Kim Vickers
Executive Director

TEXAS COMMISSION ON LAW ENFORCEMENT

Quarterly Meeting Minutes
March 5, 2015

On Thursday, March 5, 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; Constable Ron Hood; Mr. Rob Kyker; Mr. James Oakley; Senior Police Officer Joe Pennington; and Chief Ruben Villescas. Commissioner Patricia Garza was absent.

Representing the Office of the Attorney General were Raymond Winter and Veena Mohan. TCOLE staff attending were Executive Director Kim Vickers, Director Agency Operations John Helenberg, Legal Counsel John Beauchamp, Finance Director Brian Roth, Government Relations Director Gretchen Grigsby, Laurie Abernathy, Michael Antu, Lynn Beard, Gary Connella, Thurman Felder, Dennis Graffious, Richard Gutierrez, Nicole Hendrickson, Jason Hufstetler, Malcolm Jackson, Derry Minor, Ken Mobley, Candice Simon, Jessica Teseny, Tracy Weems, and Kaye Wilson.

Agenda item #1, Call to order

Presiding Officer Richardson called the meeting to order. Due to inclement weather, the color guard from Harker Heights Police Department was not able to attend. Commissioner Hollingsworth led the Pledge of Allegiance and Commissioner Hester gave the invocation. Kaye Wilson called roll and announced that there was a quorum present.

Agenda item #2, Reading of peace officer/jailer deaths since the December 2014 meeting

Ken Mobley announced that there have been two deaths since the December 2014 meeting.

- Corrections Officer Eligio Garcia, Texas Department of Criminal Justice, EOW January 14, 2015

- Corrections Officer Christopher Davis, Texas Department of Criminal Justice, EOW January 14, 2015

Corrections Officers Garcia and Davis were killed in a prison bus crash on I-20 near Penwell, Texas. The bus was transporting 10 inmates from Abilene to El Paso when the vehicle struck a patch of ice on an overpass, causing it to slide off the highway and down an embankment. The bus then struck a passing train. Officer Garcia and Officer Davis, along with eight inmates, suffered fatal injuries at the scene.

Officer Garcia had served with the Texas Department of Criminal Justice for almost 23 years. Officer Davis had served with the Texas Department of Criminal Justice for 17 years.

Agenda item #3, Approval of the minutes of the December 4, 2014, quarterly commission meeting at Austin, Texas.

Commissioner Oakley made a motion to approve the minutes of the December 4 meeting. Commissioner Kyker seconded the motion. The motion passed unanimously.

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

No action taken.

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

Director Grigsby reported on activities at the legislature that involve TCOLE. The House Appropriations committee recently completed the second round of mark-ups. At this time, they are recommending increasing TCOLE staff by 11 full-time employees including a supervisor of enforcement, funding two investigator positions currently funded by a grant program, three field service agents, one administrative assistant, three civilian academy auditors, and one legal assistant. A measure was adopted allowing TCOLE to work with the Texas Department of Public Safety to form an agreement to fund two investigators with DPS funds. Senate Finance has met and their subcommittee was named on Tuesday. We are actively monitoring 150 bills that relate to law enforcement, and the deadline for filing new bills is March 13. House Bill 370 clarifies provisions of school marshal confidentiality. Commissioner Kyker asked if House Bill 370 would keep the identity of school marshal's confidential, and Director Grigsby confirmed that it will.

For the record, Commissioner Hester and Executive Director Vickers thanked Director Grigsby for her outstanding work during this legislative session.

Executive Director Vickers noted that construction has begun to repair the Peace Officers' Memorial Monument. The 2015 memorial ceremonies begin on May 2 with the Ride for the Fallen, May 3 will be the candlelight vigil, followed on May 4 with the memorial service at the Capitol.

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

Agenda item #6, Take action to enroll and induct officers in the Texas Peace Officers' Memorial Monument. Waive the requirement for induction at a separate Commission meeting, and take action to induct officers into the Texas Peace Officers' Memorial Monument who were enrolled today.

Ken Mobley read the names of those to be enrolled and inducted into the Texas Peace Officers' Memorial Monument.

Commissioner Hollingsworth made a motion to accept the names of those read to enroll and induct in the Texas Peace Officers' Memorial Monument. Commissioner Oakley seconded the motion. The motion passed unanimously.

Agenda item #7, Discuss and take action to approve the recommendations for the 2014 Law Enforcement Achievement Awards.

Executive Director Vickers publically thanked the judges for their time and careful consideration in reviewing and evaluating all applications. The judges were Frank Woodall, Deputy Assistant Director, Texas Department of Public Safety; Chief Danny Presley, Webster Police Department; Sheriff Don Sowell, Grimes County; Constable Sally Hernandez, Travis County Pct 3; and Chief Jimmy Ellison, Abilene Christian University Police Department.

The awards ceremony will be held on Friday, June 12, 2015, at 10:00 a.m. at the Capitol auditorium with a reception immediately following.

Commissioner Hollingsworth made a motion to approve the recommendations for the 2014 Law Enforcement Achievement Awards. Commissioner Pennington seconded the motion. The motion passed unanimously.

Agenda item #8, Receive items of interest. Take action, if necessary.

- Non-compliance

Director Helenberg noted that the 2013-2015 training unit ends August 31, 2015. Non-compliance notices will be sent to agencies in May. TCOLE is experiencing an increase in the number of telephone calls with most answered within 30 seconds. Training rosters are normally posted within 48 hours of receipt, but this will increase to a 5-day turnaround as the volume of calls continue to increase.

Agenda item #9, Discuss and take action on the Request for Waiver of TCOLE Rules 217.1 Minimum Standards for Enrollment and Initial Licensure.

Before addressing the waiver request, Executive Director Vickers noted that since June 1, 2014, there have been 9 waiver requests, 7 Class A and 2 Class B. Six of these requests were denied at the executive director level, and two have been granted by the commission.

- Class A waiver for Angelina County Sheriff's Office, Brenda L. Wilkerson

Sheriff Greg Sanches spoke on Ms. Wilkerson's behalf, asking the commission to pass the waiver because she is a good employee and supervisor. Ms. Wilkerson stated that she didn't report the conviction because she believed she had been charged with a Class C misdemeanor.

Commissioner Oakley made a motion to grant the waiver. Commissioner Pennington seconded the motion. The motion passed unanimously.

At 10:08 a.m., the Presiding Officer called for a short recess.
The meeting resumed at 10:25 a.m.

Agenda item #10, Discuss and take action on final orders of amendments to existing TCOLE rules.

- Final Adoption 1
  § 211.3 Public Information (amendment)

- Final Adoption 2
  § 221.43 Special Weapons and Tactics Proficiency (new)

- Final Adoption 3
  § 221.45 School Resource Officer Proficiency (new)

- Final Adoption 4
  § 221.47 Canine Handler Officer Proficiency (new)

Director Beauchamp noted that the agency received numerous public comments on proposed items 2, 3, and 4, the proficiency certificates. The proposed rules have been amended to reflect those comments.

He then addressed Final Adoption 1, § 211.3 Public Information. This proposal removes reference to the agency's previous website domain name.

Commissioner Hester made a motion to adopt rule number 1. Commissioner Oakley seconded the motion. The motion passed unanimously.

Executive Director Vickers stated there was a significant amount of public comment on proposed rules 2, 3, and 4, and many changes have been made to the original wording based on the comments. There is an on-going dialogue with our stakeholders to ensure that there is an understanding of the proposed rules. He believes it's in the best interest to request that the three rules be taken off the agenda, and be re-proposed in June. Director Beauchamp suggested that first, the three rules proposed in December be withdrawn and second, the language in the final rules incorporate and include the changes that have been made based on public comment.

Commissioner Hollingsworth made a motion to pull down the previously proposed rules from the December meeting, rules 2, 3, and 4. Commissioner Oakley seconded the motion. The motion passed unanimously.

Commissioner Hollingsworth made a motion that in order to address the concerns of the people that have opposition to these rules and to continue with public comment, we propose the same suggested rules as presented today and open that for public comment. Commissioner Oakley seconded the motion. The motion passed unanimously.

Commissioner Villescas asked if staff had reached out to the district attorneys association and Texas Association of Counties on the liability issue concerning the three proficiency certificates. Executive Director Vickers confirmed that we have submitted the proposed rules to the association for review and comment.

Commissioner Pennington asked if the issuance of certificates is permissive or mandatory, expressing concern on unfunded mandates and civil liability issues. Executive Director Vickers referred to Texas Occupations Code, §1701.402 which states

that, "The commission shall issue certificates that recognize proficiency based on law enforcement training, education, and experience."

Chief Gene Ellis asked to address the commission and stated that he was representing the Texas Police Chief's Association. Chief Ellis noted that the association supports the recognition of the accomplishments of officers, but has concerns of manufacturing liability and of eroding local decision making. He acknowledged that Executive Director Vickers has been very open to dialogue on these issues, listens to the concerns, and addresses them. He pointed out that many have asked if there is a need for the proficiency certificates, have expressed concerns about liability issues, the two-year renewal, inconsistencies in the three proposed proficiency certificates in that one offers multi-levels and the other two do not, and finally what other certificates will TCOLE be providing. He thanked the commission for tabling the agenda item in order to allow for additional dialogue.

Agenda item #11, Discussion of and take actions on proceedings for revocation, suspension, and other disciplinary actions.

Agreed Suspension Waiver

Defferari, Nicholas G.	13-07-0823	Harris County Sheriff's Office

Raymond Winter with the Office of the Attorney General explained that Mr. Defferari was placed on deferred adjudication for the Class A misdemeanor, Assault Bodily Injury. The Executive Director recommends suspending the license for 10 years.

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 Nicholas G. Defferari. Commissioner Oakley seconded the motion. The motion passed unanimously.

Proposal for Decision Orders

Arriaga, Jr., Prudencio V.	13-04-0587	Colorado County Sheriff's Office

Mr. Arriaga was placed on deferred adjudication for the Class B misdemeanor, Harassment. The Administrative Law Judge recommended the license be suspended for 1½ years, backdated to the date of the disposition of the offense. The Executive Director filed exceptions and recommends a 5½ year suspension with 6 months

enforced and the remaining 5 years probated, and that it not be backdated to the date of the disposition of adjudication.

Commissioner Hollingsworth made a motion to accept the Executive Director's recommendation to suspend the license of the respondent for 5½ years with the first 6 months as hard suspension and the remaining 5 years probated. Commissioner Oakley seconded the motion. The motion passed unanimously.

Carrizales, Jr., Jose 13-05-0664 El Paso County Sheriff's Office

Mr. Carrizales was convicted of the Class A misdemeanor, Driving While Intoxicated with a blood alcohol level greater than 0.15. The Administrative Law Judge recommended a 5 year suspension of the license with 1½ years enforced and 3½ years probated. The Executive Director filed exceptions recommending 10 years suspension with 4 years enforced and 6 years probated.

Mr. Carrizales was represented by Grant Goodwin who spoke about the night of the arrest and Mr. Carrizales actions since. Executive Director Vickers explained his reasons for filing the exceptions to the Administrative Law Judge's opinion.

Commissioner Hollingsworth made a motion to adopt the exceptions recommended by the Executive Director to suspension the respondent's license for 10 years with 4 years being enforced from the date of the order and 6 years probated. Commissioner Hester seconded the motion. The motion passed unanimously.

Perez, Mark 10-04-0480 Bexar County Sheriff's Office

Mr. Perez was placed on deferred adjudication for the Class B misdemeanor, Obstruction of a Highway-Intoxication. The Administrative Law Judge recommended a 10 year suspension with 1 year enforced and 9 years probated, and the enforced suspension be backdated from the date of the disposition. The Executive Director filed exceptions recommending a 10 year suspension with 1 year enforced and 9 years probated, effective on the date of the commission order.

Mr. Perez was represented by Robert Leonard who spoke of the arrest and mitigating factors. Mr. Perez answered questions from the commissioners.

Commissioner Hollingsworth made a motion to accept the recommendation of the Executive Director recommending 1 year suspension from the date of the order followed by a 9 year probated suspension. Commissioner Hester seconded the motion. The motion passed unanimously.

Mr. Winter reviewed the remainder of the disciplinary actions, noting that none required action by the commission.

For Information Only

Statutory Revocation

Baumgart, Eric L.	Liberty County Constable Pct. 3
Crabtree, Lloyd A.	Upshur County Sheriff's Office
Ener, Jason H.	Port of Galveston Police Department
Morgan, Rex L.	Hopkins County Sheriff's Office
Snell, Terry L.	Palo Pinto County Sheriff's Office

Statutory Suspension

Gaddis, William N.	Sulphur Springs Police Department

Permanent Surrenders

Garcia, Joel	Harris County Constable Pct. 1
Garrigan, Patrick T.	Smith County Sheriff's Office
Grusendorf, Troy L.	Bangs Police Department
Ha, Jymie	Texas Department of Public Safety
Hayes, Jason H.	Harris County Sheriff's Office
Jimenez, Hoffman A.	Travis County Constable Pct. 1
Kisner, Felicia M.	Dallas County Sheriff's Office
Lando, Scott M.	Austin Police Department
Lindsey, Jr., Cordell	Harris County Constable Pct. 3
Ochoa, Brian K.	Eagle Lake Police Department
Rangel, Secar G.	Harris County Constable Pct. 1
Scott, Edward L.	Fort Bend County Constable Pct. 2
Trevino, Jr., Victoriano	Harris County Constable Pct. 6
Weaver, Kenneth D.	Dallas Police Department

Suspensions for Failing to Complete Legislatively Required Continuing Education

Amos, Montray L.	14-10-0122	Alvin I.S.D. Police Department

Arenas, Melissa	14-10-0129	384th District Court
Aviles, Antonio	14-10-0138	Bexar County Sheriff's Office
Baxter, Carl L.	14-10-0155	Fisher County Sheriff's Office
Brumley, Noah R.	14-10-1187	Polk County Sheriff's Office
Cantu, Joaquin J.	14-10-0219	Kleberg County Sheriff's Office
Cox, Patrick T.	14-10-0281	Limestone County Sheriff's Office
DelaCruz, Steven	14-10-1274	Calhoun County Sheriff's Office
DelaGarza, Steven J.	14-10-1276	Bexar County Sheriff's Office
Fuentes, Christopher M.	14-10-1334	Midland County Sheriff's Office
Garcia, Jason	14-10-1346	Fort Bend County Sheriff's Office
Garcia, Jason	14-10-0372	Fort Bend County Sheriff's Office
Hawkins, Shane L.	14-10-0462	Point Police Department
Herrera, II, Amado	14-10-0474	Los Fresnos Police Department
Jacklin, Conrad B.	14-10-0507	Winters Police Department
Johnson, Jordan L.	14-10-0515	38th Judicial District Attorney's Office
Jowers, Jbob H.	14-10-05823	Terry County Sheriff's Office
Kahla, Joshual W.	14-10-0525	Chambers County Sheriff's Office
Martinez, Arturo	14-10-1564	LaSalle County Sheriff's Office
Martinez, Emmanuel A.	14-10-0627	Terry County Sheriff's Office
Mattingly, Craig	14-10-0631	Canton Police Department
McDonough, Douglas S.	14-10-0642	Hale County Sheriff's Office
Myntti, Scott A.	14-10-1625	Brownsboro I.S.D. Police Department
Nunez, Jesus A.	14-10-0704	Sullivan City Police Department
Omechinski, Marcella	14-10-0709	Victoria County Sheriff's Office
Ortiz, Jr., Ramon R.	14-10-0714	Reeves County Sheriff's Office
Parson, Jarrett B.	14-10-0731	Carson County Sheriff's Office
Pena Jr., Jaime R.	14-10-0735	Roma I.S.D. Police Department
Pool, Wendy L.	14-10-1678	Reagan County Sheriff's Office
Potter, Lyle M.	14-10-0762	Upshur County Sheriff's Office
Ruiz, Miguel A.	14-10-0841	Live Oak County Sheriff's Office
Sanchez, Pedro	14-10-1750	Dallas County Sheriff's Office
Sandell, Jason D.	14-10-0859	Limestone County Sheriff Office
Sippio, Juanel D.	14-11-2131	Waller County Constable Pct. 3
Spann, Virgil D.	14-11-2139	Harris County Constable Pct. 2
Steenken, Jana L.	14-10-0927	Guadalupe County Sheriff's Office
Tovar, Jesus A.	14-10-1812	El Paso County Sheriff's Office
Trevino, IV, Jose B.	14-10-1813	Harris County Sheriff's Office

Reprimands for Failing to Complete Legislatively Required Continuing Education

Adams, Daniel R.	14-11-1900	Trinity County Constable Pct. 1
Amerson, David K.	14-10-0121	San Marcos Police Department
Barraza, Gilbert R.	14-10-0152	Big Spring Police Department
Canty, Timothy A.	14-11-1951	Fort Bend County Constable Pct. 2
Currie, Tammy R.	14-11-1967	San Jacinto County Constable Pct. 4
Diehl, Deborah C.	14-11-1972	Montgomery County Constable Pct. 2
Flores, Monica G.	14-11-1983	Bexar County Constable Pct. 4
Garcia, Matthew L.	15-09-0074	Wilson County Sheriff's Office
Gonzales Jr., Joseph P.	14-11-2001	Brazos County Constable Pct. 2
Gonzalesz, Cesar	14-10-0411	Socorro Police Department
Gutierrez, David	14-10-0436	Jim Hogg County Sheriff's Office
Harris, Jeffery L.	14-11-2017	Brazos County Constable Pct. 2
Johnson, Robert B.	14-11-2033	Harris County Constable Pct. 1
Johnson, Scott L.	14-10-0518	Richardson Fire Marshal's Office
Jones, Kevin G.	14-11-2035	Johnson County Constable Pct. 4
Lee, David W.	14-10-0571	Montgomery County Fire Marshal's Office
Lloyd, Jonathan O.	14-10-0582	Bardwell Police Department
Lowe, Wesley A.	14-10-0599	Concho County Sheriff's Office
Martin, Sr., Robert P.	14-10-0614	Kountze Police Department
Martinez, Celso A.	14-10-0624	Maverick County Sheriff's Office
Martinez, Joseph	14-11-2061	Bexar County Constable Pct. 1
McClintock, Darle L.	14-10-0638	Hays County Fire Marshal's Office
Medina, Jr., Oscar	14-11-2069	Webb County Constable Pct. 4
Medrano, Jr., Pablo	14-10-0655	Indian Lake Police Department
Miller, Ryan D.	14-10-1598	Grayson County Sheriff's Office
Mills, John C.	14-10-0663	Haskell County Sheriff's Office
Molenaar, Russell G.	14-10-0669	Hays County Fire Marshal's Office
Montalvo, Javier	14-10-0671	Duval County Sheriff's Office
Moreno, Carlos	14-10-0676	Angelina County Sheriff's Office
Moritz, John A.	15-11-0181	Harris County Constable Pct. 4
Morris, Elizabeth G.	14-10-0682	Burleson County Sheriff's Office
Noriega, Jesus T.	14-10-0702	Dilley Police Department
Norvell, Lynn C.	14-10-1637	Williamson County Sheriff's Office
Orange III, Johnny	14-10-0712	Travis County Sheriff's Office
Padilla, Joel O.	14-10-0724	El Paso County Sheriff's Office
Perez, Mark A.	14-10-1667	Bexar County Sheriff's Office

Philen, Cynthia	14-10-0749	Temple Fire and Rescue
Pierce, Jeremy S.	14-10-0753	Sunset Valley Police Department
Pittmon, John D.	14-10-0755	Gregg County Sheriff's Office
Prall, Jerry W.	14-10-0764	Corpus Christi Police Department
Puente, Jr., Richard	14-10-0770	Elmendorf Police Department
Smith, Milton T.	14-10-0907	Bexar County Sheriff's Office
Syler, Terry	15-11-0209	Grayson County Sheriff's Office
Tuter, Patrick W.	14-10-0976	Garland Police Department
Zuniga, Eladio R.	14-10-1067	Webb County Sheriff's Office

Agenda item #12, Receive public comment on any topic, without action.
Robert Armbruster with the Houston Police Officer's Union spoke about training offered by the Force Science Institute.

Agenda item #13, 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.
There were no items to discuss.

The Commission adjourned at 11:12 a.m. The next quarterly meeting is scheduled for June 11, 2015 at 9:30 a.m.

Jason D. Hester, Secretary
JDH/kw