

TEXAS METALS ADVISORY COMMITTEE

MEETING MINUTES

Thursday, December 7, 2017

Texas Department of Public Safety, Regulatory Services Division
5806 Guadalupe St., Austin, Texas 78752

Members Present: Chairman Arnold Gachman, Major Jay Alexander, Jim Shapiro, David Bayouth, Carlos Breedon, Jesse Fite, Don Sowell, Kevin Haynes, Jim Winkle, Michael Ashlock

Members via Phone / Online: Jerry Brewer, Joshua Dean

Member Absent:

Non-Members Present: Aaron Grigsby, Darryle Sparks, Jari McPherson, Carrie Fortner, Nick Rozumny, Melissa Cawthon, Liz Kisamore

Chairman Gachman called the meeting to order at 11:18am.

Chairman Gachman made a motion to approve the minutes from the 7/25/2017 meeting. Motion seconded by David Bayouth.

Major Alexander began the meeting by apologizing on behalf of DPS for the delays in releasing the online metals training. DPS staff ran into hurdles, including staff leaving the agency; which led to delays in being able to move forward with the training on-time. Melissa Cawthon provided an update on the options we now have to move forward with the training, including working with a vendor and working with DPS' Education, Training, and Research Division to integrate our training into their new training module. The definitive timeline for this roll-out is mid-February 2018. Major Alexander added that while these delays have caused serious inconveniences, none of the delays have been intentional. We will continue to work on other solutions to ensure that we are doing everything necessary to complete the training as soon as possible. Jim expressed concern over complaints from the industry over the length of the training. He asked that we ensure the training is user-friendly before going public for the industry. Nick and Major Alexander both reminded the committee that the test module that was sent to the committee for testing purposes was in a test environment that does not work as well as the actual training environment will. Chairman Gachman asked if the committee would be able to provide changes to the questions and answers to the training modules that were provided in the test; some of the information provided in the training can be confusing. Carrie replied that those types of changes would not be difficult, that the committee is more than welcome to submit feedback regarding language for questions and answers for them to be updated and made more user-friendly.

Law enforcement training was originally scheduled for the end of September 2017, unfortunately Hurricane Harvey caused that training to be canceled. We are now ready to get back into planning. Our training academy is currently open the entire month of February, we just need to schedule. We would like to have Dallas PD and Houston PD assist with instruction, as well as Charter Communications and Time Warner Cable. The ideal week available for training is February 26th through March 2nd, the larger classroom at ETR is available this week. We would

also like the Sheriff's Association to assist as well. Sheriff Sowell will be providing preliminary information on the training to the Sheriff's Association. Chairman Gachman asked for clarification on who would be invited. Major Alexander stated that an invitation to various law enforcement agencies would be sent out; and it would up to each agency to determine if they will be attending.

Fraudulent Checks- Criminals have been able to create fraudulent checks based on the checks that they are receiving as payment from MREs. Most MREs have been victim; some for very large amounts. This form of fraud/theft has become more sophisticated and is now also taking place through ACH withdraws. Chairman Gachman would like to bring this issue to the table for the advisory committee to discuss; potentially by increasing the penalty for this type of fraud under administrative rules. Chairman Gachman explained that his business is now using positive pay – allowing each check issued to be logged it can be verified to accurate immediately. Not all banks are utilizing positive pay though, limiting its usefulness. Jim added that when checks are being written, ID is checked on the individual is being written to because metal is being purchased from them; so the MREs know who these individuals are, it's just impossible to get support from local law enforcement for prosecution. Sheriff Sowell recommended possibly involving county or state level law enforcement if the city police departments are not helpful. Chairman Gachman suggested inviting someone from the banking industry to the next committee meeting to provide additional insight. Major Alexander asked the representatives from the industry if they could submit information regarding fraudulent checks to DPS so that we can track crime trends. Sgt. Fite stated that Houston has had some issues with fraudulent checks, particularly involving check cashing businesses. Detective Winkle stated he is unaware of how much this is occurring in Dallas due to this type of crime being handled by their financial crimes unit. Jim stated that their frustration is in having positive ID on who is committing the fraud and being unable to do anything about it. Banks are now dropping MREs as customers due to this fraudulent activity, it is creating a credibility problem for the metals industry. Members mentioned the possibility of discussing with ADAs and DAs what can and cannot be prosecuted. Michael Ashlock suggested meeting with ADAs and DAs on the larger impact of the fraudulent check issue; education of the impact to metals industry will be the key in gaining support for prosecution. At this time Major Alexander recommended taking the subject off-line, potentially to gather more statistics on the crime occurring and then meet with ADAs and DAs.

COH Renewal Clarification – Chairman Gachman asked for clarification between the cash transaction card renewal procedures for the city of Houston versus state requirements. Sgt. Fite stated that the city of Houston ordinance uses the state's language, there are no differences in the requirements. Chairman Gachman stated the confusion is over whether or not the renewal application must be signed. It was believed that the application needed to be resigned and a new card needed to be created and mailed to the applicant. Unless there are substantial changes to the renewal information, this is not necessary. This information has been sent to all MREs previously, Major Alexander asked that Nick resend this information to all MREs.

Hurricane Harvey Impact – Major Alexander asked those present to share the impact of the recent hurricane on Houston area MREs. Sgt. Fite stated there was definitely flood damage to

Houston MREs, but nothing catastrophic. The City of Houston is currently very busy recycling items damaged in the storm (washers, dryers, etc.). The issue they are having currently is with damaged sheetrock being cut away to be replaced, exposed copper wiring and pipe are being stolen out of homes and businesses. Houston PD is encouraging the spray painting of copper pipe/wire to aid in theft identification and prosecution. Chairman Gachman asked if there was anything that the City of Houston learned from this recent hurricane that could be prevented or helped in future disasters; particularly in regards to reporting. Sgt. Fite stated there were no issues discovered related to the hurricane; most MREs in the area were not operating. Major Alexander added that a declaration of exemption was issued for counties impacted by Hurricane Harvey for 30 days for reporting requirements as well as registration extensions. MREs were required to prove to DPS that they were unable to operate at full capabilities to qualify for this exemption. Sgt. Fite did state that have had recent issues with photo files for MREs being full, causing photos to not upload properly; getting “stuck” in transition. Major Alexander stated this happens from time to time, we have had several preliminary hearings concerning these types of technical glitches. When this happens, we ask for a letter from the software company explaining the situation.

SB208 Implementation: Chairman Gachman stated there were some language issues concerning “knowingly purchased” that needed to be clarified. Major Alexander stated that the intent of this language was that if explosives were unintentionally purchased by an MRE (such as inside a barrel that the MRE believed was full of copper wire) the MRE could report the possession once discovered and not be in any trouble. Jim stated that the language was making MREs fearful of reporting; to which Major Alexander stated this fear was not the intent of this chosen language, asked RCOT to be the voice urging them to report explosives possession. Chairman Gachman asked if construction companies, oil and gas companies or other such businesses that possess explosive materials were required to register with the state, to which Major Alexander stated no. Chairman Gachman then asked if there was a way to get information regarding SB208 to these companies; potential generators of these types of materials. Major Alexander stated that he was not sure, this would require further conversations with our legal department. David Bayouth stated these types of companies have to register with ATF. Major Alexander stated that it’s correct that they have to register federally, but does not believe there is any state requirement. Major Alexander reminded the committee that SB 208 also requires any entity that is regulating MREs on a local level submit those inspection reports and enforcement activity to DPS. This helps DPS ensure that all MREs are eligible to license, and also helps to ensure that all enforcement action being taken across the state is consistent. All these inspections are to be uploaded in TOM for full law enforcement visibility. Chairman Gachman asked if there would be any coordination on when these inspections are conducted to be sure local and state inspections are not overlapping within a short period of time. Major Alexander stated that yes that is potentially an option. The intent is to train and coach local areas and then DPS staff would focus on other areas; allowing local entities to handle it within their own jurisdictions. The goal is to have all inspected every two (2) years. Major Alexander also provided an overview of the annual report on local entities that impose additional requirements in addition to the state requirements of OCC 1956. This report is due to the state legislature every year in December. DPS is required to report the number of entities that

regulate MREs, the fee charged for each license, the number of licenses issued; as well as the cost for DPS to oversee the metals program.

Statistics: Overview of recent enforcement statistics provided.

Law Enforcement symposium: Major Alexander asked the committee if they were still open to possibly having a law enforcement symposium in early spring/late summer to discuss metals theft issues and the impact to the industry. All in attendance agreed.

Motion made by Major Alexander to adjourn. Seconded by Jim Shapiro. None opposed. Meeting adjourned at 1pm.