



Kim Vickers
Executive Director

TEXAS COMMISSION ON LAW ENFORCEMENT

Quarterly Meeting Minutes December 1, 2016

On Thursday, December 1, 2016 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 Ms. Patt Scheckel-Hollingsworth, Assistant Presiding Officer; Major Jason Hester, Secretary; Ms. Patricia Burruss; Constable Ron Hood; Mr. Rob Kyker; Senior Police Officer Joe Pennington; and Chief Ruben Villegas. Sheriff Joel Richardson, Presiding Officer, and Mr. James Oakley were absent.

Raymond Winter, Veena Mohan, and John Banaszak represented the Office of the Attorney General. TCOLE staff attending included Executive Director Kim Vickers, Operations Director John Helenberg, Finance Director Brian Roth, Legal Counsel John Beauchamp, Government Relations Director Gretchen Grigsby, Division Chief Michael Antu, Lisa Landry, Richard Gutierrez, Lynn Beard, Ashtyn Cain, Gary Connella, Dennis Graffious, Laurie Jackson, Nikki Johnson, Kenny Merchant, Ken Mobley, Stan Roper, Doug Skolaut, Jessica Teseny, Chris Varady, Carmen Williamson, and Kaye Wilson.

Agenda item #1, Call to order

Assistant Presiding Officer Hollingsworth called the meeting to order at 9:30 a.m. The presentation of colors was by the Irving Police Department Honor Guard members Lt. John Cullison, Officer Stacy Smith, Officer Michael Peterson, Officer Steve Burres, Officer Sam Hall, and Officer Jeremy Johnson. Commissioner Kyker led the pledge of allegiance and Commissioner Hester gave the invocation. Roll was called and a quorum was present. Sheriff Joel Richardson and Mr. James Oakley were absent. Mr. Rob Kyker had to leave the meeting prior to the discussion of proposed rule amendment 211.1(a)(19).

Agenda item #2, Reading of peace officer/jailer deaths since the September 8, 2016 meeting.

Ken Mobley read the names of three line of duty deaths since the last commission meeting.

Corporal Robert Eugene Ransom, Gregg County Sheriff's Office, EOW Friday, September 30, 2016

Corporal Ransom suffered a fatal heart attack while responding to a medical emergency involving an inmate. Corporal Ransom served 11 years with the Gregg County Sheriff's Office and 25 years with the Porter County, Indiana Sheriff's Office.

Detective Benjamin Marconi, San Antonio Police Department, EOW Sunday, November 20, 2016

Detective Marconi was shot and killed by ambush as he conducted a traffic stop outside of police headquarters. The suspect fled the scene, but was later captured. Detective Marconi was with the San Antonio Police Department for 20 years.

Assistant Commander Kenneth Joseph Starrs, South Texas Specialized Crimes and Narcotics Task Force, EOW Wednesday, November 16, 2016

Assistant Commander Starrs was in route to the task force office when his vehicle was struck by a freight train at an unprotected crossing in Kleberg County. He had served with the Task Force for over five years and was previously with the Corpus Christi Police Department for 27 years, and the Port of Corpus Christi Police Department for six years.

Agenda item #3, Approval of the minutes of the September 8, 2016, quarterly commission meeting at Austin, Texas.

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

Agenda item #4, Receive reports. Take action if necessary.

- Presiding Officer's Report
Assistant Presiding Officer Hollingsworth reminded the Commission of the dates for the 2017 quarterly meetings: March 2, June 8, September 7, December 7.

- Executive Director's Report

The Executive Director reported that there have been three new training provider contracts approved. The new providers are Washington County Sheriff's Office, Georgetown Police Department, and the Texarkana Police Department.

He then reported on the success of the annual training coordinators conference that was held in Corpus Christi in October where approximately 740 registered. Over \$8,800 was raised for the Peace Officer Flag Fund that included \$2,000 from Dodge City of McKinney, who has offered to continue funding the project. Future fund raising efforts at the conference will go towards assisting the Texas Peace Officers' Memorial. Mr. Vickers congratulated the winners of the Fun Run:

Under 35: Justin Henderson, Casey Schmidt, Gretchen Grisby and Erin Ayers

35 - 50: Victor Valdez, Mike Martinez, Joann Briggs and Amelia Annis

51 - 65: Bill Rogers, Ray Wilkerson, Judy Cervenka and Suzanne Sullivan

66 and up: Frank Woodall

The Omni hotel will continue to be the base hotel for the conference, but due to the large number of attendees, the meetings will now be held at the American Bank Center.

Deadline for Nominations for the State of Texas Achievement Awards is December 31, 2016. To date, two applications have been submitted.

Staff changes at TCOLE: Thurman Felder has accepted a new position with the Texas Municipal League. Nikki Johnson has transferred to Special Services filling the position vacated by Donna Soldner Manning who retired. Nazareth Munoz is now the Public Information Coordinator filling the position vacated by Nikki Johnson. TCOLE is fortunate to have Carmen Williamson interning this semester before she enrolls in Texas A&M University to major in accounting and then attend law school.

Commissioner Hester wanted to publically thank the executive director and all staff at TCOLE for their work in the office and with the conference.

- Operations Director's Report

Director Helenberg said there are currently several vacancies, in Special Services, Field Services, Credentialing, and Enforcement. Interviews and background checks are being conducted.

August 31, 2017, will be the end of a two year unit/four year cycle for legislatively mandated training. Non-compliant reminders will be mailed to agency administrators in April/May, June, and 30 days after the end of the unit/cycle with licensees also receiving this final notice. Mr. Vickers noted that this will be the first non-compliance cycle for Telecommunicators.

- Government Relations Director's Report
Director Grigsby stated the legislative session begins on January 10, 2017, and there will be three new Senators and 25 new House members. Bill filing began November 14, 2016, and already four bills have been filed that directly affect Chapter 1701 of the Occupations Code. Mental health will be an important issue as will school marshals.

Agenda item #5, Academic Alternative program discussion.

Mr. Vickers reminded the Commissioners that this agenda item is not an action item, but is for information only, and staff is asking for input. He offered background on the program saying that there are seven college courses that are significantly similar to the cognitive portion of the academy. Then there is a semester of "hands on" training. At the end of the program, students take a Capstone course that reviews material from the past two years of classes. This has proven to be helpful when taking the licensing exam.

Current issues with the academic alternative program include:

- Lack of oversight of the training
- Classes taken remotely
- Transfer classes that are not a part of the program
- Director of the program has great subjective latitude in transfer course approval
- Access to college records are limited due to interpretation of FERPA

Mr. Vickers said there are programs that incorporate an academy in their degree program.

Brandon Whatley, Dean of Applied Technology, Multimedia, and Public Services, Austin Community College addressed the Commissioners. He highlighted successes of the academic alternative program:

- Upon completion of the program, graduates are eligible to receive an endorsement to take the peace officer licensing exam. ACC students have over 90% pass rate
- Upon completion, candidates have earned an Associate's degree

Flexible scheduling allows working students the opportunity to obtain their peace officer credentials
61% of those completing the program are minorities
Financial Aid is available
Veterans may use VA funds for the program

The Commissioners asked for additional information to be presented at the March meeting to include a complete report on the academic alternative program.

Agenda item #6, Discuss and take action on the Request for Waiver of TCOLE Rule 217.1 Minimum Standards for Enrollment and Initial Licensure.

• **Limestone County Sheriff's Office for Matthew Clyde Ivison**

Sheriff Dennis Wilson and Captain Mark Roark spoke on behalf of Mr. Ivison noting that there would be an offer of a full-time, non-paid position to Mr. Ivison should the Commissioners approve the waiver. Mr. Ivison also addressed the Commissioners.

Commissioner Villegas made a motion that the waiver be approved as presented. Commissioners Kyker and Hood seconded the motion. The motion passed unanimously.

• **Sabine County Sheriff's Office for Bradley L. Turner**

Sheriff Tom Maddox addressed the Commissioners and requested a waiver for the sheriff's office on behalf of Bradley Turner. Mr. Turner was also in attendance.

Commissioner Pennington made a motion to approve the waiver. Commissioner Kyker seconded the motion. The motion passed unanimously.

Agenda item #7, Discuss and take action on proposed orders of amendments to existing TCOLE rules.

Mr. Beauchamp reminded the Commissioners that this is a first reading on proposed rules. The Commissioners may go forward with the proposal, amend the proposal, suggest a new proposal, or cancel this proposal. If the proposal goes forward, it will be open for public comment after posting in the Texas Register.

- **Proposed Amendment 1**

- Rule §211.1 Definitions (amend “Background Investigation”)**

The proposed amendment to the definition of Background Investigation replaces “that meets and exceeds” with “using” and removing “questionnaire.”

Mr. Vickers noted that background investigations are required by statute and the amendment of this rule is an attempt to strengthen the backgrounds. Asking the same Personal History Statement (PHS) questions to all candidates helps to standardize the backgrounds. Many agencies use the PHS and then add questions that are more pertinent to their particular agency. Mr. Beauchamp referred the Commissioners to four public comment emails that were received after the meeting materials were sent out. Lt. Jeff Garner, North Richland Hills Police Department, speaking on behalf of Chief Jimmy Perdue, Chief Gene Ellis, Belton Police Department, representing the Texas Police Chief’s Association, Assistant Jaime Ayala, Arlington Police Department, representing Chief Johnson, and Sheriff Brian Hawthorne, Chambers County Sheriff’s Office, appearing on behalf of the Sheriff’s Association of Texas, addressed the Commissioners with concerns about the changes to the proposed wording of this rule. Sheriff Hawthorne also addressed the problems facing new sheriff’s coming into office on January 1, trying to hire new personnel and meet statutory requirements for medical and psychological exams. Director Helenberg said a letter has been drafted to help alleviate some of the problems facing new sheriffs and other problems would take legislative action.

Commissioner Hester suggested new wording for the amended rule:

A report of investigation into an applicant’s personal history that meets or exceeds the commission-developed questionnaire or personal history statement as part of the investigation.

Commissioner Burruss suggested:

An investigation into an applicant’s personal history utilizing the commission-developed personal history statement, in addition to other tools, if any, required by the hiring agency.

Executive Director Vickers requested Rule 211.1(a)(8) be pulled down. He suggested that a committee be formed to review the wording of the rule. Commissioner Villegas requested representatives from the Sheriff’s Association of Texas and the Texas Police Chief’s Association to be members of the committee.

Commissioner Burruss made a motion to table Proposed Amendment 1. Commissioner Hester seconded the motion. The motion passed unanimously.

- **Proposed Amendment 2**

- Rule §211.1 Definitions (amend “Community Supervision”)**

This proposal adds pretrial diversion to the definition of community supervision.

Robert Armbruster addressed the Commission stating the Houston Police Officer’s Union (HPOU) adamantly opposes this change to the rule noting that pretrial diversion is not a conviction and the rule change would remove local control from a prosecutor’s office. The case is expunged, the arrest and all the records are expunged. This is not a conviction. Travis Williamson, Attorney, noted that pre-trial diversion isn’t defined anywhere and varies from county to county.

- **Proposed Amendment 3**

- Rule §217.1 Minimum Standards for Enrollment and Initial Licensure (amend)**

Proposed Amendment 3, Rule 217.1 is proposed to replace “court ordered” with “convicted or place on” to conform with Proposed Amendment #2.

Because Proposed Amendment 2 and 3 are connected, Commissioner Hester made a motion to approve both 2 and 3 to enter in the Texas Register. Commissioner Villescas seconded the motion. The motion failed with Commissioners Hester and Villescas voting in favor and Commissioners Pennington, Hood, and Burruss voting against.

- **Proposed Amendment 4**

- Rule §217.7 Reporting Appointment and Separation of a Licensee (amend)**

This is a rewrite of the current Rule 217.7 which moves the reporting date of the L1, Appointment of Licensee, from 30 days to 7 days to conform with the reporting requirements for the F5, Notice of Separation. This rewrite also adds a requirement that TCOLE records relating to the appointment of an officer be housed with the chief administrator due to security issues with criminal history records being accessible to individuals not authorized to review these records.

Commissioner Hester made suggestions to the proposed Rule 217.7:

Proposed: 217.7(a)(3) Obtain a completed, signed, and notarized commission approved Personal History Statement (PHS)

Suggested: 217.7(a)(3) Obtain a completed, signed, and notarized Personal History Statement (PHS)

Proposed: 217.7(8) For a person's initial appointment, or for a licensee with more than 180 days since their last appointment:

Suggested: 217.7(8) For a person's initial appointment, or for a licensee with more than 180 days since their last appointment or graduation from the basic peace officer course.

Proposed: 217.7(b) When a person licensed by the commission separates from an agency, the agency shall, within 7 days after any local employment appeals are exhausted:

Suggested: 217.7(b) When a person licensed by the commission separates from an agency, the agency shall, within 7 days or after any local employment appeals are exhausted:

Commissioner Hester made a motion to approve Proposed Amendment 4 with the changes to subsection (3), subsection (8) that adds "or graduation of the basic peace officer course", and subsection (b) where it says within 7 days "or" after any local employment appeals are exhausted. Commissioner Villegas seconded the motion. The motion passed unanimously.

- **Proposed Amendment 5**

- Rule §223.15 License Suspension (amend)**

This proposed amendment removes the third-time noncompliance provision to conform with the current revocation rule.

Commissioner Hester made a motion to approve Proposed Amendment 5 for publication in the Texas Register. Commissioner Burruss seconded the motion. The motion passed unanimously.

- **Proposed Amendment 6**

- Rule §223.18 Suspension Following Felony Arrest (amend)**

This proposed amendment adds "through the executive director" to (a) and removes discretionary criteria for felony arrest suspensions to (b)(3).

Commissioner Burruss suggested combining wording in section (c) and section (d) and deleting section (d).

Proposed: 223.18(~~c~~) If an offense constitutes immediate peril, the commission will notify the person of the summary suspension order and the intention to initiate proceedings.

Suggested: 223.18(~~c~~) If an offense constitutes immediate peril, the commission will notify the person of the summary suspension order and the intention to initiate proceedings within 30 days of the commission's order.

Commissioner Burruss also noted that in the proposed rule as presented to the Commission, the effective date will need to be changed to the date that the rule will become effective, and is not retroactive.

Commissioner Burruss made a motion to accept Proposed Amendment 6 with the changes as discussed. Commissioner Hester seconded the motion.

There was further discussion. Robert Armbruster, HPOU, stated there may be due process problems with these changes when someone has been arrested, but not adjudicated. He also asked that when referring to Chapter 39 of the Texas Penal Code, we be more specific and note that this is for felony offenses only.

As there was a motion on the floor, Assistant Presiding Officer Hollingsworth called for a vote. The motion passed unanimously.

- **Proposed Amendment 7**
Rule §215.10 Instructor (new)

This proposed new rule sets out course instructor requirements. Director Helenberg stated that currently there are no requirements for course instructors, only requirements for training coordinators. The course instructor is not held accountable for the class. This rule mirrors the rule for training coordinators with slight word changes. Commissioner Hester suggested a change to (b)(5).

Proposed: 215.10 (b)(5) enforce all attendance, retention, and other standards set by the commission or the training provider;

Suggested: 215.10(b)(5) enforce all attendance and other standards set by the commission or the training advisory board;

Commissioner Hester made a motion to approve Proposed Amendment 7 with changes as presented. Commissioner Hood seconded the motion. After further discussion, the motion passed unanimously.

8. 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

Allison, Nikki J.	Telecommunicator/Jailer	Livingston Police Department
Bains, Tiffany K.	Peace Officer	Spring I.S.D. Police Department
Beserra, David J.	Peace Officer	Brenham Police Department
Broughton, Tyler C.	Jailer/Peace Officer	Wallis Police Department
Demarzo, Tiffani M.	Jailer/Peace Officer	Texarkana ISD Police Department
Driver, Charlie	Jailer/Peace Officer	Harris County Sheriff's Office
Ellsworth, Christopher D.	Jailer	Frisco Police Department
Garcia Jr., Jose	Jailer	East Hidalgo Detention Center
Lopez, Oscar O.	Peace Officer	Sullivan City Police Department
Murphy, Dwight E.	Jailer	Wichita County Sheriff's Office

Commissioner Hester 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, and as required under the provisions of Texas Occupations Code, Chapter 1701, Section 1701.501 to suspend the license of Nikki Allison, Tiffany Bains, David Beserra, Tyler Broughton, Tiffani Demarzo, Charlie Driver, Christopher Ellsworth, Jose Garcia Jr., Oscar Lopez, and Dwight Murphy. Commissioner Villescas seconded the motion. The motion passed unanimously.

Agreed Suspension Waiver

Gruver, Frederick J.	Peace Officer	Ore City Police Department
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Commissioner Hester made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Agreed Suspension Waiver for Frederick Gruver. Commissioner Villescas seconded the motion. The motion passed unanimously.

Agreed Suspension Orders

Foster, John J. Peace Officer Williamson County Sheriff's Office
The Executive Director recommends a 2 years suspension followed by 8 years probation with the 2 years backdated to the date of the disposition.

Commissioner Hester made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Agreed Suspension Order for John J. Foster. Commissioner Villescas seconded the motion. The motion passed unanimously.

Agreed Suspension Orders

Gage, Cameron Peace Officer Texas Parks and Wildlife Department
The Executive Director recommends the acceptance of a 3 year suspension followed by 7 years probation.

Commissioner Hester made a motion that the Commission accept and adopt the recommendations of the Executive Director to enter a final Agreed Suspension Order for Cameron Gage. Commissioner Villescas seconded the motion. The motion passed unanimously.

Agreed Suspension Orders

Mendoza, John Peace Officer Harris County Constable Pct. 1
The Executive Director recommends a 20 month suspension backdated followed by an 8 year probated suspension.

Commissioner Hester made a motion that the Commission accept and adopt the recommendation of the Executive Director to enter a final Agreed Suspension Order for John Mendoza. Commissioner Villescas seconded the motion. The motion passed unanimously.

Agreed Suspension Orders

Van Patten, Nick Peace Officer Oak Ridge Police Department
The Executive Director recommends the adoption of a 6 year suspension followed by a 4 year probated suspension.

Commissioner Hester made a motion that the Commission accept and adopt the recommendation of the Executive Director to enter a final Agreed Suspension Order for

Nick Van Patten. Commissioner Pennington seconded the motion. The motion passed unanimously.

Proposal for Decision Orders

Arzate—Trujillo, Gustavo Jailer

Dallas County Sheriff's Office

The Executive Director seeks a 10-year suspension of the jailer license due to a conviction of a Class B misdemeanor, Driving While Intoxicated. The Administrative Law Judge (ALJ) recommends a 10-year suspension with 5 years probated. The Executive Director concurs with the PFD for a 10 year suspension with 5 years of that term probated.

Commissioner Hester made a motion to adopt the Proposal for Decision order for a 10 year suspension with 5 years of that term probated for Gustavo Trujillo. Commissioner Villescas seconded the motion. The motion passed unanimously.

Proposal for Decision Orders

Roman, Joe C.

Jailer/Peace Officer

Uvalde County Sheriff's Office

The Executive Director seeks a cancellation of the jailer license held by Joe C. Roman, as he is disqualified from holding the license. The Administrative Law Judge agreed that the license should be cancelled.

Commissioner Hester made a motion to adopt the Proposal for Decision for cancelling the licenses of Joe C. Roman. Commissioner Villescas seconded the motion. The motion passed unanimously.

Mr. Beauchamp noted that the remaining disciplinary items are for information only and do not require action.

For Information Only

Statutory Revocation

Binnion Jr., Royce G.

Peace Officer

San Jacinto County Constable Pct. 2

Ellis, Christopher R.

Jailer/Peace Officer

Harris County Sheriff's Office

Hughes, Misty

Jailer/Peace Officer

Flower Mound Police Department

Lundy, Curtis W.

Peace Officer

San Antonio Police Department

McKinney, Alan M.

Jailer

Tarrant County Sheriff's Office

Reyes, Amy	Jailer/Peace Officer	Starr County Sheriff's Office
Tackett, Melvin L.	Peace Officer	Harris County Constable Pct. 2
Winn, Daniel M.	Peace Officer	Hopkins County Sheriff's Office

Statutory Suspension

Frey, Patrick A.	Peace Officer	Conroe I.S.D. Police Department
Garcia, Kacie D.	Jailer	Cameron County Sheriff's Office
Hinojosa, Rodolfo	Peace Officer	Rio Grande City Police Department
Lehman, Anthony C.	Jailer	Midland County Sheriff's Office
Mangum, Pamela	Jailer	Nueces County Sheriff's Office
Waldrup, Aaron	Jailer	Bosque County Sheriff's Office

Permanent Surrenders

Aleman Jr., Richard	Peace Officer	Falls County Constable Pct. 3
Allison, Brandon G.	Peace Officer	Dimmit Police Department
Drake-Hartman, Lea	Peace Officer	Victoria Police Department
Guel, Tiffany A.	Peace Officer	Kirby Police Department
Harris, Scotty A.	Peace Officer	Clute Police Department
Hartman, Brent K.	Jailer/Peace Officer	Victoria Police Department
Jalomos Jr., Daniel	Peace Officer	Del Rio Police Department
Jaramillo, Jonathan	Peace Officer	Elmendorf Police Department
Jones, Tommy L.	Peace Officer	Cedar Valley College Police Department
Lovell, Jeffrey R.	Jailer/Peace Officer	Dumas I.S.D. Police Department
Macklin, Theodore R.	Jailer/Peace Officer	Midland County Constable Pct. 3
Mann, Paul C.	Jailer	Montgomery County Sheriff's Office
McGowen, Jennifer A.	Peace Officer	
Middleton, Wade H.	Jailer/Peace Officer	Jourdanton Police Department
Morgan, Ted Merrill	Jailer/Peace Officer	Junction Police Department
Myers, Shane A.	Peace Officer	Round Rock Police Department
Quintana, Juan G.	Jailer/Peace Officer	Hockley County Sheriff's Office
Tyler, Johnathon K.	Peace Officer	Crockett Police Department
Webb, Garrett M.	Peace Officer	Texas Department of Public Safety

Reprimands for Administrative Violations

Caldwell, George	Peace Officer	Brown County Sheriff's Office
Esquivel, Crisoforo	Peace Officer	McAllen ISD Police Department
Gilbert, Ronald	Peace Officer	Onalaska Police Department
Hughes, Scott	Peace Officer	Polk County Constable Pct. 1

Johnson, Gary A.	Peace Officer	320 th District Court
Moore, Ricky	Peace Officer	San Patricio County Attorney's Office

Reprimands for Failing to Complete Legislatively Required Continuing Education

Mijares, Juan	Peace Officer	Willacy County District Attorney's Office
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Agenda item #9, Receive public comment on any topic, without action.

Commissioner Hollingsworth asked if anyone wished to make a public comment. No one came forward.

Agenda item #10, Executive Session to discuss pending or contemplated litigation, settlement offers, and personnel issues, including evaluation of executive director's job performance, pursuant to sections 551.074 and .071 of the Texas Government Code, Open Meetings Act.

Commissioner Hollingsworth announced that the Commission would not go into executive session.

Agenda item #11, 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.

Agenda item #12, Adjourn.

The meeting was adjourned at 1:20 p.m.