



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

COMMISSION MEETING

November 18, 2010

Texas Alcoholic Beverage Commission
5806 Mesa Drive
Austin, Texas 78731

*José Cuevas, Jr., Presiding Officer
Midland*

*Steven M. Weinberg, MD, JD, Member
Colleyville*

*Melinda Fredricks, Member
Conroe*

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AGENDA

REGULAR COMMISSION MEETING

9:30 a.m. – November 18, 2010

**Holiday Inn Austin NW Arboretum Hotel
8901 Business Park Drive
Austin, Texas 78759**



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José Cuevas, Jr.
Presiding Officer-Midland

Steven M. Weinberg, MD, JD
Member-Colleyville

Melinda S. Fredricks
Member-Conroe

Alan Steen
Administrator

Thursday, November 18, 2010 - 9:30 a.m.

Agenda

1.	Call to Order	José Cuevas, Jr.
2.	Invocation and Pledge of Allegiance	José Cuevas, Jr.
3.	Recognition of Agency's 75 th Anniversary	José Cuevas, Jr.
4.	Presentation and Acceptance of Gift to Commission by the Texas Alcoholic Beverage Commission Officer's Association in Commemoration of the Agency's 75 th Anniversary	Harry Nanos
5.	Recognition of TABC License and Permit Holders	Carolyn Beck
6.	25 Years Service Recognition to Joel Moreno, Chief of Field Operations	José Cuevas, Jr.
7.	Presentation of Tenure Awards	Sherry Cook Joel Moreno
8.	Presentation of The 2010 Allan Shivers, Jr. Awards of Excellence in Public Service	José Cuevas, Jr.
9.	Presentation of National Association of Licensing & Compliance Professionals Best Practices Award to TABC Licensing Division	Ryan Bissett
10.	Approval of Commission Meeting Minutes of October 26, 2010	José Cuevas, Jr.
11.	Administrator's Report: Administrator and Agency Activities, Budget Issues, Staff Achievements	Alan Steen
12.	Request for an Order by the Commission to Prohibit the Possession of an Open Container or the Public Consumption of Alcoholic Beverages in the Central Business District of the City of Shamrock Pursuant to §109.35, Texas Alcoholic Beverage Code	Emily Helm
13.	FY 2010 Internal Audit Annual Report	Russell Gregorczyk
14.	Approval of Enforcement and Licensing Internal Audits	Russell Gregorczyk
15.	Seller Server Training Curriculum Briefing	Sherry Cook
16.	Public Comment	José Cuevas, Jr.
17.	Executive Session to Consult with Legal Counsel Regarding Pending and Anticipated Litigation Against the Agency and to Discuss the Duties, Responsibilities, and Evaluation of the Administrator (Govt. Code §551.071, §551.074)	José Cuevas, Jr.

18.	Next Meeting Dates: Tuesday, January 25, 2011 Tuesday, February 22, 2011	José Cuevas, Jr.
19.	Adjourn	José Cuevas, Jr.

Note: Items may not necessarily be considered in the order they appear on the agenda. Executive session for advice of Counsel (pursuant to §551.071 of the Government Code) may be called regarding any agenda item. Action may be taken on any agenda item.

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services (such as interpreters for persons who are deaf, hearing impaired readers, large print, or Braille) are requested to contact Luann Dickerson at (512) 206-3217 (voice) (512) 206-3203 (fax), or (512) 206-3270 (TDD), at least three (3) days prior to the meeting so that appropriate arrangements can be made.

MINUTES

REGULAR COMMISSION MEETING

9:30 a.m. – November 18, 2010

**Holiday Inn Austin NW Arboretum Hotel
8901 Business Park Drive
Austin, Texas 78759**



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

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COMMISSION MEETING MINUTES

November 18, 2010

The Commissioners of the Texas Alcoholic Beverage Commission (TABC) met in Regular Session on Thursday, November 18, 2010, at the Holiday Inn Austin NW Arboretum Hotel, 8901 Business Park Drive, Austin, Texas.

PRESIDING

OFFICER:

José Cuevas, Jr.

COMMISSIONERS

Melinda Fredricks

PRESENT:

Steven M. Weinberg, MD, JD

STAFF PRESENT:

Alan Steen, Administrator

Gilbert R. Alba, Agent, Bryan Outpost, Vice President,
Texas Alcoholic Beverage Commission Officers'
Association (TABCOA)

Ronald Alexander, Accounts Examiner, Houston
Licensing Office

Alfredo Alvarez, Jr., Agent, San Antonio Enforcement
District, Representative, Texas Alcoholic Beverage
Commission Officers' Association (TABCOA)

Gene Anderson, Lieutenant, Arlington Enforcement District
Mona Appling, Database Administrator, Information
Resources Division

Mary Arechiga, Laredo Port of Entry

Carolyn Beck, Director of Communications and
Governmental Relations

Matthew Besfer, Administrative Assistant, Tax Division

Gene Bowman, Regional Supervisor, Austin Compliance
Division

Kimberly Briggs, Administrative Assistant,
Compliance Division

Cecelia Brooks, Legal Assistant, Legal Section

Noe Castaneda, Brownsville Port of Entry

Matthew Clark, Attorney, Legal Division
Charlie Cloud, Captain, Arlington Enforcement District
David Clowe, Network Specialist, Information Resources
Division
Sherry Cook, Assistant Administrator
Carrie Coulter, Austin Regional Supervisor,
Licensing Division
Darryl Darnell, Inspector, Office of Chief of Staff
Sherri Diaz, Administrative Tech, Tax Division
Luann Dickerson, Executive Assistant, Executive Division
Loretta Doty, Director, Human Resources Division
David Duncan, Attorney, Legal Division
Rickie Eddins, Administrative Tech, Tax Division
Darla Elam, Research Support Team Supervisor, Licensing
Division
Shelby Eskew, Director, Business Services Division
Randy Field, Sergeant, Bryan Outpost
Joe Franco, Agent, Austin Enforcement District,
Representative, Texas Alcoholic Beverage
Commission Officers' Association (TABCOA)
David Frausto, Jr., Eagle Pass Port of Entry
Kathy Gersbach, Executive Assistant, Executive Division
Jennifer Gethers, Legal Secretary, Legal Division
Bobby Gideon, Captain, Training Division
Thomas Graham, Supervisor, Marketing Practices
Kelly Greene, Administrative Assistant, Tax Division
Steve Greinert, Manager, Tax Division
Nicolas Gutierrez, Agent, San Antonio Enforcement Division
Tameka Harris, Legal Secretary, Legal Division
Amy Harrison, Director, Licensing Division
Emily Helm, General Counsel, Legal Division
William Helpenstell, Agent, Austin Enforcement District,
Representative, Texas Alcoholic Beverage
Commission Officers' Association (TABCOA)
Joe Iagnemmo, Web Administrator, Information
Resources Division
Richard Jauregui, Captain, San Antonio Enforcement District
Tanya Jimenez, Administrative Assistant, Executive Division
Ashleigh Jons, Coordinator, Seller Training
Dexter K. Jones, Assistant Chief of Field Operations
JoAnn Joseph, Assistant Director, Licensing Division
Nicole Kambalouris, Legal Secretary, Legal Division
Larry Karstadt, Auditor, Bryan Compliance Office
Charlie Kerr, Director, Tax Division/Education
and Prevention

Johnny King, Agent, Georgetown Outpost,
Representative, Texas Alcoholic Beverage
Commission Officers' Association (TABCOA)
Frances Kollinger, Administrative Tech, Tax Division
Lola Logan, Administrative Assistant, Arlington Enforcement
District
Roland D. Luna, Sr., Lieutenant, Office of Professional
Responsibility
Richard Maness, System Support Specialist, Information
Resources Division
Trent Marker, Agent, Austin Enforcement District
Linda McLeod, Benefits Coordinator, Human Resources
Division
Mark Menn, Lieutenant, Victoria District Enforcement
Ronald Meissner, Agent, Homeland Security
Brenda Meyers, Assistant Regional Supervisor, Austin
Compliance Office
Merideth Muñoz, Administrative Assistant, Compliance
Division
Joy Murray, Chemist, Tax Division
Harry Nanos, Agent, El Paso Enforcement District,
President, Texas Alcoholic Beverage Commission
Officers' Association (TABCOA)
Danny Pavlas, Agent, Waco Enforcement District
Andy Pena, Director, Office of Professional Responsibility
Yvette Price, Regional Supervisor, San Antonio Licensing
Office
Gloria Darden Reed, Executive Assistant, Executive Division
Albert Rodriguez, Lieutenant, Office of Professional
Responsibility
Tricia Rutledge, Agent, San Marcos Outpost,
Representative, Texas Alcoholic Beverage
Commission Officers' Association (TABCOA)
Robert Saenz, Captain, Austin Enforcement District
Santos Saldana, Supervisor, Ports of Entry
Sherrie Lamar Salinas, Laredo Port of Entry
John Sedberry, Attorney, Legal Division
Amanda Seely, Administrative Assistant, Human Resources
Division
Loretta Smith, Assistant Director, Business Services Division
Todd Talley, Quality Control Supervisor, Compliance
Division
Dewayne Thompson, Investigator, Enforcement Division
Yvonne Tucek, Legal Secretary, Legal Division
Aracelia G. Viera, Laredo Port of Entry
Jay Webster, Director, Information Resources Division

Bob White, System Support Specialist, Information Resources Division
Martin Wilson, Assistant General Counsel, Legal Division

**GUESTS
PRESENT:**

Renee Andrews, Retired, TABC Employee
Winn Atkins, Senior Director, Government Relations, DIAGEO
Kevin Bartholomew, President, Ben E. Keith Company - Beverage Distributors
Ryan Bissett, President, National Association of Licensing & Compliance (NALCP)
Dewey Brackin, Attorney, Gardere Wynne Sewell
Rick Brann, Pastor, Victory Baptist Church, Cedar Park, TX
Lou Bright, General Counsel, Texas Wine and Grape Growers Association (TWGGA)
Vic Brooks, Vice President, Republic National Distributing Company (RNDC)
Christopher Burnett, Director, Criminal Justice Division, Governor's Office
M L Calcote, Republic National Distributing Company
Charles Davalos, Wholesale Beer Distributors of Texas
Lawrence Del Papa, Owner, Del Papa Distributors
Rick Donley, President, The Beer Alliance of Texas
Doug DuBois, Director of Government Relations, Texas Petroleum Marketers and Convenience Store Association (TPCA)
William DuFour, Attorney
Mike Ferlet, Vice President, Business Relations and Industry Affairs, Del Papa Distributors
Alan Gray, Executive Director, Licensed Beverage Distributors
Russell Gregorczyk, Internal Auditor, Jansen & Gregorczyk Certified Public Accountants
Nicole Holt, Executive Director, Texans Standing Tall
Chris Jackson, Vice President of Operations, Fifth Generation Inc., Austin, TX
A. J. Johnson, Retired TABC Employee
Tanis Knelsen, Paralegal, Addison Law Firm, Dallas, TX
Dorothy Lacefield, Paralegal, Addison Law Firm, Dallas, TX
Bill Levine, Spoetzl Brewers, San Antonio, TX
Lance Lively, Executive Director, Texas Package Stores Association

Fred Marosko, Executive Director, Texas Package Stores Association
Jack Martin, Attorney, Jack Martin and Associates
Chip McElroy, President, Live Oak Brewing Company
Diana Medina
Happy Mercado, Event Marketing Manager, Tito's
Bryan Plater, Vice President of Finance Business Operations, Fifth Generation Inc., Austin, TX
Jessica Reedy, Paralegal, Gardere Wynne Sewell
Cuatro Sammons, Wholesale Beer Distributors of Texas
Scott Smith, Director of Training, Texas Restaurant Association (TRA)
David Stuart, Supervisor, DIAGEO
Alex Tapia, Strategy Specialist, Texans Standing Tall
Juan Torres, Deputy Constable Travis County, Precinct 5
Ralph Townes, Senior Vice President, Glazers/LBD
Randy Yarbrough, Wholesale Beer Distributors of Texas

CALL TO ORDER

The meeting of the Texas Alcoholic Beverage Commission was called to order at 9:41 a.m. by Presiding Officer José Cuevas.

INVOCATION AND PLEDGE OF ALLEGIANCE

Presiding Officer Cuevas called upon Pastor Rick Brann from the Victory Baptist Church in Cedar Park, Texas to give the invocation. Following the invocation, Chief Joel Moreno led the audience in the pledge of allegiance to the flag of the United States of America.

RECOGNITION OF AGENCY'S 75th ANNIVERSARY

Presiding Officer Cuevas welcomed everyone in attendance at the Commission Meeting. He stated that it is a pleasure to host the recognition of the Texas Alcoholic Beverage Commission's 75th Anniversary. He commented that this celebration allows him to proudly boast about the employees who perform an outstanding job for the Agency.

Presiding Officer Cuevas humbly thanked everyone in attendance during this time of reflection to give thanks to the Lord for the good things that are happening in their lives. He stated that he often comments to people on "good" things that are done in the agency, yet it is mostly the "bad" things that people remember. In respect to the remembrances whether it be good or bad, he stated "one must remember to do their best and forget the rest."

In recognizing the distinguished guests, Presiding Officer Cuevas acknowledged the presence of Christopher Burnett, Director of the Criminal Justice Division, in the Governor's Office.

Administrator Alan Steen was asked to come forward to give a brief history of the Agency's 75th year of existence.

Alan Steen reflected on his tenure as TABC's Administrator that began on August 1, 2003. He cited that during his tenure, he has worked to reorient the agency's focus onto public safety initiatives, the increased use of technology, and a "bottom up" management philosophy that has required greater involvement of employees in major agency initiatives, as well as more collaborative decision-making. He commented on how the empowerment of employees to make key decisions has resulted in more creativity in problem-solving, higher efficiency, and improved job satisfaction.

Administrator Steen recalled the agency's successful strides in building coalitions with industry members as Fred Marosko with the Texas Package Stores Association and Nicole Holt with "Texans Standing Tall". He commented that the partnering between TABC, industry stakeholders and other governmental agencies have become a valuable asset to the Agency.

Administrator Steen spoke on the transforming of the agency's data processing system with upgrades that currently support a greater number of users and application systems. During his tenure, the manual outdated operation of processing licenses and permits was replaced with a more efficient automated operation in the Licensing Division. He commented that there has been a reduction in the amount of paperwork involved in the process with improvement toward the capacities for on-line access to information that has benefitted the general public, the media, and individuals in the alcoholic beverage industry as well as TABC employees.

Administrator Steen stated that his vision to change the public's perception of the TABC's Enforcement Division is moving in the right direction. He credits Chief Joel Moreno's redirected philosophy in creating a collaborative and cooperative working relationship between the Compliance and Enforcement personnel in cooperative intelligence gathering and investigations, focusing on "bad actors" and to promote public safety.

Administrator Steen acknowledged his Executive Management Team that serve in the positions of assistant administrator of support services, chief of field operations, general counsel, director of the office of professional responsibility, chief of staff, and the director of governmental relations and communications, who share in the responsibilities in the daily agency operations. He publicly thanked each of them for their support and exceptional work completed during his recent absence from the agency.

Presiding Officer Cuevas thanked Administrator Steen for his leadership. He stated that the Agency is truly better because of him and his Executive Management Team.

Presiding Officer Cuevas called upon Director Christopher Burnett from the Governor's Office of the Criminal Justice Division to come forward and read the Proclamation from the Governor's Office. (Attachment 1)

Commissioner Weinberg commented on his appointment by Governor Perry to the TABC Commission. He stated that his service on the Commission has been a tremendous experience. He counts it a great honor to work with two great Commissioners and a great staff at TABC. Commissioner Weinberg spoke on how adaptable and supportive the industry has been to the Commission and the Agency. He expressed his gratitude to Pastor Brann for his participation.

Commissioner Fredricks stated that she appreciated everyone in attendance and is honored to be serving as a member of the TABC Commission. She received the draft booklet detailing the 75 years of the history of the Texas Alcoholic Beverage Commission compiled by Director Carolyn Beck and thought it to be well documented and informational.

Commissioner Weinberg complimented Director Beck for the 75 years of the history of the Texas Alcoholic Beverage Commission draft booklet and thanked her for including the TABC employees who are serving in the United States military branch of services.

Commissioner Cuevas suggested that a letter needs to be sent to those TABC employees serving in the military from the Commission and Administrator Steen expressing appreciation for their commitment of service for their country.

Presiding Officer Cuevas quizzed Administrator Steen on how the local options election will affect the Agency's handling of permits and licenses.

Administrator Steen stated that the votes local options election have been canvassed and that area in Dallas is "wet." He stated that depending on the type of the application, (beer, liquor, mixed beverage), the city and/or county clerk's offices are receiving applications for certification. As advised by his executive staff, Administrator Steen expects applications to become permits in late December.

Presiding Officer Cuevas stated that the Commission is available to assist the Agency in circumstances that do not require statutory decisions.

Commissioner Weinberg inquired about the progress of video web conferencing. Administrator Steen stated that the equipment has been purchased. IRD Director Jay Webster stated he and his staff expect to have a trial session in the upcoming months.

PRESENTATION AND ACCEPTANCE OF GIFT TO COMMISSION BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION OFFICERS' ASSOCIATION IN COMMEMORATION OF THE AGENCY'S 75th ANNIVERSARY

Presiding Officer Cuevas addressed the next agenda item, Presentation and Acceptance of a Gift to the Commission by the Texas Alcoholic Beverage Commission Officer's Association in Commemoration of the Agency's 75th Anniversary.

Before the presentation, Administrator Steen briefed the Commission on the history and formation of The Texas Alcoholic Beverage Commission Officers' Association. He stated that in 2005, Agent Darryl Darnell, Agent Tricia Rutledge, and Agent Johnny King had a meeting with him to discuss revitalizing the TABC Officers' Association. At the conclusion of the meeting, Administrator Steen and those three agents agreed to the following objectives:

- The Association would not embarrass the Agency;
- The Association would always be truthful, fair, and honest with the Agency;
- The Association would always do what was in the best interest of the Agency.

Administrator Steen stated that the vision of those three agents have provided a strong foundation toward the existence of the present day Association and its members.

The Association's President Harry Nanos and members of TABCOA came forward for the presentation. The Association presented to the Commission a TABC 75th Anniversary Commemorative Pistol "STI" 45 Caliber Model 1911 Serial #001 along with a plaque that reads:

***Presented to the Commission this 18th Day of November, 2010,
by the TABC Officers' Association and Administrator Alan Steen
in Celebration of 75 years of Service to the Citizens of Texas.***

TABCOA Board of Directors

Officers

***President – Harry Nanos
Vice Pres – Gilbert Alba
Treasurer – Joe Franco
Secretary – Raul Ruiz
Past Pres – Darryl Darnell***

Regional Representatives

***Region 1 – David Ianni
Region 2 – Dale Ramirez
Region 3 – Mike Sehon
Region 4 – Scott Helpenstell
Region 5 – Alfredo Alvarez***

(Attachment 2)

Presiding Officer Cuevas called upon Inspector Darryl Darnell for the Tribute to the Fallen Texas Alcoholic Beverage Commission Officers. Inspector Darnell's tribute was supported by a PowerPoint presentation. (Attachment 3)

Agent Delbert Pearson

On January 18, 1973, Delbert H. Pearson was the first commissioned officer of the Texas Alcoholic Beverage Commission to die in the line of duty.

On January 18, 1973 at approximately 9:45 p.m., Agent Pearson responded to a radio call from the Clarksville Police Department requesting his assistance. Agent Pearson, along with Clarksville Police Officer Dale Sulsar, staked out an illegal whiskey stash that had been discovered by Officer Sulsar. At approximately 10:15 p.m., Agent Pearson confronted a suspect who was returning for the illegal whiskey. Agent Pearson was only able to identify himself before being shot in the chest at close range with a 12-gauge shotgun. Agent Pearson was pronounced dead at the scene at 10:30 p.m.

The suspect who killed Agent Pearson had seven prior arrests with six convictions. He is now serving a life sentence in prison.

Delbert H. Pearson had been a commissioned officer with the Texas Alcoholic Beverage Commission since February 4, 1952. He is survived by his wife and two daughters. Delbert was originally from Paris, Texas and was 55 years old at the time of his death.

Agent Joseph Jay Crews

On September 21, 1979, Joseph Thomas "Jay" Crews became the second commissioned officer of the Texas Alcoholic Beverage Commission to die in the line of duty since the inception of the Commission in 1935.

Jay Crews launched his law enforcement career in 1973 as a patrolman with the Woodville Police Department. He continued his education until 1975 at which time he received a Bachelor of Science Degree in Social Studies from Lamar College, Beaumont Texas. Thereafter, he taught history at the Chester Independent School District. A strong desire for public service lured Jay back to the more rewarding occupation of law enforcement. He returned to the Woodville Police Department while he waited for an opening with the Texas Alcoholic Beverage Commission.

On January 2, 1979, after a wait of 2 years, Jay was employed by the Texas Alcoholic Beverage Commission as an Inspector in the Baytown office of the Houston District.

With the enthusiasm and diligence of a new employee in a rewarding and exciting career, Jay tackled his new responsibilities. Part of his many duties included the

removal of intoxicated persons from licensed premises and from the State's roadways to protect our society from the intoxicated driver. Ironically, on September 21, 1979, after having departed a licensed premise after an inspection, an intoxicated and uninsured motorist came into Jay's lane of traffic and hit his vehicle head-on. He died instantly in this tragic and brutal collision. Jay was a dedicated law enforcement officer. His tombstone reads "Joseph T. (Jay) Crews, October 20, 1948 to September 21, 1979. To Protect and to Serve." The badge of an Inspector of the Texas Alcoholic Beverage Commission is engraved on the tombstone above the words "To protect and to serve."

Funeral services for Joseph Thomas "Jay" Crews, age thirty, were held on September 24, 1979 at the Woodville United Methodist Church. He was buried at Magnolia Cemetery, Woodville, Texas. A large contingent of State, County, and Municipal officers formed an honor guard for his funeral.

The names of both of these agents are permanently inscribed on the Texas Peace Officers Memorial located at the Texas State Capitol and at the National Law Enforcement Officers' Memorial in Washington, D.C.

In concluding the tribute, Inspector Darnell asked of the audience, "Let's us never forget it is not how these officers died that made them heroes, but it is how they lived."

Presiding Officer Cuevas called for a motion to accept the gift to the Commission by the Texas Alcoholic Beverage Commission Officers' Association in Commemoration of the Agency's 75th Anniversary. Commissioner Weinberg so moved. Commissioner Fredricks seconded. The motion carried.

RECOGNITION OF TABC LICENSE AND PERMIT HOLDERS

Presiding Officer Cuevas asked for the presentation of agenda item #5, Recognition of TABC License and Permit Holders. Director Carolyn Beck was the next presenter and her presentation was supported with a PowerPoint presentation. (Attachment 4)

Director Beck's presentation included a brief history of each recognized industry:

"Industry Recognition"

- "Oldest Winery in Texas" ---- Val Verde Winery, Tastefully Texan Since 1883
- "Oldest Wholesaler in Texas"--- Glazer's, A Century of Excellence Since 1909
- "Oldest Active Permit Issued" September 1, 1942
- "Oldest Distributor in Texas" --- Del Papa Distributing, Anheuser-Busch Distributor Since 1930, Established in 1910
- "Oldest Distributor in Texas" --- Ben E. Keith Co. Beverage Distributors,

Selling Anheuser-Busch products Since 1933, Established in 1906

- “Oldest Active Permit Issued, August 31, 1939
- “Oldest Independent Brewery in Texas” --- Spoetzl Brewery, Every drop of Shiner is made in Shiner. Founded in 1909
- “First Legal Distillery in Texas” --- Tito’s Homemade Vodka, First vodka sale in 1997. Founded in 1995

“Oldest TABC Permits”

- ▶ 9/01/1937 – San Antonio Hermann Sons Home Association in San Antonio
- ▶ 1/01/1938 – Hochheim Prairie Hermann Sons Hall Association in Yoakum
- ▶ 1/01/1938 – Germania Farmer Verein in Spring Branch
- ▶ 1/03/1938 – Beethoven Maennerchor Inc in San Antonio
- ▶ 4/07/1938 – Laubach Bowling Club in Seguin
- ▶ 7/18/1938 – Solms Bowling Club in New Braunfels
- ▶ 9/01/1939 – Merrick Medicine Company in Waco

Presiding Officer Cuevas, Commissioners Fredricks and Weinberg paused during the meeting for photographs with the recognized members of industry in attendance.

25 YEARS SERVICE RECOGNITION TO JOEL MORENO, CHIEF OF FIELD OPERATIONS

Presiding Officer Cuevas asked Chief Joel Moreno to come forward to be recognized for 25 years of service to the Texas Alcoholic Beverage Commission.

Presiding Officer Cuevas spoke congratulatory words on behalf of Chief Moreno’s years of service at the Texas Alcoholic Beverage Commission. He stated that it is truly a pleasure to honor Chief Moreno because as he has served as a Commissioner at TABC, it becomes natural to become attached to the personnel. The mutual respect between him and Chief Moreno occurred at their first meeting. Chief Moreno’s work ethic in his rising through the ranks to his current position is admirable.

Chief Joel Moreno has over 30 years of law enforcement experience, beginning his career with the McAllen Police Department in 1980. Chief Moreno was hired by TABC in 1985 as an Agent working in different locations such as Laredo, McAllen, and Harlingen. In 1994 he was promoted to Sergeant stationed in Houston and promoted to Lieutenant in 1998 stationed in Corpus Christi. In 2002 he was promoted to Regional Captain of West Texas which includes the Midland/Odessa and El Paso area where he was assigned to 28 counties. Moreno was then promoted to Deputy Assistant Chief of Enforcement in 2004 and to Chief of Enforcement in 2007, becoming the only Hispanic to serve TABC as Chief of Enforcement in its 75 year history. In February 2008, he accepted a new position in the agency - Chief of Field

Operations - and currently supervises both enforcement and compliance operations for TABC.

Chief Moreno received a Bachelor of Science Degree in Criminal Justice at the University of Texas Pan American in Edinburg, and he has been awarded a TCLEOSE Master Peace Officer Certification. He is a graduate of the Governor's Executive Development Program at the Lyndon B. Johnson School of Public Affairs, University of Texas at Austin. (Attachment 5)

Chief Joel Moreno thanked the Commissioners and Administrator Steen for the opportunities that he has been afforded during his tenure at TABC.

Presiding Officer Cuevas, Commissioners Fredricks and Weinberg, Administrator Steen, and Assistant Administrator Cook were photographed with Chief Joel Moreno.

PRESENTATION OF TENURE AWARDS

Presiding Officer Cuevas called for the next agenda item, the presentation of the tenure awards.

Chief Joel Moreno, Chief of Field Operations presented the tenure awards for the Enforcement/Compliance Division (Attachment 6)

<u>TABC EMPLOYEE</u>	<u>YEARS OF SERVICE</u>
Darryl Darnell	20 years
Nicolas Gutierrez III	20 years
Larry Karstadt	20 years
Russell Moore	20 years
Danny Pavlas	20 years
Harold Salmon III	20 years
Doyce Vandivere	20 years
Kevin Bammert	25 years
Charles Horton	25 years
Paul Morgan	25 years

Assistant Administrator Sherry Cook presented the tenure awards for the Support Services Division (Attachment 7)

<u>TABC EMPLOYEE</u>	<u>YEARS OF SERVICE</u>
Mario Benavides	20 years
David Frausto, Jr.	20 years
Amy Harrison	20 years
Paul J. King	20 years

<u>TABC EMPLOYEE</u>	<u>YEARS OF SERVICE</u>
Bob White	20 years
Noe Castaneda	25 years
Jennifer Evans	25 years
Richard Maness	25 years
John "Jay" Webster	30 years
Mona Appling	35 years
Darla Elam	35 years

General Counsel Emily Helm presented the tenure award for the Legal Division (Attachment 8)

<u>TABC EMPLOYEE</u>	<u>YEARS OF SERVICE</u>
Yvonne Tucek	45 years

Presiding Officer Cuevas congratulated each recipient for their service and dedication to the Agency. He commented, after Ms. Tucek's passionate statement about her "love for the job working at TABC", that he believes that the State of Texas is fortunate to have the best and brightest employees working at TABC.

PRESENTATION OF THE 2010 ALLAN SHIVERS, JR., AWARDS OF EXCELLENCE IN PUBLIC SERVICE

Presiding Officer Cuevas addressed the next item on the agenda, the presentation of the 2010 Allan Shivers, Jr., Awards in Excellence in Public Service.

Presiding Officer Cuevas stated that the Allan Shivers Award for Excellence recognizes the outstanding performance and accomplishments of agency employees. This year, TABC accepted nominations in four categories using the agency's cornerstones: Courtesy, Service, Integrity and Accountability. He stated a total of 38 nominations were received.

Joseph Iagnemmo - Award for Service

Joe Iagnemmo began his career with TABC in November of 1999 as a System Support Specialist in the Information Resources Division.

As Web Administrator, Joe is responsible for posting all of TABC's public and employee information regarding the agency's business practices and regulations to both an internet and intranet website. Last year, Joe worked with the agency's Web Team of more than 15 individuals to gather, update and redesign TABC's 12 year-old public website. He collaborated with Web Team members and the Director of Communications and Government Relations to create a new navigational structure,

edited out-dated information and added needed content to create the layout of each division's web pages. Joe's work with the team members, division managers and upper management resulted in a website that is both aesthetically and technically improved. Today's public website is flexible, expandable and future-oriented. And, it was delivered on schedule!

Frances Kolliner - Award for Courtesy

Fran Kolliner began her career with TABC in February 1996 as an Administrative Technician in the Compliance Department.

Fran can be described as calm, yet always moving and constantly busy to meet the demands of her Administrative Assistant position in the Tax Division. She is always available to assist a customer or fellow employee, despite constantly ringing phones and pressing deadlines. Fran listens intently to the question or concern and provides a professional, courteous answer. The person requesting the information is not only given her undivided attention, they never feel as though they imposed upon her or that she was planning to do anything else at that moment except assist them with the information they needed. In the 14 years she has been with the agency, she has never received a single complaint, but has received numerous compliments from the industry, seller training schools, and her peers.

Lola Logan - Award for Integrity

Lola Logan began her career with TABC in April 2001 as a Secretary in the Fort Worth Enforcement Office and now serves as Administrative Assistant in the Arlington Enforcement District Office.

Lola takes great pride in her work and she is "all business." Before Lola puts her name on an assignment, she checks and double checks to make sure her work is accurate. When an error is identified, she accepts responsibility and does not quit until all is corrected. Lola rarely misses work - not even for bad weather. Last year when the Fort Worth-Dallas area was bombarded with ice and snow, she still got to work on time despite the fact that she lives some 60 miles away in Hillsboro. She brought a change of clothes and her bed roll prepared to spend the night in the office to ensure she was at work the next day. Of course, they sent her home along with everyone else.

Ronald Alexander - Award for Accountability

Ronald Alexander began his career with TABC in July 2007 as an Accounts Examiner in the Houston Licensing District Office.

Ron holds himself accountable to TABC's rules, laws and policies. He applies the Alcoholic Beverage Code in a fair, consistent and timely manner as he examines and processes beer and wine on-premise and other types of applications. Ron will go out

of his way to educate and inform the applicants, so they can better understand the process. From his desk to his filing cabinets, it all has purpose that embodies Ron's self-directed style. He is accessible, transparent, efficient and effective while always being accountable to the people he encounters.

When life gets in the way, Ron doesn't use excuses, justifications, rationalizations or apologies. In the face of a critical personal situation, Ron never wavered in his commitment nor did he make excuses or try to justify any of his hardships. Moreover, Ron tackled the endeavor with a smile and an unrelenting fortitude.

Presiding Officer Cuevas acknowledged the attendance of Renee Johnston Andrews and Lou Bright as former TABC employees who retired earlier in the year.

PRESENTATION OF NATIONAL ASSOCIATION OF LICENSING & COMPLIANCE PROFESSIONALS BEST PRACTICES AWARD TO TABC LICENSING DIVISION

Presiding Officer Cuevas called upon Mr. Ryan Bissett, President, National Licensing Paralegal, and Whole Foods Market in Austin, Texas for his presentation.

Before his presentation, Mr. Bissett congratulated the Texas Alcoholic Beverage Commission on its 75 years of outstanding service to the citizens in the State of Texas and the alcohol industry. He represents the National Association of Licensing and Compliance Professionals (NALCP) which is a non-profit organization comprised of in-house hospitality licensing and compliance professionals specializing in on-site retail liquor licensing. The organization represents a large number of restaurant chains, hotel chains, grocery stores chains, drugstores and one airline. NALCP was formed in 2006 and is the first organization of its kind to provide services, support, networking, and grass root efforts on behalf of the hospitality industry's in-house licensing professionals. His organization works to establish cooperative relationships among its members as well as related licensing authorities, advancing legislative agendas pertaining to licensing, fostering strong and productive lines of communication and creating advocacy efforts to ensure consistent and coherent processes and mutual understanding between NALCP and the government authorities. In this role, NALCP gets an opportunity to deal with regulatory agencies all over the country.

Mr. Bissett stated that each year NALCP chooses an agency that exemplifies best practices and one that has been of great service to NALCP members. He stated that when members' votes were tallied, it was almost unanimous to award this year's recognition to Ms. Amy Harrison and the TABC Licensing Division. Mr. Bissett asked Director Harrison to come forward for the presentation.

Mr. Bissett read from a prepared statement as posted on the National Association of Licensing and Compliance Professionals website:

The National Association of Licensing and Compliance Professionals (“NALCP”) is pleased to present its 2010 Best Practices Award to the Texas Alcoholic Beverage Commission (“TABC”), in recognition of the TABC Licensing Division’s commitment to innovation and outstanding customer service. Over the past year, the Licensing Division has instituted several changes that warrant recognition for greatly improving the licensing process and raising the level of service TABC provides to the hospitality industry.

Some of the TABC’s key accomplishments have been:

- Reducing the amount of paperwork required for new applications
- Streamlining the local approval (pre-qualification) process, which reduced the amount of paperwork and provided greater flexibility in obtaining local approval
- Creating the Master File application process, which drastically reduced the amount of time and paperwork required for “known applicants” to obtain additional licenses
- Reorganizing the Licensing Division to increase efficiency
- Scanning the storing documents electronically, to facilitate faster review
- Continuing improvement of the online public inquiry system, which allows applicants to track the status of applications and issued licenses

With these and other changes, TABC has made significant strides in lowering application processing times and raising their overall level of service to the industry. The TABC Licensing Division and its Director Amy Harrison, under the direction of TABC Administrator Alan Steen should be commended on their leadership and execution of these changes. They truly exemplify how Best Practices make everyone’s job easier. The NALCP is proud to honor them with our 2010 Best Practices Award.

Director Amy Harrison graciously thanked Mr. Bissett and the Association for their recognition because it is wonderful when one is recognized for working hard. She stated that the award is shared with the Commission, Administrator Steen and Executive Management Staff for their leadership, commitment and support in the project. Director Harrison thanked the industry for their support in participating in the brainstorming meeting to discuss the various changes that would affect them and the Agency. She thanked the entire agency offices and divisions for their support. And last, but not least, she thanked her licensing team with a promise of new projects on the horizon.

Presiding Officer Cuevas announced a recess of the Commission meeting at 11:19 a.m. to observe the recognition of the Agency’s 75th anniversary inviting Commissioners, Agency personnel, and guests to the hotel foyer for refreshments.

At the conclusion of the recess, Presiding Officer Cuevas called the Commission meeting back to order at 12:09 p.m.

APPROVAL OF COMMISSION MEETING MINUTES OF OCTOBER 26, 2010

Presiding Officer José Cuevas called for approval of the Commission meeting minutes of October 26, 2010. Commissioner Steven Weinberg so moved to approve the minutes as written, and Commissioner Melinda Fredricks seconded. The motion carried.

ADMINISTRATOR'S REPORT: ADMINISTRATOR AND AGENCY ACTIVITIES, BUDGET ISSUES, STAFF ACHIEVEMENTS

Presiding Officer José Cuevas called upon Administrator Alan Steen for the Administrator's report.

After welcoming the Commissioners back to Austin for another commission meeting, Administrator Steen's report began with comments of recognition of his Executive Management Team. He conveyed his appreciation in the handling of the Agency's daily business affairs during his recent absence.

Administrator Steen's report began with the graduation of 11 new agents. All of them have reported to their duty field offices. With the anticipation of the upcoming budget cuts, the Agency may not be able to conduct future agent academy classes. However, with the current enforcement and compliance personnel, the public safety standards will continue to be upheld.

Administrator Steen's next topic was the Dallas County local option elections in which the following propositions were voted in the November 2, 2010 general election:

- Proposition No. 1, the legal sale of beer and wine for off-premise consumption only, **PASSED**;
- Proposition No. 2, the legal sale of mixed beverages in restaurants by food and beverage certificate holders only, **PASSED**.

Administrator Steen will provide in the January 2011 report to the Commission a question posed by Commissioner Fredricks. She wants an answer to the number of square miles in Texas that are currently wet versus the number of square miles that were not wet before the election. How has changes in the law and changes in the local options election affected the outcome?

Administrator Steen reported that the Executive Management Team is continuing their visits with the Senators and House of Representative members that serve on committees of appropriations, public safety, economic development, and technology. He noted that a detailed analysis packet outlining the challenges for the Agency is being left with each member during the meetings. The personal visits and the packet have served as a good informational tool for the Agency. Administrator Steen

anticipates the completion of 62 visits by the time the legislature convenes in January.

The pending case load in Legal at the end of the fiscal year was the next issue of discussion. Administrator Steen emphasized that the caseloads have gone through a different standard for settlement. He stressed a better understanding of a change in the mindset that eventually will determine the monetary settlement of a case; it is not only the monetary portion, but it deals with behavior. Administrator Steen pointed out in the PowerPoint presentation, which shows a decrease in the number of administrative cases and he was satisfied with that because it illustrates that the owner is complying with the rules and regulations.

Next, Administrator Steen slightly changed a slogan from a retail store that says, "Subtle Signs of Success" to "Subtle Signs of Leadership" to do a job that does not necessarily have any association with the hired position. The State Employee Charitable Campaign is one such job. The State Employee Charitable Campaign is the only statutorily-authorized workplace campaign for state and higher education employees throughout Texas. He recognized and thanked volunteers from headquarters and statewide. Administrator Steen thanked the donors for their unselfish contributions to those that are in need during this holiday season.

Administrator Steen's report was supported with a PowerPoint presentation. (Attachment 9)

REQUEST FOR AN ORDER BY THE COMMISSION TO PROHIBIT THE POSSESSION OF AN OPEN CONTAINER OR THE PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF SHAMROCK PURSUANT TO §109.35, TEXAS ALCOHOLIC BEVERAGE CODE

Presiding Officer José Cuevas called for General Counsel Emily Helm for the presentation requesting the approval of a Petition by the City of Shamrock. The petition is for an Order Permitting Adoption of a Local Ordinance, banning open containers in their Central District, under §109.35, Texas Alcoholic Beverage Code.

General Counsel Helm briefed the Commission on the details of the petition:

Alcoholic Beverage Code §109.35, allows the governing body of a city to petition the Commission to prohibit:

- The possession of an open container;
- The public consumption of alcoholic beverages;
- In the Central Business District of the city.

General Counsel Helm defined "Central Business District" and "Open Container" for the Commission according to the code:

Central Business District: 109.35 (d)

A compact and contiguous geographic area of a municipality in which at least 90% of the land is issued or zoned for commercial purposes and that is the area that has historically been the primary location where business is transacted.

Open Container: 109.35 (e)

An open container is a container that is no longer sealed.

This definition is to distinguish the difference between the transportation penal code violation for having an open container and from a criminal violation in having an open container.

General Counsel Helm stated that the city's requirements in determining whether or not the city qualifies in prohibiting consumption in the central business district have been met. She stated the city is petitioning the Commission for an order and the Central Business District has presented a map, plat, or diagram showing the prohibition.

If the diagram properly identifies the Central Business District, the Commission is being asked to approve and issue the Order without further consideration.

General Counsel Helm's PowerPoint presentation supports her report.
(Attachment 10)

Presiding Officer Cuevas called for a motion. Commissioner Weinberg moved to approve the petition by the City of Shamrock for order permitting adoption of local ordinance banning open containers in Central Business District, under §109.35, Texas Alcoholic Beverage Code. Commissioner Fredricks seconded. The motion was made and seconded. The motion carried.

FY 2010 INTERNAL AUDIT ANNUAL REPORT

Presiding Officer Cuevas called upon Mr. Russell Gregorczyk, Internal Auditor, Jansen & Gregorczyk Certified Public Accountants for the presentation of the next agenda item.

Mr. Gregorczyk report on the FY 2010 Internal Audit Plan for TABC is based on the results of the risk assessment presented. Audits are required to be performed on a periodic basis by the Internal Act and the Commission's input on areas where internal audits would be helpful.

The key audit findings and recommendations are in Mr. Gregorczyk's report.
(Attachment 11)

APPROVAL OF ENFORCEMENT AND LICENSING INTERNAL AUDITS

Mr. Russell Gregorczyk continued to the next agenda item, the Approval of Enforcement and Licensing Internal Audits. Separating the enforcement and licensing audit reports for discussion, Mr. Gregorczyk spoke on the audit for the Enforcement Division.

Mr. Gregorczyk stated the primary purpose of the internal audit was to evaluate the effectiveness of policies governing key enforcement functions performed by the Enforcement Division field offices, the adequacy of the division's management reporting system and the effectiveness of the policies.

Mr. Gregorczyk's report provided the results and recommendations noted during the internal audit of the Enforcement Division. (Attachment 12)

Presiding Officer Cuevas asked for comments from Commissioner Fredricks, who chairs the audit committee. Commissioner Fredricks commented that the manual is relatively new and with revisions from Chief Moreno and Assistant Chief Venner, it should be a valuable tool for the Enforcement Division.

Commissioner Weinberg commented that the Enforcement Division personnel are a sizeable part of the Agency and this was an in depth audit. With having only a few recommendations, Commissioner Weinberg congratulated Chief Moreno and the Enforcement Division on having an outstanding audit.

Mr. Gregorczyk summarized the audit recommendations covered in the Licensing audit. He commented that the purpose of the internal audit was to evaluate the adequacy of internal controls and the effectiveness and efficiency of procedures used by the Licensing Division for processing alcoholic beverage license and permit applications and renewals. A secondary purpose of the audit was to evaluate the adequacy of the division's management reporting system. Mr. Gregorczyk conducted a survey at headquarters and field offices, with a return of 100 percent.

Mr. Gregorczyk had a recommendation involving training. He suggested training to include specific training on all the different types of licenses and permits and topics suggested by staff such as management agreements, concession agreements, private clubs, wholesalers and manufacturers, and interpersonal skills – working with difficult applicants. Another minor issue was the referencing of form numbering. The staff agreed and has already explored the necessary changes.

The report provides the results and other recommendations noted during the internal audits of the Licensing Division. (Attachment 13)

Commissioner Weinberg commented about the past delays in conducting the Licensing audit because of the changes in the division. He stated that he anticipates

more changes to occur in the coming months as the Licensing Division redefines and streamlines its processes.

Commissioner Fredricks commented that she was not aware if most audits are based on employee survey responses, but the licensing and enforcement audits did use employee feedback as a bases of the audits, which is good.

Presiding Officer Cuevas complimented Director Harrison for being a great leader. He stated that he is amazed with her and her enthusiastic staff in performing such a tremendous job over the last four years. Director Harrison praised her employees and stated that “they embrace change to do a good job.” Presiding Officer Cuevas agreed that they get the job done and it comes from having a great leader.

Presiding Officer Cuevas called for a motion. Commissioner Fredricks moved to approve the Texas Alcoholic Beverage Commission’s Enforcement Internal Audit and the License and Permit Processing Internal Audit. Commissioner Weinberg seconded. The motion carried.

SELLER SERVER TRAINING CURRICULUM BRIEFING

Presiding Officer Cuevas called upon Assistant Administrator Sherry Cook for the briefing report on the Seller Server Training Curriculum.

Assistant Administrator Cook’s report includes the final review of the Seller Server curriculum by the Commission before it goes live to the seller server schools in January 2011.

Assistant Administrator Cook stated that Mindy Carroll, Assistant Director, Education and Prevention, diligently worked toward the completion of the seller server training curriculum before going on maternity leave. The curriculum, not yet completed, required more revisions, Ms. Ashleigh Jons, Coordinator of Seller Server, was able to continue and finish the curriculum. Assistant Administrator Cook recognized the level of effort required and the commitment performed by Coordinator Jons and the talented personnel in Education and Prevention, along with Assistant General Counsel Martin Wilson’s help with the rules associated with this curriculum, during the absence of Assistant Director Carroll.

In the course development, the content and design standards formalized were:

- Audit findings recommended standardizing the curriculum statewide.
- Content was developed by TABC staff. Personnel from education, compliance and enforcement were involved.
- TABC staff developed course outline and material requirements.
- Curriculum design developed by third party.
- TABC staff met with design company bi-weekly and several drafts were created.

- Rough draft was reviewed by internal staff and sent to schools for comment.
- A curriculum review panel was established to review comments and set final course of instruction.
- Final draft was developed based on work group findings and suggestions

Assistant Administrator Cook re-emphasized the Agency's focus on "public safety. She stated that it is critical to "public safety" and the Agency's number one concern when it comes to a person selling and serving alcoholic beverages.

The curriculum work group included representatives from seller server training schools and outside organizations.

- HEB Grocery
- Texas Restaurant Association
- TABCP permit.com
- Center for Alcohol and Education Studies, Texas A & M University
- Texoma Alcohol Awareness
- MB Consulting
- Mothers Against Drunk Driving (MADD)

Assistant Administrator Cook spoke on some of the special features in the curriculum design: Code references; knowledge assessment questions; teaching tips; discussion questions and scenarios; optional student manual/handouts; optional PowerPoint presentation

Assistant Administrator Cook's presentation was supported by a PowerPoint presentation. (Attachment 14)

Presiding Officer Cuevas applauded Assistant Administrator Cook for another example in having good leadership qualities.

PUBLIC COMMENT

Presiding Officer Cuevas opened the floor for public comments. No one came forward to address the Commission.

EXECUTIVE SESSION

The regular open session of the Texas Alcoholic Beverage Commission was recessed at 12:59 p.m., November 18, 2010 and an executive session was held to consult with Legal Counsel regarding pending and anticipated litigation against the agency and to discuss the duties, responsibilities, and evaluation of the Administrator, pursuant to Texas Government Code, §551.071, §551.074.

The Texas Alcoholic Beverage Commission concluded its executive session at 2:27 p.m., November 18, 2010, and resumed the open regular session. No final action, decision or vote was made in executive session.

NEXT MEETING

Presiding Officer Cuevas announced the next meeting dates are scheduled for Tuesday, January 25, 2011 and Tuesday, February 22, 2011. There will not be a meeting in December.

ADJOURNMENT

Presiding Officer Cuevas called for a motion to adjourn. Commissioner Weinberg so moved and Presiding Officer Cuevas seconded. The motion was made and seconded. The motion carried, and Presiding Officer Cuevas announced that the meeting was adjourned at 2:30 p.m.

Attachment 1

Governor's Proclamation



THE STATE OF TEXAS

GOVERNOR



*To all to whom these presents shall come,
Greetings: Know ye that this official recognition is
presented to the:*

Texas Alcoholic Beverage Commission on the occasion of its 75th Anniversary

Congratulations to the men and women of TABC, past and present, as you celebrate the agency's 75th anniversary.

TABC employees serve the people of the Lone Star State by enforcing the laws and regulations that hold our society together. For three-quarters of a century, Texans have depended on TABC to protect public safety and promote fair competition. I join my fellow Texans in thanking you all for your service, and I congratulate you on this milestone.

First Lady Anita Perry joins me in wishing you continued success.



In testimony whereof, I have signed my name and caused the Seal of the State of Texas to be affixed at the City of Austin, this the 12th day of August, 2010.

Rick Perry

Rick Perry
Governor of Texas

Attachment 2

**Presentation of Gift to Commission by the
Texas Alcoholic Beverage Commission Officers'
Association**

TABC
75th Anniversary
Commemorative Pistol

“STI” 45 Caliber Model 1911 Serial #001

Presented to the Commission this 18th Day of
November, 2010, by the TABC Officers' Association and
Administrator Alan Steen in Celebration of 75 Years of Service
to the Citizens of Texas

TABCOA Board of Directors

Officers

President - Harry Nanos
Vice Pres - Gilbert Alba
Treasure - Joe Franco
Secretary - Raul Ruiz
Past Pres - Darryl Darnell

Regional Representatives

Region 1 - David Ianni
Region 2 - Dale Ramirez
Region 3 - Mike Sehon
Region 4 - Scott Helpenstell
Region 5 - Alfredo Alvarez

Attachment 3

**Tribute to the Fallen Texas Alcoholic
Beverage Commission Officers**

Tribute to Fallen Agents



Agent Delbert Pearson
February 4, 1952 - January 18, 1973



Agent Joseph Jay Crews
January 2, 1979 - September 21, 1979



Attachment 4

**Recognition of TABC License and
Permit Holders**

“Industry Recognition”



TABC Commission Meeting
November 18, 2010

“Oldest Winery in Texas”



Tastefully Texan Since 1883.



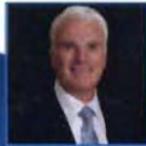
Four generations of Qualia winemakers

“Oldest Wholesaler in Texas”



Since 1909.
A Century of Excellence.

Bennett Glazer
Chairman/CEO



Oldest Active
Permit Issued
9/1/1942

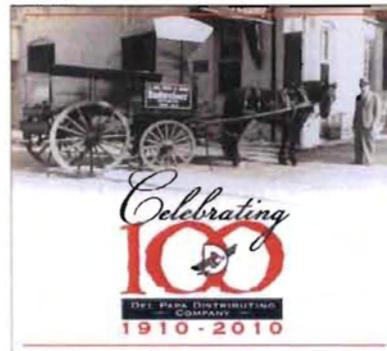


“Oldest Distributor in Texas”

DEL PAPA DISTRIBUTING
ANHEUSER-BUSCH DISTRIBUTOR SINCE 1930

Established in 1910.
Selling Anheuser-Busch products since 1930.

Larry Del Papa
President



“Oldest Distributor in Texas”



Established in 1906.
Selling Anheuser-Busch
products since 1933.

Kevin Bartholomew
President



Oldest Active
Permit Issued
8/31/1939



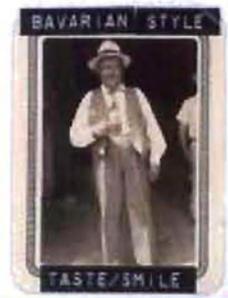
“The Hallum Men”

“Oldest Independent Brewery in Texas”



Spoetzl Brewery. Founded in 1909.
Every drop of Shiner is made in Shiner.

Kosmas Spoetzl
Purchased brewery in 1915.



“First Legal Distillery in Texas”



**Founded in 1995.
First vodka sale in 1997.**



**“It's just real good vodka.”
Bert “Tito” Beveridge**

“Oldest TABC Permits”

- ▶ 9/1/1937 - San Antonio Hermann Sons Home Association in San Antonio
- ▶ 1/1/1938 - Hochheim Prairie Hermann Sons Hall Association in Yoakum
- ▶ 1/1/1938 - Germania Farmer Verein in Spring Branch
- ▶ 1/3/1938 - Beethoven Maennerchor Inc in San Antonio
- ▶ 4/7/1938 - Laubach Bowling Club in Seguin
- ▶ 7/18/1938 - Solms Bowling Club in New Braunfels
- ▶ 9/1/1939 - Merrick Medicine Company in Waco

Attachment 5

**25 Years Service Recognition to Joel Moreno,
Chief of Field Operations**



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

**25 YEARS SERVICE
RECOGNITION
TO
JOEL MORENO
(1985 - Present)**

**JOSÉ CUEVAS
PRESIDING OFFICER**

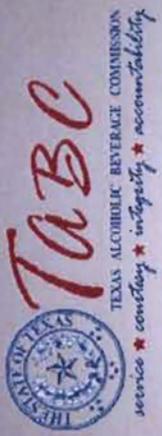


CHIEF OF FIELD OPERATIONS

Attachment 6

Presentation of Tenure Awards

Enforcement/Compliance Division



TABC
TEXAS ALCOHOLIC BEVERAGE COMMISSION
*service * courtesy * integrity * accountability*

TENURE
AWARDS

JOEL MORENO
CHIEF OF FIELD OPERATIONS

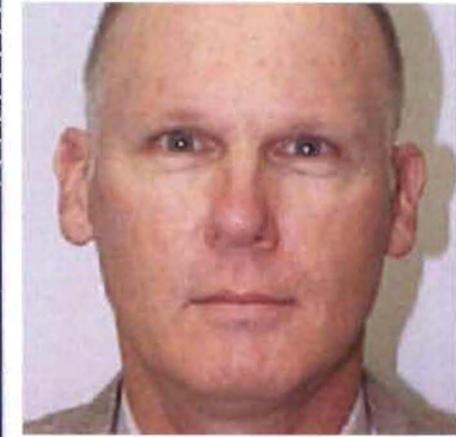


KEVIN BAMMERT

25 Years of
Service

Region 4

San Marcos
Outpost

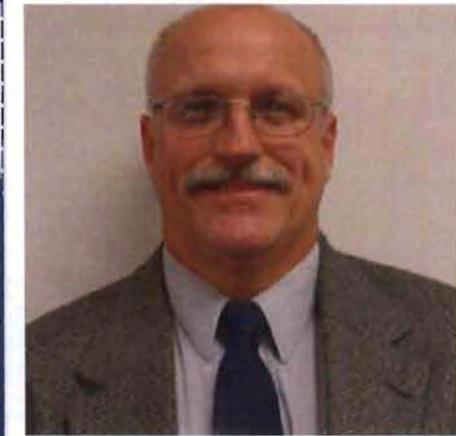


CHARLES HORTON

25 Years of
Service

Region 3

Houston



PAUL MORGAN

25 Years of
Service

Region 1

Brownwood
Outpost



DARRYL DARNELL

20 Years of
Service

Austin
Headquarters



NICOLAS
GUTIERREZ III

20 Years of
Service

Region 5
San Antonio



LARRY KARSTADT

20 Years of
Service

Region 4

Bryan Outpost



RUSSELL MOORE

20 Years of
Service

Region 4

San Marcos
Outpost



DANNY PAVLAS

20 Years of
Service

Region 4

Waco

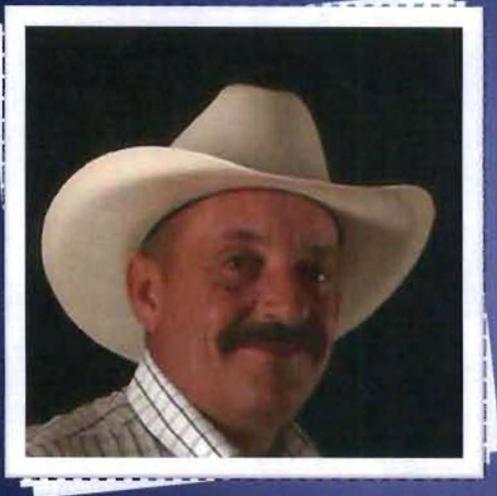


HAROLD SALMON
III

20 Years of Service

Region 1

Abilene



DOYCE VANDIVERE

20 Years of
Service

Region 1

Lubbock

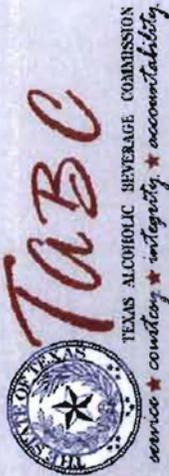
CONGRATULATIONS!



Attachment 7

Presentation of Tenure Awards

Support Services Division



TEXAS ALCOHOLIC BEVERAGE COMMISSION
*service * courtesy * integrity * accountability*

Tenure Awards

Sherry Cook
Assistant Administrator



Paul King, 20 Years



Information Resources Division





Bob White, 20 Years



Information Resources Division



Mario Benavides, 20 Years



Ports of Entry





David Frausto, 20 Years



Ports of Entry



Amy Harrison, 20 Years



Licensing Division





Jennifer Evans, 25 Years



Licensing Division



Noe Castaneda, 25 Years



Ports of Entry





Richard Maness, 25 Years



Information Resources Division



John "Jay" Webster, 30 Years



Information Resources Division





Mona Appling, 35 Years



Information Resources Division



Darla Elam, 35 Years



Licensing Division



Attachment 8

Presentation of Tenure Awards

Legal Division



Yvonne Tucek, 45 Years



Office of Legal Services



Texas Alcoholic Beverage Commission



TABC
TEXAS ALCOHOLIC BEVERAGE COMMISSION
*integrity * accountability*
*service * courtesy*



**Thank You For Your Years
of Service**



Attachment 9

**Administrator's Report: Administrator and
Agency Activities, Budget Issues,
Staff Achievements**



Administrators Report

Commission Meeting
November 18, 2010



TABC

Texas Alcoholic Beverage Commission

service ★ courtesy ★ integrity ★ accountability



B-2010 New Agent Graduation





Proposition No. 1

The legal sale of beer and wine for off-premise consumption only.

Proposition No. 2

The legal sale of mixed beverages in restaurants by food and beverage certificate holders only.

PASSED



TABC

Texas Alcoholic Beverage Commission

service ★ courtesy ★ integrity ★ accountability

DALLAS COUNTY ELECTIONS

NEXT ELECTION (ELECCIÓN SIGUIENTE)

General Election

November 2, 2010

Elección General

2 de Noviembre 2010

ELECTION RESULTS

Check back here on election night for up-to-the-minute results

- [Sample Election Night Report](#)
- [Reporting System Help Guide](#)

NOTE: Early voting results will be posted at 7:00 pm on election day. Election day results will be posted as they are received on election night; results will be cumulative. You must refresh your browser to see the latest updates.





Legislative Agenda Update

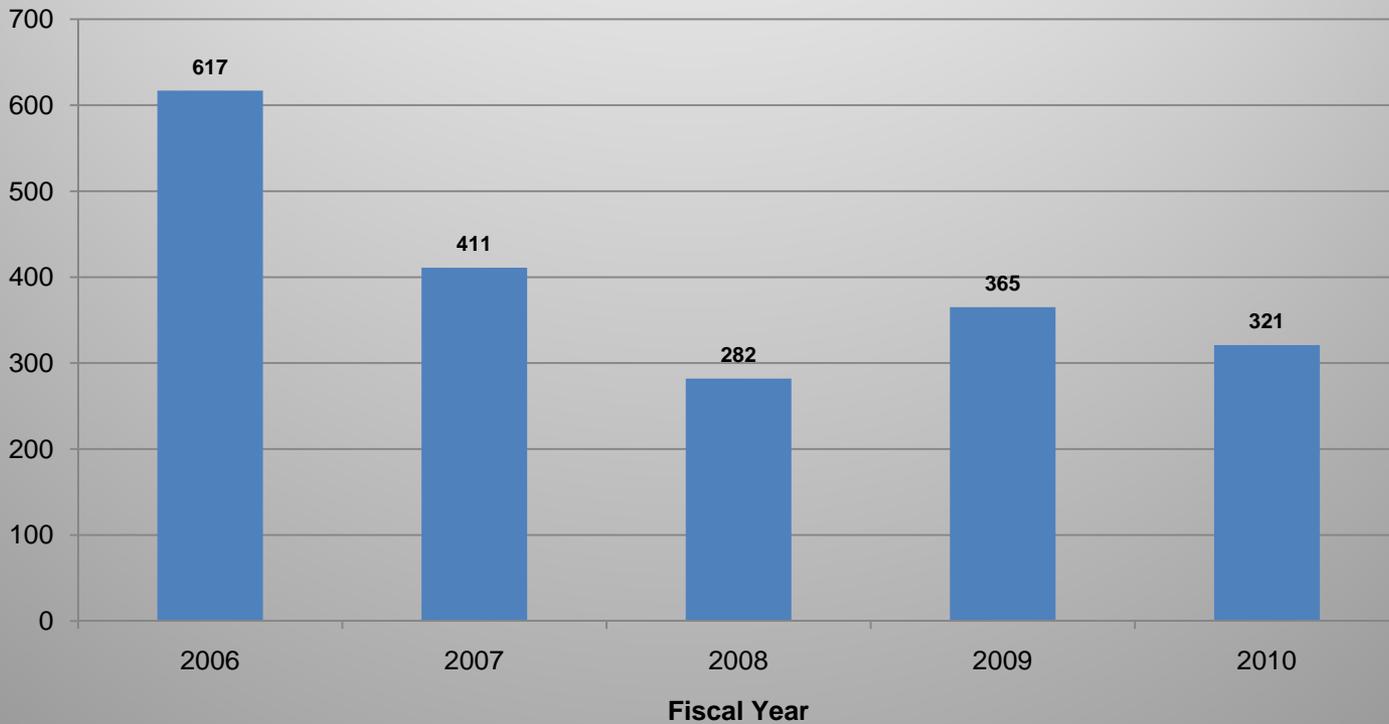
To Date: Administrator Steen, Asst. Administrator Cook, Chief Moreno, Chief of Staff Pearson, Director Eskew, and Governmental Relations Director Beck have visited **45** Members.

Remaining: Staff has **8** Members left to visit which will complete the Commissions pre-session legislative agenda.



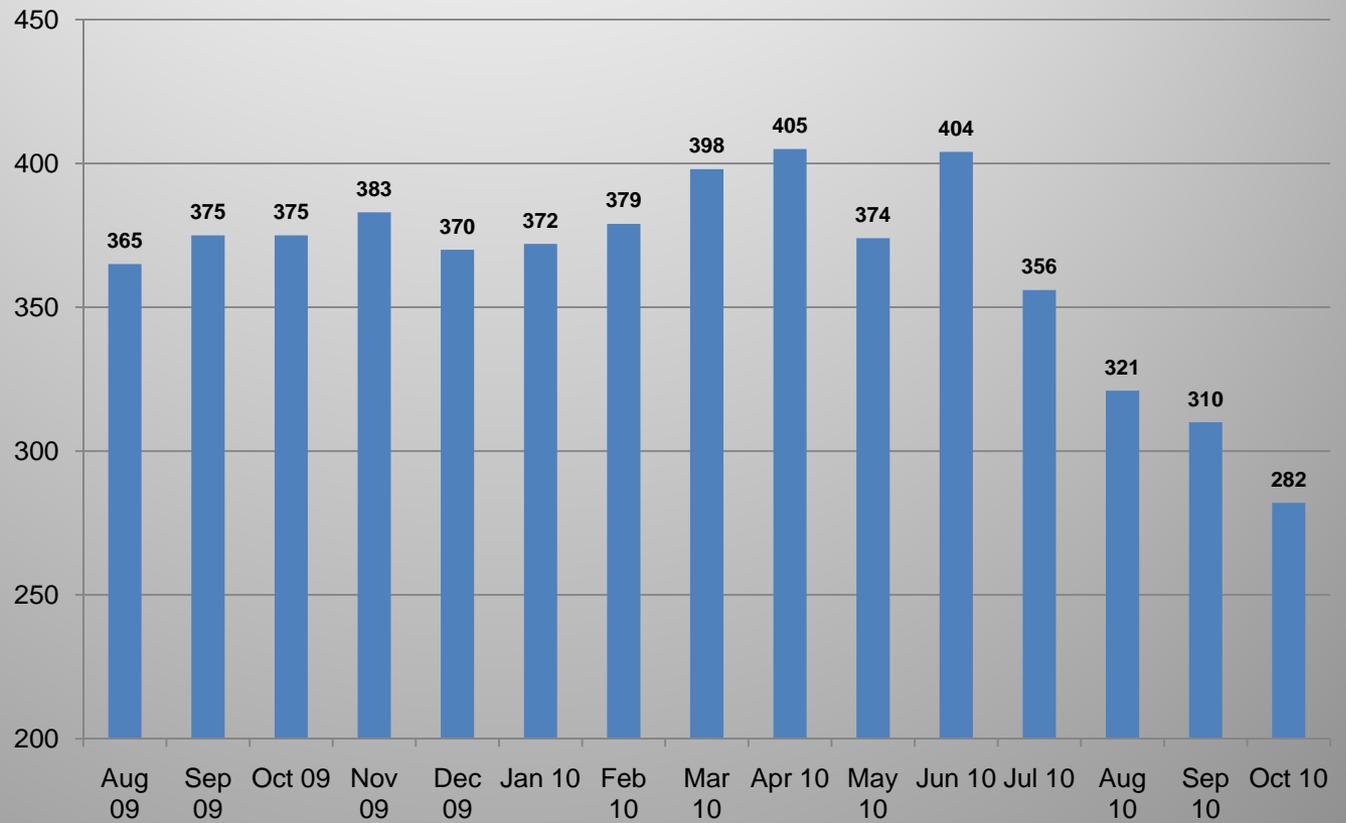


Cases Pending in Legal at End of Fiscal Year





Cases Pending in Legal At End of Month



TABC

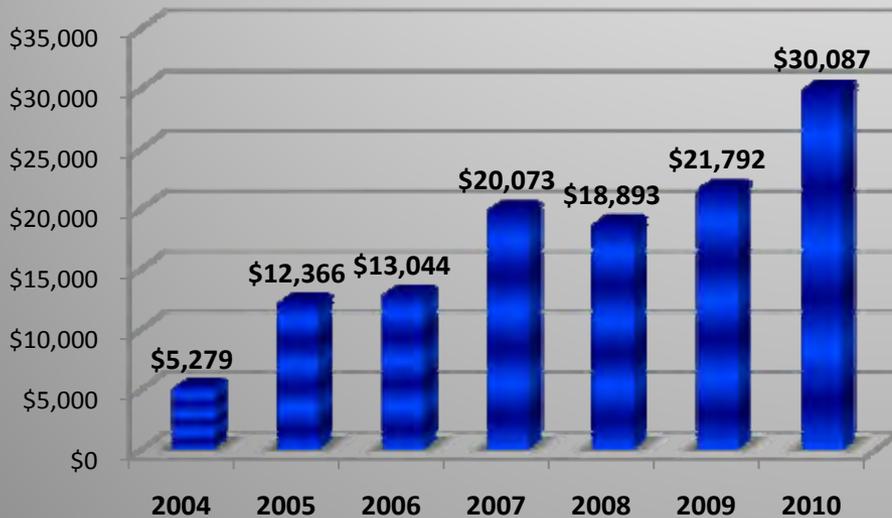
Texas Alcoholic Beverage Commission

service ★ courtesy ★ integrity ★ accountability

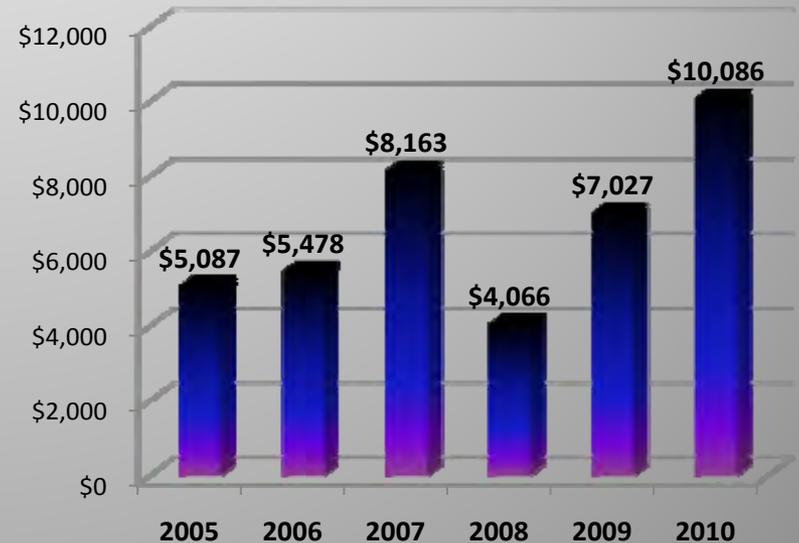


State Employee Charitable Campaign September – October 2010

Our statewide campaign results compared to previous years



And our Capital Area campaign results compared to previous years





State Employee Charitable Campaign Volunteers

- TABC HQ team members: Carolyn Beck, Joy Murray, Merideth Munoz, Kim Briggs and Tanya Jimenez
- Yolanda Mena - San Antonio
- Ruby White - Dallas
- Sonia Solinas - Rio Grande Valley area
- Doris Board - Waco
- Dianne Vaught - Odessa
- James Murfitt & Cynthia Joseph - Houston
- Anna Contreras - El Paso
- Deon Smith - Lubbock
- Larry Linscombe - Corpus Christi
- Hank Blanchard - Amarillo





Texas Alcoholic Beverage Commission

QUESTIONS



TABC

Texas Alcoholic Beverage Commission

service ★ courtesy ★ integrity ★ accountability

Attachment 10

**Request for an Order by the Commission to
Prohibit the Possession of An Open Container or
the Public Consumption of Alcoholic Beverages
in the Central Business District of the City of
Shamrock**

Petition for Order



**CITY OF
SHAMROCK,
STATE OF TEXAS**

CBD of Shamrock, Wheeler County, Texas

Population 2,029



LEGAL AUTHORITY



Alcoholic Beverage Code §109.35

Allows the governing body of a city to petition the commission to PROHIBIT:

- The possession of an open container;
- The public consumption of alcoholic beverages;
- In the central business district (CBD) of the city

DEFINITIONS



- **“Central Business District”**
 - a compact and contiguous geographic area of a municipality in which 90% of the land is used or zoned for commercial purposes, and
 - The area has historically been the primary location where business is transacted in the city.
- **“Open Container”**
 - A container that is no longer sealed.

CITY'S REQUIREMENTS



- **Make a determination that:**
 - Possession of an open container, or
 - Public consumption of an alcoholic beverage,
 - In the Central Business District,
 - Is a risk to the health and safety of the citizens of the city.

This has been done.

CITY'S REQUIREMENTS



- **Petition the Commission for an Order;**
- **Attach a map, plat or diagram showing CBD covered by the prohibition.**

This has been done.

COMMISSION'S DUTIES



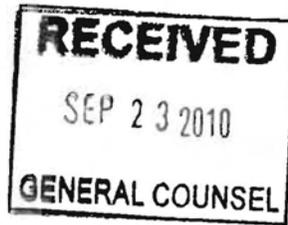
- If the diagram properly identifies the CBD;
 - The Commission shall Approve and Issue the Order,
 - Without further consideration.

QUESTIONS?



City of Shamrock

116 West Second Street • Shamrock, Texas 79079



September 13, 2010

Texas Alcoholic Beverage Commission
P. O. Box 13127
Austin, TX 78711
ATTN: JOAN BATES, ASSISTANCE GENERAL COUNSEL

**SUBJECT: PETITION REGULATING THE SALE OR POSSESSION OF OPEN
CONTAINER IN THE CENTRAL BUSINESS DISTRICT**

The City Council of the City of Shamrock has determined that the possession of an open container or the public consumption of alcoholic beverages, or the sale of beer, in the central business district of the City of Shamrock is a risk to the health and safety of the citizens of the City of Shamrock.

Under Section 109.35 of the Texas Alcoholic Beverage Code, the City of Shamrock petitions the Texas Alcoholic Beverage Commission to adopt an order prohibiting the possession of any open container or the public consumption of alcoholic beverages, or the sale of beer, in the central business district of the City of Shamrock.

The attached plat of the City of Shamrock indicates in red the boundary of the central business district to be covered by the order.

Sincerely,

A handwritten signature in cursive script that reads "H. Frank Weatherby".

H. Frank Weatherby
Mayor

ORDINANCE NO. 10-01

**AN ORDINANCE REGULATING THE SALE OF ALCOHOLIC BEVERAGES
IN THE CITY OF SHAMROCK, INCLUDING THE PENALTY FOR VIOLATION
THEREOF, PROVIDING FOR A SAVING CLAUSE, RECORDING AND
PUBLICATION OF THE ORDINANCE AND AN EFFECTIVE DATE.**

WHEREAS, the citizens and the City Council have expressed concerns on the regulation of alcoholic beverages within the City of Shamrock due to the passage of a wet/dry election held May 8, 2010; and

WHEREAS, the City Council desires to limit sales of alcoholic beverages in areas within certain distances from certain uses as provided by the Texas Alcoholic Beverage Code; and

WHEREAS, the City Council desires to charge a permit or license fee as authorized by state law.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHAMROCK, TEXAS:

Section 1. Definitions Generally .

- A. A word defined in the Texas Alcoholic Beverage Code has the meaning it has in the Texas Alcohol Beverage Code, except as otherwise specifically provided in this ordinance.
- B. PLACE OF BUSINESS means the location of the business identified in the application for the permit or license to sell alcohol under this ordinance.

Section 2. Construction Consistent With State Law.

This ordinance shall be construed to be consistent with the Texas Alcoholic Beverage Code, rules and regulations promulgated under its authority.

Section 3. Restriction on Sale or Use of Alcohol.

A person commits an offense if the person sells, stores, handles for the purpose of sale, an alcoholic beverage as follows:

- A. Alcoholic beverages may not be sold, stored or handled for the purpose of sale in a residential area within the corporate city limits of the City of Shamrock.
- B. Mixed beverages may be sold or offered for sale between 7 a.m. and midnight on any day except Sunday. On Sunday, mixed beverages may be sold or offered for sale from 12 noon to midnight.
- C. Beer and wine may be sold or offered for sale between the hours of 7 a.m. and midnight on any day except Sunday. On Sunday, beer or wine may be sold or offered for sale between the hours of 12 noon and midnight.

Section 4. Hours of Consumption.

- A. A person commits an offense if he consumes or possesses with intent to consume an alcoholic beverage in a public place at any time between 12 midnight and 7 a.m., except on Sunday when the hours of consumption are between 12 midnight and 12 noon.
- B. An offense under this section is a Class C misdemeanor.

Section 5. Additional Restrictions in Central Business District.

- A. The possession of an open container or the public consumption of alcoholic beverages is prohibited in the central business district of the City of Shamrock. The central business district is described as being: a plat of land with Railroad Avenue being the South boundary and 8th Street being the North boundary and running east and west between Madden and Wall Streets.
- B. In this section, "open container" means a container that is no longer sealed.

Section 6. Minimum Distance from Certain Uses.

- A. Except as provided by the Texas Alcoholic Beverage Code, a person may not sell or engage in the business of selling alcoholic beverages at a place of business located within 300 feet from the following:
 - (1) a private school; or
 - (2) a public school or any property owned by a public school district;(See Exhibit A) or
 - (3) a daycare center; or
 - (4) a childcare facility; or
 - (5) a church; or
 - (6) a public hospital
- B. Distances under this section shall be calculated using the method prescribed by the Texas Alcoholic Beverage Code.

Section 7. Exceptions to Required Minimum Distances.

- A. Section 6 (Minimum Distance from Certain Uses) does not apply to:
 - (1) the renewal or transfer of a permit or license to sell alcoholic beverages, if the permit or license being renewed or transferred was originally issued before the date a private school, church, public hospital, daycare center, childcare facility or public school was established within 300 feet; or
 - (2) a new application at a location, if the sale of alcoholic beverages at the proposed place of business was authorized not less than one year before the date a private school, church, public hospital, daycare center, childcare facility or public school was established within 300 feet; and the new application is filed not later than 90 days after the previous permit or license authorizing the sale of alcoholic beverages at that location expired or was terminated.

Section 8. Permitting Intoxicated Person to Loiter about Premises.

It shall be unlawful for any intoxicated person to loiter in and about the business premises used or occupied by any person licensed under the Texas Alcoholic Beverage Code. It shall be unlawful for the operator of such premises to allow any such person to remain thereon.

Section 9. Approval of Certificate for Permit or License.

The City Secretary shall sign any certificate for an applicant for a permit or license required by the Texas Alcoholic Beverage Code attesting to the location of applicant being within the corporate city limits of the City of Shamrock.

In addition, every applicant for a permit or license required by the Texas Alcoholic Beverage Code shall also complete and submit to the City Secretary's office a City Certification Application.

Section 10. Permit Fees and Issuance.

- A. Unless state law exempts a permittee or licensee from payment of a fee by this section, a permittee or licensee must pay the City an annual permit or license fee equal to one-half the amount of the state fee for each permit and license authorizing the sale of alcoholic beverages.
- B. An applicant shall pay the fees established under subsection A to the City Secretary's office no later than the 30th day after the date the applicant's payment of a state permit or license fee is due.
- C. A permittee or licensee who sells an alcoholic beverage at a business location before the applicant pays the fees established by this ordinance commits a Class C misdemeanor punishable in accordance with this ordinance.
- D. The City Secretary shall issue and deliver a receipt under this ordinance to the permittee or licensee authorizing the sale of alcoholic beverages under this ordinance and a state permit or license, if the permittee or licensee:

- (1) pays the fees established by Subsection A; and
- (2) exhibits the permit or license issued by the state.

Section 11. Penalty.

A person who violates this ordinance commits an offense punishable as a Class C misdemeanor.

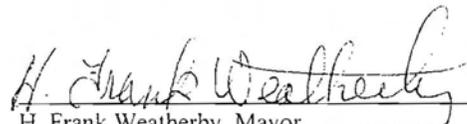
Section 12. Event of Partial Invalidity.

Should any portion or part of this ordinance be held for any reason invalid or unenforceable, the same shall not be construed to affect any other valid portion hereof, but all valid portions hereof shall remain in full force and effect.

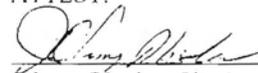
Section 13. Effective Date.

This ordinance shall be in full force immediately upon passage by the City Council and publication of the caption.

PASSED AND ADOPTED on the first reading this 20th day of May, 2010



H. Frank Weatherby, Mayor

ATTEST:


Johnny Rhodes, City Manager


Rebecca L. Brown, City Secretary

ORDINANCE NO. 10-01

EXHIBIT A

Legal Description of School District Property , Section 6 A (2):

- a. All Block LXVI, Romans Addition, Shamrock
- b. All Block H, Potts Addition, Shamrock
- c. Lots 1-4 & 15-18, Block I, Potts Addition, Shamrock
- d. Lots 1-4 & 15-18, Block J, Potts Addition, Shamrock
- e. All Blocks A-B-C & H, Potts Addition, Shamrock
- f. Lots 1-14, Block A, Smith Addition, Shamrock
- g. All Blocks B-E-F, and Lots 3-10, Block D, Smith Addition, Shamrock
- h. Block 72, Lots 6-11, WSSA, Shamrock
- i. Block 75, Lots 1-4 & 15-16, WSSA, Shamrock

THE STATE OF TEXAS §
 §
COUNTY OF WHEELER §

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared JOHNNY RHODES, known to me to be a credible adult person, who, after having been by me duly sworn, upon his oath deposes and states as follows:

“My name is JOHNNY RHODES. I am over the age of 21 years and fully competent to make this affidavit. I am currently employed as the City Manager for the CITY OF SHAMROCK, TEXAS, a municipal corporation. All statements contained in this affidavit are, to the best of my knowledge and belief, true and correct.

As City Manager for the City of Shamrock, Texas, I certify and attest that the attached map/plat/diagram outlines in red the central business district of the City of Shamrock, which is a compact and contiguous geographical area of the municipality of Shamrock in which at least 90 percent of the land is used or zoned for commercial purposes and is the area that has historically been the primary location in the municipality where business has been transacted.”

FURTHER AFFIANT SAITH NOT.

SIGNED this 14 day of October, 2010.

ATTEST:

Rebecca L. Brown
Rebecca L. Brown, City Secretary

CITY OF SHAMROCK, TEXAS

By:

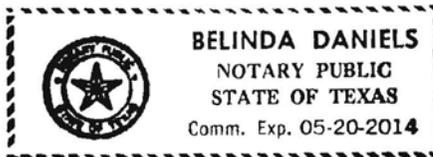
Johnny Rhodes
Johnny Rhodes, City Manager

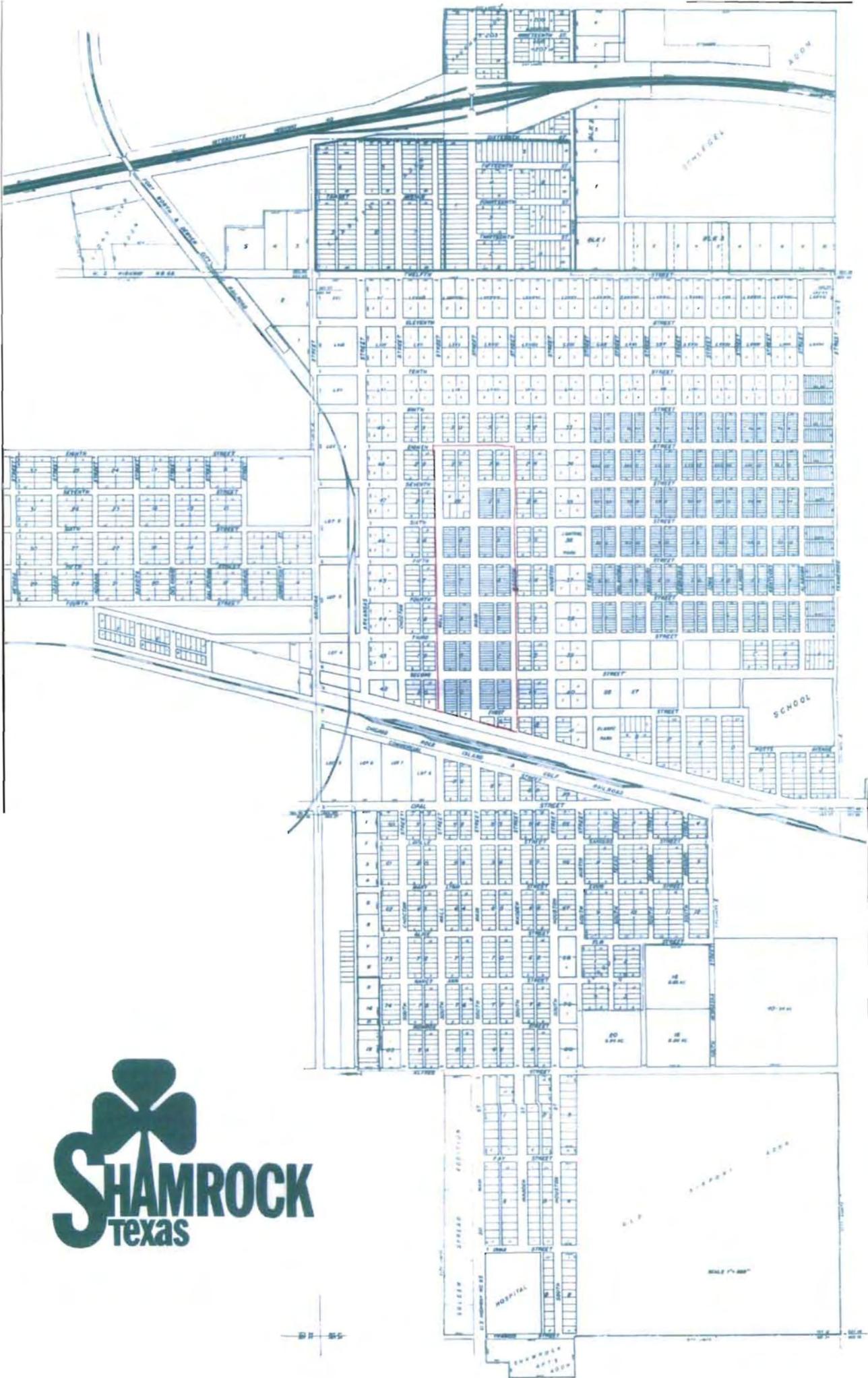
SUBSCRIBED AND SWORN TO BEFORE ME by the said JOHNNY RHODES, City Manager of the City of Shamrock, Texas, this 14th day of OCTOBER, 2010, to certify which witness my hand and seal of office.

Belinda Daniels

Notary Public, State of Texas

My Commission Expires: 5-20-2014





Attachment 11

FY 2010 Internal Audit Annual Report

**Texas Alcoholic Beverage Commission
Internal Audit Annual Report
for FY 2010**

October 19, 2010

As Prepared by
Jansen and Gregorczyk,
Certified Public Accountants

Texas Alcoholic Beverage Commission - FY 2010 Internal Audit Annual Report

Jansen & Gregorczyk
Certified Public Accountants

Telephone
(512) 268-0070

P. O. Box 601
Kyle, TX 78640

October 19, 2010

The Honorable Rick Perry, Governor
Members of the Legislative Budget Board
Members of the Sunset Advisory Commission
Mr. John Keel, CPA, State Auditor

Dear Ladies and Gentlemen:

Attached is a report on the internal activity at the Texas Alcoholic Beverage Commission as required by the Texas Internal Auditing Act. The report provides a summary of audits completed and significant recommendations for fiscal year 2010.

Please contact Sherry Cook, Assistant Administrator at 305-3366 if you desire further information about the contents of this report.

Sincerely,

SIGNED COPY ON FILE

Russell Gregorczyk, Partner
Jansen & Gregorczyk, CPAs
Contract Internal Audit Firm for TABC

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I. Audit Plan for Fiscal Year 2010

Only one audit in the audit plan was completed as planned. The audits of headquarters and field operations for both the Licensing and Enforcement Divisions were combined and one report was issued for each division rather than separate reports on headquarters and field operations; however, neither report was finalized and approved in time for inclusion in the Internal Audit Annual Report. These audits will be reported in the FY 2011 Internal Audit Annual Report.

TEXAS ALCOHOLIC BEVERAGE COMMISSION FY 2010 INTERNAL AUDIT PLAN

The Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. Required audits include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. In addition, five general types of audits are required by the *Standards for the Professional Practice of Internal Auditing* as follows:

- **Reliability and Integrity of Information** - Internal Auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

- **Compliance with Policies, Plans, Procedures, Laws, and Regulations** - Internal auditors should review the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on operations and reports, and should determine whether the organization is in compliance with them.

- **Safeguarding of Assets** - Internal auditors should review the means of safeguarding assets and, and as appropriate verify the existence of such assets.

- **Economical and Efficient Use of Resources** - Internal auditors should appraise the economy and efficiency with which assets are employed.

- **Accomplishment of Established Objectives and Goals for Operations and Programs** - Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals, and whether the operations or programs are being carried out as planned.

The FY 2010 Internal Audit Plan for the TABC is based on the results of the risk assessment presented in the previous section, audits required to be performed on a periodic basis by the Internal Auditing Act and the Commission's input on areas where internal audits would be helpful. For FY 2010, the following topics will be audited:

- Licensing Division- Field Office License Processing (Maximum Risk)

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

- Licensing Division- HQ Operations (Maximum Risk)
- Enforcement Division- Field Operations (Maximum Risk)
- Enforcement Division- HQ Operations (High Risk)
- Commission's Operations (Low Risk)

The audit of the License Division-Field Office License Processing will focus on the effectiveness and efficiency of the field offices in processing license applications to sell alcoholic beverages.

The audit of the Licensing Division- Headquarters Operations will evaluate compliance with laws and regulations and the effectiveness and efficiency of operating procedures within the Licensing Division. The specific scope of audit work will be determined in conjunction with TABC executive management.

The audit of the Enforcement Division – Field Operations will focus on evaluating the effectiveness and efficiency of functions performed by the Enforcement Division-Field Operations. The scope of audit work will be determined in conjunction with TABC executive management. Field offices selected for on-site audit work will be determined with input from TABC executive management.

The audit of the Enforcement Division – Headquarters' Operations will focus on evaluating the effectiveness and efficiency of functions performed by the Enforcement Division Headquarters such as hiring officers, training, enforcement activities, and management of field office personnel; evaluating the reliability and integrity of performance measure reporting and management reporting by the division; and evaluating compliance with applicable laws and regulations.

The audit of the Commission's Operations will focus on evaluating the effectiveness and efficiency of the operations of the Commission in areas such as rule-making, policy development, the content and frequency of Commission meetings, Commission involvement in strategic planning, the administrator's conference and similar agency functions, training and orientation of Commission members, and other areas to be determined in conjunction with the Commissioners.

Follow-up audit reviews will be performed on all audits completed in prior years. The purpose of this work will be to determine the status of implementation of any recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2011.

The proposed time estimates and time frames for the FY 2010 audit work are:

- Audit of Enforcement Division- Headquarters Operations – 140 hours (October 2009 to November 2009)
- Complete the Internal Audit Quality Assurance Review – 8 hours (October 2009)
- Prepare Annual Internal Audit Report for FY 2008 – 10 hours (October 2009)
- Audit of Enforcement Division-Field Operations – 160 hours (December 2009 to January 2010)

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

- Audit of Commission's Operations – 60 hours (February to March 2010)
- Follow-up Review of Prior Years' Audit Recommendations- 40 hours (March 2010)
- Audit of Licensing Division- Headquarters Operations – 140 hours (March 2010 to April 2010)
- Audit of Licensing Division- Field Office License Processing – 160 hours (May 2010 to June 2010)
- Update Risk Assessment and Prepare FY 2011 Audit Plan – 10 hours (August 2010)

II. External Quality Assurance Review

A quality review of the TABC internal audit program was completed in October 2009. The Opinion of the quality review is shown below.

Texas Alcoholic Beverage Commission Quality Assurance Review October 2009

OPINION

Based on the work outlined below, it is the opinion of the reviewer that the internal audit activity at the Texas Alcoholic Beverage Commission is in accordance with the Texas Internal Auditing Act and the audit work being performed by Jansen & Gregorczyk, Certified Public Accountants (the Contractor) **fully complies** with all applicable professional auditing standards.

This opinion, representing the best possible evaluation, means that the Texas Alcoholic Beverage Commission, and the Contractor, have in place all of the relevant structures and policies that are required as well as the processes necessary to insure they are effectively applied.

Richard H. Tarr, CISA, CIA

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

III. Key Audit Findings/Recommendations

Rpt Name and No.	High-Level Audit Objectives	Findings/ <i>Recommendations</i>	Status	Impact
Report No. 1 Audit of the Commission's Operations Date Issued: July 27, 2010	<i>To determine if TABC has established effective processes for ensuring compliance with statutory requirements related to the operations of the Commission.</i>	The Texas Ethics Commission statute requires each state agency to adopt an ethics policy. While TABC has adopted an ethics policy, members of the Commission have not been provided copies of the policy. <i>Recommendation 1:</i> <i>The Commission should have the General Counsel determine whether changes to the TABC ethics policy are needed to cover state officers and if so those changes should be made and copies of the TABC ethics policy should be provided to the commissioners.</i>	<p style="text-align: center;">Fully Implemented.</p>	Ensure that TABC's ethics policy is in compliance with the Texas Ethics Commission statute.

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

Rpt Name and No.	High-Level Audit Objectives	Findings/ Recommendations	Status	Impact
<p>Report No. 1</p> <p>Audit of the Commission's Operations</p> <p>Date Issued:</p> <p>July 27, 2010</p>	<p><i>To determine if there is an effective process for the Commission's involvement in defining the agency's mission and strategic direction and developing the biennial legislative appropriation's request.</i></p>	<p>Currently, each Commissioner provides individual input into the agency strategic plan during separate meetings with the Administrator and/or management staff. This is necessary because having more than one member present constitutes a Commission quorum and requires posting as an open meeting.</p> <p>Recommendation 2: <i>The Commission should consider having a Commission retreat for developing Commission input into the agency Strategic Plan. If the timeline for a Commission retreat is not feasible for completing the current Strategic Plan, it should be considered as a component of the next strategic planning process.</i></p>	<p>Not Implemented. Target Date for Completion is Spring 2012.</p>	<p>Provide an effective means for the Commissioners to provide their collective input into the development of the Strategic Plan.</p>

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

Rpt Name and No.	High-Level Audit Objectives	Findings/ <i>Recommendations</i>	Status	Impact
<p>Report No. 1</p> <p>Audit of the Commission's Operations</p> <p>Date Issued:</p> <p>July 27, 2010</p>	<p><i>To determine if an effective training and orientation program has been established for new Commission members.</i></p>	<p>Commission members can have no ties to the alcohol beverage industry, new Commissioners may not be aware of the full extent of TABC's regulatory role in the industry.</p> <p><i>Recommendation 3:</i> <i>The Commission should consider recommending to any new Commission member that they attend an industry conference to gain a different perspective on the role of TABC and the impact the law and agency rules have on businesses in the alcoholic beverage industry. In addition, the Commission should be made aware of all training opportunities that are available through other state agencies for appointees and Commission members so they can attend any training they believe is relevant or important in performing their responsibilities as Commission members.</i></p>	<p>Fully Implemented.</p>	<p>Ensure that the Commissioners are made aware of all available training opportunities, the role of TABC and the impact the law and agency rules have on businesses in the alcoholic beverage industry.</p>

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

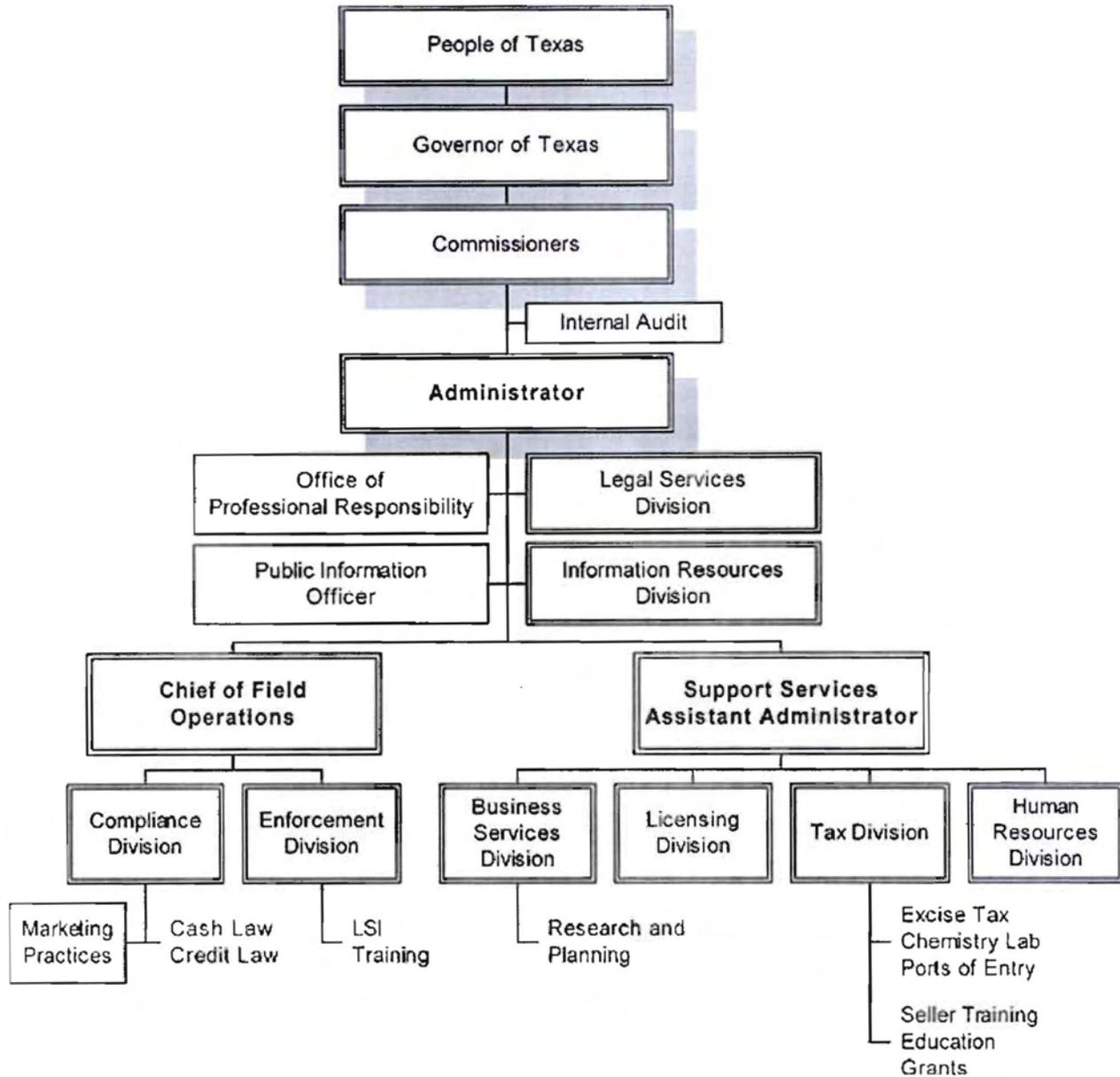
Rpt Name and No.	High-Level Audit Objectives	Findings/ Recommendations	Status	Impact
Report No. 1 Audit of the Commission's Operations Date Issued: July 27, 2010	<i>To determine if effective rule and policy making processes have been established for ensuring the Commission's involvement in the development and approval of agency rules and policies necessary to address statutory requirements and ensure the effective administration of agency functions.</i>	While the Commission adopted a Rule Review Plan, the minutes of subsequent meetings do not indicate that this review has been performed. Recommendation 4: <i>A new Rules Review Plan should be developed and provided to the Commission to review and readopt all agency rules at least every four years as required by statute. The General Counsel should ensure that the Plan is followed and should periodically report to the Commission on the status of completing the Rules Review Plan.</i>	Fully Implemented.	Ensure that agency rules are periodically reviewed and approved in accordance with law.

IV. Consulting Engagements and Non-Audit Services Completed

No consulting engagements or non-audit services were completed during FY 2010.

V. Organizational Chart

Texas Alcoholic Beverage Commission



Alan Steen, Administrator, is the designated Chief Audit Executive for the agency. The full Commission deals with all matters involving internal audit, although one Commissioner has been designated as the Commission liaison with the internal auditor.

VI. Report on Other Internal Audit Activities

The internal auditor was not involved in any activities other than those activities outlined in the FY 2010 Internal Audit Plan.

VII. Audit Plan for Fiscal Year 2011

**TEXAS ALCOHOLIC BEVERAGE COMMISSION
FY 2011 INTERNAL AUDIT PLAN**

The Texas Internal Auditing Act requires certain audits to be performed on a periodic basis. Required audits include audits of the agency's accounting systems and controls, administrative systems and controls, electronic data processing systems and controls, and other major systems and controls. In addition, five general types of audits are required by the *Standards for the Professional Practice of Internal Auditing* as follows:

- **Reliability and Integrity of Information** - Internal Auditors should review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information.

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- **Economical and Efficient Use of Resources** - Internal auditors should appraise the economy and efficiency with which assets are employed.

- **Accomplishment of Established Objectives and Goals for Operations and Programs** - Internal auditors should review operations or programs to ascertain whether results are consistent with established objectives and goals, and whether the operations or programs are being carried out as planned.

The FY 2011 Internal Audit Plan for the TABC is based on the results of the risk assessment presented in the previous section, audits required to be performed on a periodic basis by the Internal Auditing Act and the audit history over the past ten fiscal years as shown on Exhibit 5. For FY 2011, the following topics will be audited:

- Agency-Wide Field Office Coordination (High Risk)
- Licensing Division- Bond Processing (High Risk)

Texas Alcoholic Beverage Commission – FY 2010 Internal Audit Annual Report

- Compliance Division- Field Operations (Moderate Risk)
- Compliance Division- HQ Operations (Moderate Risk)
- Business Services Division- Support Services (Moderate Risk)
- Human Resources Division (Moderate Risk)

In addition to these audits, a follow-up audit review will be performed on prior year audits to determine the status of implementation of recommendations made in those audits. In addition to these proposed audits and audit work, the risk assessment will be updated and an audit plan developed for FY 2012.

The proposed time estimates and time frames for the FY 2011 audit work are:

- Audit of Business Services Division-Support Services – 140 hours (September to October 2010)
- Prepare Annual Internal Audit Report for FY 2010 – 10 hours (October 2010)
- Audit of Human Resources Systems and Controls – 140 hours (November to December 2010)
- Agency-wide Field Office Coordination– 140 hours (February to April 2011)
- Audit of Compliance Division – 140 hours (February to April 2011)
- Follow-up Review of Prior Years’ Audit Recommendations- 40 hours (May 2011)
- Audit of Licensing Division- Bond Processing – 120 hours (May 2011 to June 2011)
- Update Risk Assessment and Prepare FY 2012 Audit Plan – 10 hours (July 2011)

VIII. External Audit Services Procured in Fiscal Year 2010

The Texas Alcoholic Beverage Commission contracted with the CPA firm of Jansen & Gregorczyk to provide contract internal audit services for the agency in FY 2010. No other external audit services were procured in FY 2010.

IX. Reporting Suspected Fraud and Abuse

The Texas Alcoholic Beverage Commission has posted the required information on reporting suspected fraud, waste or abuse involving state resources directly to the State Auditor’s Office on the home page of the agency’s website and has included information in the agency’s policies on how to report suspected fraud to the State Auditor’s Office.

The agency does not receive funds under the American Recovery and Reinvestment Act and is therefore not subject to the provisions of Article XII of the General Appropriations Act (81st Legislature) regarding funds received under the American Recovery and Reinvestment Act.

No instances of suspected fraud, waste or abuse were reported by TABC to the State Auditor’s Office during FY 2010.

Attachment 12

Approval of Enforcement's Internal Audit

**Texas Alcoholic Beverage Commission
Internal Audit of the
Enforcement Division**

Final Draft Report

November 9, 2010

As Prepared by
Jansen & Gregorczyk
Certified Public Accountants

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Audit Purpose and Scope	4
Audit Results and Recommendations	4

**Texas Alcoholic Beverage Commission Internal Audit of the Enforcement Division
Final Draft Report – November 9, 2010**

**Jansen & Gregorczyk
Certified Public Accountants**

**Telephone
(512) 268-0070**

**P. O. Box 601
Kyle, Tx. 78640**

November 9, 2010

Commission Members
Texas Alcoholic Beverage Commission

The following report provides the results and recommendations noted during the internal audit of the Enforcement Division.

The internal audit was conducted in accordance with generally accepted government auditing standards and *Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors.

Signed Copy on File

Jansen & Gregorczyk
Certified Public Accountants

EXECUTIVE SUMMARY

Audit Purpose

The primary purposes of the internal audit were to evaluate the effectiveness of policies governing key enforcement functions performed by the Enforcement Division field offices, the adequacy of the division's management reporting system; and the effectiveness of the policy management process.

Key Audit Observations

- Review of case investigation policies and procedures, analysis of case investigation data and surveys and interviews with Enforcement CPOs indicate that the policy and procedures appear to be adequate and training on investigations is being provided, but there is a perceived need by some CPOs that more training on conducting various types of complaint investigations is needed.
- The Enforcement Division has established effective policies and procedures for conducting inspections. The inspection policy implemented in January 2010 includes a six-step process for agents to follow in conducting inspections. The six-step process should be used but is not mandatory. Agents have the discretion to determine which steps are used during an inspection.
- Risk-based inspections focus enforcement operations on locations that present a public safety risk. The roles and responsibilities of TABC personnel are clearly delineated in the risk-based inspections policy from agents up to captains and Enforcement headquarters personnel.

- The undercover operations policies and procedures appear to be adequate, but some clarification may be needed in the policy or procedures and there appears to be a need for more training in conducting undercover operations.
- The overall analysis of source investigation data indicates that a significant amount of man-hours are devoted to source investigations even though in many cases an administrative or criminal case cannot be made. This does not indicate that the source investigation procedures are not effective, but rather it is often difficult to obtain sufficient evidence to make a case. In spite of this, conducting source investigations is an essential public safety function of TABC.
- Reviewing successful case outcomes of source investigations, documenting the reasons the case was successful and analyzing this information might result in identifying changes to procedures that would increase the overall successful outcomes in conducting source investigations.
- The changes to the use of force policies clearly spell out the roles and responsibilities within the chain of command. The independent review by OPR and the referral to the Training Division of information in the use of force reports to address potential training needs will help to ensure that force is used prudently and when excessive force is used appropriate action is taken by TABC.
- There are adequate internal controls and effective policies and procedures for the use of purchase of evidence funds for undercover operations.

Texas Alcoholic Beverage Commission Internal Audit of the Enforcement Division
Final Draft Report – November 9, 2010

- There are adequate internal controls and effective policies and procedures for monitoring the use of vehicles and credit cards used by the Enforcement Division.
- There are effective policies and procedures for tracking, monitoring, and closing out enforcement actions issued when violations of the alcoholic beverage code are found.
- There is an effective process for review and follow-up action on investigations of Enforcement personnel performed by the Office of Professional Responsibility.
- An excellent Enforcement Division management reporting system exists for providing regular and ad hoc reports to executive management, Enforcement management and the Commissioners.
- The *Enforcement Manual* appears to be an extremely effective tool for CPOs to use to accomplish the goals of the agency in a consistent manner.

Significant Recommendations

- Enforcement management should work with the Training Division to determine if other types of investigative training classes may be needed. Consideration should also be given to working with the Legal Division to develop a class on conducting complex types of complaint investigations.
- Enforcement management should work with the Training Division to develop and provide a class (or classes) on conducting undercover operations.
- Enforcement management should determine whether any changes are necessary to improve the effectiveness or efficiency in how the risk-based inspections are performed and closed.

- Enforcement management should determine if any changes should be made to the undercover operations policies or procedures to clarify or provide better guidance to CPOs in conducting and reporting on undercover operations. A new policy and procedure on conducting undercover operations involving narcotics should be developed.
- Enforcement management should work with the Legal Division to develop a process for documenting the specific factors in source investigations where an administrative or criminal violation resulted in some type of discipline (cancellation, suspension, civil penalty, etc.). These cases should be reviewed and the reviews documented and analyzed to identify changes to the policy or procedure that could be made to increase the probability of successful outcomes in source investigation cases.
- Enforcement management should work with the Training and Legal Divisions to determine if the existing course on searches and seizures is adequate and if it not changes should be made to the curriculum and the class should be taught during FY 2011.

Management's Response

Enforcement management generally agrees with the report findings, but does not agree with some recommendations in the report. The management response to each recommendation identifies the reasons management does not agree or why management believes no action is necessary.

AUDIT PURPOSE & SCOPE

The primary purposes of the internal audit were to evaluate the effectiveness of policies governing key enforcement functions performed by the Enforcement Division field offices, the adequacy of the division's management reporting system; and the effectiveness of the policy management process.

The scope of internal audit work included review, analysis, and/or testing of the following policies and functions:

- complaint investigations;
- inspections of licensed premises;
- undercover operations;
- minor stings;
- source investigations;
- searches and seizures;
- use of force;
- purchase of evidence funds;
- vehicle and credit card usage by field offices;
- enforcement actions;
- complaints made against Certified Peace Officers (CPOs);
- management reports; and
- policy management system.

Specific audit objectives for each of these audit areas were developed and coordinated with TABC management.

Audit fieldwork was performed at the Austin headquarters office and onsite interviews were conducted with Certified Peace Officers at field offices in Abilene, Austin, Arlington, Bryan, Conroe, Houston, San Antonio and Waco. A survey of all CPOs was also conducted. A total of 110 out of 250 CPOs responded to the survey (44%).

AUDIT RESULTS AND RECOMMENDATIONS

The results and recommendations of the internal audit work are presented in this section for each of the twelve audit objectives that were established and coordinated with TABC management.

Audit Objective 1: Determine if there are effective policies and procedures for performing, documenting and reporting on complaint investigations.

The complaint investigations policy and procedures specifies that the agency policy is to investigate all complaints made to TABC (by citizens, other law enforcement agencies or internally filed complaints by TABC staff). Complaints involving public safety are given priority. The policy specifies that TABC will attempt to complete complaint investigations within 60 days and that all complaint information will be entered into the Agency Reporting and Tracking System (ARTS), which is used to track the status of the complaint, to review trends and to eliminate duplication of investigative work.

Accountability is stressed and the procedures specify the role of the agent and the supervisor, but the agent is allowed flexibility and professional discretion on how the investigation is performed. Supervisors must review all complaints and determine whether an investigation is warranted; supervisors must also close all investigations.

Although detailed procedures for conducting the investigation are not specified, some guidance is provided. For example, the

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procedures specify that when an allegation is made, the agent should attempt to conduct the inspection or other enforcement action during a similar setting. For example if the complaint indicated a violation during Thursday during “happy-hour” then the agent should visit the location on a Thursday, during happy hour.

Review of the process for tracking complaint investigations in the ARTS system indicates that the complaint information in the system appears to be in accordance with the policy and procedure and is generally sufficient in detail for the type of investigation performed. Source investigations reviewed had detailed records and narrative about the status of the investigation as it was conducted. Other types of investigations had less detail, but sufficient information to know what occurred and the outcome of the investigation.

Analysis of closed complaint investigation cases by region for the period 9/1/08 through 1/25/10 indicated the following:

- The average number of days to close an investigation ranged from 36 days to 41 days.
- The percent of cases closed in 60 days ranged from 81% to 89%.
- The percent of cases where the allegations were sustained ranged from 20% to 31%.
- The percent of sustained allegations where an administrative case resulted ranged from 42% to 56%.
- The percent of sustained allegations where an administrative warning was issued ranged from 32% to 53%.

A survey of Enforcement CPOs regarding the topic of conducting complaint investigations found that slightly over two-thirds (68%) of the respondents (73 of 107) indicated that they strongly agreed or agreed with the statement “Effective written procedures and training have been provided for conducting and reporting on all types of complaint investigations.” The remaining respondents disagreed or were not sure whether they agreed with the statement.

Respondents that disagreed indicated a need for training on conducting investigations. Comments regarding training indicated the need for training in conducting complex investigations such as subterfuges, source investigations and marketing practice investigations. Review of training information provided by the Training Division indicated that seven types of investigative training classes were provided during FY 2010, with a total of 231 total participants.

Survey comments also indicated that in some cases the CPOs believe that changes are needed in ARTs to more correctly categorize the results of complaint investigations.

Overall, review of case investigation policies and procedures, analysis of case investigation data and surveys and interviews with Enforcement CPOs indicate that the policy and procedures appear to be adequate and training on investigations is being provided, but there is a perceived need by some CPOs that more training on conducting various types of complaint investigations is needed. Based on survey and interview comments there may also be a need for additional guidance in the policy

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and procedure for conducting more complex types of complaint investigations.

Recommendation 1: *Enforcement management should work with the Training Division to determine if other types of investigative training classes may be needed. Consideration should also be given to working with the Legal Division to develop a class on conducting complex types of complaint investigations.*

TABC Management Response: In conjunction with the Training Division, Enforcement has implemented various investigative training courses beginning September 2010 that will continue through FY 2011. The agents have been trained on At-Risk Assessment and Marketing Practices. They also were trained in Licensing Standard Investigation, and the Minor Sting Policy. Beginning November 1st, the Training Division has begun providing Interrogation Investigation training. Source Investigation training should be completed during FY 2011. Enforcement has worked with the Legal Division on Investigation, Subterfuges, and Source Investigation training, and is in the process of training on Use of Force. Other trainings include Report Writing, Investigative Techniques, and Breach Investigations. The training is coordinated through the Enforcement Division and the Training Division and has input from the Legal Division.

Recommendation 2: *Enforcement management and the Planner should review the comments made in the survey regarding possible changes to how information on conducting complaint investigations is categorized and entered into ARTS to determine if any changes should be made to*

more accurately capture the results of compliant investigations.

TABC Management Response: Enforcement management met with the Planner and reviewed the survey comments, but determined that there will be no change on the categorized outcome of violation. It will stay as no violation found. This properly reflects the outcome of a complaint investigation.

Recommendation 3: *Enforcement management should review all of the survey and field interview comments to determine if the complaint investigation policy could be clarified or changed to be more effective. Management should consider sending out a document clarifying the policy intent and correcting any procedural confusion regarding complaint investigations, as well as other enforcement functions where the survey and field interview comments indicate that a policy or procedure requires clarification.*

TABC Management Response: Enforcement management reviewed all survey and interview comments. Every certified agent as well as new hires were trained on policies and submitted an acknowledgement form indicating such. The acknowledgement forms are filed in the agent's training folder located in the Training Division.

Audit Objective 2: *Determine if there are effective policies and procedures for conducting, documenting and reporting on inspections of licensed premises and if the risk-based inspections are resulting in documented compliance with the Alcoholic Beverage Code.*

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The Enforcement Division has established effective policies and procedures for conducting inspections. The inspection policy implemented in January 2010 includes a six-step process for agents to follow in conducting inspections. The six-step process should be used but is not mandatory. Agents have the discretion to determine which steps are used during an inspection.

Risk-based inspections focus enforcement operations on locations that present a public safety risk. Violations involving minors, intoxicated persons, drugs, breaches of the peace, and consumption or sales during prohibited hours are generally a risk to public safety. The roles and responsibilities of TABC personnel are clearly delineated in the risk-based inspections policy from agents up to captains and Enforcement headquarters personnel.

A survey of Enforcement CPOs regarding the topic of conducting inspections found that 78% of the respondents (86 of 110) indicated that they strongly agreed or agreed with the statement “Effective written procedures and training have been provided for conducting and reporting on inspections.” The remaining respondents disagreed or were not sure whether they agreed with the statement.

As to whether they understand and follow the six-step process for conducting inspections, 102 of 108 (94%) responded that they strongly agreed or agreed with the statement “I understand and follow the six-step process for conducting inspections.”

During field office interviews with CPOs, most agreed that the process is good, but

there are times when exceptions need to be made, such as observing: an obvious minor drinking, serving an intoxicated person, or selling liquor when only beer is authorized. They believe these situations should be addressed immediately. In field offices, the agents often know their permittees and have longstanding relationships and want the option to bypass steps such as the introduction. Some agents commented that the six-step process needs more flexibility.

Recommendation 4: *Enforcement management should determine whether any changes are necessary to improve the effectiveness or efficiency in how the risk-based inspections are performed and closed based on review of the survey comments and through input received from the CPOs during field office interviews.*

TABC Management Response: The At-Risk Based approach begins November 1st and we will re-evaluate the priority list and possibly merge the two. The Enforcement supervisors, agents, and compliance supervisors received At-Risk Based training.

<p>Audit Objective 3: <i>Determine if there are effective policies and procedures for conducting, documenting and reporting on undercover operations and minor stings.</i></p>

The undercover operations policy includes definitions, planning, special requirements, and procedures for executing the operation. Each undercover operation requires preplanning and a written operational plan and agents are provided with guidelines on preparing an operation plan. The minor stings policy provides a guide to the execution of minor stings. The procedures include the specific steps for recruiting

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minors, communicating with local prosecutors, holding an orientation meeting, planning the operation, preparing the minor, conducting the minor sting operation, and submitting the report.

The effectiveness of the undercover operations is measured by the number of violations. For the most part, undercover operations are targeted at establishments where numerous complaints have been filed, and there is a prior history of non-compliance.

There were several significant changes in the minor stings policy. The minor sting operational plan is a new form that must be completed and instructions for the minor sting operation plan are provided to CPOs. For CPO accountability, the new form includes a place to record the starting and ending mileage during the sting operation, which may include several locations during the operation. The minor sting plan will detail each named establishment, address, the time in/out, the alcohol purchased, and the amount paid. It also stipulates that supervisors will conduct periodic rides to ensure that agents are following the policy.

The minor sting program is one of the most effective activities to reduce access to alcohol by teenagers. In FY 2009, there were over 9,000 stings attempted. Locations are chosen based upon complaints, previous violations, or proximity. The results are measured by the number of sales to the number of attempts. Statewide, 88% of the attempts resulted in compliance by off-premise retailers; 84% of the attempts resulted in compliance by on-premise establishments.

A survey of Enforcement CPOs regarding the topic of conducting undercover operations found that 76 out of 109 respondents (69%) indicated that they strongly agreed or agreed with the statement “Effective written procedures and training have been provided for conducting and reporting on undercover operations.” Twenty-four respondents (23%) disagreed or strongly disagree with this statement. This is a fairly high percentage, which indicates that there are concerns regarding the policy, procedures or training for conducting undercover operations.

Respondents that disagreed with this statement were asked to comment and a total of 25 comments were made. Analysis of the comments indicated that over half the comments were directed toward the need for training on conducting undercover operations. Review of training records for FY 2010 and discussion with the Training Director indicated that training during the fiscal year did not cover undercover operations. A number of comments also suggested that the policy and procedures were not clear and several indicated that there is a need for additional policy guidance in conducting undercover operations involving narcotics.

Responses to the statement, “Effective written procedures and training have been provided for conducting and reporting on minor stings” were somewhat more favorable with 93 of 110 (84%) responding that they strongly agreed or agreed with the statement.

Overall, review of the undercover operations policies and procedures, analysis of data and surveys and interviews with Enforcement CPOs indicate that the undercover

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operations policies and procedures appear to be adequate, but some clarification may be needed in the policy or procedures and there appears to be a need for more training in conducting undercover operations.

Recommendation 5: *Enforcement management should work with the Training Division to develop and provide a class (or classes) on conducting undercover operations. Senior CPOs with extensive experience in conducting undercover operations should be used as a resource in developing this training.*

TABC Management Response: The Undercover Operations Policy has been updated with agents trained on this policy. In addition, several regions have received external undercover operations training on undercover operations as needed. Our level of undercover work is minimal. Our undercover operation with undercover agents is limited, but we will train on an as needed basis. We are investigators and gatherers of facts and our resources do not allow us to do long term investigations. The Enforcement Division will provide light training on undercover operations involving narcotics with the assistance of the Training Division, but our interest lies in trafficking licensed premises. Our intent is to work with the local and state task forces, but the local, state and federal task forces have more resources.

Recommendation 6: *Enforcement management should review the survey comments to determine if any changes should be made to the undercover operations policies or procedures to clarify or provide better guidance to CPOs in conducting and reporting on undercover operations. A new policy and procedure on*

conducting undercover operations involving narcotics should be developed.

TABC Management Response: We have reviewed the survey comments. The Undercover Operations Policy has been updated with agents trained on this policy. In addition, several regions have received external undercover operations training on undercover operations as needed. Our level of undercover work is minimal. Our undercover operation with undercover agents is limited, but we will train on an as needed basis. We are investigators and gatherer of facts and our resources do not allow us to do long term investigations. The Enforcement Division will provide light training on undercover operations involving narcotics with the assistance of the Training Division, but our interest lies in trafficking licensed premises. Our intent is to work with the local and state task forces, but the local, state and federal task forces have more resources.

Audit Objective 4: *Determine if there are effective policies and procedures for performing, documenting and reporting on source investigations.*

The policy and procedures on source investigations specifies that the agency policy is to investigate all alcohol-related incidents that result in serious injury, death, or felonious assault with the intent of discovering the source of alcoholic beverages consumed by the individual(s) involved in the incident and whether the source of alcohol violated the TAB Code. A source investigation checklist is used to determine and document whether or not to initiate a source investigation. This determination is made by a lieutenant in each region.

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Source investigations usually require more time than other types of complaint investigations. Review of information on source investigations indicates that statewide 5,315 hours were devoted to source investigations between September 1, 2008 and January 25, 2010. For this 17 month period, this is an average of 313 hours per month. Analysis of closed complaint cases on source investigations for the period 9/1/08 through 1/25/10 indicates the following:

- The average number of days to close an investigation by region ranged from 51 days to 67 days.
- The percent of cases where the allegations were sustained by region ranged from 16% to 29%.
- There were four cancellations, four restraints and 31 suspensions or civil penalties imposed for cases with an issue date between 9/1/08 and 1/25/10.
- The civil penalties during this period totaled \$94,250 and the number of days of suspension totaled 185.

The overall analysis of source investigation data indicates that a significant amount of man-hours are devoted to source investigations even though in many cases an administrative or criminal case cannot be made. This does not indicate that the source investigation procedures are not effective, but rather it is often difficult to obtain sufficient evidence to make a case. In spite of this, conducting source investigations is an essential public safety function of TABC.

A survey of Enforcement CPOs regarding the topic of conducting source investigations

found that 67 of 109 respondents (61%) indicated that they strongly agreed or agreed with the statement “Effective written procedures and training have been provided for conducting and reporting on source investigations.” Twenty-six (26) respondents (24%) disagreed or strongly disagree with this statement. A total of 16 (15%) were not sure if they agreed or disagreed. Considering that more than 1 in 4 disagreed with the statement regarding source investigations, there are some concerns about the policy, procedures or training for conducting source investigations.

Respondents that disagreed were asked to comment and a total of 26 comments were made. Analysis of the comments indicated that a majority of the comments related to the need for training in this area. According to the Training Director, there is information in the Field Officer Training materials regarding source investigations, but no specific training classes are held dealing strictly with source investigations.

Field office interviews indicated a general consensus that there is a need for more investigative training, including evidence acquisition and basic interviewing techniques. Supervisors indicate that they tend to gravitate towards the few individuals that already do source investigations, but acknowledge that more investigation training in new agent school and also in-service would be valuable.

Reviewing successful case outcomes of source investigations, documenting the reasons the case was successful and analyzing this information might result in identifying changes to procedures that would increase the overall successful outcomes in conducting source investigations.

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Additionally, developing specific outcome measures and monitoring these measures over time at the regional level should enable Enforcement management to identify possible inefficiency, training issues or changes in procedures that may be necessary. For example, if analysis of source investigation indicates one region is significantly below other regions in the number of administrative cases resulting from source investigations, it may indicate that the source investigation checklist is not being effectively used as a tool to determine whether or not to initiate a source investigation, and therefore, CPOs are being assigned to investigations that should not have been initiated.

Recommendation 7: *Enforcement management should work with the Legal Division to develop a process for documenting the specific factors in source investigations where an administrative or criminal violation resulted in some type of discipline (cancellation, suspension, civil penalty, etc.). These cases should be reviewed and the reviews documented and analyzed to identify changes to the policy or procedure that could be made to increase the probability of successful outcomes in source investigation cases.*

TABC Management Response: Source investigations are addressed in the Enforcement manual. Ninety percent of the cases are settled in the field, thus the outcome is known in the field. Sometimes there is no update because the case could be stalled in the court system and take up to a year to be settled. Outcomes can be tracked through ARTS. For these outcomes, the Enforcement Division will form a team comprised of a TABC attorney and

Sergeants to evaluate source investigation cases to see what is needed for successful outcomes. Our Legal and Enforcement Division supervisors have and will continue to meet on major cases where there is a potential for cancellation, but a case could be in the court system for up to a year due to backups in the courts system.

Recommendation 8: *Enforcement management should work with the Training and Legal Divisions to develop and provide a class on conducting source investigations. Senior CPOs with extensive experience in conducting source investigations should be used as a resource in developing this training.*

TABC Management Response: The Enforcement Division has worked and will continue to work with the Legal Division and Training Division to provide more training. The Training Division and Enforcement Division are in the process of training the field personnel in Source Investigations, including Interrogation. Legal has input in this training which will be completed by the end of FY 2011.

Recommendation 9: *Enforcement management should work with the Planner to determine useful outcome measures for source investigations and these outcome measures should be prepared, analyzed and provided to Enforcement management on a periodic basis (monthly, quarterly, annually) to identify possible inefficiency, training issues or changes in procedures that may be necessary in a particular region or statewide.*

TABC Management Response: There is a system in place with a specific code for

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source investigations. Any outcome that is dismissed has an explanation from the Legal Division. The Enforcement Division will continue to work with the Legal Division on analyzing the outcomes of source investigations. The Captains will receive quarterly reports on source investigation outcomes.

Audit Objective 5: Determine if there are effective policies and procedures for conducting, documenting and reporting on searches and seizures.

There are three policies related to search and seizures by TABC. One policy addresses searches of persons and property. The policy establishes procedures for determining whether the activity constitutes a search and whether a warrant is needed. The policy also addresses protective searches that may be done on a person if the CPO is following a properly executed investigative detention, including searching the person's clothing, purse or vehicle for any weapons that may be concealed from view.

There is a policy that addresses seizure of property, providing Texas Code of Criminal Procedures and TABC code references. The policy includes specific procedures regarding the basis for the seizure, executing the seizure, storing the property seized, and documenting the chain of custody.

The third policy addresses seizure of pornographic material, criminal code references and TABC code references and includes a new section which covers possession or promotion of child pornography. Child pornography is a felony,

and TABC agents are instructed to take action when it is found.

A survey of Enforcement CPOs regarding the topic of conducting searches and seizures found that two-thirds of the respondents (72 of 110) indicated that they strongly agreed or agreed with the statement "Effective written procedures and training have been provided for conducting all types of searches and seizures." Analysis of the comments regarding concern about searches and seizures indicated that 15 of the 18 comments indicated a need for training on conducting searches and seizures. Review of the training records for FY 2010 indicates that there is a course on Intermediate Arrest Search and Seizure, but it was not taught during FY 2010.

Recommendation 10: *Enforcement management should work with the Training and Legal Divisions to determine if the existing course on searches and seizures is adequate and if it not changes should be made to the curriculum and the class should be taught during FY 2011.*

TABC Management Response: The Training Division is in the process of developing a 4th Amendment and More class consisting of Search and Seizure and Developing and Writing Search Warrants to be taught to our agents. This training will be completed during FY 2011. Once the training calendar is approved, the Training Division will provide a Building Entry class for the agents.

Audit Objective 6: Determine if there are effective policies and procedures for reporting and follow-up action on use of force incidents.

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There appear to be effective policies and procedures for reporting and follow-up action on use of force incidents. There is one policy on the use of force and a number of associated policies. The policies all lay out any relevant laws, the agency policy and the procedures to be followed in the event of some type of use of force. The policies stress the need for using objective reasonableness given the situation, timely reporting to the supervisor and follow-up action by headquarters personnel on actions that will be taken, including internal investigations or needed training. A use of force report must be filed any time there is an incident involving the use of force.

Changes to the use of force policies made in the current *Enforcement Manual* include clearly defining the supervisor's duties for reviewing and approving the use of force report; the role of the Office of Professional Responsibility (OPR) and when applicable the Training Division in reviewing use of force reports; a new in-custody death policy; and, changes requiring a use of force report to be submitted when targeting persons with a firearm.

The Assistant Director of Enforcement reviews all use of force reports and there is an independent review of all use of force reports by OPR to determine if the policies and procedures were followed. This independent review is a very important component of the new policies. Even if the use of force policies were followed, information in the report may be referred to the Training Director as a potential training need. If the use of force report indicates a possibility of a violation of policy or excessive force, then OPR would open and conduct an investigation.

Use of force reports are entered into the OPR database for tracking and training purposes. Information will be tracked and reported to the Administrator, Commissioners, Enforcement and the Training Division on statistics and trends regarding use of force incidents. This is a new process and at the time of audit fieldwork no reports had been provided.

A survey of Enforcement CPOs regarding the topic of use of force indicated that 91 of 110 respondents (82%) strongly agreed or agreed with the statement "Effective written procedures and training have been provided regarding use of force." Respondents that disagreed primarily commented that agents had not yet received current training on use of force, although many indicated that training had been provided to supervisors. The Training Division indicates that use of force training will be provided to non-supervisory personnel during FY 2011.

Field office interviews with CPOs indicated that many believe the use of force policy is the strongest point in the entire *Manual*. Most staff interviewed expressed satisfaction with the use of force policy and the training provided. There was also general agreement that agents may view the reporting aspect of the use of force policy as cumbersome, but supervisors deem it important and necessary.

Overall, the changes to the use of force policies clearly spell out the roles and responsibilities within the chain of command. The independent review by OPR and the referral to the Training Division of information in the use of force reports to address potential training needs will help to ensure that force is used prudently and when

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excessive force is used appropriate action is taken by TABC.

Recommendations: None.

Audit Objective 7: Determine if there are adequate internal controls and effective policies and procedures for the use of purchase of evidence funds for undercover operations.

There are adequate internal controls and effective policies and procedures for the use of purchase of evidence funds for undercover operations. The *Enforcement Manual* contains a comprehensive policy on use and documentation of purchase of evidence funds. The policy addresses the procedure for requesting funds and documenting the use of the funds, the use of ATM cards and the checking account, and the process for returning and documenting unused funds. The policy also addresses the disposing of any property purchased with these funds. Policy and procedure changes have been made to better document the use of funds and to define responsibilities of agents and supervisors regarding accountability for purchase of evidence funds, including new requirements restricting the use of personal funds, requiring ATM receipts to be signed and retained with district funds, limiting cash on hand to \$1,000, and requiring captains to update the region's checkbook register on the k: drive when changes occur. With the multiple levels of oversight by sergeants, lieutenants, and captains, the internal controls are considered to be effective in preventing any abuses of the system.

A survey of Enforcement CPOs regarding the topic of use of purchase of evidence

funds found that 91 of 110 respondents (83%) indicated that they strongly agreed or agreed with the statement "Effective written procedures have been established regarding use of purchase of evidence funds." Few comments or suggestions were made regarding this topic.

Recommendations: None.

Audit Objective 8: Determine if there are adequate internal controls and effective policies and procedures for monitoring the use of vehicles and credit cards used by the Enforcement Division.

There are adequate internal controls and effective policies and procedures for monitoring the use of vehicles and credit cards used by the Enforcement Division. The policy on use of vehicles and related equipment addresses the roles and responsibilities of each level of management. It establishes procedures for issuing vehicles, maintaining vehicles and documenting the use of vehicles. The policy also addresses off-duty storage of vehicles, the proper use of emergency equipment, and the use of vehicles in a pursuit to apprehend a subject. The policy also covers the use of credit cards for vehicle-related purchases. In the event of an accident involving TABC vehicles, CPO's must follow the procedures detailed in the TABC driving policy.

Changes to the policy on use of vehicles include the requirements that: CPO's check their vehicles at the beginning of each shift to ensure that all equipment is working properly, and to notify supervisor of any that needs repair or replacement; lieutenants and sergeants will periodically make check rides to observe driving skills and make periodic

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inspections of the condition of the vehicle, using the vehicle inspection report; vehicle use will be documented on the daily activity report (DAR) or car log; CPO's must clearly identify themselves as peace officers to anyone during a vehicle stop; CPO's may not routinely join pursuits initiated by another agency; and, CPO's will abandon a pursuit if there are an adequate number of units from another law enforcement agency. These changes were made to clarify the responsibility of CPOs and ensure adequate oversight by Enforcement supervisors.

Analysis of the Enforcement Division vehicle summary report for FY 2009 indicates that 336 vehicles were assigned to the Enforcement Division, with annual costs of gasoline and maintenance of approximately \$750,000. Although various reports are available to Enforcement management through the Crystal Reports system, periodic summary reports on vehicle usage by region are not provided to management to monitor vehicle use.

A survey of Enforcement CPOs regarding written policies and procedures for use of agency vehicles found that 101 of 110 (92%) respondents indicated that they strongly agreed or agreed with the statement "Effective written procedures have been established regarding use of agency vehicles."

Two types of credit cards are used by the Enforcement Division. CPOs are provided a credit card to be used for gasoline and vehicle maintenance purposes. At the pump, the agent has to enter his vehicle code, similar to credit card holders having to enter the zip code of their billing address. This ensures that the purchase is tracked to an authorized TABC employee and enables the

monthly invoice to be sorted and reviewed by department and employee's charges. The credit cards may be used at vendors besides fueling stations, such as tire stores, oil and tube change stores, and auto parts store. Each time, the vehicle number must be entered for the charge to be accepted. Each regional office also has procurement cards which are used for purchases of office supplies, stamps, cleaning supplies, toner for printers/faxes/copiers, business services (such as plumbing, electrical, fire inspections, under \$1,000), vehicle services/repairs (under \$2,000), etc. There are 18 cards issued to Enforcement personnel in the field. Each card holder must attend training on the use of the card before being issued a card. Cards are issued in the name of the agents and individual statements are sent to each of the card holders by Chase Bank. Effective procedures have been established to cover the use and reporting for both types of credit cards.

A survey of Enforcement CPOs regarding written policies and procedures for use of agency credit cards found that 80 of 105 (76%) responded that they strongly agreed or agreed with the statement "Effective written procedures have been established regarding use of agency credit cards." Only 7 out of 105 respondents (8%) indicated that they disagreed or strongly disagreed with this statement. There were 18 respondents (13%) that were not sure.

With the multiple levels of oversight by sergeants, lieutenants, and captains, the internal controls and written procedures concerning use of agency vehicles and credit cards are considered to be effective in preventing any abuses of the system.

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***Recommendation 11:** A documented auto usage monitoring report should be initiated. The summary auto usage report should be formally prepared monthly and provided to captains for their review, with any unusual usage noted and reported to the Assistant Chief of Enforcement.*

TABC Management Response: The Enforcement Division and the Captains will be provided a summary of vehicle usage report on a monthly basis. The Captains will report any unusual usage to the Assistant Chief of Enforcement.

***Audit Objective 9:** Determine if there are effective policies and procedures for tracking, monitoring, and closing out enforcement actions issued when violations of the alcoholic beverage code are found.*

There are effective policies and procedures for tracking, monitoring, and closing out enforcement actions issued when violations of the alcoholic beverage code are found. The administrative cases and warnings policy stipulates that CPOs will issue administrative warnings and notices, file cases, set administrative cases, and initiate suspensions of permits or licenses. The procedures outline steps to be taken to initiate a case against a licensee or permittee and the forms to be used. It is the responsibility of the supervisor to review the administrative cases or warnings for completeness or accuracy, and then approve, return to CPO for corrections, or dismiss it. Once approved by the supervisor, the case must be entered into the administrative case log.

The settlement of administrative cases policy outlines the negotiation process,

settlement of cases outside the original district, rejection of settlement offer, acceptance of a settlement offer, or withdrawal of an acceptance of a settlement offer. The policy states that a supervisor or designee will attempt to negotiate settlements of cases unless prohibited by the standard penalty chart. The standard penalty chart delineates the penalties for an act or failure to act that results in a violation of the code or rules, and the penalty is based on whether it is a first, second, or third violation. The supervisor will select from the standard penalty chart an appropriate penalty to offer for settlement. Any deviation from the standard penalty chart must be in writing and must be approved by the captain.

Audit review indicates there is an effective process for entering administrative notices into the ARTS system in a timely manner and there is timely follow-up by supervisors. Most cases are resolved within a few days and so noted in the system by Enforcement personnel. There are numerous reports available to track and monitor the number and types of administrative notices issued. Approximately 85% of administrative cases are closed in the field. One area of monitoring or tracking that needs to be improved is when an administrative case is referred to Legal. Enforcement may not be able to track the disposition of a case once it is referred to Legal because the information on disposition may not be entered into the ARTS by Legal as is done by Enforcement personnel when cases are resolved.

A survey of Enforcement CPOs regarding the topic of closing out enforcement actions found that 83 of 105 respondents (80%) indicated that they strongly agreed or agreed with the statement "Effective written

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procedures have been established for tracking, monitoring and closing out enforcement actions issued when violations of the TAB Code are found.” Only eight respondents disagreed with this statement. A total of 14 (13%) were not sure if they agreed or disagreed.

Recommendation 12: *The Legal Division should provide Enforcement with electronic verification of the disposition of the administrative cases referred to them. Just as supervisors input data into ARTS regarding disposition of cases at the regional level, someone in Legal should follow-up when a case is adjudicated or resolved by Legal.*

TABC Management Response: The Planner provides the disposition of administrative case report to the Captains for their review. This report is then submitted on a weekly basis to the Assistant Chief of Enforcement for his review. The reason for dismissal is provided in the disposition.

Audit Objective 10: *Determine if there are effective processes for review and follow-up action on investigations of Enforcement personnel performed by the Office of Professional Responsibility (OPR).*

There is an effective process for review and follow-up action on investigations of Enforcement personnel performed by the Office of Professional Responsibility. Every complaint made against an Enforcement Division staff member is investigated by the OPR or by an Enforcement Division investigator who has been selected and trained by OPR staff prior to participating in any investigations.

Those complaints that are not sustained are sent to the Assistant Chief of Enforcement for review but no follow-up action is taken. If a complaint is sustained, the OPR sends the file and case to Legal for review and then to Human Resources for review. It is then sent to the Assistant Chief of Enforcement for his review and a decision for action. The Assistant Chief will issue a written reprimand (warning) to the employee, will take disciplinary action against the employee, such as suspension (with or without pay), or will terminate the employee. However, before he takes any disciplinary action, he will send the file back to Legal and Human Resources for review of the decision. During the review process they will approve as presented, modify as presented, or change before proceeding. Overall this system results in an effective system of checks and balances to ensure that appropriate, consistent action is taken when complaints against Enforcement personnel are sustained in the OPR investigation.

The OPR has placed an emphasis on education of TABC agents as a preventative measure to reduce the number of complaints. A quarterly report is provided to the Administrator by OPR noting the number and type of complaints, the frequency of complaints, who conducted the investigation, trends, and recommendations. With continued education efforts by OPR staff, management expects a decline in the number and types of complaints.

Recommendations: *None.*

Audit Objective 11: *Determine if the management reporting system in use by the Enforcement Division provides concise and useful information for oversight of the field*

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office activities and ensuring accountability by the field offices.

The Enforcement Division primarily uses two applications, the Agency Reporting and Tracking System (ARTS) and CrisNet. Individuals within Enforcement have access to their primary systems, but often have no access (or limited access) to the other systems and the data contained within them. The ARTS is the most widely used in-house developed application and provides field and headquarters staff a method of capturing complaint, inspection, offense and daily activity information. The Crystal View and COGNOS report platforms can be used to develop standard or ad hoc reports to be used by headquarters management and field supervisors. There is an extensive list of reports available to all management and supervisory personnel in the Crystal View and COGNOS systems that can be run at any time for any time frame.

A comprehensive management report is prepared by the Planner each month that includes 35 different Enforcement-related reports. In addition to these reports, there are 22 ad hoc reports that the Planner prepares monthly from the COGNOS database system. These reports are also distributed to management and field level supervisors. Some of the reports are used to track progress in meeting key performance measures and other reports are used to track such things as administrative actions.

The Information Resources Division is currently working on a Case Management System which will allow for necessary enhancements to ARTS to share information across organizational boundaries and improve its usability. Essentially, it will

have all the information in one database, reduce redundancy of data, and eliminate the need for multiple comparable systems (CrisNet/NetRMS). However, continued funding of the project may be jeopardized by any budget/appropriation reductions that are likely to occur.

Overall, an excellent Enforcement Division management reporting system exists for providing regular and ad hoc reports to executive management, Enforcement management and the Commissioners.

Recommendations: None.

Audit Objective 12: Determine if there is an effective process in place for reviewing, updating, and disseminating Enforcement Division policies and procedures.

There is an effective process for reviewing, updating and disseminating Enforcement Division policies and procedures. Every agent has a copy of the *Enforcement Manual* and every agent has received training on the updated portions of the *Manual*. Each agent signs an acknowledgement of receipt, and is expected to maintain a log of the updates in the front of the *Manual*. All new CPOs receive training on the *Enforcement Manual* coordinated by the Director of Training. The Director of Training will be responsible for distribution of updates and will maintain a historical file of all amendments. There is also a process for suggesting updates or revisions to a policy.

A survey of Enforcement CPOs regarding the overall adequacy of the *Enforcement Manual* found that 85 of 105 respondents (81%) indicated that they strongly agreed or agreed with the statement "Overall the

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Enforcement Manual provides adequate written guidelines and procedures for performing my duties and I have received adequate training on the *Manual*.” Ten respondents disagreed or strongly disagreed with this statement. A total of 10 were not sure if they agreed or disagreed. Most respondents that disagreed indicated a need for training on the *Manual*.

Interviews with field office CPOs indicated a consensus that the current *Enforcement Manual* is considered the best ever. Long-tenured employees who have seen several manuals were pleased with the *Manual*. Some of those same employees had some issues with some areas being too restrictive, but all recognized the reasons for those being so much more restrictive than previously. All had received training/review of the *Manual*, though some indicated that they were briefed only on the significant changes. Others indicated that their offices went through the *Manual* in detail. Some districts have sessions on a part of the *Manual* at district meetings. The agents like the plan that the new *Manual* will be a fluid document that can be amended as necessary, but some felt the amendment process is too cumbersome and should be shortened.

Overall, the *Enforcement Manual* appears to be an extremely effective tool for CPOs to use to accomplish the goals of the agency in a consistent manner.

Recommendations: None.

Attachment 13

Approval of Licensing's Internal Audit

**Texas Alcoholic Beverage Commission
Internal Audit of License and Permit
Processing by the Licensing Division**

Final Report

As Approved by the Commission on

November 18, 2010

As Prepared by
Jansen & Gregorczyk
Certified Public Accountants

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**Texas Alcoholic Beverage Commission Internal Audit of License and Permit Processing
by the Licensing Division – Final Report – November 18, 2010**

**Jansen & Gregorczyk
Certified Public Accountants**

**Telephone
(512) 268-0070**

**P. O. Box 601
Kyle, Tx. 78640**

November 18, 2010

Commission Members
Texas Alcoholic Beverage Commission

The following report provides the results and recommendations noted during the internal audit of License and Permit Processing by the Licensing Division.

The internal audit was conducted in accordance with generally accepted government auditing standards and *Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors.

Signed Copy on File

Jansen & Gregorczyk
Certified Public Accountants

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EXECUTIVE SUMMARY

Audit Purpose

The purposes of the internal audit were to evaluate the adequacy of internal controls and the effectiveness and efficiency of procedures used by the Licensing Division for processing alcoholic beverage license and permit applications and renewals. A secondary purpose of the audit was to evaluate the adequacy of the division's management reporting system.

Key Audit Observations

- The forms and instructions for licenses and permits available on the TABC web site provide the necessary information and guidance for applicants to complete the required applications. The instructions and guides are comprehensive and easy to understand.
- The website provides useful information for applicants, license and permit holders, and the public regarding alcoholic beverage licenses and permits. Anyone can search public records via the Public Inquiry System, can file an open records request, can download applications for licenses or permits, inquire about classes to be TABC certified, file a complaint against a licensee or permittee, or inquire about protesting an application for a license or permit.
- There are effective procedures for imaging applications and related documents and effective use of imaged information in processing applications for licenses and permits. The transition from paper to imaged documents has been smooth, and employees have noted that working with imaged documents has not impaired their ability to do their job.

- All employees have received training on the Alcoholic Beverage Code through the Liquor 101 program, but all application processing training is on-the-job.
- There are effective and efficient processes for entering license and permit applications and renewals into the LicenseEase (LE) system.
- The Licensing Division has an effective and efficient process for prompt and accurate processing of applications, verification of information, and issuing of licenses and permits. The reorganization from an assembly line process to a district process has enhanced the speed with which applications are approved.
- Effective customer service processes have been established for dealing with applicants during the submission of applications, processing of applications and issuance of licenses, permits and renewals.
- Effective quality control processes have been established for ensuring that applications are processed accurately and timely and for ensuring all established procedures were followed in issuing licenses and permits.
- There is an effective process for coordinating and communicating among the field offices and headquarters staff related to processing licenses and permits.
- The Licensing Division has a management reporting system in use that provides concise and useful information for oversight of the field office activities and ensures accountability by headquarters and field office staff in processing applications for licenses and permits.

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Recommendations

- Management should consider the three suggestions made by staff as well as other comments made by staff regarding changes that may make both applications and instructions easier to understand and complete correctly.
- The initial training for account examiners should include more formalized training than just on-the-job training. One or two persons should be selected to be the primary trainers for all new account examiners to ensure consistency in the training provided, and some type of proficiency test should be administered to the trainees to gauge their understanding of training topics as well as the adequacy of the trainers in presenting training topics.
- Training should include specific training on all the different types of licenses and permits and topics suggested by staff such as management agreements, concession agreements, private clubs, wholesalers and manufacturers, and interpersonal skills (working with difficult applicants).
- Management should review all of the comments made regarding manuals, instructions and training and those that have merit and should be implemented.

Management's Response

Management agrees with the report conclusions and recommendations. The management response to each recommendation indicates the employee responsible for implementation and the expected implementation completion date.

AUDIT PURPOSE & SCOPE

The purposes of the internal audit were to evaluate the adequacy of internal controls and the effectiveness and efficiency of procedures used by the Licensing Division for processing alcoholic beverage license and permit applications and renewals. A secondary purpose of the audit was to evaluate the adequacy of the division's management reporting system.

The scope of audit work included review, analysis, and/or testing of the following areas:

- forms and instructions for licenses and permits;
- website for providing information on licenses and permits;
- procedures manuals, guidelines and training for processing license and permit applications;
- procedures for imaging and using imaged documents;
- data entry of information into the LicenseEase (LE) system;
- procedures for verifying information on licenses and permits;
- processes for providing customer service;
- quality control processes;
- coordination and communication processes among headquarters and field offices; and
- management reporting system.

Audit work was conducted at Austin headquarters and field offices in Austin, San Antonio, Arlington, Waco, Abilene, Conroe, Bryan and Houston. A survey of all Licensing Division staff was also used to gather information about license and permit processing, with a 100% response rate.

AUDIT RESULTS AND RECOMMENDATIONS

The results and recommendations of the internal audit work are presented in this section for each of the ten audit objectives that were established and coordinated with TABC management.

Audit Objective 1: Determine if the forms and instructions for licenses and permits provide all necessary information and guidance for applicants to complete the required application.

The forms and instructions for licenses and permits available on the TABC web site provide the necessary information and guidance for applicants to complete the required applications. There are numerous guides in Adobe format that are downloadable for reference. The guides are very comprehensive and easy to understand. All the forms and instructions are in either Word or Adobe format that may be printed. Applications may be downloaded as packets, which include all the applications required for a particular license or permit, or the individual applications may be downloaded and completed. There is form sequence checklist for the applicant to follow that details the order in which forms must be submitted.

A survey of Licensing Division staff indicated that approximately 90% of the staff members that responded believe that that the instructions were well written and should be easy to understand by applicants and about the same percentage believe the forms are adequate and should be easy to complete by the applicant. Staff did have

suggestions regarding the forms and instructions that should be considered by management as follows:

- Several staff indicated that the packets should have reference numbers because this would make it easier for the applicant and the account examiner when they call in with questions about specific items on a form.
- Several staff mentioned the need for instructions for the Private Club application and that the application needs to be updated.
- Some staff believe there are too many packages that must be downloaded by the applicant and that there should be only one application for each type of permit.

Recommendation 1: Management should consider the three suggestions made by staff as well as other comments made by staff regarding changes that may make both applications and instructions easier to understand and complete correctly.

TABC Management Response: Management has considered the three recommendations and determined that the first two have merit and should be implemented.

TABC Management Response: Agree.

Responsible employee title: Licensing Division Director

Target date for completion: June 1, 2011

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Audit Objective 2: Determine if the website provides useful and easy-to-reference information for prospective applicants, license and permit holders and the public related to alcoholic beverage licenses and permits.

The website provides useful information for applicants, license and permit holders, and the public regarding alcoholic beverage licenses and permits. Anyone can search public records via the Public Inquiry System, can file on open records request, can download applications for licenses or permits, inquire about classes to be TABC certified, file a complaint against a licensee or permittee, or inquire about protesting an application for a license or permit. The Public Inquiry System also allows a citizen to check on a pending license, create a list of licenses or permits by location, type, and status. There are application guides, instructions with each application for a permit or license, and links to show the closest TABC office. Offices are shown by region, and by clicking on the county the website identifies the office closest to the applicant. All this information is easy to find on the website and the information on the website is up-to-date. It is evident that the TABC values their stakeholders and makes every effort to make as much information as possible available to the applicants and the general public through the website.

Recommendations: None.

Audit Objective 3: Determine if adequate procedures manuals, guidelines and training have been provided to headquarters and field staff for application processing.

There are numerous application processing manuals and guidelines for employees to use as reference. In addition, new employees receive training from a subject matter expert, but there are no specific subject matter experts assigned strictly for training new account examiners. All employees have received training on the Alcoholic Beverage Code through the Liquor 101 program, but all application processing training is on-the-job. The agency benefits from having a significant number of tenured employees who are extremely familiar with application processing, and are familiar with all the different types of licenses and permits. However, 18% of staff surveyed indicated that there are some issues with lack of adequate training and incomplete instruction manuals. Staff made a number of comments regarding both the procedures manual and training. Some of those comments were:

- We need procedures for processing the miscellaneous originals like forwarding center, carrier's permit, etc., and private clubs; procedures for determining illegal interest could be simpler.
- Instructions/procedures change, or there's new information for something for a certain time period and all information is not always put out or is it put out in such a way it's hard to keep track of the 'latest' and where to find it.
- We still have procedures pertaining to our M204 days. Even though the procedures we have are adequate, we need to purge old instructions that have nothing to do with our current operations (i.e., Licensing Procedures Manual).
- If someone was trained incorrectly to begin with then they pass that on to

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whomever they train and so forth. I believe there should be a licensing application processing academy to include data entry, customer service, accounts examiners, and supervisors so that we're all on the same page regarding marketing practices, mgt/concessionaire agreements and so forth. Also, make sure field processors are informed of new practices, policies, procedures before the licensing services (we look very disorganized when they know things before we do).

There are many different types of licenses and permits, and while there are those that are frequently requested, there are others that an account examiner may not see that often. While the manuals address all the various licenses and permits, an initial training program could include greater discussion about each of the licenses and permits, issues that may arise during processing, and pitfalls to avoid.

***Recommendation 2:** The initial training for account examiners should include more formalized training than just on-the-job training. One or two persons should be selected to be the primary trainers for all new account examiners to ensure consistency in the training provided, and some type of proficiency test should be administered to the trainees to gauge their understanding of training topics as well as the adequacy of the trainers in presenting training topics.*

TABC Management Response: Agree.

Responsible employee title: Licensing Division Director

Target date for completion: November 1, 2010

***Recommendation 3:** Training should include specific training on all the different types of licenses and permits and topics suggested by staff such as management agreements, concession agreements, private clubs, wholesalers and manufacturers, and interpersonal skills (working with difficult applicants).*

TABC Management Response: Agree.

Responsible employee title: Licensing Division Director

Target date for completion: July 1, 2011

***Recommendation 4:** Management should review all of the comments made regarding manuals, instructions and training and those that have merit and should be implemented.*

TABC Management Response: Agree.

Responsible employee title: Licensing Division Director

Target date for completion: September 1, 2011

***Audit Objective 4:** Determine if effective procedures have been established for imaging applications and related documents and effectively using the imaged information for processing applications for licenses and permits.*

There are effective procedures for imaging applications and related documents and effective use of imaged information in processing applications for licenses and permits. The transition from paper to imaged documents has been smooth, and employees have noted that working with imaged documents has not impaired their ability to do their job. The imaging of documents and the restructuring of the application processing from assembly line to districts teams has actually improved the

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processing time to just over 45 days from 75 days. The survey did indicate some uncertainty about the imaging process, but that is to be expected considering that TABC staff are not directly involved in imaging documents, and that some staff are still using paper documents in processing. The staff has adapted well to the imaged documents, it has not adversely affected their processing of applications, and it has enhanced their efficiency by having the file available to anyone at any time. One of the other key benefits of imaged documents is that it has freed up a tremendous amount of office space.

Staff did not have many comments related to the imaging project, but several comments were made that should be reviewed and considered by management.

Recommendations: *None.*

Audit Objective 5: *Determine if there are effective and efficient processes for timely and accurately entering license and permit application and renewal information into the LicenseEase (LE) System.*

There are effective and efficient processes for entering license and permit applications and renewals into the LicenseEase (LE) system. Like any system, efficiency comes with continued use by employees. While the data entry clerk is the primary person who enters data into LE, other employees were observed to be efficient when entering data, or reviewing the data. The employee survey indicated that since everyone does not enter data into LE, the number of responses was significantly lower than other statements on the survey. However, those who responded overwhelmingly agree that process for entering data is efficient. Each employee has been provided with a *LicenseEase*

Manual which provides specific details on entering and retrieving data. Field staff and headquarters staff work well with each other, and keep one another informed about the applications or permits. Various screens in the program allow for notes or instructions to be entered along with the data. All employees are anxious to begin training for the upgraded program, VERSA Regulation, which will hopefully be implemented later this year.

Recommendations: *None.*

Audit Objective 6: *Determine if there are effective and efficient processes for the timely and accurate processing of applications, verification of all requirements for obtaining the license or permit, and issuing the license or permit.*

The Licensing Division has an effective and efficient process for prompt and accurate processing of applications, verification of information, and issuing of licenses and permits. The reorganization from an assembly line process to a district process has enhanced the speed with which applications are approved. The Daily Report is used to track the files in Austin and the Team Tracking Report is an integral part of the file. There is not a lot of difference between processing “Known Path” and “New Path” applications, except that some of the information is already available on the system and does not require data entry. All applications must be entered into the Agency Reporting and Tracking System (ARTS) within 24 hours, and once the application is completed and received in Austin, there is a goal to have it approved within 14 days. Renewals are all handled at headquarters, and the process involves some updating of information regarding sales; they are

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generally processed in a few days. For all new original applications, the licensee/permittee must be interviewed by the account examiner at the field office. There are prescribed interviews for each type of license or permit, and the applicant must sign an acknowledgement that the interview took place.

All of those staff members who were interviewed were supportive of the reorganization and new method of processing applications. The survey results indicated that 89% of the staff agreed that there was an effective and efficient process for processing applications promptly and accurately.

Some concerns were expressed by staff with the issue of bonds. Management should review these comments to determine what actions are necessary to adequately process applications that have bond requirements.

Recommendations: None.

***Audit Objective 7:** Determine if effective customer service processes have been established for dealing with applicants during the submission of applications, processing of applications and issuance of licenses, permits and renewals.*

Effective customer service processes have been established for dealing with applicants during the submission of applications, processing of applications and issuance of licenses, permits and renewals. The customer service representatives have a good understanding of the various licenses and permits issued by the agency, and are knowledgeable enough to answer questions from applicants. If they do not know they answer, they will refer the applicant to

someone who does. Or, they will research the questions and respond back to the applicant. The new organization structure has enhanced the customer service processes. The survey noted that 88% of Licensing employees agree that the customer service process is efficient and effective.

Recommendations: None.

***Audit Objective 8:** Determine if effective quality control processes have been established for ensuring that applications are processed accurately and timely and for ensuring all established procedures were followed in issuing licenses and permits.*

Effective quality control processes have been established for ensuring that applications are processed accurately and timely and for ensuring all established procedures were followed in issuing licenses and permits. The Team Tracking Sheet and the Summary for Application tracking form, with dates and notations by team members documents the process from start to finish. In addition, notes are also entered into ARTS and LicenseEase by account examiners, data entry clerks, and customer service representatives during the application process. During the processing of and application, it will be reviewed by several different staff members. Those multiple observations by staff are the primary form of quality assurance. Generally, the staff indicated that 86% believe that quality control procedures are sufficient to ensure that applications and renewals are processed efficiently and accurately.

Recommendations: None.

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Audit Objective 9: Determine if there are effective processes for coordination and communication among the field offices and headquarters staff related to processing licenses and permits.

This is an effective process for coordinating and communicating among the field offices and headquarters staff related to processing licenses and permits. The weekly conference calls serve to answer questions in a timely manner, promote consistency from district to district, and generally promote team work toward common goals. The agendas are prepared and distributed prior to the conference calls, and other topics may be discussed. The communication observed was excellent, with questions and discussion between the regional supervisors, updates on HQ topics. Responses from the supervisors support the value of these conference calls. The employee survey indicated that 87% of the staff believe that there is effective coordination and communication between HQ and the field offices. All the employees make extensive use of phone, fax, and e-mail between and among the field offices, and between and among staff at headquarters. This effective communication network enhances the ability of the staff to process applications from submittal to approval/denial in a timely manner.

Recommendations: None.

Audit Objective 10: Determine if the management reporting system in use by the Licensing Division provides concise and useful information for oversight of the field office activities and ensuring accountability by headquarters and field office staff in processing applications for licenses and permits.

The Licensing Division has a management reporting system in use that provides concise and useful information for oversight of the field office activities and ensures accountability by headquarters and field office staff in processing applications for licenses and permits. There are numerous daily reports, monthly reports, and annual reports used to monitor the number and types of licenses and permits. Daily reports are used primarily by field staff and headquarters staff to monitor the flow of applications. There are reports to monitor fees applied to applications, and identify any that have not been applied. Monthly reports are used to monitor aggregate numbers of applications processed during the month.

Most reports can be prepared by region or city, and for any time period requested. Quarterly and annual reports are used to support performance measures. There are reports to monitor expired or cancelled licenses and permits. Regular reporting is made to the Administrator and the Commissioners, and quarterly reporting is made to the LBB for key performance measures.

Management has a number of reports available to them to monitor progress in processing applications, the types of applications and permits, the renewals of licenses and permits. Some of the reports are available in ARTS and some are in Crystal View. Further, all supervisors have access to these reports and are able to customize them to their region as they deem most effective.

Recommendations: None.

Attachment 14

Seller Server Training Curriculum Briefing

Seller Server Training

CURRICULUM DEVELOPMENT

Course Development

Content and Design

<ul style="list-style-type: none">• Audit findings recommended standardizing curriculum statewide.• Content was developed by TABC staff. Personnel from education, compliance and enforcement were involved.• TABC staff developed course outline and material requirements.• Curriculum design developed by third party.	<ul style="list-style-type: none">• TABC staff met with design company bi-weekly and several drafts were created.• Rough draft was reviewed by internal staff and sent to schools for comment.• A curriculum review panel was established to review comments and set final course of instruction.• Final draft was developed based on work group findings and suggestions.
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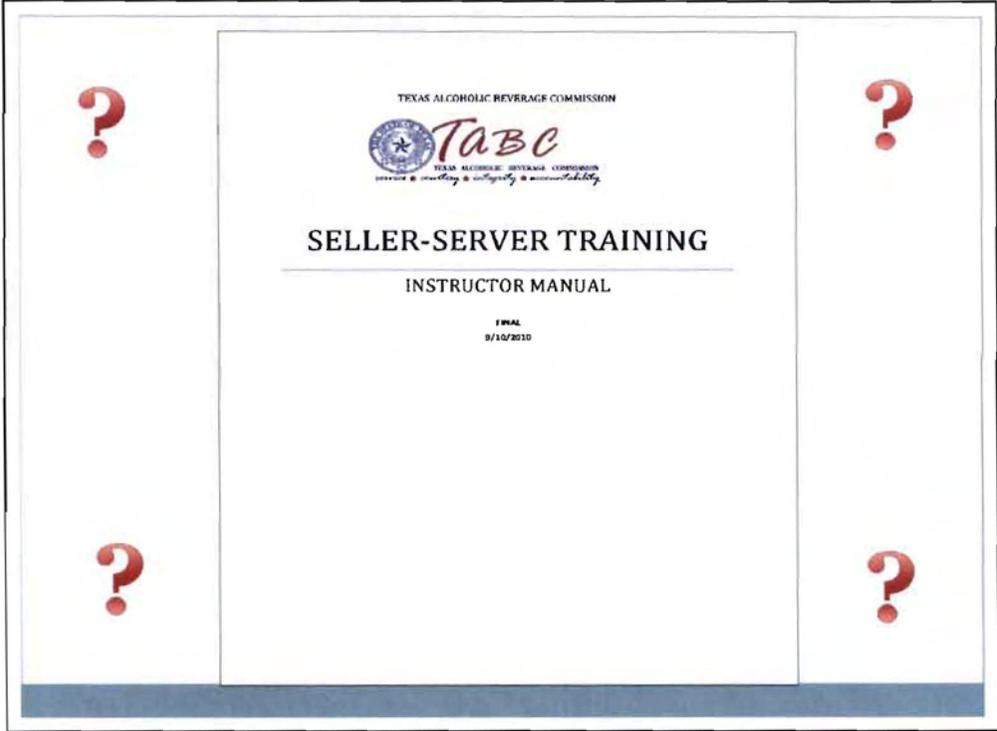
Curriculum Work Group

- Work group included representatives from seller training schools and outside organizations.
 - ◊ HEB Grocery
 - ◊ Texoma Alcohol Awareness
 - ◊ Texas Restaurant Association
 - ◊ MB Consulting
 - ◊ TABCPermit.com
 - ◊ Mothers Against Drunk Driving (MADD)
 - ◊ Center for Alcohol and Education Studies, Texas A&M University

Curriculum Design

Special Features

- | | |
|---|--|
| <ul style="list-style-type: none">• Code references• Knowledge assessment questions• Teaching Tips• Discussion questions and scenarios | <ul style="list-style-type: none">• Optional Student Manual/Handouts• Optional Power Point Presentation |
|---|--|



CERTIFICATION

REGULAR COMMISSION MEETING

9:30 a.m. – November 18, 2010

**Holiday Inn Austin NW Arboretum Hotel
8901 Business Park Drive
Austin, Texas 78759**



TABC

TEXAS ALCOHOLIC BEVERAGE COMMISSION

service ★ courtesy ★ integrity ★ accountability

STATE OF TEXAS

COUNTY OF TRAVIS

This certifies that the attached is a true copy of the proceedings of the Texas Alcoholic Beverage Commission meeting held on November 18, 2010.

A handwritten signature in black ink, appearing to read "Alan Steen".

Alan Steen
Administrator

Sworn and subscribed before me this the 10th day of December 2010.



A handwritten signature in black ink, appearing to read "Gloria Darden Reed".

Gloria Darden Reed
Notary in and for Travis County, Texas