



# 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, September 16, 2010 at 9:30 a.m. The meeting was 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; Dr. Johnny E. Lovejoy, II, Secretary; Ms. Melissa Goodwin; Mr. James Oakley; Sr. Patrol Officer Joe Pennington; Sheriff Joel Richardson; Ms. Patt Scheckel-Hollingsworth; and Chief Ruben Villegas.

Also attending was Assistant Attorney General John Beauchamp, Assistant Attorney General Raymond Winter, and TCLEOSE staff members including Executive Director Timothy A. Braaten, Director Kim Vickers, Director Brian Roth, Laurie Abernathy, Lynn Beard, Jim Clifton, Darla Dixon, David Englert, Thurman Felder, Dennis Graffious, Susan Gregory-Brundage, Richard Gutierrez, John Helenberg, Nicole Hendrickson, John Hunt, Carey McKinney, Kenny Merchant, Ken Mobley, Ivan Messer, James Oswald, Doug Staudt, Kaye Wilson, and Mary Kay Wright.

Special guest at the meeting was former commissioner Allan Cain.

### **Agenda item #1 - Call to order and roll call of members**

Presiding Officer Hall called the meeting to order. Kaye Wilson conducted the roll call of commissioners and reported that all were present.

### **Agenda item #2 - Presiding Officer's Report**

The presiding officer recognized former commissioner Allan Cain and presented him with several items expressing appreciation for his dedication to the agency. Mr. Cain addressed the commissioners and attendees.

### **Agenda item #3 - Executive Director's Report**

- Sunset Commission Review of Management Issues by the State Auditor's Office
- Budget  
Fiscal year concluded 8/31/2010 and we appear to be approximately \$20,000 under budget
- Racial Profiling  
Commissioner Villegas noted that the reporting requirements for Racial Profiling will begin in January and asked if the agency is receiving questions about the reporting procedures. Mr. Braaten stated that we are not receiving as many questions as we did initially when the bill passed and most are on Tier 1 and Tier 2 eligibility. Senator West's office is working on the funding for supporting the Racial Profiling



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project. We anticipate the questions will increase in January and anticipate needing 1 to 1½ people to handle a Help Desk.

- Strategic Plan
- Legislative Appropriations Request  
Our new representative is David Repp
- POSEIT
- Monthly Division Reports
- Staff Introductions  
Ken Mobley and Lynn Beard were introduced
- Peace Officer Memorial  
With Commissioner Hollingsworth's leadership, we are moving forward to receive donations for the repair of the memorial. The final cost will be approximately \$300,000, with 100% to be funded by private sources.
- Achievement Awards  
Nominations are being taken until December 31, 2010
- New Telephone System  
Commissioner Hall asked if the new telephone system has been installed. Mr. Braaten reported that the system is installed and working and asked the commissioners for their opinion of the system.
- Scanning Documents  
Mr. Braaten reported that the remainder of the scanning equipment will be purchased this budget period. We currently scan new items as they are received.
- IADLEST Conference June 21-24, 2010  
Commissioner Hollingsworth reported on the IADLEST conference that TCLEOSE hosted in June. Texas has been a leader in law enforcement innovation and we are trend setters. She complimented staff for a job well done in hosting the conference.
- Training Coordinator's Conference November 1-4, 2010, Addison, Texas
- Training Contract Disciplinary Action  
Two jail academies were in violation of their contract due to low pass rates. Reeves County Sheriff's Office decided to discontinue their academy agreement. Collingsworth County Sheriff's Office signed a contract agreeing to improve their pass rates.
- SORM Audit Report  
We were recently audited by the State Office of Risk Management
- Events Attended

Commissioner Pennington asked how we developed the list of issues for the upcoming legislature. Mr. Braaten responded that we keep track of past problems, keep track of items that are brought to our attention, and note which items require statutory changes.

Commissioner Hall asked if it will take a legislative change to destroy F-5's that have been amended and Mr. Braaten responded that we will check and report back.

#### Agenda Item #4 - Items of Interest

- Peace Officers and Bailiffs to become certified to watch / handle inmates – Kim Vickers  
This item was not discussed at the meeting. Presiding Officer Hall stated that the Jail Commission will be changing their rules for jailers and peace officers for outside facilities.
- Family violence issues – Commissioner Patt Hollingsworth  
Commissioner Hollingsworth asked staff to bring forward a rule change to 223.19, Revocation of License, that not only prohibits individuals from being eligible for licensing if they have a previous conviction even if given deferred adjudication and will revoke the license of those that have already been licensed, even if given deferred adjudication, leveling the playing field.
- Full-time – Part-time Paid – Reserve designation – Tim Braaten  
Mr. Braaten reported that the L-1 Appointment of Licensee Application, is being modified to include Full time paid; Part time paid; Reserve.
- Role of the Advisory Board member and tutorial for board members – Tim Braaten  
Mr. Braaten stated that the tutorial is on the TCLEOSE web site and takes about 30 minutes to complete. Commissioner Pennington asked if the agency receives feedback about the role of public members on the board, and Mr. Braaten responded that it is statutory to have public members on the board. Presiding Officer Hall asked if this item is on the legislative issues agenda, and does it need to be. Commissioner Pennington suggested this be explored further at the training coordinator's conference.
- Discussion of rule 211.1(3) definition of colleges and universities accreditation accepted by TCLEOSE for training credits – Tim Braaten and Executive Committee  
Mr. Braaten reported that the members of the Executive Committee (Commissioners Hall, Griffith, and Lovejoy) met with college representatives that are accredited by authorities other than through the six regionally accrediting bodies. Mr. Braaten urges agencies to establish their own educational requirements and not tie their requirements to the minimum standards set by TCLEOSE.
- Minimum background required in officer's file, meet or exceed a minimum background requirement – Tim Braaten  
Mr. Braaten recommends that TCLEOSE create a personal history background form and format (minimum background), and that each agency complete the form and place it in newly hired officer's files. Commissioner Hall suggested we look at previous background forms used by TCLEOSE in the 1970's. Commissioner Lovejoy wants this standardized across the state. Mr. Braaten stated we would change the definition to read "meets or exceeds" on a form provided by TCLEOSE. Commissioner Pennington asked if agencies can be required to run an annual TCIC/NCIC check on all officers and Mr. Braaten responded that the commissioners would have to decide whether or not to require this. Commissioner Griffith supports the background mandate. Commissioner Villescas suggested that staff contact the Sheriff's Association of Texas and the Texas Police Chief's Association for their input on a

background form. Commissioner Lovejoy suggested that staff reach out to other than just law enforcement groups to assist with the creation of the form.

- Dual credit for college hours while in high school – Tim Braaten  
Presiding Officer Hall stated that dual credit had already been discussed.
- Date used by TCLEOSE for officers' date of proficiency certification (basic, intermediate, advanced, master, instructor, civil process, etc.) and the requirements (rules) for attaining these certificates – Commissioner Joe Pennington  
Mr. Braaten gave an overview of the process for issuing proficiency certificates. Currently the Basic, Intermediate, Advanced, and Master certificates are issued automatically. In the past, there was an application process for the Master certificate and some officers became eligible for the Master certificate, but never applied for it. Now they are asking TCLEOSE to backdate the issuance of their Master certificate to the date they became eligible, rather than the date they applied for it. The application and fee process were part of the rule for issuing proficiency certificates. The \$25 fee activated the manual research for eligibility. In 2005, the commissioners voted to remove the application and fee requirement for the Master peace officer certificate and at that point everyone that was eligible for the certificate was issued one.

Ray Hunt, representing the Houston Police Officers Union addressed the commissioners asking that officer's Master certificates be dated the date the individual became eligible for the certificate, not the date they applied for it. He believes many Houston police officers were unaware that there was a fee requirement and this may affect approximately 100 officers. Mr. Hunt stated that if it's clear in the rules that the application and fee are elements to become a Master peace officer, then his argument is moot.

Commissioner Griffith clarified the position of the Houston Police Officers Union by stating that they are asking that those officers that want to apply to have the certificate sent with the date they were eligible be allowed to so do.

Commissioner Goodwin asked for documentation on what was applicable at the time.

- Military discharge – Tim Braaten  
Mr. Braaten provided the commissioners with three (3) proposals to a waiver for reason for military discharge. Proposal 1 will eliminate the requirement for a rule change. Commissioner Lovejoy went on record to say he supports Proposal 1.
- Report on the Intermediate proficiency certification requirement committee – Kim Vickers  
Mr. Vickers reported that the Intermediate course committee was populated with individuals with high-level expertise from a variety of agency sizes. The committee is interested in pursuing a rule change stating when officers can receive credit for the Intermediate level courses. They are also interested in moving some current Intermediate level courses to the Advanced level. If the commissioners were to approve suggested Track II, changes can be made without requiring a statutory or rule change. Courses would be reviewed and updated periodically.
- Review the process for approval of on-line courses with intent to simplify the process and make on-line courses more accessible – Kim Vickers  
Staff is proposing new wording for the rule that references on-line training. Staff intends to preserve the quality and integrity of the training while providing an easier method to apply for on-line training

courses. Mr. Braaten reminded the commissioners that they can make policy while waiting for a rule change to become effective. Commissioner Hollingsworth reminded staff to be careful how the requirements are worded to maintain the integrity of the training. Commissioner Pennington suggested staff contact universities that provide on-line training to determine any pitfalls.

- Other items of interest  
Mr. Braaten proposed that a committee be formed to review the L-3 (Licensee Psychological and Emotional Health Declaration), historically to where we are today. Staff will use the expertise on the commission plus others. Staff will research the history of the L-3 being sent directly to TCLEOSE.

**Agenda Item #5 - Clarification on Agenda item #12 from the June 3, 2010 quarterly meeting reference adding one field service agent for the Dallas region.**

This item was not addressed in the meeting.

**Agenda Item #6 - Consider and receive public comment on the application of the Texas Association of Hostage Negotiators to be a contractual training provider.**

Mr. Vickers notified the commissioners that the application was complete. Robert Richman with the TAHN was available for questions. Commissioner Hollingsworth noted that there are four addresses given on the application and asked where the records would be kept. Mr. Richman responded that the materials will be stored at the Austin Police Academy through an agreement with the Austin Police Department.

**Agenda Item #7 - Consider and receive public comment on the application of the Combined Law Enforcement Associations of Texas (CLEAT) to be a contractual training provider.**

Mr. Vickers notified the commissioners that the application was complete. James Self with CLEAT was available for questions. Commissioners asked several questions of Mr. Self concerning types of training courses that would be available.

**Agenda Item #8 - Consider and receive public comment on the application of the San Patricio County Sheriff's Office to be a contractual training provider.**

Mr. Vickers notified the commissioners that the application was complete. Oscar Rivera from the sheriff's office was available for questions. Commissioner Pennington asked if there are other training providers in the area and after Mr. Rivera responded yes there are other providers. Commissioner Hollingsworth asked if the sheriff's office works with those providers. Mr. Rivera confirmed they do work with the providers, but it is cost prohibitive to pay these providers for the training. Presiding Officer Hall stated that the commission would not vote on this item at this meeting as the Sheriff must appear before the commissioners when the application is presented.

Mr. Braaten cautioned agencies to be familiar with 1701.157(e) of the Texas Occupations Code:

*A local law enforcement agency may not use money received under Subsection (a) to replace funds that are provided to the agency by the county or municipality having jurisdiction over the agency on a recurring basis for training law enforcement officers and support personnel.*

**Agenda Item #9 - Discuss the proposed orders of amendments to existing TCLEOSE rules**

- 11-01-221.13 Emergency Telecommunications Proficiency
- 11-02-211.28 Responsibility of a Law Enforcement Agency to Report an Arrest of a Licensee [Peace Officer or County Jailer]
- 11-03-217.20 Retired Peace Officer Reactivation

- 11-04-219.1 Eligibility to Take State Examinations
- 11-05-219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police
- 11-07-221.33 SFST [Standardized Field Sobriety Testing (S.F.S.T.)] Instructor Proficiency
- 11-08-221.9 Standardized Field Sobriety Testing (SFST) Proficiency [Standardized Field Sobriety Testing Practitioner (SFST)]
- 11-09-221.37 Cybercrime Investigator Proficiency

Dr. Messer noted that, if moved forward, these rules will have an effective date of 2/24/2011. Presiding Officer Hall what prompted the changes for the SFST rules. Dr. Messer noted that there was on-going concern about the term "practitioner." Mr. Vickers noted that defense attorneys often try to discredit the officer in DWI enforcement. TCLEOSE refers to the current certification an SFST practitioner certification, and attorneys are saying this has a 2 year requirement for an update. This assumption is incorrect as this is a voluntary certification. Staff recommends it be referred to as a proficiency certificate, as we refer to the other certificates issued by the agency.

Commissioner Villegas asked about the sanctions against an arresting agency not reporting the arrest of a licensed officer. Mr. Braaten stated TCLEOSE would take action if the arresting agency knowingly and intentionally did not report the arrest of a licensed officer. Staff will review the courtesy notification letter that is being sent to the arresting agency (that failed to submit a report to TCLEOSE) and make necessary changes. Commissioner Goodwin suggested the wording of rule (211.28) include a statement that the arresting agency will notify TCLEOSE within 30 days of the arrest or 30 days of receiving knowledge of the arrest.

#### **Agenda Item #10 - Discuss the final orders of amendments to existing TCLEOSE rules**

- 10-28-217.9 Continuing Education Credit for Licensees
- 10-35-211.23 Date of Licensing or Certification
- 10-36-215.3 Academy Licensing
- 10-37-215.5 Contractual Training
- 10-38-215.6 Academic Alternative Licensing
- 10-39-215.15 Basic Licensing Enrollment Standards
- 10-40-217.8 Contesting an Employment Termination Report
- 10-41-219.2 Reciprocity for Out-of-State Peace Officers, Federal Criminal Investigators, and Military Police
- 10-42-221.28 Advanced Instructor Proficiency
- 10-43-223.15 Suspension of License
- 10-44-223.16 Suspension of License for Constitutionally Elected Officials
- 10-45-223.19 Revocation of License
- 10-46-223.20 Revocation of License for Constitutionally Elected Officials

Dr. Messer stated these rules would become effective October 28, 2010. No comments were received.

#### **Agenda Item #11 – Adjourn**

The work session adjourned at 12:05 p.m.

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