



# TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION

Timothy A. Braaten  
Executive Director

## MINUTES – WORK SESSION

The work session of the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) was held on Thursday, March 4, at 9:30 a.m. The meeting was held at the Texas State Capitol Extension Auditorium, Room E1.004, 1100 Congress Avenue, Austin, Texas.

Commissioners attending were: Constable Charles Hall, Presiding Officer; Mr. Steve Griffith, Assistant Presiding Officer; Ms. Melissa Goodwin; Dr. Johnny E. Lovejoy, II; Mr. Joe Pennington; Sheriff Joel Richardson; Ms. Patt Scheckel-Hollingsworth; Chief Ruben Villescas.

Also attending was Assistant Attorneys General John Beauchamp and Raymond Winter. TCLEOSE staff attending included: Executive Director Timothy A. Braaten, Director Chris Davis, Director Brian Roth, Director Kim Vickers, Laurie Abernathy, Jason Ball, Jim Clifton, Darla Dixon, David Englert, Dennis Graffious, Richard Gutierrez, John Helenberg, Nicole Hendrickson, John Hunt, Kenny Merchant, Ivan Messer, James Oswald, Carnecia Penson, Dawn Sekel, Doug Staudt, Kaye Wilson, and Mary Kay Wright.

### Agenda Item #2 – Presiding Officer’s Report

- Presiding Officer Hall informed the commissioners that he spoke at the recent graduation of the Lubbock Police Academy.
- He has asked Director Vickers to assemble a committee to review the Intermediate level core courses.
- The Presiding Officer congratulated Commissioner Melissa Goodwin on her victory in the primary election for the 3<sup>rd</sup> Court of Appeals.
- Commissioner Hollingsworth is working on a media presentation that the commissioners can use while requesting public contributions for improvements to the Peace Officer Memorial.

### Agenda Item # 3 - Executive Director’s Report

The items for the Executive Director’s Report were included in the notebook that was sent to the commissioners prior to the meeting and there were no questions about the report. Executive Director Braaten explained that the State Preservation Board wanted a second bid for repairs to the Memorial. This has been provided and the Board will make their selection shortly.

### Agenda Item # 4 - Review and discuss Achievement Award winners

The Achievement Award ceremony will be held on Friday, June 4, 2010 at 10:00 a.m. at the Capitol Extension Auditorium, Room E1.004, and it will be available for view via web cast. Executive Director Braaten commended staff member Laura LeBlanc for her work in publicizing the awards, working with the judges as they selected the winners, and preparing for the ceremony. We received over 50 nominees, 24 of whom will be recognized at the awards ceremony.

Presiding Officer Hall has requested that the TCLEOSE office be closed for the ceremonies so that staff can participate and be recognized.

## Agenda Item # 5 - Items of Interest

- Rule 223.19, Revocation of License, addressing a revocation for a felony deferred adjudication not related to duties of a peace officer or jailer.  
Executive Director Braaten suggested this remain as an item of interest as we continue to receive comments from the public, especially in reference to the mandatory revocation for a Class A misdemeanor. Robert Armbruster of Houston, expressed concern that the current rule on a felony deferred adjudication may be in conflict with the Texas Occupations Code which prohibits anyone from being licensed if they have a felony conviction. He suggests a mandatory revocation for a felony and giving the commission discretion with Class A misdemeanors. He also suggested, as an item of interest, looking at family violence issues as a Class A. The commission may consider reviewing Class A's as individual cases, not a blanket revocation.
- Reserve officer designation: full-time paid, part-time paid; non-paid.  
Adding a category to the L1 to collect information on reserve officer designations may be handle through the agency rather than having a statute or rule change. We will not try to update old records, but will go from this day forward, recording the status of reserve officers as full-time paid, part-time paid, or non-paid. This information will be helpful when we are questioned about a reserve officer's status in reference to Texas Occupations Code Chapter 1702.
- Acceptance of out of state training  
Few if any other states equal or exceed the number of hours that are required in the minimum basic peace officer course. We give a 20% variance when reviewing basic training from other states as acceptable for transferring to Texas. Oklahoma reviews the officer's total training, not just the basic peace officer course. Texas would like to follow Oklahoma's example. Staff will prepare a rule change to introduce at the next meeting.
- Frangible lead free bullets  
Staff's research shows some agencies are using the frangible bullets for practice, not for qualification. Some ranges are requiring environmentally safe bullets. At this time, staff does not recommend a rule change.
- Rule 217.9 and credit for training submitted through the chief administrator  
Academies and training providers are required to maintain records on courses reported to TCLEOSE. When agency administrators submit training, they keep very few records. Staff is suggesting a rule requiring additional documentation (certificate copy, handouts, course outline, and a written critique by the attendee) be kept by the agency administrators. Commissioner Pennington suggested that if the agency has an appointed training coordinator, this person review the material and determine the value of the course.
- Suggested rule changes reference ADA requirements and basic licensing courses  
Director Vickers explained that the suggested rule changes are to bring the rules in line with statute.
  - 215.3 Academy Licensing
    - remove the resolution support and budget requirements; add electronic reporting requirements; remove ADA accessibility requirements as there are already federal, state, and possibly local requirements; streamline the needs assessment process

and the inspection process as TCLEOSE staff will provide this function by making site location visits.

- 215.5 Contractual Training
  - Changes to this rule will add electronic reporting requirements; remove ADA accessibility requirements from the application; and streamline the needs assessment process.
- 215.6 Academic Alternative Licensing
  - Changes to this rule will streamline the licensing process and the rule will more closely mirror the Occupations Code. Electronic reporting requirements will be added, ADA accessibility requirements will be removed as these are already existing in federal, state, and possibly local requirements, and the word "comprehensive" will be removed.
- 215.15 Enrollment Standards
  - Staff suggests that enrollment standards be made consistent for all types of basic licensing courses, peace officers, jailers, and telecommunicators should that become a licensed position in the future.
- 215.7 Training Provider Advisory Boards
  - Staff suggests that advisory boards only be required for training providers that are governmental entities or that accept public monies, thereby not affecting private contract providers. Once we know the contract providers that will fall into this category, staff can provide a list to the commissioners. One example is Classen-Buck. Commissioner Pennington asked that we look at the roles of the oversity boards of academies that are receiving funding from the state for training individuals that are working for private contractors. Director Vickers confirmed that we still have oversight of the quality of training and will conduct audits. He also informed the commissioners that a tutorial for advisory board training is completed and will soon be available either through POSEIT or the website.
- Comments received from the public on the Firearms committee report
  - Many comments have been received including those that raised training and liability issues. Comments have been included with the commissioners notebook. Staff suggests this be tabled with no further action at this time.

**Agenda Item # 6 - Receive report on basic licensing exam results.**

Director Vickers discussed the report that was provided to the commissioners in their notebook. He directed their attention to the Executive Summary on pages 3-5 and the staff's recommended actions. These actions include recommendations to revoke the academy licenses of the Collingsworth County Sheriff's Office and the Reeves County Sheriff's Office.

**Agenda Item # 7 - Consider and receive public comment on the application of the Dallas Area Rapid Transit (DART) to be an approved Training Provider.**

Director Vickers reported that the application is complete and meets the requirements for a training provider. He stated that he received one statement of concern and that was from Captain David Mitchell with the Dallas County Sheriff's Academy.

**Agenda item # 8 - Consider and receive public comment on the application of the Odessa Police Department to be an approved Training Academy.**

Director Vickers stated that the application is complete and meets the requirements for a training academy. He reported that he received one statement of concern and that was from Frank Woodall, Deputy Assistant Director of Training with the Texas Department of Public Safety. Chief Tim Burton with Odessa Police Department addressed the commission, reassuring them that they have developed a professionally disciplined program. He answered questions from the commissioners and indicated that college credit for training would be the only involvement of Odessa College and his agency would not be receiving funding from the state for providing the training. The police department has created a new position of Captain to have oversight of the academy.

**Agenda Item # 9 - Discuss Request for Waiver of TCLEOSE Rules 215.15 Enrollment Standards and 217.1 Minimum Standards for Initial Licensure for Richard J. Roberts and the Huntsville Police Department**

Director Davis stated that the requirements for a waiver have been met. Chief Allwin Barrow with the Huntsville Police Department and Richard Roberts addressed the commissioners. Chief Barrow spoke on behalf of Mr. Roberts and Mr. Roberts stated he takes full responsibility for his actions.

**Agenda Item # 10 - Discuss Request for Waiver of TCLEOSE Rule 211.1(a)(3) by Kaplan College**

Mark Evans, Executive Director, and Michael Price, head of the Criminal Justice program, spoke on behalf of Kaplan College noting that it is a nationally accredited school and that the Department of Education recognizes both nationally and regionally accredited colleges. Kaplan College is accredited through the Council of Occupational Education. Commissioner Griffith expressed his concern for making one exception to the rule that TCLEOSE only recognizes regionally accredited schools and asked that staff return to the June meeting with additional information on accreditation. Presiding Officer Hall asked if the college has applied for regional accreditation and, if not, why not. Mr. Evans was unsure why the school had not applied. He stated that national accreditation is a quicker process than regional accreditation. He stated he would like for the commission to consider the definition of accreditation to more closely match what is accepted by the Texas Higher Education Board, the Texas Board of Education and the Texas Workforce Commission. He also indicated that with their accreditation, they are held to a higher standard to have students complete their degree and be placed in jobs. Commissioner Lovejoy stated that regionally accredited schools focus on academics and nationally accredited schools focus on technical training.

Assistant Chief Rick Smith with the DFW Airport Police Department expressed his concern about granting a waiver. Human Resources departments may have accreditation policies that do not agree with any charges by TCLEOSE.

**Agenda Item # 11 - Discuss the appeal of F-5 Report of Separation of Jay Sandon Cooper.**

Representing the Attorney General of Texas, John Beauchamp explained this case to the commissioners. In this case, there has been a Proposal For Decision (PFD) issued by an Administrative Law Judge so a decision by the commission to either accept or reject the PFD will be required. Under the prior set-up, the petitioner had the burden of proof for proving which is the appropriate box to check on the F-5.

Jay Cooper explained his case and his appeal. Jennifer Huggard, representing the City of Dallas, explained the Dallas Police Department's case. Mr. Cooper is seeking relief that no box be checked on the F-5 or that the Honorably Discharge box be checked.

**Agenda Item # 12 - Discuss expense recovery on SOAH Hearings and Legal Services reference Cooper v. Dallas Police Department**

Mr. Beauchamp suggests the commission decide allocation of cost after determining the F-5 issue.

**Agenda Item # 13 - Discuss a change in meeting dates for 2010.**

Executive Director Braaten stated there has been an interest in changing the September commission meeting from September 2 – 3, 2010 to either September 9 – 10 or 16 – 17. Rather than having a December meeting, move that meeting to January.

**Agenda Item # 14 - Discuss 2011 meeting dates.**

Presiding Officer Hall suggests moving the December 2010 meeting to January 13 – 14, 2011 to coincide with the opening of the legislative session. There would be five meetings in 2011, January, March, June, September, and December.

**Agenda Item # 15 - Discuss the proposed orders of amendments to existing TCLEOSE rules**

- 10-25-211.19 Forms and Applications
- 10-26-215.9 Training Coordinator
- 10-27-217.7 Reporting Appointment and Termination of a Licensee
- 10-28-217.9 Continuing Education Credit for Licensees
- 10-29-221.5 Jailer Proficiency
- 10-30-221.21 Firearms Proficiency for Community Supervision Officers
- 10-31-221.35 Firearms Proficiency for Juvenile Probation Officers
- 10-32-223.17 Reinstatement of a License
- 10-33-225.1 Issuance of Jailer License through a Contract Jail Facility
- 10-34-225.3 Issuance of Peace Officer License through a Medical Corporation

Presiding Officer Hall called on Dr. Ivan Messer to review the proposed rules. There were no questions from the commissioners.

**Agenda item # 16 - Discuss the final orders of amendments to existing TCLEOSE rules**

- 10-20-211.1 Definitions
- 10-21-217.19 Reactivation
- 10-22-217.20 Retired Peace Officer Reactivation
- 10-23-219.1 Examinations
- 10-24-223.13 Surrender

Dr. Ivan Messer reviewed the final orders and there were no questions from the commissioners.

**Agenda Item # 17 - Adjourn**

The Presiding Officer adjourned the work session at 12:04 p.m.

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Dr. Johnny E. Lovejoy, II, Secretary  
JL/kw