like to do is just highlight some of the key findings and key recommendations and then respond to questions with respect to that program.

We do believe that there are effective procedures and adequate internal controls over the stamp inventories and the collections of taxes at ports of entry. There were some questions posed to us, some issues about perhaps some theft of some of the stamps at the ports of entry, but we certainly did not view the internal controls as inadequate in any way. Certainly, everything, we think, that should be done from a control point of view is being done. We don't think there are any changes that can be made to increase those internal controls.

Controls are also adequate and have been established in dealing with confiscated liquor and cigarettes at ports of entry. We didn't have any recommendations there whatsoever.

The reporting system for the ports of entry program appears to be effective. We'd like to see better use of e-mail and transmitting reports rather than hard copy reports and faxes.

The cash collected at the ports of entry, we looked at this as part of the accounting audit earlier this year, but we think it is an effective process.

We do have some concerns about the folks having to transmit that cash to the banks, and I'll talk about our recommendations in just a minute. As far as the internal controls over the receipt of cash and deposits in the treasury, we think they are adequate.

We do believe there are some safety issues that can be improved at the ports of entry stations. We realize this is a resource issue, obviously, and we have to balance the resource issues with the safety issues, but we did identify some areas we thought, perhaps, safety issues could be better addressed at those ports of entry stations. There is a comprehensive safety policy out there. Again, we think there are a number of areas that safety could be emphasized and enhanced at the ports of entry stations.

Let me say this. Part of our audit work, we did look at the surveys that Charlie did. We also did our own survey of those ports of entry employees, so part of our findings are based on that. We also visited eight of the ports of entry stations. We didn't go to all of them. With respect to safety issues, part of our findings are based on what we feel were the employee responses to the survey. Again, I'll talk about some of our recommendations in just a minute.

Another resource issue, clearly, additional staffing would obviously help. We know that is a resource issue. There's also an issue about the distribution of the levels of tax compliance officers. There are some pretty heavy distributions of the Compliance Officers II in some locations and less in others. Again, we know you can't just automatically shift them around, but that's an issue that management needs to continue to look at.

We think the supervision at ports of entry is effective from what we could tell. We didn't see any inadequacies in the process they use to supervise it from this level down through the supervisors at those stations. We also looked at the hiring practices. We thought those were adequate.

Given that as some of our findings, let me talk about some of our recommendations.

MR. SHIVERS: Let me stop you a moment. As I read your draft, there seems to be, at least in accounting for the cash by individual inspectors, by their supervisors, that doesn't seem to be done on a consistent basis, from supervisor to supervisor, from inspector to inspector, as might be desired. Is that correct?

MR. GREGORCZYK: That's true. That was the next thing I was going to comment on. The procedure that's in the procedures manual would be effective, we believe, if it was followed. That procedure is that they do unannounced visits at least once a month of each of those employees, and those reports come to the Austin headquarters office. What we found were, they may be doing those, but they are not submitting all the reports, so we couldn't tell. Our figures showed a pretty low level of reports being submitted. I think Jeannene went back and looked and they came up with a higher level, I believe 61 percent, but management clearly concurs that those need to be done. The procedure that's in place simply needs to be enforced and the reports need to be submitted up to Austin. There's nothing there that we think would change that control. It's just that control needs to be enforced.

MS. FOX: That is a spot audit versus a daily accounting.

MR. SHIVERS: I understand. It is supposed to be random.

MS. FOX: Yes.

MR. SHIVERS: It's just a little more random than we might like.

MS. FOX: It's pretty random.

MR. GREGORCZYK: At the time we did our audit, looking at the procedures here for tracking stamps at headquarters, it appeared to us there was duplication of effort. We had several manual systems in place and then we have an automated system. We made a recommendation that we rely on that automated system. I think part of that may have been some temporary things. According to the management response, they felt that was somewhat of a temporary situation that has been rectified or will be rectified and we will rely on that automated system to track the stamps.

We think reasonableness tests should be conducted. There's a tremendous amount of information that's collected from the ports of entry stations. Certainly, management does review those reports. We think a structured review should occur where we really look at reasonableness tests and try to pinpoint deviations, errors, other things that may be occurring. We think the data is a good way as additional controls over those tax collections.

We recommended that security companies be considered for picking up the cash. That was probably based on some of the concerns that employees expressed in some degree. Those folks have to pick that money up and walk it to the bank. That is a resource issue. Management indicates in the response they feel that will cost 92,000 dollars a year to implement that recommendation. Since they have not ever had any robberies, per se, they don't think it's a cost-effective control. We do think, certainly, the potential is there when you are actually carrying cash back and forth. It's a safety issue to some degree.

MR. SHIVERS: Does customs or anybody else on the bridge use security companies to pick up cash receipts?

MR. GARZA: Not that I'm aware of.

MS. FOX: No.

MR. SHIVERS: Okay.

MS. MADDEN: How much money are we talking about?

MR. GREGORCZYK: Jeannene can respond. I believe it was 92,000 dollars she estimated.

MS. MADDEN: No, I mean that they are carrying. I know there's not a set number, but are we talking about 1,000 dollars? Are we talking about 500? Are we talking about 25,000?

MS. FOX: I'd say generally less than 1,000. It's a daily deposit that they do. At this time if we tried to implement that, basically what you are looking at is cutting people to implement this recommendation. As pointed out, we are already thinly staffed. In many places, you know, we will only have one employee at that particular duty station. So, if we wanted to try to do this, that's the only option we have. We don't have a lot of other funding issues in this program other than salaries.

MR. SHIVERS: If you are talking about less than 1,000, the safety of the employee is an issue, but if they vary the time of the deposits and don't establish patterns,

I think they are safe enough doing it.

MS. FOX: We never say never. Up to this point, since the program has been in place, we have never had a robbery - knock on wood. The supervisors are aware of that. We have discussed that with them and, as you said, Mr. Shivers, they vary their travel patterns and times of day that they do deposits and things of that nature.

MR. SHIVERS: If someone does hijack them, give them the money.

MS. FOX: That's exactly what we told them.

MR. SHIVERS: Not that I want to purposely throw away state resources, but I'd rather do that than throw away an employee's life.

MS. FOX: Right.

MR. GREGORCZYK: I provided the surveys, both the one Charlie did - which I don't believe Jeannene had ever seen - and the one we did. I provided her those results. Also, based on our inspections, we do think that probably management should take a very comprehensive look at safety, basically safety and security issues based on what they see and, perhaps, do their own internal survey.

MR. SHIVERS: Do those inspectors typically work alone?

MS. FOX: Sure.

MR. SHIVERS: One inspector per shift, generally, in those stations?

MS. FOX: Generally, late night there is one person. During the day around six, you have an overlap of two people for several hours but, late night or early morning, there is one on duty.

MR. GREGORCZYK: We also think that probably the training program should be looked at a little closer. There seems to be a little disconnect between what the employees were telling us and what management indicates. I think Jeannene feels like they really provide a lot of training, but a lot of the survey comments we received were, "We are not adequately trained to deal with drunks and disorderly and other folks and we really feel like that's an issue for us," so, we think management should look at that issue again and look at the whole training of the folks that are manning those sites, particularly with respect to safety and security issues.

MS. MADDEN: It's my understanding there's kind of a series of things to go through before you get to our people.

MR. SHIVERS: You have to go through customs and immigrations.

MS. MADDEN: Right. That's good, isn't it, before they get to us? I mean, there is a little bit of a buffer there, is what I am trying to say.

MS. FOX: Right, there is. The problem with our ports and our locations is that in some areas we are very close to customs. In other places we are further away, so I think the comfort level by each port varies. Some of those issues we try to address. I would go back and tell you we agree with Russell that we need to give more oversight to training. What we have discovered through this audit is that we have provided training out there for verbal judo and violence in the workplace and things of that nature.

What we found out, and I hate to admit we didn't find this out until just recently, is that the employees didn't go. We provided it and they chose not to attend, when actually in headquarters we believed it was mandatory, but we obviously had a communication problem. There was training that was provided but it wasn't mandatory so people didn't attend. We thought we had done more, obviously, than what was done. There's always various levels of training. Some people consider training only when you go off to another town and you sit in a classroom with a bunch of other people. We feel like we do onsite training. We had some of our own employees do computer training that went all the way from El Paso to Brownsville but, in talking to them in trying to figure out what the issue was, they didn't think that was training because he came there and it was one-on-one or two or three people. We have some communication issues to go over there but, certainly, I think there are some more training issues that we can look at.

MR. SHIVERS: Mr. Garza, let's see what we can do in the near future to integrate that division more closely into the rest of the agency. In this report I'm getting the impression it's treated a little bit like a redheaded stepchild. It's there. It's on the border, but we don't watch it as closely as we ought to.

MR. GARZA: Historically, by way of background, I know there have been times when members of that program thought they should be commissioned peace officers. Sometimes that may taint some of the reactions in terms of an audit, in terms of their feelings regarding not being able to be fitted or trained to deal with those situations. The agency has addressed that in the past. There's no need, I believe, to have commissioned peace officers along that border.

MR. SHIVERS: I don't think they need to be commissioned peace officers. They just need better supervision and better training.

MR. GARZA: We will go back and make sure that we address training issues with them and make sure that, in fact, is mandatory and they attend.

MR. SHIVERS: I'm a little hesitant to believe they have much problem with drunks and disorderly people. People that come across the border drunk and disorderly, why are they going to stop at our station? They can bypass most bridges easily enough.

MR. GREGORCZYK: We did identify through our inspections and again through the surveys, some things specifically we thought could be done at those actual ports of entry stations. Some of them have panic buttons, some don't. In some cases, the lighting may not be adequate, some various physical things that we thought could be done. Again, we understand it's a resource issue, but we felt the need to at least point those things out.

MR. SHIVERS: That's also in cooperation with our landlords, whoever they may be.

MS. FOX: That's true. Most of all those issues we have looked at. I will say that the ports of entry management has come a long way in the last four years. Probably four to five years ago, half of the landlords that we had, we had no good close working relationship, maybe more than half. Buck Fuller and Santos Saldana have done an excellent job in bridging all those gaps, making new friendships and working very closely with all the various landlords that we have, whether they are individual people, the federal government or the cities that own those bridges. So, I think we have made a lot of headway. We have constant communication in those areas where we used to not have that.

One of the things that seems to be a barrier for us in trying to get canopies or additional lighting or different things that we try to do and to upgrade the facilities has to do with GSA. In some places, they will let us and other places, they won't. We are pretty much at their discretion on what we get. If we are renting a building and we need a new air conditioner, because this one doesn't seem to be the large size it needs to be for that particular facility, we have to struggle to get a new air conditioner, get it replaced. Or if we want a canopy, most of the locations will not allow a canopy where our booths are located. We do constantly pay attention to those. That has been our focus for the last three years, on the various buildings and maintenance and upgrades and new buildings and things of that nature. We are still looking at some panic buttons. In some areas we do have those. We are still striving to get those in some areas. We would like some additional lighting, and we haven't been successful in getting those.

This audit, actually, was very timely because one of the things that we had was our supervisors' meeting for our ports of entry supervisors on September 11th and 12th. They were here in Austin.

MS. MADDEN: This year?

MS. FOX: Yes. That was an interesting day, obviously, for many reasons. It was very timely, so we could address some safety issues and safety training. We were able, on very short notice, to get the State Office of Risk Management over here. They have personnel who do safety training. They have safety videos, so we did have parts of our program laid out to have that safety training done, and they have certain instructions to go back and do training issues, safety issues with their employees. They are also going to do a comprehensive survey and assessment on safety issues at each individual building and the surrounding areas on lighting. We felt like that had been done because we do an audit every year out of our own general services department on resources, equipment and the facility, but I think we need, obviously, to go further and do a fuller assessment and, also at the same time, to report back to us on some additional training needs after they have visited with their staff. This was very timely because we had our meeting and, hopefully, we are going to have a report back by October 15th.

MS. MADDEN: That's great. When you talk about new panic buttons or old panic buttons, where are they connected to? When you push it who comes?

MS. FOX: It goes up to customs.

MR. SHIVERS: It's the nearest law enforcement agency - customs or INS.

MS. MADDEN: Is that good or bad?

MR. SHIVERS: It depends on the relationship between the customs and INS officers at that port and TABC. It's a personality issue. It's just like it is with the landlords. It is personalities.

MS. FOX: Exactly. For example, in Eagle Pass, we have an excellent relationship there. They provide security that comes by our building about every 20 to 30 minutes. They provide maintenance. That would be the perfect ideal that we would wish to have at every port, but that doesn't exist in all those ports. Some of them, an officer will come by maybe once every three, four or five hours. It varies. There are so many variables with each individual port. It's very difficult to compare them based on revenue or traffic or

safety or who your landlord is because, as Mr. Shivers pointed out, it does have a lot to do with individual relationships that you have at each one of those bridges.

MR. SHIVERS: That's where we need to work, on individual relationships.

MS. FOX: I think we are doing an excellent job in building those relationships over what we've had in the past. We have a group of supervisors now in place that they know that's one of their prime functions, and they are doing a very good job at it. We used to not speak to our landlord in El Paso. I can tell you that's probably a complete opposite of the case now. We frequently meet and visit with them. They include us on the bridge expansions.

MR. SHIVERS: Do we send them Christmas cards, birthday cards?

MS. FOX: It hasn't quite got there yet, but I think we've come a long way, and it's improved a lot of the problems that we've had at the ports.

MR. GREGORCZYK: That's really all I have as far as key findings and recommendations unless you have additional questions.

MR. SHIVERS: Questions of Russell? John?

MR. STEEN: You make recommendations then management concurs or does not concur. In the case where management concurs and says we agree these changes need to be made, what's the process for making sure that's done? Do you come back at some time?

MR. GREGORCZYK: Yes, we come back. We actually discussed that a little bit last time when I presented the accounting report. In our audit plan for this year, we will do follow-ups on both the accounting audit that we did and this audit where management concurred with the recommendation. If they don't concur, we don't do anything further on that. I'll come back and issue a written report, a follow-up report on these audits.

MR. STEEN: How much time?

MR. GREGORCZYK: As a rule of thumb, six months, six to 12 months. It will be in the following fiscal year. In this case, since we did this one at the very end, it will probably be next summer before we come back.

MR. STEEN: And you will report back to us, so we would hear about it?

MR. GREGORCZYK: Yes.

MR. STEEN: Thank you.

MR. SHIVERS: I think it's a good draft audit and has a lot of good information in it. I liked the presentation.

MS. MADDEN: I did, too.

MR. SHIVERS: Would you like to get into the audit plan now?

MR. GREGORCZYK: Okay.

MR. STEEN: I also want to compliment you. I think it's a very thorough job and I appreciate it.

MR. GREGORCZYK: Thank you.

MS. MADDEN: I like the way you include some quotes. I thought that was very interesting. I couldn't tell whether those were random disgruntled employees or what, but I thought that was an interesting part of the presentation in your written report.

MR. GREGORCZYK: You just have to be careful with that. It's hard to know if it's just one or two people.

With respect to the audit plan, you approved the audit plan really just a few months ago. I simply went in and updated the audit plan. I did not go back and really do a full-blown risk assessment. The third audit that we finished the field work and issued the report on is an audit of the licensing division. We looked at the tax security processing, and we will be working with management in the next couple of weeks to bring that one to you.

We actually had planned to do an audit of the full licensing division last year. Not knowing what I was getting into, and we spent significantly more time in the ports of entry than I thought because, again, we thought that was going to be just to finish up some work that was done. So, with respect to this year, what I am proposing is that we go ahead and do the audit of the licensing division. I've talked to Mr. Garza and he concurs that that would be a good area for us to focus on.

A second area that we'd like to audit is the information resource management area. That's what I call a required audit under the *Texas Internal Auditing Act*. You need to look at your administrative systems and controls on a periodic basis. We looked at accounting this year. We are recommending we look at the information resource management area next year.

We also recommend that we go ahead and look at the enforcement division. We haven't done any work there yet, so we have an audit planned for that area. So, those are the three audits I'm proposing for this current fiscal year that we are in.

Jeannene doesn't think I have enough hours, and she may be right because it's a pretty complex operation. I think we can do those three audits within the time budget and the funds that are available for the internal audit function. That's what I am proposing for this year with respect to the audit plan.

MS. MADDEN: Good luck. You are taking on a big load.

MR. SHIVERS: Given the time required to do these maximum risk audits, how many of the high risk audits do you think you will be able to get to in three years?

MR. GREGORCZYK: I'm not sure because these audits are...I think once we've done the big audits like the licensing division, clearly some of the audits will be scoped down a lot less, and I think we can get more audits included in the audit plan and do probably more audits. But it may be a couple of years, probably three years.

MR. SHIVERS: At this rate, some of these areas will never get audited unless time compresses a little on some of these lower risk audits.

MR. GREGORCZYK: I'd have to concur with that. Part of it's a resource issue, too. This audit

plan is I believe 600 hours, so that's probably the equivalent of a third of a staff person. I'm not sure how many audits Charlie was able to do in a given year, but I think we are trying to bite off an awful lot here with respect to doing these. You are right, if we don't do more than three a year, we won't get to some of the other areas.

MR. SHIVERS: You've identified the areas that need to be done, and I appreciate the way you've done the ports of entry. I look forward to seeing the licensing audit.

MR. GREGORCZYK: You'll see another one next month, I believe. The tax security area.

MR. SHIVERS: Good. John, do you have anything on the audit plan?

MR. STEEN: I move approval.

MR. SHIVERS: Gail?

MS. MADDEN: Thank you.

MR. SHIVERS: Is there a second?

MS. MADDEN: Second.

MR. SHIVERS: Any further discussion? All in favor, say aye.

MR. STEEN: Aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

MR. GREGORCZYK: Thank you.

MR. STEEN: Mr. Garza, I'm really pleased with his work, and one of the questions we had when we were doing this internally and we took it outside the agency, are you in a position now to compare the cost of doing that?

MR. GARZA: I haven't had a chance to look at the cost. I did have a chance to meet with Mr. Gregorczyk and spend some time initially when I came on to talk about some of his plans. I had to work with Charlie when Charlie was our internal auditor so I do have an idea in terms of breadth and depth of some of those projects, but I've not had a chance to compare in terms of cost.

MR. STEEN: Maybe that's something we could look at at a future meeting, because we had a lot of discussion on it.

MR. GARZA: I will tell you one of the big concerns to me, as it was when Charlie was doing this, is once we have an internal audit finding and the recommendation is agreed to by all the parties, that we here on staff are about the business of making sure we make those changes. It does us little good to come up with these recommendations and not see any substantive change to process or procedure. I can tell you in terms of these reports it will come out that we will be working with staff to make sure that those changes are reflected not only in terms of the program but also in terms of doing evaluations on those individuals responsible for putting those changes in place.

MR. SHIVERS: Public comment? No one is signed up, but does anybody have anything to

say?

The commission will now go into a closed, executive session to confer with the general counsel regarding litigation pending against the agency under the authority of Government Code, Section 551.071.

The commission convened in executive session at 2:57 p.m. and reconvened in open meeting at 3:52 p.m.

MR. SHIVERS: The commission meeting of September 24, 2001 is now back in open session. During executive session no votes were taken, no final decisions were made.

Do I have a motion to adjourn?

MS. MADDEN: So moved.

MR. STEEN: Second.

MR. SHIVERS: All in favor, say aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye.

The meeting adjourned at 3:53 p.m.

TEXAS ALCOHOLIC BEVERAGE COMMISSION

Allan Shivers, Jr., Chairman

John T. Steen, Jr., Member

Gail Madden, Member