



Kim Vickers
Executive Director

TEXAS COMMISSION ON LAW ENFORCEMENT

Quarterly Meeting Minutes September 10, 2015

On Thursday, September 10, 2015, 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; Ms. Patt Scheckel-Hollingsworth, Assistant Presiding Officer; Major Jason Hester, Secretary; Ms. Patricia Burruss; Constable Ron Hood; Mr. Rob Kyker; Mr. James Oakley; Senior Police Officer Joe Pennington; and Chief Ruben Villescas.

Representing the Office of the Attorney General was Raymond Winter. TCOLE staff attending included Executive Director Kim Vickers, Operations Director John Helenberg, Legal Counsel John Beauchamp, Finance Director Brian Roth, Government Relations Director Gretchen Grigsby, Division Chief Michael Antu; Lt. Candice Simon, Lisa Landry, Laurie Abernathy, Lynn Beard, Gary Connella, Thurman Felder, Dennis Graffious, Richard Gutierrez, Nicole Hendrickson, Mike Hobbs, Jason Hufstetler, Kenny Merchant, Derry Minor, Ken Mobley, Jessica Teseny, Tracy Weems, and Kaye Wilson.

Special guests included Libby Elliott from the Governor's office. Presiding Officer Richardson thanked Ms. Elliott for attending the meeting. Director Grigsby introduced Saul Mendoza with Representative James White's office and John Wielmaker with the Legislative Budget Board.

Agenda item #1, Call to order

Presiding Officer Richardson called the meeting to order at 9:30 a.m. The presentation of colors was by the Randall County Sheriff's Office Color Guard. Members of the Guard were Cpl. Cody Weavers, Deputy Jay Claxton, Deputy Shea Adlong, Sgt. Tegan Tupin, Sgt. Ray Gibbons, and Sgt. Jeff Hooten. Commissioner Oakley led the pledge of allegiance, and Commissioner Hester gave the invocation. Roll was called, and a quorum was present.

Agenda item #2, Reading of peace officer/jailer deaths since the June 2015 meeting.

- Sergeant Christopher Kelley, Hutto Police Department, EOW June 24, 2015
- Sergeant Korby Kennedy, San Angelo Police Department, EOW June 25, 2015
- Corrections Officer Timothy Davison, Texas Department of Criminal Justice, EOW July 15, 2015
- Deputy Darren Goforth, Harris County Sheriff's Office, EOW August 28, 2015

Presiding Officer Richardson thanked Governor Greg Abbott for supporting the law enforcement officers, and thanked the licensees for protecting and serving the citizens.

Agenda item #3, Approval of the minutes of the June 11, 2015, quarterly commission meeting at Austin, Texas.

Commissioner Oakley made a motion to approve the minutes. Commissioner Burruss seconded the motion. The motion passed unanimously.

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

This item was not addressed.

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

Executive Director Vickers noted that the agency received new full-time positions from the legislature, and we have posted four of these positions. Interviews have been conducted on two of these positions, and selections have been made pending the completion of a background investigation. We are accepting applications on the remaining positions.

The training coordinators conference will be held in Corpus Christi at the Omni Hotel October 19–22. As of August 27, 545 people have registered for the conference with these numbers increasing daily. The host hotel and overflow hotel are booked, and there are only a few exhibitor spots remaining.

Restoration work on the Peace Officers Memorial continues.

This year is TCOLE's 50th anniversary and Representative Tony Dale introduced a Resolution honoring the agency. Copies of the resolution were provided for each of the commissioners.

Commissioner Oakley made a motion to accept the Executive Director's Report. Commissioner Hood seconded the motion. The motion passed unanimously.

Agenda item #6, Receive Operations Director's Report. Take action, if necessary.

Operations Director John Helenberg noted that a training unit ended on August 31, and there are approximately 800 names that appear on the non-compliance list. Because training providers have 30 days to report the completion of training, some of these names will be removed from the list as those rosters are received.

New training provider contracts will now be a 2-step process:

Step 1: Application received and a needs assessment will be conducted by staff. Staff approves to move forward or denies the application.

If approved, applicant pays the \$1,000 fee.

If not approved, applicant may petition the Commission to overturn staff's recommendation.

Step 2: Staff conducts an on-site inspection. Applicant is awarded a 2-year probationary contract. At the end of the second year if all is satisfactory, a contract for the remaining 3 years will be issued.

The Commission previously asked staff to conduct additional research on whether a for-profit training organization should have a higher contract fee than a not-for-profit. Mr. Beauchamp noted that regulatory and licensing agencies are to focus on health and safety issues and not erect barriers that could make it more difficult for the for-profit companies. We should be cautious in regulating private industry. Executive Director Vickers said that the Governor's office does not want regulatory agencies to treat private enterprises differently, don't place barriers for private industry. Therefore, he recommends that a higher fee should not be placed on private industry for training.

Commissioner Oakley made a motion to accept the Operations Director's Report. Commissioner Kyker seconded the motion. The motion passed unanimously.

Agenda item #7, Receive Government Relations Director's Report. Take action, if necessary.

Government Relations Director Gretchen Grigsby said as a result of new legislation, curriculum is being developed on seven training items. We are currently awaiting interim charges from the Lt. Governor and the Speaker of the House. The County Affairs Committee will be discussing issues of jail safety and psychological screening of

officers. The Senate Criminal Justice Committee has asked TCOLE to testify later this month on mental health training for officers. The agency's strategic planning process will begin early 2016.

Commissioner Oakley made a motion to approve the Government Relations Director's Report. Commissioner Pennington seconded the motion. The motion passed unanimously.

Agenda item #8, Discuss and take action on the Request for Waiver of TCOLE Rule 217.1 Minimum Standards for Enrollment and Initial Licensure.

- Alvin Police Department for Autumn Miller

Representatives from the Alvin Police Department were not present, so this item was passed.

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

General Counsel John Beauchamp explained the proposed rule process. The Commission may approve a proposed rule as written and go forward through the process; amend the proposed rule and go forward through the process; or return the proposed rule to staff to bring back at a later date.

Mr. Beauchamp grouped rules that were similar. He explained the proposal for each rule. The first group included Proposed Amendment 1 – 10.

- Proposed Amendment 1
§211.1. Definitions. (amend "Background Investigation")
- Proposed Amendment 2
§211.1. Definitions. (new definition of "Contract Jailer")
- Proposed Amendment 3
§211.1. Definitions. (amend "Community Supervision")
- Proposed Amendment 4
§211.1. Definitions. (new definition of "Honorably Retired Peace Officer")
- Proposed Amendment 5
§211.5. Licensee Lists. (repeal)

- Proposed Amendment 6
§211.7. Meeting Dates and Procedures. (amend)
- Proposed Amendment 7
§211.13. Notice of Commission Rulemaking. (repeal and replace)
- Proposed Amendment 8
§211.16. Establishment of an Appointing Entity. (amend)
- Proposed Amendment 9
§211.25. Date of Appointment. (amend)
- Proposed Amendment 10
§211.29. Responsibilities of Agency Chief Administrators. (amend)

Commissioner Oakley made a motion to approve amendments 1 – 10. Commissioner Hester seconded the motion. The motion passed unanimously.

Mr. Beauchamp grouped proposed amendments 11–16.

- Proposed Amendment 11
§211.35. Tuition Reimbursement for Commission Employees. (new)
- Proposed Amendment 12
§215.9. Training Coordinator. (amend)
- Proposed Amendment 13
§215.13. Risk Assessment. (amend)
- Proposed Amendment 14
§217.1. Minimum Standards for Enrollment and Initial Licensure. (amend)
- Proposed Amendment 15
§218.9. Continuing Firearms Proficiency Requirements. (amend)

- Proposed Amendment 16
§219.1. Eligibility to Take State Examinations. (amend)

Commissioner Hollingsworth made a motion to adopt proposed amendments 11–16, as written. Commissioner Oakley seconded the motion. The motion passed unanimously.

Mr. Beauchamp grouped proposed amendments 17–21.

- Proposed Amendment 17
§219.11. Reactivation of a License. (repeal and replace)
- Proposed Amendment 18
§219.13. Retired Peace Officer Reactivation. (repeal and consolidate into Proposed Amendment 17)
- Proposed Amendment 19
§221.3. Proficiency Certificates. (amend)

§221.3. Peace Officer Proficiency. (repeal and consolidate into proposed §221.3)
- Proposed Amendment 20
§221.5. Jailer Proficiency. (repeal and consolidate into Proposed Amendment 19)
- Proposed Amendment 21
§221.13. Emergency Telecommunications Proficiency. (repeal and consolidate into Proposed Amendment 19)

Commissioner Oakley made a motion to approve amendments 17–21. Commissioner Kyker seconded the motion. The motion passed unanimously.

Mr. Beauchamp grouped proposed amendments 22 – 31.

- Proposed Amendment 22
§221.43. School-Based Law Enforcement Proficiency Certificate. (new)

- Proposed Amendment 23
§223.1. License Action and Notification. (amend)
- Proposed Amendment 24
§223.3. Answer Required. (amend)
- Proposed Amendment 25
§223.5. Contested Cases and Hearings. (amend)
- Proposed Amendment 26
§223.5. Filing of Documents. (repeal and consolidate into new §223.5)

§223.7. Contested Cases and Hearings. (repeal and consolidate)

§223.9. Place and Nature of Hearings. (repeal and consolidate)

§223.11. Proposal for Decision and Exceptions or Briefs. (repeal and consolidate)
- Proposed Amendment 27
§223.14. Construction of Other Laws. (reorganize from current suspension rule)
- Proposed Amendment 28
§223.15. Suspension of License. (amend)
- Proposed Amendment 29
§223.16. Suspension of License for Constitutionally Elected Officials. (repeal and consolidate into Proposed Amendment 28)
- Proposed Amendment 30
§223.16. Probation and Mitigating Factors. (reorganize from current suspension rule)
- Proposed Amendment 31
§223.17. Reinstatement of a License. (amend)

Commissioner Hollingsworth made a motion to adopt proposed amendments 22–31, as written. Commissioner Burruss seconded the motion. The motion passed unanimously.

Mr. Beauchamp asked the Commission to review and vote on proposed amendment 32.

- Proposed Amendment 32
§223.18. Suspension Following Felony Arrest. (new)

Staff reviewed arrests of licensees for felony offenses for the past three fiscal years and found approximately 600 licensees have been arrested. Of these, only 40 are still appointed, approximately 20 are in civil service cities, and the remainder are with smaller departments. Under the new rule, upon arrest for a felony offense and the employing agency doesn't submit an F-5, TCOLE will issue the order for license suspension until disposition. If TCOLE fails to issue an order, the licensee can appeal to the Travis County District Court. The licensee can challenge the suspension to the State Office of Administrative Hearings (SOAH). If the licensee doesn't win the challenge at SOAH, the license is suspended until there is a conviction, dismissal, or placement on deferred adjudication. This will only apply to arrests after the date of adoption of the rule, it will not go back and address those 40 that are still appointed.

Commissioner Villescas made a motion to approve proposed amendment 32.
Commissioner Hollingsworth seconded the motion. The motion passed unanimously.

At this point, the Commission took a short break. 10:30 a.m. – 10:49 a.m.

Mr. Beauchamp grouped proposed amendments 33–39.

- Proposed Amendment 33
§223.19. License Revocation. (amend)

§223.20. Revocation of License for Constitutionally Elected Officials. (repeal and consolidate)
- Proposed Amendment 34
§223.21. Appeal. (repeal and consolidate into Proposed Amendment 26)
- Proposed Amendment 35
§227.1. Appointing Entity Responsibilities. (amend)

- Proposed Amendment 36
§227.3. School Marshal Licensing and Reporting Requirements. (amend)
- Proposed Amendment 37
§227.5. School Marshal Training Entities. (amend)
- Proposed Amendment 38
§227.9. License Action. (amend)
- Proposed Amendment 39
§227.11. Confidentiality of Information. (repeal)

Commissioner Oakley made a motion to approve items 33 - 40. Commissioner Hester seconded the motion.

Discussion ensued on proposed amendment 33, §223.19. License Revocation. (amend). Section (d) of the proposed amendment reads: "The license of a person who is noncompliant for the fourth time in obtaining continuing education shall be revoked." Commissioners Hester and Hollingsworth questioned the need to wait four times before taking action on the license, suggesting action should be taken after the third time. There was discussion on the definition of non-compliant and what constitutes a reprimand and suspension for non-compliance. This refers only to currently appointed officers.

Commissioner Oakley amended his motion to the third time. Commissioner Kyker seconded the motion. The motion passed unanimously with the change to proposed amendment 33.

- Proposed Amendment 40
§218.11 Child Safety Check Alert List Training. (new)

Commissioner Oakley made a motion to approved proposed amendment 40. Commissioner Hollingsworth seconded the motion. The motion passed unanimously.

- Proposed Amendment 41
§219.25. License Requirements for Persons with Military Special Forces Training.
(amend)

Commissioner Hester made a motion to approved proposed amendment 41.
Commissioner Oakley seconded the motion. The motion passed unanimously.

- Proposal 42
Re-adoption of all other existing rules not amended or repealed

Commissioner Oakley made a motion to approve proposed amendment 42.
Commissioner Burruss seconded the motion. The motion passed unanimously.

10. Discussion of and take actions on proceedings for revocation, suspension, and other disciplinary actions.

Mr. Winter addressed the Commission, reviewing the disciplinary actions.

Default Suspension Orders

Bennett, Justin S.	Peace Officer	Allen Police Department
Campos, Carlos J.	Jailer	Hays County Sheriff's Office
Cook, Jonathan A.	Jailer	Williamson County Sheriff's Office
Dickerson, Jr., Thomas E.	Jailer/Peace Officer	Liberty County Sheriff's Office
Fouquette, Jr., Philip N.	Telecommunicator	Williamson County Emergency Communications
Gaitan, Trini E.	Peace Officer	La Grange Police Department
Martinec, Dennis M.	Peace Officer	Houston Police Department
McMullen, Cody D.	Peace Officer	Houston Police Department
Miller, Dustin L.	Jailer/ Peace Officer	Grayson County Sheriff's Office
Padilla, Teresa P.	Jailer	Burnet County Sheriff's Office
Perez, Elisio I.	Jailer	Cameron County Sheriff's Office
Perperidis, Maria A.	Peace Officer	Carrollton Police Department
Reyes, III, Raymond	Jailer	Val Verde Correctional Facility
Rhodes, Brandon T.	Jailer	Denton County Sheriff's Office
Rivera, Suzette H.	Peace Officer	Tarrant County Constable Pct. 7
Rodriguez, Allan F.	Jailer	Travis County Sheriff's Office

Rucka, Craig A.	Jailer/Peace Officer	Palacios Police Department
Shelburne, James D.	Jailer	Swisher County Sheriff's Office
Vaughan, Matthew A.	Jailer	Harris County Sheriff's Office
Walston, James E.	Peace Officer	Houston Police Department
Yznaga, Amado	Peace Officer	League City Police Department

Commissioner Hollingsworth made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a default final order as authorized under the provisions of 37 Texas Administrative Code, Section 223.3, as required under the provisions of Texas Occupations Code, Chapter 1701, Section 1701.501 to suspend the license of the 21 listed from Justin S. Bennett to Amado Yznaga. Commissioner Hester seconded the motion. The motion passed unanimously.

Agreed Suspension Waiver

Salas, Jeremy S.	Jailer/Peace Officer	Montgomery County Sheriff's Office
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Commissioner Hollingsworth made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Agreed Suspension Waiver for Jeremy S. Salas. Commissioner Hester seconded the motion. The motion passed unanimously.

Default Revocation Orders

Montezano, Jr., Gilberto	Jailer/Peace Officer	Edinburg Police Department
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Commissioner Hollingsworth made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a default final order as authorized under the provisions of 37 Texas Administrative Code, Section 223.3, as required under the provisions of Chapter 1701, Section 1701.501 to revoke the license of Gilberto Montezano. Commissioner Hester seconded the motion. The motion passed unanimously.

Proposal for Decision Orders

Smith, Leroy J. Jailer/Peace Officer Travis County Sheriff's Office

Mr. Smith requested a continuance to the December agenda, and his requested was granted.

For Information Only

Mr. Winter noted that the remaining items are for information only and did not require action.

Statutory Revocation

Bedoy, Jose L.	Peace Officer	Dallas Police Department
Carrion, Marcos E.	Peace Officer	Houston Police Department
Cavazos, Christopher J.	Jailer	Cameron County Sheriff's Office
Ceja, Esperanza	Jailer	El Paso County Sheriff's Office
Gilmore, James T.	Peace Officer	Malakoff I.S.D. Police Department
Jones, Kimbrick B.	Jailer/Peace Officer	Smith County Sheriff's Office
Kantzoz, Thomas S.	Peace Officer	Arlington Police Department
Padilla, Jose A.	Peace Officer	Hidalgo County Sheriff's Office
Sanders, Jr., Donald R.	Jailer/Peace Officer	Amarillo Police Department
Taylor, Constance J.	Jailer	Brazos County Sheriff's Office

Statutory Suspension

Allen, KC S.	Jailer	Hill County Sheriff's Office
Fenner, Stephanie R.	Jailer/Peace Officer	Jones County Sheriff's Office
Flake, Rachel N.	Jailer	Wise County Sheriff's Office
Henry, Jr., Bernard E.	Peace Officer	Dallas Police Department
Jernigan, Jina S.	Jailer	Wise County Sheriff's Office
McClain, Cobie D.	Jailer	Montgomery County Sheriff's Office
Mosqueda, Edgar E.	Jailer	Hidalgo County Sheriff's Office

Permanent Surrenders

Augustine, Jr., Frank	Jailer/Peace Officer	Harris County Sheriff's Office
Chandler, Ryan D.	Peace Officer	Houston Police Department
Dominguez, Erick	Peace Officer	Cameron County Sheriff's Office
Duff, Andrea M.	Peace Officer	Dallas Police Department

Garcia, II, John R.	Peace Officer	Houston Police Department
Gregory, Dezmond G.	Jailer	Harris County Sheriff's Office
Hokett, David D.	Jailer/Peace Officer	Harris County Sheriff's Office
Holder, Kenneth G.	Peace Officer	Eustace Police Department
Kinard, Gerald B.	Peace Officer	Brazos County Sheriff's Office
Laningham, Joshua G.	Jailer/Peace Officer	Denton County Sheriff's Office
Lilly, Zachary P.	Jailer	Harris County Sheriff's Office
Limon, Jr., Jose A.	Jailer/Peace Officer	Angelina County Sheriff's Office
Marble, Jimmy J.	Jailer/Peace Officer	Nacogdoches County Sheriff's Office
Markwardt, Alan L.	Telecommunicator/ Jailer/Peace Officer	Hill County Sheriff's Office
Mole, Jim A.	Jailer/Peace Officer	Williamson County Sheriff's Office
Oliva, Gilber D.	Peace Officer	League City Police Department
Randle, Darrell R.	Jailer	Harris County Sheriff's Office
Spurlock, Rachel L.	Jailer	Dallas County Sheriff's Office
Ward, Clinton E.	Peace Officer	Hill County Sheriff's Office
Winget, Bryan S.	Jailer	Hill County Sheriff's Office
Yarbrough, James E.	Jailer/Peace Officer	Dallas County Sheriff's Office

Term Surrenders

Rosa, Gregory J.	Peace Officer	Houston Police Department
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Reprimands for Administrative Violations

Nave, Tammy	Peace Officer	Harris County Constable Pct. 4
Rodriguez, Jose	Peace Officer	Jones Creek Police Department
Turley-Ward, Tonya	Peace Officer	Harris County Constable Pct. 4
Vega, Luis	Peace Officer	Socorro I.S.D. Police Department

Suspensions for Failing to Complete Legislatively Required Continuing Education

Avendano, Jr., Richard	Peace Officer	Kemah Police Department
Garza, Jose G.	Peace Officer	Maverick County Constable Pct. 1
McKee, Jr., Johnny L.	Peace Officer	Palo Pinto County Sheriff's Office
Rodriguez, Brandon E.	Peace Officer	Hays County Sheriff's Office

Reprimands for Failing to Complete Legislatively Required Continuing Education

Guyewski, Stanley	Peace Officer	Bexar County Constable Pct. 3
Flores, Peter P.	Peace Officer	Texas Parks and Wildlife Department

11. Receive public comment on any topic, without action.

Mike Davis with the Alamo Area Council of Government Law Enforcement Academy publically recognized James McGregor and Jose Robledo for their efforts and commitment to law enforcement and stated that they are some of the finest police instructors he has ever had the privilege of working with.

Ray Hunt, Houston Police Officer's Union, spoke on the Pray for Police initiative which shows support for all peace officers. Blue wrist bands were distributed to 24,000 individuals in the Houston area in the past 24 hours, and he brought bands for all in attendance at the meeting.

12. Executive Session to discuss pending litigation and personnel issues, including evaluation of executive director's job performance, pursuant to sections 551.074 and .071 of the Texas Government Code, Open Meetings Act.

The Commission went into executive session at 11:20 a.m.

13. Return from Executive Session to report and /or discuss further actions to be taken as a result of the Executive Session. Take action, if necessary.

At 12:00 noon, the Commission returned from executive session. No action was taken and no votes were made.

Commissioner Hollingsworth made a motion to increase the executive director's salary to the amount allowed by the legislative process. Commissioner Kyker seconded the motion. The motion passed unanimously.

14. Adjourn.

The Presiding Officer adjourned the meeting at 12:10 p.m., and announced that the next quarterly meeting will be December 3.

Jason D. Hester, Secretary