



TEXAS COMMISSION ON LAW ENFORCEMENT

Commission Meeting Agenda December 5, 2024

On Thursday, December 5, 2024, at 9:30 a.m., a meeting of the Texas Commission on Law Enforcement (TCOLE) was held. The meeting was held at the TCOLE Headquarters, 2nd Floor, Training Room, 6330 East Highway 290, Austin, Texas, 78723, and *via* videoconference.

Commissioners attending in person were Assistant Presiding Officer Jason Hester. Commissioners attending *via* videoconference were: Presiding Officer Kim Lemaux; Secretary Justin West; Patrica Burruss; Janna Atkins; Sheriff Michael Griffis; Justin Berry; Conor Harvey; Sergio Saenz.

TCOLE staff attending were: Executive Director Greg Stevens; Deputy Chief of Enforcement T.J. Vineyard; Deputy Chief of Credentialing, Education, Field and Special Services Cullen Grissom; General Counsel John P. Beauchamp; Information Technology and Chief Information Officer Jessica Capraro, Director of Government Relations Gretchen Grigsby; Assistant General Counsel Aaron Heath.

Agenda Item 1, Call to order.

Assistant Presiding Officer Jason Hester called the meeting to order at 9:30 a.m. Assistant Presiding Officer Hester stated the door is open for public access and signage was placed out front to direct the public to the meeting room.

Agenda Item 2, Roll call of members.

Roll call of members was called, and a quorum was present.

Agenda Item 3, Welcoming remarks from Presiding Officer.

Welcoming remarks were given by Presiding Officer Kim Lemaux. Presiding Officer Lemaux thanked all who joined online, and in-person. Presiding Officer Lemaux stated that this meeting date was previously reserved for an optional meeting and since there are a significant number of heroes that needed to be inducted to the Texas Peace Officers' Memorial Monument, it was important to do so and honor the fallen heroes and for their loved ones to honor them at the ceremony in April. Presiding Officer Lemaux offered condolences to Sheriff Griffis and his Deputy who lost three children in an automobile accident. Presiding Officer Lemaux thanked colleague Assistant Presiding Officer Jason Hester for running the meeting in Austin, Texas.

Agenda Item 4, Take action to enroll and induct officers in the Texas Peace Officers' Memorial Monument.

Director of Government Relations Gretchen Grigsby, read the names of the fallen officers that will be moving forward for induction to the Texas Peace Officers' Memorial in the Spring of 2025.

Officer Alexander A. Arango Everman Police Department	October 22, 2020
Sergeant Ricky Eade, Jr. Texas Tech University Police Department	December 9, 2020
Correctional Officer Harold Paul "Skip" Smith Sr. Texas Department of Criminal Justice – Rufe Jordan	December 15, 2020
Corporal Juvencio Garcia, Jr. Rio Grande City CISD Police Department	January 15, 2021
Sergeant Jed Shelton Beaumont ISD Police Department	August 24, 2021
Sergeant James Dement Friendswood Police Department	December 27, 2021
Director of Field Operations Beverly Matthews-Goode U.S. Dep't of Homeland Security - Customs and Border Protection	January 28, 2021
Investigator Eddie B. Hutchison, III Walker County Criminal District Attorney's Office	February 10, 2021
Corrections Officer Tracey Annette Adams Texas Department of Criminal Justice	March 6, 2021
Sergeant Clay Garrison Port of Galveston Police Department	August 25, 2021
Senior Sergeant Steve Urias Austin Police Department	August 26, 2021
Officer Gregory Randall Young Vernon College Police Department	September 1, 2021
Sheriff Robert Ynclan Gonzales County Sheriff's Office	September 5, 2021
Sergeant Shad Eugene Hammond Texas Department of Criminal Justice	September 13, 2021
Corrections Officer Jose Angel Hernandez Texas Department of Criminal Justice	September 13, 2021
Park Police Officer Jay Peña San Antonio Park Police Department	September 26, 2021
Officer Randy Stallard Central Independent School District Police Department	November 2, 2021
Officer Wayne "Butch" Nowell, Jr. Meridian Police Department	December 29, 2021
Sergeant Gerardo Morales El Paso Police Department	January 7, 2022

Investigator Steven Carnes	
<u>Tom Greene County District Attorney's</u>	<u>November 13, 2022</u>
Deputy Ronald Bates	
<u>Harris County Sheriff's Office</u>	<u>February 10, 2024</u>
Deputy Sheriff Charles Rivette	
<u>Montgomery County Sheriff's Office</u>	<u>February 21, 2024</u>
Border Patrol Agent Christopher Luna	
<u>U.S. Dep't of Homeland Security - Customs and Border Protection</u>	<u>March 8, 2024</u>
Investigator John Hampton Caddou, III	
<u>Harris County Sheriff's Office</u>	<u>April 23, 2024</u>
Officer Kyle Hicks	
<u>Corpus Christi Police Department</u>	<u>April 24, 2024</u>
Senior Police Officer Vicente Ortiz, Jr.	
<u>Corpus Christi Police Department</u>	<u>June 1, 2024</u>
Deputy/Detective Fernando Esqueda	
<u>Harris County Sheriff's Office</u>	<u>July 11, 2024</u>
Sergeant Billy Randolph	
<u>Fort Worth Police Department</u>	<u>August 12, 2024</u>
Officer Darron Burks	
<u>Dallas Police Department</u>	<u>August 29, 2024</u>
Trooper Kevin Alexis Ramirez-Vasquez	
<u>Texas Department of Public Safety</u>	<u>September 28, 2024</u>
Deputy Constable Ruben Garcia	
<u>Cameron County Constable's Office - Precinct 1</u>	<u>September 30, 2024</u>
Deputy Sheriff Lex Allen Love	
<u>Wise County Sherrif's Office</u>	<u>October 2, 2024</u>

Director Grigsby stated these names are to be added and these individuals deserve to be recognized.

Commissioner Patrica Burrus made a motion to enroll and induct the officers read to the Texas Peace Officers' Memorial Monument. Commissioner Justin Berry seconded the motion. The motion passed unanimously.

Agenda Item 5, Discuss and take action on proposed amendment to existing TCOLE Rule 217.7, related to obtaining fingerprints for all appointments.

General Counsel John P. Beauchamp stated the proposed amendment requires a subjective criminal background check before a person is appointed by a law enforcement agency for every appointment instead of "prior to the 180 days since a last appointment" language that existed before. General Counsel Beauchamp stated that this proposed rule amendment is to supplement the suite of rules that were proposed at the last meeting in McAllen, Texas in October of 2024. General Counsel Beauchamp stated this is the first reading of this proposed amendment and will be brought to the meeting in March for a final adoption and will be subject to public comment

between now and then. He stated this will cause the agency to do a fingerprint and background check with criminal history before they are appointed.

Assistant Presiding Officer Jason Hester stated that there is a good chance of officers who have been employed and have not been enrolled in Rap-back and this is one way to ensure that this process will guarantee that when an officer moved to a new agency, they will get a new set of prints that will always be reran through the system and if there was an arrest that occurred in between appointments, this will show up to the new subscribed agency or TCOLE who is subscribed. He stated this is another fail safe for staff to be notified.

Deputy Chief T.J. Vineyard stated that this accomplishes subscribing officers who have not been subscribed to the rap-back system, it will cut down on errors of name based criminal histories and fingerprint based criminal histories will require any criminal history coming up before their next appointment.

Commissioner Patricia Burrus made a motion to pass the proposed amendment to existing TCOLE Rule 217.7, obtaining fingerprints for all appointments. Commissioner Justin Berry seconded the motion. The motion passed unanimously.

Agenda Item 6, Discuss and take action on the Proposal for Decision regarding the peace officer license of Michael D. Hambrick.

Assistant General Counsel Aaron Heath stated that Micheal D. Hambrick was placed on community supervision for Indecent Assault, a Class A misdemeanor and the Executive Director determined that this was an offense above a Class C misdemeanor and filed a license action seeking a ten-year suspension. Assistant General Counsel Heath stated the respondent requested a State Of Administrative Hearing (SOAH) where the Administrative Law Judge (ALJ) issued a proposal for decision finding the respondent committed an offense above a Class C misdemeanor and recommending the suspension of respondents' peace officer license for ten years. Assistant General Counsel Heath highlighted some of the findings from the ALJ, specifically crimes against children are more serious offenses within the crimes against person, which are more serious than crimes against property and the respondents conduct evidences poor judgement and decision-making, breach of trust, and disrespect for the rules, law enforcement officers are held to a higher standard of conduct and a level of professionalism than civilians and are expected to uphold and protect the law and not victimize someone who is an abnormal proposition and responded opposite during the incident. The respondents conduct undermined the important ethical and professional standards for law enforcement, which are important to public safety. He stated that the respondent's offense involves intimidation and manipulation, which might be considered a coercion, since the respondent took advantage of the situation. He furthered that when an adult victimizes a child there is some level of control or coercion. Assistant General Counsel Heath stated the ALJ agreed with TCOLE that the mitigating factors in this case do not outweigh the severity of the respondent's misconduct and the ALJ finds that because the level of aggravating factors in this case, the ten-year suspension of the respondents' license is proportionate and justified. Assistant General Counsel Heath stated that the Executive Director recommends the acceptance of the proposal for decision and a ten-year suspension of the respondents' peace officer license.

Commissioner Justin Berry made a motion to accept the suspension of Mr. Hambrick. Commissioner Conor Harvey seconded the motion.

Commissioner Patricia Burruss stated that after reviewing the PFD and supplemental information received, this offense is the most egregious that she has seen and she cannot, in good conscious, vote to only suspend the license of Mr. Hambrick. Commissioner Burruss stated she thinks an argument can be made under Texas Administrative Code 37, §223.19, that the commission can revoke the license of Mr. Hambrick. Commissioner Burruss stated that the commission is clearly going with the portion of the rule that fits the misdemeanor offense and he is potentially subject to up to no less than 128 days and up to ten years, but she believes that base on the offense itself, an argument can be made that under section B states the license of a person convicted or placed on community supervision for an offense directly related to the duties and responsibilities of any related offense held by that person may be revoked. Typically, when this section is used it is for things like official oppression or tampering with a governmental record, and in those instances, those are also misdemeanors. She continued stating that official oppression can range from first degree felony down to a Class C misdemeanor. Commissioner Burruss stated that looking at the four prongs required that the commission considers including the nature and seriousness of the crime, obviously this a very serious offense, a crime against children and vulnerable victims and the relationship of the crime to the purpose for requiring a license for such office. Commissioner Burruss stated that looking at Deputy Chief Vineyard's testimony at the SOAH hearing clearly stated out the coercion involved and read about the victims stated, mother of one victim and there was clearly grooming taking place, he violated the trust of the mother, and the child victim. The victim said she would have not consented to this if she had not been inebriated and that is sufficient for the second prong. Commissioner Burruss stated that the third is the extent to which a licensee might offer an opportunity to engage in further criminal activity at the same type, is that in which the person had been previously involved. Commissioner Burruss stated that being a law enforcement officer gives a person immense public trust and endowed with protecting the public and the public's safety, protecting vulnerable victims and again, here, individuals give Mr. Hambrick their virtue of trust of his position and if this is what he is doing when he thinks that people are not watching, then she cannot imagine what else he is willing to do. She continued to state that this is something that was not a one-time occurrence that he said or did, but a culmination. She stated that the fourth prong states, "the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office," and there was a clear violation of trust, coercion that we can see in these prongs. She further stated should he keep his license; he has the ability and capacity to do this again to other vulnerable victims. We ask law enforcement to be empathic and serve and not take if for granted and misuse that trust, and she does not have the confidence that Mr. Hambrick won't violate that trust or coerce based on what she has read in the packet. Commissioner Burruss stated the question is this type of criminal offense that falls within the set of crimes determined to be directly related as it states in section B to the duties and responsibilities and if the official oppression and tampering with a governmental record fit in that section, then surely this type of offense can fit it as well.

Commissioner Justin Berry stated that he echoes what Commissioner Burruss' views and would like to get Mr. Beauchamps thoughts on this. Commissioner Berry asked if this officer has taken the

required course "Interdiction for the Protection of Children," and officers take this class because it is part of our duty, training, and requirement. Commissioner Berry stated that an officer is never truly off duty and if part of your training is to always be on the lookout for ways to protect children and if he is violating that, I agree with Commissioner Burruss and grounds for argument that he did violate his office and official duties to protect the children that he has received training for.

General Counsel Beauchamp stated that in review what the commission discretion would be for a PFD, and when it is related to determining a sanction for a proposal for decision, the commissioners have wide discretion in doing so, however that discretion is not absolute and not without some limitations. General Counsel Beauchamp used the analogy of the commissioners are like an appellate court when they read a proposal for decision, which is generally correct, but with relevant caveats such as sometimes they get to look at the whole record and sometimes they get to start from scratch, sometimes have narrowly tailored issues before them than they can only consider in that narrow scope of evidence and the law. General Counsel Beauchamp stated that he says all of this to give them an idea of what their discretion is, and when there is findings of fact, (under the Administrative Procedures Act), they are bound by, and in this case, they have 20 or 30-some-odd findings of fact. He stated they heard Commissioner Burruss walk through the revocation rule and it is important to note that the revocation rule particularly as it relates to those four factors has been for the most part almost exclusively to official oppression, theft by a public servant offense which as an element of the offense and hold a peace officer license, they automatically fall in these related categories. General Counsel Beauchamp stated that they have the ultimate discretion in determining sanction that is not absolute, and are bound by the facts of this case, and are bound by notice provisions and proper application of the law and if they decide to go in this direction, then we will take that guidance and move in that direction.

Presiding Office Kim Lemaux asked if giving notice to Mr. Hambrick would be required and is there any obligation to solicit or consider a response?

General Counsel Beauchamp stated that normally if something came back less than what was asked for, the Executive Director would then file exceptions with the administrative law judge, sending a copy to the respondent, which is not a requirement, but it puts the respondent on notice that there may be something other than what was sought at the hearing. He stated in this case, we pleaded and requested ten years and received ten years, and he is hard pressed to find when the commission has received a ten-year suspension in the last decade or so.

Deputy Chief T.J. Vineyard stated that when he testified, he said everything that Commissioner Burruss has stated but he does not believe that this particular situation falls in those rules and that we are limited with the ten years by the rule and that is the appropriate punishment.

Commissioner Justin Berry stated that he feels this rule needs to be updated to reflect current expectations of officers especially when it applies to crimes against children and crimes that are sexual in nature and he was disgusted when he read this but if he has the ability to get his license in ten years, this is absolutely disgusting that we are capped at ten years with this individual, or to give him an avenue with a gray area or loop hole where he can get his license again.

Commissioner Janna Atkins stated in ten years he could come back into this job, but she has people who want to apply to the academy whom have a Class A misdemeanor and community supervision and they cannot apply period, and those have to ask for a waiver, but with this case, in ten years, he can reapply and come back to work and if he complies with his license during that ten years, he can go right back to work and not have to apply for a waiver. She stated we are barring some people who are trying to get into the profession, but we have others already in the profession who get in trouble with a Class A and can come back after their suspension. She stated she thinks the Commission needs to look at a rule change in the future for this.

Deputy Chief Vineyard stated Mr. Hambrick is not currently employed and the agency did separate with him when he was arrested, his license is active, but he is unappointed. He stated he encourages the Commission to consider the totality of circumstances such as back process, and system of rules in place, and checks and balances, so they are safety nets in place.

Assistant Presiding Officer Hester stated that there seems to be some agreement to ask staff to go back and relook at this part of the rule and bring forth recommendations back to the Commissioners for updates.

Commissioner West asked if the rule is changed later, can this decision of this particular case be changed?

Assistant Presiding Officer Hester stated a decision for this PFD cannot be changed at a later date.

Commissioner Michael Griffiss asked if there was an option to come back at the next meeting and change this to a revocation?

Assistant Presiding Officer Hester stated he did not believe so.

General Counsel Beauchamp stated nothing materially, rule wise, or otherwise that would change the decision, and the Commission is bound to the laws that exist currently, and this was brought to this meeting for a specific purpose.

Presiding Officer Lemaux asked if they could add a caveat that TCOLE would not reinstate the license unless Mr. Hambrick came before the Commission at that time?

Assistant General Counsel stated that he would be hesitant to do that because that would be adding additional reinstatement conditions that do not exist in the rules now. He stated if the Commission wanted to, one option would be ten year suspension plus "x" amount of probation and come back to the Commission for reinstatement, but that does not allay the fears and concerns of adding additional requirements which do not exist in the current regulations.

Assistant Presiding Officer Hester stated that the changes that have been made legislatively, and the background investigations changes will come into play when this person tries to be reinstated. He added that everything on this agenda today is on here for a reason.

Commissioner Burruss stated that she will not be bullied into a decision today and if there is something else to be looked at, the commission needs to make sure we are aware of every possible remedy and there is not a 100 percent certainty today and it doesn't sound like there is 100 percent certainty and she is getting a feeling from the commission that anyone is happy about rubber stamping the decision that came from SOAH.

Commissioner Berry asked in addition to the rule change, was there a way to create a new rule in the event that an applicant or licensee has ever had a license expenditure for a crime against a child or a crime sexual in nature that they cannot have their license reinstated?

Assistant Presiding Officer Hester stated that he thinks there could be a charge of staff with options to bring back to the Commission that would ultimately be the eligibility standards that the legislature has delegated to the commission for offenses that are not felony offenses, and the Commission has that authority in statute and this could be a direction for staff to look at and bring back to the Commission at a future time. Assistant Presiding Officer disagreed with Commissioner Burruss and does not feel there is a bully taking place but thinks there are the findings of fact before them and a recommendation from the Executive Director to accept the PFD and that Deputy Chief Vineyard put it succinctly as well on his testimony and how that has been considered up to this point. He stated that if the Commission wants to make a change moving forward then they should do that moving forward. He feels there would be a problem if there was some kind of appeal if they wanted to do something other than what's laid out on the table.

Commissioner West stated that he agreed that Deputy Chief Vineyard did bring forward the same argument that Commissioner Burruss is making and based on the findings of SOAH, the Commission is hamstrung to make a decision today but per Commissioner Berry's point, if the staff brings back a new rule to implement that the Commission can make the effect without a risk of an appeal to a district court judge and keep this gentleman from being reinstated in ten years.

Assistant Presiding Officer Hester stated that the consensus is that all types of crimes, that are especially against vulnerable populations and children in sexual nature and not just to the limits of the official oppression and the things we talked about before. He stated we have a motion to accept the proposal of decision for a ten-year suspension for Michael Hambrick made by Commissioner Berry and seconded by Commissioner Harvey.

A roll call vote was taken with eight aye's and one nay by Commissioner Burruss. The motion passed.

Agenda Item 7, Receive public comment on any topic, without action.

No public comment was given.

Agenda Item 8, Executive Session to discuss pending or contemplated litigation, settlement offers, and personnel issues, including evaluation of Executive Director's job performance pursuant to sections 551.07 and .074 of the Texas Government Code, Open Meetings Act.

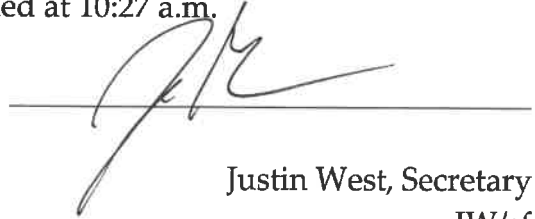
No executive Session.

Agenda Item 9, Return from Executive Session to report and discuss further actions to be taken as a result of Executive Session, if necessary.

No executive Session.

Agenda Item 10, Adjourn.

Commissioner Justin West made a motion to adjourn the meeting. Commissioner Justin Berry Seconded the motion. The meeting adjourned at 10:27 a.m.

A handwritten signature in black ink, appearing to be 'JW', is written over a horizontal line.

Justin West, Secretary
JW/sf