



Kim Vickers
Executive Director

TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION

Quarterly Meeting Minutes June 6, 2013

On Thursday, June 6, 2013, at 9:30 a.m. the quarterly meeting of the Texas Commission on Law Enforcement (TCOLE) was held at the J.J. Pickle Research Campus, The Commons Learning Center, 10100 Burnet Road, Bldg 137, Austin, Texas.

Commissioners attending were Sheriff Joel W. Richardson, Presiding Officer; Mr. Steve Griffith, Assistant Presiding Officer; Dr. Johnny E. Lovejoy II, Secretary; Constable Ron Hood; Mr. Rob Kyker; Mr. James Oakley; Senior Police Officer Joe Pennington; Ms. Patt Scheckel-Hollingsworth; and Chief Ruben Villescás.

Raymond Winter, Veena Mohan and William Van Shellenbeck from the Office of the Attorney General were present. TCOLE staff members attending were Executive Director Kim Vickers, Director of Operations John Helenberg, Legal Counsel John Beauchamp, Finance Director Brian Roth, Laurie Abernathy, Michael Antu, Lynn Beard, Thurman Felder, Dennis Graffious, Richard Gutierrez, Mike Hobbs, Iris Martinez, Carey McKinney, Kenneth Merchant, James Oswalt, Candice Simon, Kaye Wilson, and Nicole Yoakum.

Agenda item #1 Call to Order

Presiding Officer Richardson called the meeting to order. Sgt. Keith Bazzle, Officer Curtis Pandorf, and Det. Roderick Mayberry of the Austin Police Department presented the colors. Commissioner Hollingsworth led the pledge of allegiance to the United States flag and to the Texas flag. Executive Director Vickers gave the invocation. Kaye Wilson called the roll and announced that all commissioners were present. Presiding Officer Richardson welcomed all in attendance and noted that due to the passage of Senate Bill 686 introduced by Senator Huffman, the agency name has changed to the Texas Commission on Law Enforcement.

Agenda item #2 Reading of peace officer / jailer deaths since the March meeting

Ken Mobley read the names of those officers that have died since the March commission meeting.

Deputy Sheriff Chad Charitain Key, Grayson County Sheriff's Office
End of Watch: Saturday, April 20, 2013
Deputy Key was killed when he was struck by a drunk driver while directing traffic. The alleged drunk driver had two prior drunk driving convictions.

Officer Larry D. Candelari, Pasadena Police Department
End of Watch: April 26, 2013
Officer Candelari was struck and killed after he stopped to assist with an accident on Interstate 10.

Commissioner Kyker said that the Marine Corps Law Enforcement Foundation has a scholarship in the name of the youngest child of Deputy Key. On Memorial Day, the Sons of the Flag Foundation, a burn institute that raises funds to assist veterans, first responders, and citizens that have been burned, sponsored a run to raise money for the foundation.

Agenda item #3 Approval of the minutes of the March 21, 2013, meeting at Austin, Texas.

Commissioner Griffith made a motion to approve the minutes of the March 21, 2013 meeting. Commissioner Oakley seconded the motion. The motion passed unanimously.

Agenda item #4 Receive Presiding Officer's Report. Take action, if necessary.

There was no action taken on this item.

Agenda item #5 Receive Executive Director's Report. Take action, if necessary.

Executive Director Vickers noted that information on the budget, cash flow analysis, and a criminal misconduct report has already been sent to the Commissioners.

He also reported that the Peace Officers' Memorial Capitol Fund has \$222,821. Due to the passage of a bill in the recent legislature, the responsibility of raising funds for the memorial have transferred from TCOLE to the State Preservation Board. This will now be called the State Peace Officers' Memorial Monument. Commissioner Lovejoy asked if these are dedicated funds to which Mr. Vickers confirmed that they are dedicated. Funds previously designated to the Memorial will go to the Monument.

The Executive Director introduced new employees with TCOLE, Iris Martinez and Keith Thornton. Ms. Martinez is a graduate of LBJ High School and completed the Administrative Assistant course of study from Virginia College of Austin. She is serving as the morning receptionist. Mr. Thornton is a student at Austin Community College and Texas State University, working toward a

Business degree. He is also active in the Army Reserves. Keith is the afternoon receptionist.

Mr. Vickers reminded the Commissioners of the 2012 Law Enforcement Achievement Awards ceremony at 10:00 a.m. on Thursday, June 13 in the Senate Auditorium with a reception following in the legislative conference room.

Commissioner Griffith made a motion to accept the report as presented. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Agenda item #6 Receive reports, items to discuss, follow-up items from previous meeting. Take action, if necessary.

a. Staff review and recommendations concerning the number of academies and training providers.

At the March meeting, there were concerns that there is an oversaturation of academies and extending agency resources for oversight of the training providers. Staff was asked to address this at the June meeting. Mr. Vickers stated that more training contracts overextends the agency's resources and oversaturation dilutes the market. The agency is dedicated to keeping the Council of Government (COG) academies open. This is the main training body in many rural areas. Law enforcement agencies without a training contract can conduct training, other than mandated training or training that leads to a certification. If TCOLE has oversight through a training contract, then it has control over the quality of training that is provided.

Commissioner Hollingsworth agrees that it is beneficial for the agency to have oversight of training. The training provider contract was based on economic issues when agencies couldn't afford to send officers away for training. She is concerned that there are oversaturated areas, mostly metropolitan areas that can increase the workload of the Field Service Agent for that area. There are parts of the state that need to be reached, maybe through training consortiums.

Commissioner Lovejoy suggested using the agency's regulatory authority upon inception of any new academy and inspection of current academies or training agencies:

- Encourage, through a checklist, interagency cooperation, specifically when academy applicants are seeking contracts because the academy closest to them is not cooperating. Also be sure that members on their board are cognizant of that point.
- Dual fee schedule, a schedule for smaller agencies and a schedule for larger agencies without discouraging competition

- Upon routine visits, ask “What have you done lately to cooperate with your neighbors?”

Commissioner Griffith asked for an explanation of the difference between academies and contract training providers to which Mr. Vickers replied that academies teach licensing courses and contract providers teach legislatively mandated courses, but not licensing courses. The recent legislature added two new licenses, telecommunicator and school marshal. We will have to determine who will teach these licensing courses. Academies that are governmental entities or educational institutions are limited by who can apply. Staff has been discussing the possibility of different fee schedules. For example, for profit vendors may be charged more. Academies that don't charge are in competition with the for-profit providers.

Commissioner Griffith noted that TCOLE's strength is the Field Service Agents and they need the tools to help them help agencies to be successful.

Commissioner Lovejoy noted that with the decrease of full time employees (FTE's) and an increase of agency responsibilities from the legislature, we need to increase our use of information technology. The field service agents need for their office to be anywhere they are, and during budgetary considerations, the agency should continue to submit budgets to the legislature requesting information technology upgrades.

Mr. Helenberg said that we now have IT funding for the 2014 – 2015 budget. Using the previous distance education funding, we have been able to purchase equipment and applications that allow the FSA's to work with TCLEDDS in the field.

Commissioner Villegas stated that TCOLE has oversight of training providers, and that staff reviews all training contract applications, and apply due diligence. Staff needs to trim those existing providers that fail to meet TCOLE standards. There is a need for law enforcement agencies to conduct their training and be given due consideration, but he understands the rural areas and those areas that are economically disadvantaged could benefit law enforcement by having training available.

Mr. Vickers concluded the discussion by noting that TCOLE encourages training and doesn't want to restrict an entity from conducting training. We just want to ensure that it is quality training.

b. Non-compliance notification.

Mr. Helenberg explained that we are approaching the end of a training cycle and are going above the rule and statutory requirements for reminding agencies and officers/jailers of the training mandates. In May, a notice was sent to all law enforcement agencies that included a list of their officers and jailers that are in jeopardy of non-compliance. On July 15, a second notice will be sent with a final notice being sent in August. On September 1, the agency will start the non-compliance process.

Mr. Beauchamp stated that after September 1, letters will be mailed to individuals that are not in compliance. The individuals will be given an option to (a)state that they will complete the mandated training, waive a hearing, and receive a reprimand or (b)state that they will not complete the mandated training and want to proceed to a State Office of Administrative Hearings (SOAH). They will also be asked if there are mitigating factors that affected their ability to complete the training such as military duty, medical reasons, or the chief administrator didn't allow them to attend the necessary training.

Commissioner Lovejoy asked why the licensee is punished if the administrator doesn't give him/her a chance to attend training. Mr. Beauchamp replied that prior to a letter being sent to the licensee, a letter is sent to the administrator asking why the licensee didn't complete the required training. If the administrator did not allow the licensee to take the training, there are disciplinary actions to be taken against the chief administrator.

Mr. Vickers commended John Helenberg and John Beauchamp for working through the complexities of compliance in law enforcement training in Texas. Commissioner Hollingsworth noted that after being licensed for 39 years, she knows that it is her responsibility to keep her license active. Commissioner Pennington asked how the complex process of non-compliance can be simplified to which Mr. Vickers responded that it would take legislative action as there are special exceptions written into statute. Commissioner Pennington suggested that the legislative committee review this for the next legislative session and Commissioner Oakley supported this action.

Agenda item #7 Discuss and take action on applications to be an approved law enforcement academy, contractual training provider or academic alternative provider.

- Contractual Training Provider
 - Round Rock Police Department
- Mr. Helenberg noted that a contract training provider application has been submitted by the Round Rock Police Department. The application meets all the statutory requirements. There is a public comment letter in the meeting packet.

Chief Tim Ryle and training coordinator Sgt. Sean Johnson addressed the Commissioners. Chief Ryle stated that his agency would offer training to their officers as well as those from other agencies. There will be no charge to officers from other agencies attending training at Round Rock. Commissioner Hollingsworth asked if partnerships could be developed with training providers in the area to which Chief Ryle responded that there are relationships already in place with the agencies in the area. Commissioner Pennington asked if there are any formal MOU's with any other agencies sharing training and Chief Ryle responded that there are no formal MOU's, but there are informal agreements with surrounding agencies. Commissioner Lovejoy asked if the new facilities being built in Round Rock were only for law enforcement training. Chief Ryle explained that it will be a public safety training facility, a joint facility for police and fire training. Commissioner Hollingsworth asked if Chief Ryle had visited with DPS. They have not yet visited, but have had discussions with the Texas Police Association, traditionally a DPS training provider, and they are collaborating with some current training.

Commissioner Griffith made a motion to approve the contract for the Round Rock Police Department. Commissioner Oakley seconded the motion. The motion passed with Commissioner Hollingsworth opposing.

At this time, the Presiding Officer called for a short break.

Agenda item #8 Discuss and take action on the Request for Waiver of TCLEOSE Rules 215.15 Enrollment Standards and 217.1 Minimum Standards for Initial Licensure.

- Travis County Sheriff's Office for Brian Perrault
- Sheriff Greg Hamilton and Captain Mark Grosvenor came forward with Brian Perrault to address the Commissioners. Sheriff Hamilton confirmed that his agency intends to hire Mr. Perrault if the waiver is granted. Capt. Grosvenor noted that they have an active recruiting process and Mr. Perrault expressed his interest in joining the agency.

Mr. Perrault said he made a regrettable mistake 9 years ago and has been a better person and a better member of his community since. He has completed the seven core courses through Austin Community College and needs the waiver to complete the remaining basic course requirements. Commissioner Lovejoy asked what Mr. Perrault has done to prevent future occurrences to which Mr. Perrault responded that he's attended an alcohol class as part of his court requirements and he made a decision to not let something or someone have power over him to make poor decisions for him.

Commissioner Griffith made a motion to approve the Class B waiver for Brian Perrault. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Agenda item #9 Discuss and take action on proposed orders of amendments to existing TCLEOSE rules.

- 13_22_217.2 Minimum Standards for Telecommunicators.
Mr. Beauchamp noted that this amendment will require successful completion of a commission-approved crisis communications course.

Commissioner Griffith made a motion to approve the proposed order for 13_22_217.2. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

- 13_23_221.7 Investigative Hypnosis Proficiency.
Mr. Beauchamp stated that the proposed changes will limit the certificate validity to two years and that keeping the certificate requires an update course once every two years.

Marx Howell addressed the Commissioners speaking in favor of this proposed rule change. Presiding Officer Richardson asked if this would be considered a training mandate without funding and Mr. Howell responded that training is available at the annual conference at LEMIT for the Texas Association of Investigative Hypnosis. He's aware of several training academies that are interested in providing the training at minimal cost. The training will include meeting the prerequisites of the Texas Court of Criminal Appeals guidelines so that it will be admitted into court.

Commissioner Griffith made a motion to approve 13_23_221.7 proposed order of amendment. Commissioner Hollingsworth seconded the motion. The motion passed unanimously.

- 13_24_217.11 Legislatively Required Continuing Education for Licensees. Mr. Beauchamp said that this proposed rule eliminates the training requirements for civil rights, racial sensitivity, and cultural diversity for a licensee who has completed or is exempted from such training under another commission license or certificate.

Commissioner Griffith made a motion to approve 13_24_217.11 proposed order of amendment. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

- 13_25_215.9 Training Coordinator. Mr. Beauchamp noted that this proposed rule change will allow a training coordinator's designee to represent only one training coordinator at the annual academy coordinator workshop. He also stated that staff is asking to amend the proposed wording as it was initially presented to the Commissioners. The amended proposed rule would read: No person may serve as a representative for more than one provider per conference. Each representative must be affiliated with the training provider.

Commissioner Villegas asked why this amendment is necessary. Mr. Vickers explained that this amendment is being requested as a direct result of a practice that has been surfacing. The intent of the conference is to better inform training coordinators of the requirements that they have through TCOLE and by contract the coordinator or a designee is to attend. Recently, multiple programs are being represented by one person who has no affiliation with all of the programs, thus the providers are not meeting the intent of the conference or the meaning of the contract.

Commissioner Griffith made a motion to approve 13_25_215.9 proposed orders of amendments as amended by our attorney. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Agenda item #10 Discuss and take action on proceedings for revocation, suspension, and other disciplinary actions.

Raymond Winter with the Attorney General's office addressed the Commission.

Default Cancellation Order

Cloud, Brandon D. 13-01-0366C Washington County Sheriff's Office

Commissioner Griffith made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Default Cancellation Order to cancel the license of Brandon D. Cloud. Commissioners

Lovejoy and Hollingsworth seconded the motion. The motion passed unanimously.

Agreed Suspension Waivers

Maldonado, Andrew J. 12-01-0527LS Dallas Police Department
Richardson, Jeanne L. 12-08-1221LS Guadalupe County Sheriff's Office

Ms. Richardson was at the meeting, but declined to address the Commissioners.

Commissioner Griffith made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Agreed Suspension Waiver for Andrew Maldonado and Jeanne Richardson. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Proposed Agreed Suspension Order

Montoya, Omar B. 11-07-1080LS El Paso County Sheriff's Office

Mr. Beauchamp noted that last September it was agreed that under certain criteria the Executive Director could enter into an agreed order with conditions of probation. In this case, Mr. Montoya will have 30 days of hard suspension. The remaining 9 years and 11 months of the suspension will be probated. Respondent will submit to the Commission within 90 days

- certain documents or proof of completion of rehab treatment programs
- 15 additional counseling sessions for substance or alcohol abuse
- successful completion of 4 hours of ethics
- to his department, a written proposal to introduce in-service education or training regarding the dangers and consequences of conduct similar to that which he did
- a fee of \$250 to TCOLE to cover staff time to keep track of the documentation being submitted.

If during the first 90 days these conditions of probation are not met, the probation will be immediately revoked and the license suspended automatically upon receiving notice. For the remainder of the probationary period, the license can be revoked if he violates any Commission statute or rule during that period.

Commissioner Griffith made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter Agreed Suspension Orders for Omar B. Montoya. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Proposal for Decision Orders

Bush, James W. 11-02-0424LR Bexar County Constable, Pct. 3

The Commission staff sought revocation based on the allegation that Mr. Bush submitted a false report of training for a training course that he did not complete. The Administrative Law Judge (ALJ) recommended the revocation of the license. Mr. Bush filed exceptions to the proposal for decision and the Executive Director has filed a response to the exceptions. The Executive Director is asking that the decision of the ALJ be approved.

Mr. Bush addressed the Commissioners stating there was new evidence that should be allowed in a subsequent State Office of Administrative Hearings (SOAH).

Assistant Attorney General Ray Winter noted that the investigation of this case lasted over one year, and that Mr. Bush was provided ample opportunity to submit evidence. Mr. Winter has a sworn statement from the alleged course instructor of the alleged class stating that the class was not taught. Mr. Winter stated that the evidence trying to be introduced today is outside the record and cannot be properly considered.

Commissioner Griffith made a motion to accept the recommendation of the Administrative Law Judge and the recommendation of the Executive Director to revoke the peace officer's license of James W. Bush. Commissioners Hollingsworth and Lovejoy seconded the motion. The motion passed unanimously.

Kim, Bumjin J. 11-05-0943LS Harris County Constable, Pct. 6

Commissioner Griffith made a motion to approve a 10 year suspension that was recommended in the proposal for decision from the Administrative Law Judge for Bumjin Kim. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Martinez, Vince A. 11-09-0046LS Valley International Airport Police Department

Mr. Winter stated that the Administrative Law Judge, in the proposal for decision, recommended a 10 year suspension of the license with 4 years suspension and 6 years probated. The Executive Director filed exceptions. The exceptions urge that the Commission suspend the license for 10 years, 6 years hard suspension and 4 years probated.

Commissioner Griffith made a motion to suspend the license of Vince A. Martinez for 10 years, 6 years a hard suspension and 4 years probated. Commissioner Lovejoy seconded the motion. The motion passed unanimously.

Schoch, Kevin M.

11-01-0274LS Dallas County Constable Pct. 2

Mr. Winter noted that the Administrative Law Judge first recommended that a written reprimand be given to Mr. Schoch, then recommended the license be suspended for 30 days. The Executive Director filed exceptions asking for the license to be suspended for 10 years, 2 years hard suspension and 8 years probated.

Mr. Schoch's attorney, Craig Driskell, addressed the Commissioners. Mr. Driskell noted that the ALJ referred to mitigating factors when recommending the 30 day suspension.

Commissioner Oakley asked Executive Director Vickers to explain his reasons for filing the exceptions. Mr. Vickers noted that the rule requires a 10 year suspension of the license and that mitigating factors may reduce the 10 years. He believes that officers have a public trust, and when they violate that public trust it makes it difficult to enforce the same laws for which the officer has been arrested. In these cases, the consistent recommendation has been 2 years hard suspension with 8 years probation.

Commissioner Pennington asked for the reason for consistency in these cases and Mr. Vickers noted that the law allows for 30 days to 10 years and we have to consider what is appropriate. There is a responsibility that is due, an accountability that is due. This is not a punishment for this officer, it's looking at what is in the best interest of the citizens of Texas. Commissioner Oakley asked when the 2 years hard suspension would begin and Mr. Beauchamp said that it starts when the order is signed and delivered.

Commissioner Griffith made a motion to accept the recommendation of the Executive Director for a 10 year suspension of the license of Kevin Schoch, 2 years hard suspension and 8 years probated. Commissioner Lovejoy seconded the motion. The motion passed with Commissioner Pennington opposing.

For Information Only

Mr. Winter noted that the final items are for information only and that no action is required. He read the remaining disciplinary actions.

Statutory Revocations

Brock, Chris A.	10-09-0014LR	Refugio Police Department
Ferrell, Benjamin T.	12-03-0909LR	Rusk County Constable Pct. 2

Statutory Suspensions

House, Dana D.	12-07-1158LS	Texas Department of Public Safety
Moore, Jeffrey D.	12-08-1199LS	Whitney Police Department
Sanchez, Cruz A.	12-12-0303LS	Hudspeth County Sheriff's Office
Yepez, Roman	12-07-1075LS	Waco I.S.D. Police Department

Permanent Surrenders

Arellano, Jorge	El Paso Police Department
Bowden, Jr., Paul D.	El Paso Police Department
Curry, Ywante E.	Sugar Land Police Department
Douglas, Adron L.	Denison Police Department
Elliott, Duane C.	Galveston Police Department
Huckabay, Steven T.	Shackelford County Sheriff's Office
Kingston, Brian L.	O'Donnell Police Department
Myers, Joseph E.	San Antonio Police Department
Romero, Manuel E.	Houston Police Department
Saenz, Noe M.	Seagraves Police Department
Stewart, Jr., Donald L.	Llano County Sheriff's Office
Vazquez, Jose T.	Bexar County Sheriff's Office
Villarreal, Rodolfo A.	Texas Attorney General's Office

Reprimands

Rios, Jaime S.	Maverick County Constable Pct. 2
Venegas, Jr., Pedro	Maverick County Constable Pct. 3, Place 1

Agenda item #11 Receive public comment on any topic, without action.

The Presiding Officer asked for public comments. No one came forward.

Agenda item #12 Executive session to discuss matters authorized by Texas Government Code section 551.071 et seq., including pending litigation, attorney-client consultation, and the executive director's performance evaluation.

There being no business to discuss in Executive Session, the Presiding Officer adjourned the meeting at 12:00 p.m.



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