

# SUNSET ADVISORY COMMISSION

## FINAL REPORT

### Texas Commission on Law Enforcement Officer Standards and Education

July 2009



# Sunset Advisory Commission



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\* Senator Kim Brimer served on the Commission from December 2005 through December 2008.

\*\* Charles McMahan was appointed to fill the unexpired term of Michael Stevens.

Joey Longley

Director

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*In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 12-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.*

**TEXAS COMMISSION ON LAW ENFORCEMENT  
OFFICER STANDARDS AND EDUCATION**



**SUNSET FINAL REPORT  
JULY 2009**



This document is intended to compile all recommendations and action taken by the Sunset Advisory Commission and the Legislature for an agency under Sunset review. The following explains how the document is expanded and reissued to include responses from agency staff and members of the public, as well as action taken by the Sunset Commission and the Legislature in each step of the Sunset process.

- ◆ *Sunset Staff Report* – Contains all Sunset staff recommendations on an agency, including both statutory and management changes, developed after extensive evaluation of the agency.
- ◆ *Hearing Material* – Summarizes all responses from agency staff and members of the public to Sunset staff recommendations, as well as new policy issues raised for consideration by the Sunset Commission.
- ◆ *Decision Material* – Includes additional responses, testimony, or new policy issues raised during the public hearing for consideration by the Sunset Commission in its decision meeting on an agency.
- ◆ *Commission Decisions* – Contains the decisions of the Sunset Commission on staff recommendations and new policy issues. Statutory changes adopted by the Commission are presented to the Legislature in the agency’s Sunset bill.
- ◆ *Final Report* – Summarizes action taken by the Legislature on Sunset Commission recommendations and new provisions added by the Legislature to the agency’s Sunset bill.



*Staff Report – August 2008*  
*Commission Decisions – January 2009*  
*Final Report – July 2009*

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# SUMMARY



# Summary

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The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) seeks to make certain Texas has highly trained and ethical law enforcement and county corrections personnel by ensuring that licensees are qualified, competent, and meet minimum licensure standards. The Legislature created the Commission in 1965 to establish voluntary standards for law enforcement personnel. Standards for peace officers became mandatory in 1969, followed by regulation of county jailers and telecommunicators. To accomplish its mission, the Commission licenses and certifies qualified individuals as peace officers, county jailers, and telecommunicators; approves and evaluates training providers; develops and maintains basic training and continuing education courses; takes disciplinary action against licensees to enforce statute and rules; and maintains and adds names to the Texas Peace Officers' Memorial.

In conducting this review, Sunset staff found that the agency operates inefficiently as a result of lacking information technology systems that keep the agency from modernizing its processes. The Commission spends a great deal of time responding to phone calls and information requests, as well as hand-processing documents submitted by law enforcement agencies. Sunset staff found that the agency needs an information technology overhaul, with the first step – assessing the best path for improvement through a technology performance review – preferably taking place before the next Session of the Legislature.

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*The Commission needs an information technology overhaul to modernize its processes.*

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In 2005, the Legislature required all law enforcement agencies hiring a licensed peace officer or jailer to obtain and review separation papers from the licensee's prior employers. This approach is an effort to curb the movement of gypsy cops – officers that move from job to job, usually to avoid disciplinary action. Licensees can appeal the contents of separation papers to TCLEOSE. As a result, the agency spends significant staff time facilitating appeals of these local termination disputes, a function not critical to the agency's operations. Because of the lack of measurable data, Sunset staff could not determine whether the current F-5 review process has helped thwart the movement of gypsy cops. Instead, staff focused on streamlining the process by encouraging mediation and conducting hearings locally, where appropriate.

Sunset staff also sought to conform the Commission's regulatory activities with standard practices developed through 30 years of Sunset reviews. These changes would help the agency better use its resources to more effectively regulate law enforcement and county corrections personnel. Staff also recommended removing the Commission's ex officio members, who do not represent expertise necessary for Commission decisions.

Finally, the Sunset review evaluated organizational alternatives to maintaining a separate agency for regulating law enforcement and county corrections



personnel. While other agencies, such as the Texas Department of Licensing and Regulation, offer opportunities for increased efficiencies, no significant problems could be identified at the Commission to justify such a restructuring.

A summary follows of the Sunset staff recommendations on the Texas Commission on Law Enforcement Officer Standards and Education.

## **Issues and Recommendations**

### **Issue 1**

***The Commission's Approach to Information Technology Lacks Coordination, Creates Risk, and Increases Agency Costs.***

#### **Key Recommendations**

- ◆ The Commission should conduct a technology performance review.
- ◆ Require the Commission to develop and implement electronic submission methods for information the Commission requires from law enforcement agencies.
- ◆ The Commission should request a security evaluation of the integrity of its current IT security measures.
- ◆ The Commission should professionally design and reorganize its website.

### **Issue 2**

***The Commission's Unique Role as a Third Party to a Local Dispute Over Discharge Papers is Unnecessary.***

#### **Key Recommendations**

- ◆ Clarify that TCLEOSE is not a party to F-5 discharge form disputes.
- ◆ The Commission should encourage alternatives for parties to F-5 disputes to avoid traveling to Austin for contested case hearings.
- ◆ The Commission should encourage mediation as an alternative to administrative hearings.

### **Issue 3**

***Key Elements of the Commission's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.***

#### **Key Recommendations**

- ◆ Improve the Commission's administrative functions by removing the requirement that it establish standards for the certification of all county jail personnel, as opposed to only county jailers, and by encouraging the Commission to update stakeholders on the progress of its informal advisory committees.

- ◆ Standardize the Commission's licensing functions by eliminating the requirement for additional higher education credit hours for applicants with a high school equivalency certificate, as well as require the Commission to more clearly identify which crimes relate to the occupation of county jailer.
- ◆ Improve TCLEOSE's ability to protect the public by authorizing the Commission to levy administrative penalties and by requiring the Commission to establish a clear risk-based audit procedure, create and publicize complaint procedures, and use informal settlement conferences.

## **Issue 4**

### ***The Commission's Ex Officio Members No Longer Provide a Needed Function.***

#### **Key Recommendation**

- ◆ Remove ex officio members from the Commission's composition.

## **Issue 5**

### ***Texas Has a Continuing Need for the Texas Commission on Law Enforcement Officer Standards and Education.***

#### **Key Recommendation**

- ◆ Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 years.

## **Fiscal Implication Summary**

One recommendation in this report will have a fiscal impact to the State.

- ◆ **Issue 1** – The Commission should conduct a technology performance review. Conducting a technology performance review is estimated to cost TCLEOSE approximately \$25,000 to \$30,000. Recommendations resulting from the technology performance review could have a significant fiscal impact to the State, but that fiscal impact cannot be determined until completion of the technology performance review.



## *Summary of Legislative Action*

### *H.B. 3389 Harper-Brown (Deuell)*

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House Bill 3389 continues the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and contains all of the Sunset Commission's recommendations. The bill also includes several other statutory modifications. The list below summarizes the major provisions of H.B. 3389.

#### **Sunset Provisions**

1. Require the Commission to develop and implement electronic submission methods for information the Commission requires from law enforcement agencies.
2. Clarify that TCLEOSE is not a party to F-5 disputes.
3. Conform key elements of the Commission's licensing and enforcement functions to commonly applied licensing practices.
4. Remove ex officio members from the Commission's composition.
5. Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 years.

#### **Provisions Added by the Legislature**

1. Require annual firearms proficiency for peace officers in law enforcement agencies with one or more peace officers.
2. Establish the venue for the prosecution of criminal violations of Occupations Code, Chapter 1701.
3. Remove the statutory provision that transfers money from the TCLEOSE dedicated account to general revenue at the end of each fiscal year.
4. Require law enforcement agencies to report additional information to the Comptroller regarding the use of Law Enforcement Officer Standards and Education (LEOSE) training funds.
5. Establish standards for the creation of a new law enforcement agency.
6. Require law enforcement agencies to submit annual racial profiling reports to TCLEOSE.
7. Change continuing education requirements and intermediate proficiency requirements for peace officers.
8. Require peace officers to take de-escalation and crisis intervention training.

**Fiscal Implication Summary**

A 10-cent court fee assessed on all moving violations in House Bill 3389 has a positive fiscal impact of \$109,403 for the biennium in a new General Revenue dedicated fund called the Civil Justice Data Repository Fund. The bill dedicates these funds to TCLEOSE for the collection and maintenance of racial profiling data submitted by local law enforcement agencies.

# ISSUES



# Issue 1

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## *The Commission's Approach to Information Technology Lacks Coordination, Creates Risk, and Increases Agency Costs.*

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### Summary

#### Key Recommendations

- ◆ The Commission should conduct a technology performance review.
- ◆ Require the Commission to develop and implement electronic submission methods for information the Commission requires from law enforcement agencies.
- ◆ The Commission should request a security evaluation of the integrity of its current IT security measures.
- ◆ The Commission should professionally design and reorganize its website.

#### Key Findings

- ◆ The Commission dedicates significant amounts of staff time to providing general information to licensees instead of making information easily available online.
- ◆ The Commission lacks an IT system that provides basic regulatory information on licensing and enforcement or that accepts electronic licensing information.
- ◆ TCLEDDS is an incomplete technology solution, unaffordable to some law enforcement agencies.
- ◆ TCLEOSE entered into an IT contract containing nonstandard provisions that could jeopardize the agency's IT operations.
- ◆ TCLEOSE has a history of recent IT security issues.

#### Conclusion

TCLEOSE's approach to information technology fails to meet standards expected of a state regulatory agency. Agency staff cannot currently access data on a licensee without checking possibly three separate databases and hard copy files. Law enforcement agencies must purchase a subscription to software from a private contractor to obtain TCLEOSE training information on its officers. Only agencies that pay the private contractor for a subscription can submit documents and information to the agency electronically; all others must submit information by hard copy, causing TCLEOSE staff to enter the data by hand. Individual licensees can obtain some information on their own training, but poor and confusing presentation of the information prompts licensees to call the agency. However, in one area, online training courses, TCLEOSE has done a good job of making certain continuing education easily available.

The Commission has also entered into a long-term, 10-year technology contract extension without going out for a competitive solicitation, and without meeting standards for state IT contracts. The contract contains limited termination provisions that are unfavorable to the agency, increasing risks should the contractor have problems or the agency's responsibilities change. As a result of these problems, the agency needs an information technology overhaul, with the first step – assessing the best path for improvement – preferably taking place before the next Session of the Legislature.

## Support

### **A private contractor operates a subscription-based system to provide training and licensing status information to licensees.**

- ◆ TCLEOSE contracts with Productivity Center, Inc. (PCI) for an electronic database, Texas Commission on Law Enforcement Data Distribution System (TCLEDDS), both to provide basic training and licensing information to licensees and to operate the agency's own database. TCLEOSE does not pay for access to TCLEDDS. The agency is near the end of a 10-year contract that expires December 31, 2008. TCLEOSE has recently signed a 10-year extension of the contract with PCI. TCLEOSE has about two full time equivalents (FTEs) dedicated to information technology (IT), including a full-time network administrator, and two FTEs that split their time as webmaster and distance education support, respectively, in addition to their other duties.
- ◆ Law enforcement agencies or individual licensees may pay PCI to subscribe to TCLEDDS to view completed continuing education and other licensing information, such as length of service. Subscription costs range from \$138 per year for law enforcement agencies with five or fewer licensees, and up to \$5,460 for law enforcement agencies with more than 500 licensees. Individual licensees can purchase a two-year subscription for \$18. Law enforcement agencies may also purchase TCLEDDS Assistant software from PCI, which allows agencies to create their own reports on the training status of all agency personnel, for an additional cost. TCLEDDS Assistant currently has a one-time desktop fee of \$449, plus a \$300 support fee per year.
- ◆ If a law enforcement agency doesn't want, or cannot afford, to pay for TCLEDDS, licensee training records are available for free on the Commission's Peace Officer Standards and Education Internet Training program (POSEIT), TCLEOSE's online training system. POSEIT is actually designed to offer online continuing education classes to licensees, but has the capability to link to TCLEDDS to show a licensee their training record. Licensees and agencies may not access the training records of any other licensee, and cannot run agency-wide reports with POSEIT. Neither TCLEDDS nor POSEIT clearly show where a licensee stands in meeting their continuing education requirements; the programs only provide a chronological list of training a licensee has taken during their career.

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*Law enforcement agencies pay for access to licensee training information.*

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*TCLEOSE answers more than 500 calls per day, mostly for licensee training information.*

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### **The Commission dedicates significant amounts of staff time to providing general information to licensees instead of making information easily available online.**

- ◆ TCLEOSE typically answers about 500 calls per day, and up to 1,000 calls per day as the deadline for licensees' continuing education requirement nears every two years. In fiscal year 2007, the agency estimates it



answered 143,902 calls, compared with 109,576 in fiscal year 2006. Each of the eight FTEs in TCLEOSE's Credentialing Division spends approximately 25 percent of their day responding to phone calls. Two of the most typical calls are questions regarding a licensee's number of completed training hours, and requests for official licensee training and employment records. The agency estimates 60 percent of its phone calls are licensees calling for information on themselves – information that is available, but difficult to obtain, online.

- ◆ The agency also answers a significant number of information requests other than phone calls. The agency responded to 3,052 formal, written open records requests in fiscal year 2007. These requests are typically for licensees' training or licensing records. The agency also estimates 40 percent of its phone calls result in informal records requests, or requests for general training and licensing records that the agency does not count as formal open records requests.
- ◆ TCLEOSE staff indicate that licensees may not understand how to use, or even have access to, basic licensing and training information themselves. Many licensees rely on their agency's training manager for licensing and training information and are not trained how to access this information themselves. Also, small agencies often don't have a training manager, leaving meeting of training requirements to the individual licensees. This situation likely contributes to the significant number of calls and information requests from individual licensees.
- ◆ Several additional problems lead to high call volumes and wasted staff resources. First, TCLEOSE's website is poorly organized and difficult to navigate. Stakeholders describe the website as unprofessional and express frustration with the inability to find information, forcing them to call the agency. Stakeholders have previously suggested the agency create a Frequently Asked Questions section on the Commission's website to help answer basic questions that now require a phone call to answer, but no such section currently exists.

Another factor in high call volume is repeat calls due to inconsistent information given to callers. Stakeholders claim to regularly get different answers each time they call the Commission. Although the agency recognizes the problem, and has made an effort to record comments of phone call conversations, stakeholders say incorrect information is provided by staff with a poor understanding of Commission rules and who lack access to interpretations of Commission rules.

Poor information on staff's part is likely due to a combination of incomplete information in the agency's internal systems and a lacking website. A Frequently Asked Questions section on the Commission's website would not only help provide answers to stakeholders, but also create a consistent staff understanding of answers to common agency questions.

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*A poorly organized website and inconsistent information from staff lead to high call volumes.*

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**The Commission lacks an IT system that provides basic regulatory information on licensing and enforcement or that accepts electronic licensing information.**

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*The agency's enforcement information is split between separate database and spreadsheet programs.*

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- ◆ TCLEOSE staff cannot look up a licensee and see licensing, continuing education, and enforcement information. TCLEDDS does not include any of the Commission's enforcement information. In fact, enforcement information is split between an Excel spreadsheet and an Access database. The agency opens and tracks a new case in an Access database. If the agency intends to pursue disciplinary action, staff re-enter the case into an Excel spreadsheet. TCLEOSE does not reconcile the two systems, so the Commission cannot track how many opened cases were forwarded for disciplinary action. TCLEOSE indicates PCI is in the process of developing an enforcement component for TCLEDDS, but that component is not yet complete.

The State Auditor's Office, in its 2007 report, indicated that TCLEDDS did not have the functionality to determine basic performance measures such as the number of licensees and number of complaints resolved; the agency hand-counts complaints resolved.<sup>1</sup> The agency also lacks the ability to differentiate the number of enforcement actions taken against jailer versus peace officer licensees versus multiple license holders. All of these problems result from poor use of their technological resources.

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*TCLEOSE doesn't accept electronic documents from agencies that don't purchase TCLEDDS.*

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- ◆ TCLEOSE fails to take advantage of opportunities for electronic submission of information it requires. TCLEOSE doesn't accept electronic submission of documents from agencies and licensees that don't use TCLEDDS because the agency prefers to have copies with original signatures. These agencies submit hard copy files by mail, which the agency stores in its file room. Training rosters may be submitted to TCLEOSE by email, but staff prints out copies of these electronic documents to place a hard copy in its file room. For agencies with TCLEDDS, only initial license applications, F-5 separation forms, and training rosters are submitted electronically; all other supporting documents must be submitted by mail, email, or fax for storage in the Commission's file room.

Law enforcement agencies are statutorily required to send a signed, written request on agency letterhead to TCLEOSE asking for copies of F-5 separation documents for each candidate they are looking to hire. When responding to requests for copies of a licensee's previous F-5 separation documents, staff must check both electronic and hard copy files to send to hiring law enforcement agencies, as only documents submitted electronically are maintained electronically. The agency maintains all other documents in its file room.

- ◆ While TCLEOSE has explored options for scanning its existing files into a computer system, the costs for scanning have been beyond what the Commission believes to be within its budget. The Commission is

making an effort to begin scanning documents as they are received to minimize the number of hard files the agency continues to accumulate.

**TCLEDDS is an incomplete technology solution, unaffordable to some law enforcement agencies.**

- ◆ Not all law enforcement agencies can afford access to TCLEDDS. Because TCLEDDS is a subscription-based program, most of the large agencies can afford to use it to access training and licensing records, but many small agencies are not as technologically advanced and refrain from purchasing a subscription. The table, *TCLEDDS Subscription Costs and Use by Agency Size*, illustrates the range of subscription fees for TCLEDDS. As shown in the table, only 18 percent of agencies with five or fewer licensees purchase TCLEDDS, although all agencies with more than 500 employees use TCLEDDS.

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*Only forty-six percent of law enforcement agencies purchase TCLEDDS.*

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***TCLEDDS Subscription Costs and Use by Agency Size***

<b>Agency Size (Number of Licensees)</b>	<b>Cost</b>	<b>Total Number of Agencies</b>	<b>Total Agencies Subscribing to TCLEDDS</b>	<b>Percentage of Agencies Using TCLEDDS</b>
1 – 5	\$138	1,167	213	18%
6 – 25	\$280	736	451	61%
26 – 99	\$600	387	337	87%
100 – 499	\$1,555 – \$2,228	113	105	93%
500+	\$5,460	21	21	100%
<b>Total</b>		<b>2,424</b>	<b>1,127</b>	<b>46%</b>

Due to cost and technology restrictions, licensees in most small law enforcement agencies rely on POSEIT to gather basic training information, although POSEIT was designed to provide continuing education courses to licensees, not to provide licensing or training information. For personnel in these small law enforcement agencies, POSEIT is the only source of licensing and training information other than calling the agency.

- ◆ While a subscription to TCLEDDS allows a law enforcement agency to access individual training records and run a basic agency-wide training report, agencies must purchase additional software from PCI, TCLEDDS Assistant, to create localized training reports. Of the 1,127 agencies that subscribe to TCLEDDS, only 146, or 13 percent, subscribe to TCLEDDS Assistant. In addition, TCLEDDS Assistant was not able to sync with TCLEDDS, its primary purpose, from December 2006 through June 2007, so subscribing agencies could not report up-to-date training records for that period of time.
- ◆ Because TCLEDDS has limited ability to run reports, some law enforcement agencies have purchased or created their own database

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*TCLEDDS has limited ability to run reports.*

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systems to keep track of training and licensing data. These agencies report requesting the ability to interface their programs with TCLEDDS instead of purchasing TCLEDDS, but PCI has not developed an interface. Instead, agencies with other software programs print hard copies of their electronic training rosters and send them to TCLEOSE, where staff manually enter the rosters into TCLEDDS. The agency intends to require training providers that do not have TCLEDDS to submit their training rosters through an Excel spreadsheet that would electronically convert into TCLEDDS, to avoid staff hand-entering rosters. TCLEOSE does not yet have this capability, but indicates it would like to implement this by September 2009.

### **TCLEOSE entered into an IT contract containing nonstandard provisions that could jeopardize the agency's IT operations.**

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*TCLEOSE's  
contract with PCI  
contains limited  
and unfavorable  
termination  
provisions.*

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- ◆ On December 20, 2006, TCLEOSE signed a 10-year extension to the contract with PCI. The agency did not seek assistance or advice from the Department of Information Resources (DIR), the State's experts at procurement of information technology. While TCLEOSE obtained a legal review by its Attorney General representative, the agency did not obtain legal advice specific to IT contracts. The agency's failure to obtain necessary expertise could place TCLEOSE, and the State, at risk.
- ◆ Most notably, the contract does not contain contract termination provisions favorable to TCLEOSE. The contract only has provisions covering nonrenewal or agreed termination. No provisions, such as breach of contract, are included in the contract. If the contract is terminated, the Commission can only continue to use TCLEDDS until the end of the subscription year, after which it may no longer use TCLEDDS. The Commission signed the new 10-year contract in December 2006, effective January 1, 2009.
- ◆ TCLEOSE's contract with PCI could be in jeopardy, as PCI is currently the subject of a class-action lawsuit related to a security breach that resulted in the loss of Social Security numbers for all peace officers, county jailers, and telecommunicators in the state. An individual peace officer has brought a lawsuit against PCI for failing to provide free credit reports to those individuals with lost personal information. PCI is a very small company whose primary product is TCLEDDS. Given the uncertainty surrounding this class-action lawsuit, PCI could choose to file for bankruptcy or otherwise cease operations rather than engage in a protracted legal battle.
- ◆ With the assistance of DIR, Sunset staff determined that TCLEOSE's contract with PCI does not conform with many best practices used for state IT contract provisions. The fact that TCLEOSE did not seek outside expertise in reviewing provisions of this contract clearly shows. The textbox on the following page, *PCI Nonstandard Contract Provisions*, further describes some of the current contract provisions that could cause problems for the State.

### **PCI Nonstandard Contract Provisions**

- ◆ The contract term is 10 years; the State Contract Management Guide recommends a maximum of a four-year term for IT contracts.
- ◆ TCLEOSE is granted a 15-day period in which to purchase the source code for TCLEDDS at an offered price. No formula of how a price would be calculated or for a payment plan is included in the contract. A formula of the value of the software would have provided an opportunity to seek appropriations to exercise this right. Without a known price, obtaining these funds is unlikely.
- ◆ Because the contract does not provide for the Commission to own the code, the agency is limited in its ability to develop its own system that looks or operates like TCLEDDS, as the application is protected intellectual property.
- ◆ The source code is held in escrow but the contract does not spell out under what circumstances (bankruptcy of developer, disaster recovery, etc.) TCLEOSE or the subscribing agencies may withdraw the code for use. TCLEOSE may not have access to withdraw the code under reasonable circumstances.
- ◆ Other provisions that do not conform with accepted state contract practices include language for the Commission to receive a software license for free, confidentiality clause, travel reimbursement, customer definitions, infringement clause, return of property consistent with record-retention laws, as well as the assignment of the contract to a successor, which may be done by PCI without TCLEOSE's consent, but not vice-versa.

- ◆ Although the Commission was not required to compete the contract, the agency's decision not to seek a competitive solicitation suggests it didn't even consider allowing other vendors to provide this service. As such, the agency lost its opportunity to use the competitive marketplace to breed new innovation and creativity into its systems through an open bid.

### **TCLEOSE has a history of recent IT security issues.**

- ◆ In May 2007, an agency laptop was stolen from PCI's office containing the Social Security numbers and mailing addresses associated with all 229,000 peace officer, jailer, and telecommunicator license and proficiency certificates, putting them at risk for identity theft. Although no reports of identity theft stemming from this incident have been reported, this incident is the source of the class-action lawsuit against PCI.
- ◆ The agency sought to determine the integrity of its security measures in Fall 2007 through security vulnerability assessments. Those vulnerabilities have since been mitigated.
- ◆ In Fall 2007, a hacker posted unauthorized content on the log-in page of the agency's online training program, POSEIT. POSEIT was shut down for 45 days while staff fixed the problem and upgraded its systems. As a result, licensees that did not meet their training requirements, and should have received disciplinary action for noncompliance, were given an extra 45 days to complete their training.

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*A stolen laptop containing Social Security numbers of all TCLEOSE licensees prompted a pending class-action lawsuit against PCI.*

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# Recommendations

## Management Action

### 1.1 The Commission should conduct a technology performance review.

The Commission should solicit a technology performance review of its information technology to establish a work plan to improve and modernize all agency functions. At a minimum, the review should recommend cost-effective methods to increase the availability and quality of basic licensing and training information for licensees and law enforcement agencies, provide staff access to data – in one database – on all licensees, and allow law enforcement agencies to electronically submit data to TCLEOSE. These solutions should allow the agency to significantly gain efficiency through less staff time spent inputting data and responding to information requests. TCLEOSE should work with law enforcement agencies and other stakeholders to ensure that information needs of stakeholders are identified and incorporated into the IT modernization.

TCLEOSE should work with DIR to develop the scope of the review, and to select a contractor, preferably from existing DIR contractors, to complete the technology performance review. DIR should assist TCLEOSE in establishing the work plan for the review, which should include examination of the services of the current IT vendor and its software. The contractor chosen to complete the technology performance review should be ineligible to bid on any new contracts for any IT services resulting from the review.

TCLEOSE should consider working with DIR to conduct the technology performance review as soon as possible, preferably before the 2009 Legislative Session. Doing so would allow the agency to seek appropriations during the 2009 Legislative Session to implement recommendations resulting from the technology performance review.

## Change in Statute

### 1.2 Require the Commission to develop and implement electronic submission methods for information the Commission requires from law enforcement agencies.

Under this recommendation, TCLEOSE would develop methods for electronic submission of all of required data and documents. The agency should consult with DIR and then work with its current vendor to develop an interface to import this electronic data into TCLEDDDS. The interface should allow agencies that don't have TCLEDDDS to submit data electronically, while significantly reducing staff time currently spent inputting data.

Once it has established the appropriate methodology, the Commission should require law enforcement agencies to submit all required forms, data, and documents electronically. This requirement includes all documents currently available for electronic submission on TCLEDDDS – such as licensing applications, F-5 separation forms, and training rosters – as well as other documents that TCLEOSE currently lacks the capability to accept electronically, such as F-5 separation form attachments and F-5 requests from hiring agencies. This recommendation would also remove the statutory provision requiring law enforcement agencies to submit written requests for F-5 separation forms for hiring purposes on agency letterhead. Instead, the agency would develop a system, by rule, to allow and verify this request electronically. This recommendation would eliminate the need for law enforcement agencies that have licensing and training databases other than TCLEDDDS to send a hard copy of their data to TCLEOSE for hand-processing; data would not have to be hand-entered into two separate systems.

Electronic submission would assist both TCLEOSE and law enforcement agencies. The agency could eliminate hand-processing documents, and, by improving its electronic document submission, benefit law enforcement agencies that must now send hard copies of documents. The agency should consider implementing mandatory electronic submission on a timeline, and refer law enforcement agencies to resources to obtain computers or Internet access. Law enforcement agencies could also use Law Enforcement Officer Standards and Education (LEOSE) training funds to pay for computers or internet access, as it would allow licensees to access online training.

## **Management Action**

### **1.3 The Commission should request a security evaluation of the integrity of its current IT security measures.**

The Commission should work with DIR to conduct a security evaluation of its web applications – TCLEDDS and POSEIT. The agency should also request an annual vulnerability and control penetration test from DIR to identify any security weaknesses, and work with DIR to mitigate any security risks identified.

### **1.4 The Commission should professionally design and reorganize its website.**

Under this recommendation, the Commission should redesign its website to clearly present information to stakeholders in a user-friendly, organized manner. The website should prioritize information stakeholders find most valuable, and allow stakeholders to easily navigate the site. The agency should develop and post a Frequently Asked Questions section that provides answers to common questions, and ensures staff give consistent answers to those questions.

## **Fiscal Implication**

Conducting a technology performance review is estimated to cost approximately \$25,000 to \$30,000. TCLEOSE indicates its planned budget for upgrading hardware and software in fiscal year 2009 is \$54,000. A portion of this money could instead offset costs of the technology performance review, since future IT spending will be dependent on the results of the review.

Overall, these recommendations would have a significant fiscal impact, but that fiscal impact cannot be determined, as it depends on the results of the technology performance review. TCLEOSE should seek funding to implement the recommendations of the technology performance review through the appropriations process during the 2009 Legislative Session. Eventually, savings in staff time from not performing data entry and answering phone requests would offset some of this cost.

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<sup>1</sup> State Auditor's Office, *Performance Measures at the Commission on Law Enforcement Officer Standards and Education*, report no. 08-004 (Austin, Texas, October 2007), p. 8.





## *Responses to Issue 1*

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### **Recommendation 1.1**

***The Commission should conduct a technology performance review.***

#### **Agency Response to 1.1**

TCLEOSE management agrees with this recommendation. We will attempt to meet this short timeline. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **Affected Agency Response to 1.1**

The Texas Department of Information Resources concurs with these recommendations and is prepared to assist in their implementation within the suggested timeframe. (Brian Rawson, Executive Director – Texas Department of Information Resources)

#### **For 1.1**

Larry E. Capps – Sugar Land

#### **Against 1.1**

None received.

### **Recommendation 1.2**

***Require the Commission to develop and implement electronic submission methods for information the Commission requires from law enforcement agencies.***

#### **Agency Response to 1.2**

TCLEOSE management agrees with this recommendation. The Commission has initiated action to accomplish electronic submission. We understand that some law enforcement agencies may not have computers for electronic submission. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 1.2**

None received.

#### **Against 1.2**

Larry E. Capps – Sugar Land

***Recommendation 1.3***

***The Commission should request a security evaluation of the integrity of its current IT security measures.***

**Agency Response to 1.3**

TCLEOSE management agrees with this recommendation. We will continue to take advantage of the Department of Information Resources security evaluations. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 1.3**

None received.

**Against 1.3**

None received.

***Recommendation 1.4***

***The Commission should professionally design and reorganize its website.***

**Agency Response to 1.4**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 1.4**

Larry E. Capps – Sugar Land

**Against 1.4**

None received.

## *Commission Decision*

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Adopted Recommendation 1.1 as modified to require the Commission to solicit a technology performance review of its information technology to establish a work plan to improve and modernize all agency functions. The Commission should identify specific, cost-effective technology improvement options to increase the availability and quality of training and licensing information for all users, and encompass all licensing, training, and enforcement information in one system. All options should identify estimated costs of implementation.

The Commission should specifically evaluate the cost, feasibility, and risks associated with the recommended IT modernization options. At a minimum, options to evaluate should include:

- ◆ creating a new, comprehensive IT system;
- ◆ purchasing a statewide license for TCLEDDS – including TCLEDDS enhancements and renegotiation of its vendor contract;
- ◆ purchasing TCLEDDS outright; or
- ◆ any other options the Commission considers viable and cost-effective.

Given this evaluation, the Commission should identify the most cost-effective solution.

The Commission and any consultants used should confer with the Department of Information Resources, Sunset Commission staff, and Legislative Budget Board staff regarding their work plan to perform the analysis. The Commission should submit copies of their analysis, recommendations, and cost estimates to the Sunset Advisory Commission, Legislative Budget Board, House Appropriations Committee, and the Senate Finance Committee by February 16, 2009.

Adopted Recommendations 1.2 through 1.4.

## *Legislative Action*

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House Bill 3389 requires TCLEOSE to develop methods for electronic submission of all of required data and documents. The bill also removes the statutory provision requiring law enforcement agencies to submit written requests for F-5, or discharge paper, documents for hiring purposes on agency letterhead. Instead, the agency must develop a system, by rule, to allow and verify this request electronically. (Recommendation 1.2)



# Issue 2

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## *The Commission's Unique Role as a Third Party to a Local Dispute Over Discharge Papers is Unnecessary.*

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### Summary

#### Key Recommendations

- ◆ Clarify that TCLEOSE is not a party to F-5 discharge form disputes.
- ◆ The Commission should encourage alternatives for parties to F-5 disputes to avoid traveling to Austin for contested case hearings.
- ◆ The Commission should encourage mediation as an alternative to administrative hearings.

#### Key Findings

- ◆ Although F-5 appeals have little to do with the licensure of law enforcement officers or county corrections personnel, the appeals use significant staff resources.
- ◆ Increases in F-5 appeals have caused the Commission's caseload to double and the number of appeals is expected to increase.
- ◆ The Commission's third party role in SOAH hearings for F-5 appeals is uncommon.

#### Conclusion

In 2005, the Legislature created an F-5 review and appeal process to stop the movement of gypsy cops – police officers able to move from one law enforcement agency to another despite poor performance. Law enforcement agencies must now request copies of a licensee's F-5, or agency separation form, before hiring a candidate. In turn, licensees that feel that their F-5 form does not accurately represent the terms of separation may appeal the F-5 to TCLEOSE. Disputes over the F-5 have doubled each year, significantly affecting the Commission's workload.

The lack of measurable data makes it difficult to determine whether the current F-5 review process has helped thwart the movement of gypsy cops. Stakeholders using anecdotal evidence provided arguments both for and against the current process. Because Sunset staff did not identify any viable alternatives to the current process, staff focused on how to streamline the process. Clarifying that TCLEOSE is not a party to F-5 disputes, along with holding contested case hearings throughout the state and encouraging mediation, could provide savings to all parties involved.

## Support

### **Law enforcement agencies must report licensee separations to TCLEOSE and review past separations before hiring a licensee.**

- ◆ When a peace officer or jailer ceases employment with a law enforcement agency, the Commission requires the agency to send a copy of a separation form, called an F-5 form, to TCLEOSE.<sup>1</sup> In 2005, the Legislature mandated that before a law enforcement agency can hire an officer or jailer, an agency must obtain copies of the licensee's previous F-5 forms.<sup>2</sup> This requirement is designed to curb the employment of "gypsy cops" – officers that move from one law enforcement agency to another, usually leaving an agency to avoid termination or disciplinary action.
- ◆ Because a licensee's ability to obtain another job may in part depend on the contents of the F-5, the Legislature created an avenue for persons to appeal the contents of their F-5 to TCLEOSE.<sup>3</sup> Statute allows, but does not require, TCLEOSE to hear F-5 appeals. TCLEOSE has chosen not to resolve F-5 disputes, and instead appeals to the State Office of Administrative Hearings (SOAH) on the licensee's behalf, allowing an administrative law judge to determine whether comments on the F-5 form are fair, or should be amended by the separating agency. These hearings are all conducted in Austin, Texas.
- ◆ Licensees appeal both the contents of their F-5 forms, as well as the attachments to the F-5 that provide further explanation of separation. Licensees appeal their F-5's for a variety of reasons, even appealing honorable discharges. For example, even though a licensee may receive an honorable discharge, the licensee can appeal unflattering comments attached to the F-5, or disagree with the category of honorable discharge, which may prevent receipt of unemployment benefits. In 2007, the Legislature switched the burden of proof from the licensee to the law enforcement agency to defend what is written in or attached to the F-5.

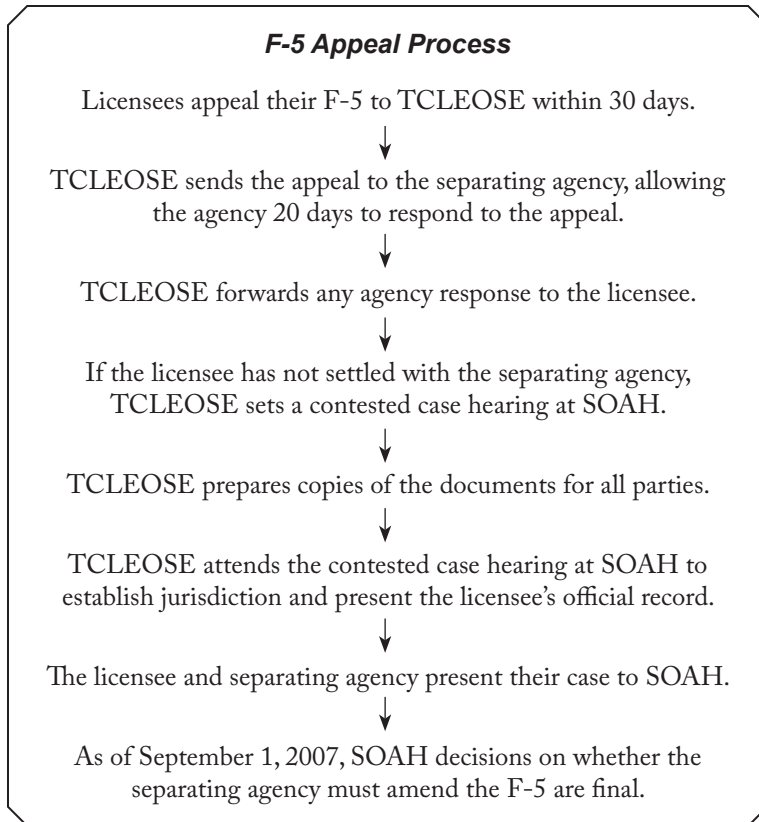
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*F-5 appeals are local termination disputes settled in the state administrative hearings process.*

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### **Although F-5 appeals have little to do with the licensure of law enforcement officers or county corrections personnel, the appeals use significant staff resources.**

- ◆ TCLEOSE's chosen role in F-5 appeals is that of a middleman. The process to appeal an F-5 is detailed in the textbox on the following page, *F-5 Appeal Process*. TCLEOSE staff spent 20 to 25 hours per week, or half an FTE, facilitating the 58 F-5 appeals held last year. Staff time includes informational calls from licensees and agencies, reviewing licensee and agency correspondence and forwarding correspondence to the other parties, setting and preparing the case for SOAH, attending the hearing, reviewing the proposal for decision, and preparing the final order. TCLEOSE also ensures that agencies amend the F-5 forms if so ordered.



- ◆ Of the 96 appeals resolved since F-5 appeals began in 2005, 50 settled prior to a contested case hearing at SOAH without any form of mediation. In these cases, TCLEOSE still spends staff time facilitating correspondence.

**Increases in F-5 appeals have caused the Commission's caseload to double.**

- ◆ As illustrated in the table, *F-5 Appeals*, since the F-5 appeal process went into effect in 2005, the number of F-5 appeals has almost doubled each year. As a result, TCLEOSE's total number of SOAH hearings has doubled as well.

**F-5 Appeals**

Fiscal Year	Number of F-5 Appeals	F-5 SOAH Hearings	Other SOAH Hearings	Total TCLEOSE SOAH Hearings
2005	0	0	30	30
2006	30	19	15	34
2007	58	38	29	67

—◆—  
*The number of F-5 appeals almost doubled in fiscal year 2007.*  
 —◆—

- ◆ Because SOAH has limited openings for hearings per month, and schedules hearings approximately four months in advance, the Commission currently has 15 F-5 appeals waiting to be set for hearing. While 15

cases is not extraordinarily large, it represents half of the agency's pre-F-5 caseload. On average, participants must wait three to four months for SOAH to hear a case.

**The number of F-5 appeals is expected to continue to increase.**

- ◆ Because the system for F-5 appeals only began in 2005, TCLEOSE believes not all law enforcement agencies and licensees are fully aware of this process. As a result, increased awareness of the F-5 appeal process will likely increase F-5 appeals. As illustrated in the previous table, the total number of F-5 appeals has doubled each year so far, and while this number will level off at some point, the agency expects the number of appeals to continue to increase over the next few years. Since 2005, 73 percent of all F-5 appeals have resulted in the separating law enforcement agencies amending the F-5. A high rate of amendments may encourage more licensees to appeal their F-5's.
- ◆ In 2007, the Legislature required TCLEOSE to suspend the license of any licensee receiving two dishonorable discharges. TCLEOSE expects this change to also increase the number of F-5 appeals, as the discharge status can now directly relate to license standing.
- ◆ The Legislature also changed the burden of proof for the contents of the F-5 from the officer or jailer to the law enforcement agency in 2007. Some speculate this change could reduce the number of cases that go to formal hearing at SOAH, as law enforcement agencies might be more likely to settle. However, the number of initial appeals from officers and jailers as well as the subsequent agency staff time spent facilitating appeals and settlements could actually increase.

**The Commission's third party role in SOAH hearings for F-5 appeals is uncommon.**

- ◆ F-5 disputes are local termination disputes resolved in a state administrative hearings process. While TCLEOSE attends these F-5 appeal hearings, it is not a party to the dispute. No other state agencies must attend SOAH hearings for a dispute to which they are not a party. TCLEOSE's presence is unnecessary because the agency simply submits paperwork regarding jurisdiction and the licensee's official record.
- ◆ In comparison, SOAH hears appeals from the Texas Department of Insurance's (TDI's) Workers Compensation Division as a third party to medical disputes. Statute specifies that TDI is not a party to this dispute, and TDI does not attend SOAH hearings. While Division staff must still prepare the case and publish SOAH's decision, TDI staff indicate that each case averages two and a half hours of staff time.

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*Seventy-three percent of F-5 appeals are successful.*

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*TCLEOSE is not a party to F-5 appeal hearings.*

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## Mediation could help resolve F-5 disputes.

- ◆ As an alternative to an administrative ruling on F-5 disputes, parties could consider alternative dispute resolution, such as mediation. The textbox, *What is Mediation?*, explains the concept of mediation. Because, typically, parties in F-5 disputes cases do not have direct communication before a contested case hearing, a third-party mediator could facilitate communication between the parties and help settle the case informally before the formal hearing.

### ***What is Mediation?***

In mediation, a third-party neutral, or mediator, guides the interaction of the participants and facilitates communication between the parties to promote reconciliation, settlement, or understanding between them. Mediators do not issue a decision, but rather, assist the parties in reaching an agreement themselves.

- ◆ Mediation offers several advantages to administrative resolution through SOAH.

***Quick resolution.*** Settlement is usually reached in hours, versus weeks or months of waiting for a hearing or the decision of an administrative law judge.

***Maintain control.*** Parties control the resolution, allowing them to compromise by making their own choices and tradeoffs rather than giving that power to a third party judge.

***Privacy.*** Mediation proceedings are confidential, unlike a public administrative hearing.

***Informality.*** Mediation does not have formal procedures like a contested case hearing. Informality also allows parties to explore settlement options without committing, and, in some cases, may eliminate the need for legal counsel.

***Higher satisfaction with results.*** Because the parties design the settlement agreement, parties are usually happier with the outcome.

- ◆ The Sunset Commission has adopted an across-the-board recommendation directing agencies to develop a policy encouraging the use of alternative dispute resolution procedures such as mediation. The use of mediation as one approach to informally resolve F-5 cases conforms to the type of action that such a policy should encourage.

## Recommendations

### Change in Statute

#### 2.1 Clarify that TCLEOSE is not a party to F-5 disputes.

This recommendation would clarify TCLEOSE's role in F-5 disputes. As a result, the agency and its Attorney General representative would not need to attend SOAH hearings for F-5 appeals. A copy of the licensee's official record, as well as copies of the rules or statute that the agency wishes to provide

the administrative law judge, could be submitted to SOAH before the hearing. This change would also facilitate holding hearings closer to the location of the dispute.

## **Management Action**

### **2.2 The Commission should encourage alternatives for parties to F-5 disputes to avoid traveling to Austin for contested case hearings.**

The Commission should work with SOAH to set contested case hearings at SOAH's field office locations or their remote hearing sites in locations convenient to the parties. The Commission should also encourage teleconferencing, so that parties might provide information by phone, rather than traveling to Austin. Teleconferencing would allow parties to provide testimony to an administrative law judge in locations convenient to the parties, reducing both travel costs and lost work time for parties to F-5 disputes.

### **2.3 The Commission should encourage mediation as an alternative to administrative hearings.**

The Commission should provide information on mediation, as well as contact information for mediation and dispute resolution centers throughout the state, to parties to an F-5 dispute. Providing information on mediation as an alternative to an administrative hearing could decrease the number of F-5 appeals heard by SOAH, while providing advantages to the parties of F-5 disputes. Mediation costs, which typically range from \$1,000 to \$2,500 per day, would be split equally among the parties.

## **Fiscal Implication**

These recommendations would not have a significant fiscal impact to the State. Clarifying that TCLEOSE and its Attorney General representative would not need to attend SOAH hearings would result in savings in time and resources for both the Commission and the Attorney General representative. Allowing parties to provide information to an administrative law judge during an F-5 hearing from a location outside Austin could result in savings in travel and lost work time for parties to F-5 disputes, but would not have a fiscal impact to the State. Using mediation instead of administrative hearings could provide savings resulting from a reduced caseload at SOAH, but the savings would depend on the number of cases that opt to use mediation, which could not be estimated for this report.

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<sup>1</sup> Texas Occupations Code, sec. 1701.452.

<sup>2</sup> Texas Occupations Code, sec. 1701.451.

<sup>3</sup> Texas Occupations Code, sec. 1701.4525.

## *Responses to Issue 2*

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### **Recommendation 2.1**

***Clarify that TCLEOSE is not a party to F-5 disputes.***

#### **Agency Response to 2.1**

TCLEOSE management agrees with this recommendation. Separation reports are necessary for TCLEOSE to track service time and employment. For this purpose, the requirement to keep TCLEOSE informed needs to remain. TCLEOSE also has immediate responsibilities if a licensee receives a second dishonorable discharge. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 2.1**

Larry E. Capps – Sugar Land

#### **Against 2.1**

None received.

### **Recommendation 2.2**

***The Commission should encourage alternatives for parties to F-5 disputes to avoid traveling to Austin for contested case hearings.***

#### **Agency Response to 2.2**

TCLEOSE management agrees with this recommendation. We will continue to encourage the involved parties to request and make use of alternative methods for dispute resolution. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 2.2**

None received.

#### **Against 2.2**

None received.

### **Recommendation 2.3**

***The Commission should encourage mediation as an alternative to administrative hearings.***

#### **Agency Response to 2.3**

TCLEOSE management agrees with this recommendation. We will continue to encourage the involved parties to make use of mediation as a method for dispute resolution rather than the

### **Agency Response to 2.3** (continued)

administrative hearing. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 2.3**

None received.

#### **Against 2.3**

Larry E. Capps – Sugar Land

#### **Modification to Issue 2**

1. Create a system in which F-5 reports are maintained by TCLEOSE. When an officer is discharged, and the department head files an F-5, the officer should be permitted, on his own or through legal counsel, to file a statement and exhibits setting forth “his side of the story” in as much or as little detail as the officer pleases. The department’s and the officer’s submissions would be scanned into a digital format and transmitted together to any department head who is required to obtain the officer’s F-5 reports as a prerequisite to a hiring decision. TCLEOSE’s role is simply as a repository of digitized information. (Donald Dickson II, Esq. – The Parker Law Firm, Austin)

### *Commission Decision*

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Adopted Recommendations 2.1 through 2.3.

### *Legislative Action*

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House Bill 3389 clarifies that TCLEOSE is not a party to F-5, or discharge paper, disputes between licensees and their employing law enforcement agency. (Recommendation 2.1)

# Issue 3

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## *Key Elements of the Commission's Licensing and Regulatory Functions Do Not Conform to Commonly Applied Licensing Practices.*

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### Summary

#### Key Recommendations

- ◆ Improve the Commission's administrative functions by removing the requirement that it establish standards for the certification of all county jail personnel, as opposed to only county jailers, and by encouraging the Commission to update stakeholders on the progress of its informal advisory committees.
- ◆ Standardize the Commission's licensing functions by eliminating the requirement for additional higher education credit hours for applicants with a high school equivalency certificate, as well as require the Commission to more clearly identify which crimes relate to the occupation of county jailer.
- ◆ Improve TCLEOSE's ability to protect the public by authorizing the Commission to levy administrative penalties and by requiring the Commission to establish a clear risk-based audit procedure, create and publicize complaint procedures, and use informal settlement conferences.

#### Key Findings

- ◆ Certain administrative provisions of the Commission's statute reduce the Commission's efficiency and flexibility to adapt to changing circumstances.
- ◆ Licensing provisions of the Commission's statute and rules do not follow model licensing practices and could potentially affect the fair treatment of licensees and members of the public.
- ◆ Nonstandard enforcement provisions of the Commission's statute could reduce the agency's effectiveness in protecting the public.

#### Conclusion

Various licensing and enforcement processes in TCLEOSE's governing statute do not match model standards developed by Sunset staff based on experience gained through more than 93 occupational licensing reviews over the last 30 years. Sunset staff compared the Commission's statute, rules, and practices to the model licensing standards to identify variations. Based on these variations, Sunset staff identified the recommendations needed to bring the Commission in line with the model standards to improve operations.

## Support

**Regulating occupations, such as law enforcement and county corrections officers, requires common activities that the Sunset Commission has observed and documented over more than 30 years of reviews.**

- ◆ The Commission's mission is to ensure highly trained and ethical law enforcement and county corrections personnel. To fulfill its mission, the Commission licenses and sets minimum training standards for peace officers and county jailers and acknowledges telecommunicators, as well as licenses and approves training providers. The Commission regulates 94,337 licensees and 300 training providers. In fiscal year 2007, TCLEOSE took disciplinary action on 224 licensees for criminal offenses and issued 93 reprimands against licensees that failed to report an arrest or conviction.
- ◆ The Sunset Advisory Commission has a historic role in evaluating licensing agencies, as the increase of occupational licensing programs served as an impetus behind the creation of the Commission in 1977. Since then, the Sunset Commission has completed more than 93 licensing agency reviews. Sunset staff has documented standards in reviewing licensing programs to guide future reviews of licensing agencies. While these standards provide a guide for evaluating a licensing program's structure, they are not intended for blanket application. The following material highlights areas where the Commission's statute and rules differ from these model standards and describes the potential benefits of conforming the Commission's statute and rules to standard practices.

**Certain administrative provisions of the Commission's statute reduce the Commission's efficiency and flexibility to adapt to changing circumstances.**

- ◆ *Minimum level of regulation.* Regulation of professions should be implemented at the minimum level necessary to protect the public. TCLEOSE regulates county jailers, or those county jail employees who directly supervise inmates.<sup>1</sup> Ancillary employees, such as cooks, nurses, and maintenance personnel, need not obtain certification by TCLEOSE if they do not directly supervise inmates.

A provision of statute added in 1975 requiring TCLEOSE to set standards for all county jail personnel prompted the subsequent licensure of county jailers by TCLEOSE in 1979.<sup>2</sup> In 1999, recodification of a provision requiring *certification* of all county jail personnel into the agency's statute conflicts with the requirement for licensure of only county jailers, as well as TCLEOSE's current and historical practice of licensing only jailers, not all county jail personnel. Removing this conflicting and outdated statutory provision would eliminate confusion regarding which county jail employees must be certified by the agency.

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*An outdated and conflicting statutory provision requires certification of all county jail personnel.*

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- ◆ **Stakeholder input.** Stakeholder involvement early in policy development stages is an efficient and effective way to obtain needed expertise and a broader perspective on matters affecting state agencies. TCLEOSE has 19 informal advisory committees or subcommittees that provide expertise on an array of law enforcement and legal topics. The committees consist of individuals with expertise in a given law enforcement area to primarily provide input regarding requirements for training course curricula. These committees, however, do not have clear charges or deadlines to complete their tasks, and TCLEOSE lacks an explicit, transparent process by which the Commission selects the committees' members. Even some individuals who have served on the committees are unclear how they were selected.

TCLEOSE's informal advisory committees do not adequately allow for the incorporation of stakeholder input early in the policy development stages. While the Commission does make the committees' final products available for public comment, it does not provide any form of progress report to update stakeholders on which issues the committees will consider for change. Stakeholders and other interested parties, therefore, receive a final product with no explanation or logic for why changes, such as to the basic training curricula, occurred. Allowing stakeholders the opportunity to provide input during curricula development stages would allow the committees to consider this input in their deliberations.

**Licensing provisions of the Commission's statute and rules do not follow model licensing practices and could potentially affect the fair treatment of licensees and members of the public.**

- ◆ **Barriers to entry.** Licensure requirements and processes should not overburden applicants or unreasonably restrict entry into practice. Individuals applying for basic training as a peace officer, who do not have a high school diploma or an honorable discharge from the U.S. armed forces after at least 24 months of service, must obtain a high school equivalency certificate and at least 12 credit hours at an institution of higher education.<sup>3</sup> This barrier for applicants with a high school equivalency certificate is not reasonable. The purpose of high school equivalency certificates such as the General Education Development (GED) certificate is to ensure that an individual has high school-level academic aptitude. Through standards for admission to colleges and universities, the Legislature recognizes the GED as the general equivalent of a high school diploma.<sup>4</sup> Allowing all individuals with high school equivalency certificates to apply for basic training as a peace officer without obtaining 12 credit hours could expand the increasingly limited pool of applicants while not holding applicants to a higher standard than is currently required for those with a high school diploma.

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*TCLEOSE lacks  
an explicit,  
transparent  
process by which  
it selects advisory  
committee  
members.*


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- ◆ **Criminal history guidelines.** Chapter 53 of the Occupations Code permits a licensing agency to revoke, suspend, or deny a license for conviction of a felony or misdemeanor that directly relates to the duties of the licensee. While peace officers are exempt from Chapter 53, TCLEOSE has not developed rules to identify convictions for jailers, such as misdemeanor offenses of assault, that could affect jailers' abilities to perform their job duties. Rather, TCLEOSE relies on a general statutory provision that permits denial or revocation of a license for any felony conviction or license suspension for criminal offenses above, and including some, Class C misdemeanors.<sup>5</sup> Adopting rules under Chapter 53 to establish convictions that could affect a jailer's ability to perform their job duties would provide licensees and TCLEOSE with the clarity needed to determine which offenses warrant the suspension or revocation of a license.

**Nonstandard enforcement provisions of the Commission's statute could reduce the agency's effectiveness in protecting the public.**

- ◆ **Audits.** A licensing agency should have clear procedures, rules, and statutory authority for conducting record inspections to help ensure standard treatment of inspected entities and timely compliance in correcting problems. The Commission's statute enables it to audit records maintained by law enforcement agencies that relate to a list of specific matters concerning competence and reliability, and the Commission's minimum licensure standards.<sup>6</sup> The statute, however, does not explicitly authorize the Commission to examine previous employment or agency separation documents or weapons proficiency documents, which staff currently inspect during audits. Providing the Commission with general authority to conduct audits of all records relating to the regulation of personnel under TCLEOSE authority will ensure that law enforcement agencies comply with standards for licensure and records maintenance.

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*Since 2000,  
TCLEOSE has  
audited only 47  
percent of the  
state's 2,555 law  
enforcement  
agencies.*

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The Commission lacks a clear methodology for determining which agencies to audit, allowing some agencies to go without an audit for many years. Some agencies have reported that they cannot recall the last time the Commission audited them. Since 2000, TCLEOSE has audited only 47 percent of the state's 2,555 law enforcement agencies. Requiring licensing agencies to conduct inspection or audit activities according to risk ensures that limited resources are placed where they are needed most. A formalized risk-based approach ensures regular audits, and allows TCLEOSE to prioritize audits on detecting serious violations and law enforcement agencies with poor compliance histories.

TCLEOSE also has two separate divisions conducting audits, with no formal coordination. When staff members from one division decide to visit a law enforcement agency, they do not check to see whether TCLEOSE staff from the other division have previously audited the law




enforcement agency. Currently, field service agents from the education and training division are supposed to only conduct partial audits, referring deficient law enforcement agencies to the enforcement division for a full audit. TCLEOSE, however, could not demonstrate this process has ever occurred, and lacks formal procedures to follow up with deficient law enforcement agencies.

TCLEOSE intends for field service agents' audits to help educate law enforcement agencies about the Commission's statute and rules, not to serve as an enforcement tool. However, many state agencies use their inspectors to educate their regulated population while still documenting deficiencies for disciplinary action. This policy enables agencies to promote voluntary compliance among their regulated populations.

- ◆ ***Administrative penalties.*** An occupational licensing agency should have authority to levy administrative penalties in amounts that reflect the severity of the violation. The Commission on Fire Protection, for example, may issue an administrative penalty up to \$1,000 against fire departments and licensees for each violation of Commission statute and rules.<sup>7</sup> TCLEOSE only has administrative penalty authority against a law enforcement agency that does not amend an agency separation form, or F-5 form. Because TCLEOSE requires law enforcement agencies to document that applicants meet minimum licensure standards, the Commission should have the authority to hold noncompliant agencies accountable. Authority to issue administrative penalties, beyond the amendment of F-5 forms, would better enable the Commission to enforce its statute and rules.
- ◆ ***Nonjurisdictional complaints.*** A licensing agency should have a process to refer complaints not within its jurisdiction to the appropriate organization. Tracking these nonjurisdictional complaints would allow TCLEOSE to have a full picture of the public's problems and concerns in this regulatory area. TCLEOSE, for example, frequently receives complaints related to peace officer misconduct, which fall under the jurisdiction of local law enforcement agencies. TCLEOSE refers such complaints to the appropriate entities, but the Commission does not track the nonjurisdictional complaints it receives. Maintaining information about these types of complaints would enable the Commission to identify trends and identify potential areas where regulatory change may be needed or greater coordination is needed between TCLEOSE and other government entities.
- ◆ ***Complaint trend analysis.*** Licensing agencies should analyze the sources and types of complaints and violations to identify problem areas and trends. Identifying such trends can help a licensing agency better understand the regulatory environment and manage its resources more effectively, leading to greater protection of the public. A licensing agency can use such information to create educational materials for licensees

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*Authority to issue administrative penalties would better enable the Commission to enforce its statute.*

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about common violations of its statute and rules. While the Commission can identify complaint sources, it does not perform trend analysis of jurisdictional complaints or violations, and cannot track a complaint through to its disposition. As a result, the Commission misses out on a tool for identifying regulatory problem areas, and for better understanding areas of public concern. Conducting an analysis of jurisdictional complaints and violations would allow TCLEOSE to focus on problem areas, leading to more informed licensees and fostering better public protection.

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*The public should have easy access to the agency's enforcement processes through reasonable complaint filing procedures.*

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- ◆ ***Complaint Filing.*** Legislative enactments have established that the public should have easy access to the agency's enforcement processes through reasonable complaint filing procedures. The public, the licensing agency, or a licensee should be able to file a written complaint against a licensee on a simple form provided on the licensing agency's website, through email, or through regular mail. A licensing agency should provide a complaint form on its website for all complaints against regulated persons or entities. The form should not require notarization. TCLEOSE's existing complaint form is styled for complaints against its staff, not against regulated persons or entities, and requires notarization. The Commission's website does not have an obvious link to the complaint form on the home page, making the form very difficult to find. Having a notarization requirement decreases the public's ability to file complaints and prevents the Commission from receiving complaints in ways other than writing, such as over the Internet, a practice that makes complaint filing more convenient.
- ◆ ***Complaint procedures.*** A licensing agency should adopt rules or procedures that clearly lay out policies for all phases of the complaint process, including complaint receipt, investigation, adjudication, resulting sanctions, and disclosure to the public. A licensing agency should provide sufficient information to members of the public and licensees for filing complaints against licensees and other regulated entities and what licensees should expect if they have a pending case against them so they can adequately participate in their defense. Clearly communicated procedures in rules, brochures, and websites promote awareness – both among members of the public and within the regulated community – about the specifics of the enforcement process, including hearings and appeal options. The Commission lacks formal complaint procedures internally and as such, does not disclose the enforcement process to the public.
- ◆ ***Informal settlement conferences.*** The Commission should use methods other than hearings to resolve complaints, as formal hearings require significant time and expense for the Commission. Structured informal settlement conferences (ISCs) allow agencies to explore resolution before the full hearing process at the State Office of Administrative Hearings (SOAH). To ensure that the Commission is knowledgeable

of staff decisions and has appropriate oversight of staff operations, the Commission should approve agreements reached through these methods. Currently, TCLEOSE does not use any form of informal settlement conference.

- ◆ ***At-risk status procedures.*** TCLEOSE's at-risk status is a probationary status used for training providers such as those whose students' exam passage rates do not meet standards. Placing a training provider's license in at-risk status allows providers in violation of regulatory standards to continue to operate while they take corrective action to address the Commission's concerns.

A licensing agency should have procedures that provide for imposing appropriate conditions on probationers, notifying probationers of those conditions and actions they need to take, and tracking probationers' progress. The Commission has no formal guide to structure the terms of a training provider's probation or track their compliance. TCLEOSE has never revoked or suspended a training provider's license. Some providers have been at risk for 13 years, while others have voluntarily surrendered their license.



*Some training providers have been at risk for 13 years.*



## Recommendations

### Administration – Change in Statute

#### 3.1 Remove the requirement for the Commission to establish standards for the certification of *all* county jail personnel.

This change would clarify that while TCLEOSE is responsible for certifying jailers, it does not need to establish standards and certify personnel such as cooks, clerks, and maintenance personnel. This recommendation would remove section 1701.406 of the Occupations Code, which prohibits a county from employing or using jail personnel who are not certified by the Commission and requires TCLEOSE to set standards for all jail personnel. Counties would retain authority to set standards higher than the minimum standards TCLEOSE establishes.

### Administration – Management Action

#### 3.2 The Commission should update stakeholders on the appointment, duties, and progress of its informal advisory committees.

TCLEOSE should develop guidelines to inform stakeholders of the specific charges of its informal advisory committees. These guidelines should detail the process by which members of informal advisory committees are chosen. TCLEOSE should clearly delineate charges and deadlines for each committee and subcommittee and post progress reports for each committee and subcommittee to update interested stakeholders and solicit feedback. Stakeholders interested in providing feedback could tailor their input to the topics listed in the progress reports, allowing their input to be considered in the policy development phases.

## **Licensing – Change in Statute**

### **3.3 Remove the provision requiring applicants with high school equivalency certificates to obtain additional higher education hours.**

This recommendation would eliminate the statutory requirement that applicants for licensure with a high school equivalency certificate obtain at least 12 credit hours at an institution of higher education. TCLEOSE would treat a high school equivalency certificate as the equivalent of a high school diploma.

### **3.4 Require the Commission to clearly identify which crimes relate to the ability of a person to perform the occupation of county jailer.**

This recommendation would clarify the Commission's responsibility to adopt guidelines that follow the requirements of Chapter 53 of the Occupations Code by specifically requiring TCLEOSE to develop rules defining which crimes relate to an individual's ability to perform the duties of a county jailer. This recommendation would also clarify the Commission's authority to take action against an applicant or licensee who committed a crime – including a crime that resulted in a disposition other than a conviction, such as community supervision – identified by TCLEOSE as relating to the occupation of county jailer. While the Commission should have authority to consider each case on its own merits, identifying those crimes that most directly and consistently relate to the occupation of county jailer allows the Commission to prioritize its licensing and enforcement efforts related to criminal activity.

## **Enforcement – Change in Statute**

### **3.5 Require the Commission to establish clear rules for conducting audits of law enforcement agencies.**

This recommendation would clarify TCLEOSE's authority to perform audits of law enforcement agency records relating to personnel the Commission regulates. The Commission would develop rules that provide a framework for its auditing activities. Under this recommendation, TCLEOSE would audit each law enforcement agency in the state at least every five years. By rule, the Commission should address:

- ◆ which documents are subject to audit,
- ◆ timelines for compliance, and
- ◆ sanctions for noncompliance.

In implementing this recommendation, the Commission would need to develop policies to most efficiently coordinate its audit function among field service agents and enforcement or disciplinary staff. The use of field service agents across the state as an enforcement tool would allow the Commission to more efficiently audit law enforcement agencies, educate the Commission's regulated community, and promote voluntary compliance with Commission statute and rules.

### **3.6 Require the Commission to establish a risk assessment methodology.**

This recommendation would require TCLEOSE to develop a risk assessment methodology for its auditing activities in rule. The recommendation would also require the Commission to develop, by rule, timelines for resolutions of violations or deficiencies found in audits, as well as follow-up audits, and sanctions for noncompliance. A risk-based approach would allow the Commission flexibility

to balance its inspection schedule based on highest priority of risk against staff resources available to conduct audits. This recommendation would allow TCLEOSE to focus greater attention on law enforcement agencies with poor compliance histories and less attention on agencies that consistently follow the law, although all agencies would receive an audit at least once every five years.

### **3.7 Authorize TCLEOSE to levy administrative penalties against law enforcement agencies that violate the Commission's statute or rules.**

This recommendation would authorize the Commission to levy administrative penalties against law enforcement agencies that violate the Commission's statute or rules, providing TCLEOSE an additional enforcement tool to more effectively hold law enforcement agencies accountable. This recommendation would strengthen the Commission's ability to obtain compliance for violations such as failure to correct the deficiencies uncovered during a previous audit or failure to ensure new officers meet the Commission's minimum licensure standards.

This recommendation would establish \$1,000 per incident, per day as the maximum penalty. The Commission would develop an administrative penalty matrix that relates appropriately to different violations of its statute and rules. In developing this matrix, TCLEOSE should take into account the agency's compliance history and the seriousness and nature of the violation. TCLEOSE may develop these amounts in procedures and not in formal rules; however, the Commission should adopt the procedures and publish them in the Texas Register, after giving the public the opportunity to comment.

### **3.8 Require the Commission to analyze sources and types of complaints to identify and address problem areas and trends.**

This recommendation would require the Commission to develop a method for analyzing the sources and types of complaints and violations. The Commission would establish categories for complaints and violations, such as class or type of criminal offense, as well as a process to track cases through to their disposition. TCLEOSE would analyze jurisdictional complaints and violations to identify trends and regulatory problem areas. The Commission could use this analysis to focus its information and education efforts on specific areas.

### **3.9 Require the Commission to clearly outline its enforcement process and make information about the process available to licensees and the public.**

This recommendation would promote a better understanding of TCLEOSE's enforcement process and help licensees accused of violations prepare a response. The Commission must outline its enforcement process and the steps a jurisdictional complaint would take from initial filing until final disposition, including appeal options, various hearings, and a licensee's ability to obtain copies of complaint files. Information should be made available on the Commission's website and any other available resources. TCLEOSE must also make information about allegations and the Commission's investigation available to licensees in time for them to adequately participate in their defense.

### **3.10 Require the Commission to adopt procedures for all phases of the complaint process.**

Under this recommendation, TCLEOSE would be required to adopt rules or procedures that clearly lay out policies for all phases of the complaint process, including complaint receipt, investigation, adjudication, resulting sanctions, and disclosure to the public.

**3.11 Provide that TCLEOSE clarify its enforcement procedures for training providers.**

This recommendation would require TCLEOSE to develop clear guidelines, in rule, for the duties and obligations of training providers placed in at-risk probationary status. The guidelines would include procedures for imposing appropriate conditions with specific timelines, notifying training providers of the conditions and actions they need to take, and tracking training providers' progress. Under this recommendation, TCLEOSE would also specify what constitutes "substantial improvement" for a noncompliant training provider.

**Enforcement – Management Action**

**3.12 The Commission should track the number and types of nonjurisdictional complaints it receives.**

The Commission should document the nonjurisdictional complaints it receives by keeping track of the number of complaints received, the subject matter of complaints, and the agency to which the Commission referred the complaint. Doing so would allow the Commission to get a more accurate picture of the types of complaints received, address areas of confusion to the public, and better coordinate with other agencies.

**3.13 TCLEOSE should provide a simple complaint form and remove the requirement that the form be notarized.**

Making a complaint form for all complaints available on the Commission's website would assist licensees and the public to more easily prepare and file complaints. The Commission should make the form readily available and easy to find, with an explicit link on its website. TCLEOSE should not require that a complaint form be notarized. The notarization requirement for complaint forms is unnecessary, and accepting unnotarized complaints would make filing a complaint more convenient for the public. The website should also clarify the types of complaints to which the Commission can and cannot respond. The Commission then makes the decision as to which complaints are jurisdictional, and which are not.

**3.14 The Commission should consider using informal settlement conferences as part of its enforcement function.**

The Commission should consider using informal settlement conferences as part of its enforcement process to resolve complaints and negotiate agreed orders. The Commission would need to develop and adopt guidelines for the use of informal settlement conferences. Use of informal settlement conferences would enable a significant portion of the agency's complaint cases that are referred to SOAH to be resolved much more quickly. TCLEOSE's guidelines should detail an enforcement plan in a step-by-step informal complaint resolution process applied to all of the Commission's licensees. The guidelines would ensure fair and consistent treatment of licensees when negotiating the disposition of enforcement actions. As a model, TCLEOSE could look to the Texas Department of Licensing and Regulation, which has such a plan detailed on its website. TCLEOSE should adopt the plan by agency rule, providing an opportunity for public comment.

TCLEOSE staff could conduct informal settlement conferences. At least two staff with expertise in the relevant regulatory area could participate in these conferences with the licensee. The informal settlement conferences could include the Executive Director, a legal or enforcement staff member, an

investigator who worked on the case, and an attorney. Staff would use a penalty matrix to determine the appropriate disciplinary action to recommend to the full Commission. If the licensee agrees with the informal conference panel's recommendation, the Commission would vote to ratify, modify, or reject the recommendation. Staff could also refer cases for formal hearing before SOAH, and would report this information to the Commission. TCLEOSE may also allow for conferences to be conducted by telephone.

### **Fiscal Implication**

These recommendations would improve the efficiency of the Commission's licensing and enforcement processes, but savings would be minimal.

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- <sup>1</sup> Texas Occupations Code, sec. 1701.151 (2).
- <sup>2</sup> Texas Occupations Code, sec. 1701.406.
- <sup>3</sup> Texas Occupations Code, sec. 1701.255 (c)(2).
- <sup>4</sup> Texas Education Code, sec. 130.151.
- <sup>5</sup> Texas Occupations Code, sec. 1701.312.
- <sup>6</sup> Texas Occupations Code, sec. 1701.315.
- <sup>7</sup> Texas Government Code, sec. 419.906.





## *Responses to Issue 3*

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### **Recommendation 3.1**

***Remove the requirement for the Commission to establish standards for the certification of all county jail personnel.***

#### **Agency Response to 3.1**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 3.1**

None received.

#### **Against 3.1**

None received.

### **Recommendation 3.2**

***The Commission should update stakeholders on the appointment, duties, and progress of its informal advisory committees.***

#### **Agency Response to 3.2**

TCLEOSE management agrees with this recommendation. We will intensify our efforts to increase communication with all stakeholders. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 3.2**

None received.

#### **Against 3.2**

None received.

### **Recommendation 3.3**

***Remove the provision requiring applicants with high school equivalency certificates to obtain additional higher education hours.***

#### **Agency Response to 3.3**

TCLEOSE management agrees with this recommendation. The Commission requested legislation to do this in the 80th Legislature and the House bill did not pass. The Commission agrees with this recommendation and will seek legislation in the 81st Legislature. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.3**

None received.

**Against 3.3**

Tom Gaylor, Deputy Executive Director – Texas Municipal Police Association, Austin

**Recommendation 3.4**

**Require the Commission to clearly identify which crimes relate to the ability of a person to perform the occupation of county jailer.**

**Agency Response to 3.4**

TCLEOSE management disagrees with this recommendation. To provide consistency in administration of Chapter 1701 of the Occupations Code, TCLEOSE suggests the following modification.

**Agency Modification**

1. Exempt persons licensed under Chapter 1701 of the Occupations Code from requirements of Chapter 53 of the Occupations Code, similar to language proposed in S.B. 1750, 80th Legislature.

(Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**Staff Comment:** Peace officers, or applicants for licensure as a peace officer, described by Article 2.12, Code of Criminal Procedure, are exempt from compliance with Chapter 53 of the Texas Occupations Code. Jailers are not exempt from Chapter 53 of the Texas Occupations Code.

Under Chapter 53 of the Occupations Code, TCLEOSE has greater flexibility to consider extenuating circumstances when taking disciplinary action against, or denying, a jailer license on the grounds of a previous criminal conviction. If jailers were to be exempted from the requirements of Chapter 53 of the Occupations Code, TCLEOSE would not be required to consider factors such as the nature and seriousness of the crime, the time elapsed since the criminal activity, or any evidence of the person's rehabilitation.

**For 3.4**

None received.

**Against 3.4**

None received.

**Recommendation 3.5**

**Require the Commission to establish clear rules for conducting audits of law enforcement agencies.**

**Agency Response to 3.5**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.5**

None received.

**Against 3.5**

None received.

**Recommendation 3.6**

**Require the Commission to establish a risk assessment methodology.**

**Agency Response to 3.6**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.6**

None received.

**Against 3.6**

None received.

**Recommendation 3.7**

**Authorize TCLEOSE to levy administrative penalties against law enforcement agencies that violate the Commission’s statute or rules.**

**Agency Response to 3.7**

TCLEOSE management disagrees with this recommendation. One of TCLEOSE’s five strategies is to reduce the need for intrusive regulation. Administrative levies will not accomplish the voluntary compliance that this new strategy is designed to facilitate. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.7**

None received.

**Against 3.7**

None received.

**Recommendation 3.8**

**Require the Commission to analyze sources and types of complaints to identify and address problem areas and trends.**

**Agency Response to 3.8**

TCLEOSE management agrees with this recommendation. We will strengthen our reporting to assist in making progressive changes, such as the change requiring arresting agencies to report the arrest of a licensee. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.8**

None received.

**Against 3.8**

None received.

**Recommendation 3.9**

**Require the Commission to clearly outline its enforcement process and make information about the process available to licensees and the public.**

**Agency Response to 3.9**

TCLEOSE management agrees with outlining the jurisdictional complaint process. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.9**

None received.

**Against 3.9**

None received.

**Recommendation 3.10**

**Require the Commission to adopt procedures for all phases of the complaint process.**

**Agency Response to 3.10**

TCLEOSE management agrees with this recommendation. We will enhance the existing procedures for the handling of jurisdictional complaints and will work with the Commission to consider rule changes. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.10**

None received.

**Against 3.10**

None received.

**Recommendation 3.11**

***Provide that TCLEOSE clarify its enforcement procedures for training providers.***

**Agency Response to 3.11**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.11**

None received.

**Against 3.11**

None received.

**Recommendation 3.12**

***The Commission should track the number and types of nonjurisdictional complaints it receives.***

**Agency Response to 3.12**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.12**

None received.

**Against 3.12**

Larry E. Capps – Sugar Land

**Recommendation 3.13**

***TCLEOSE should provide a simple complaint form and remove the requirement that the form be notarized.***

**Agency Response to 3.13**

TCLEOSE management agrees with this recommendation for non-jurisdictional complaints, but will continue to require notarized complaints against TCLEOSE officers and employees. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

***Staff Comment:*** The staff recommendation applies only to jurisdictional complaints.

**For 3.13**

None received.

**Against 3.13**

None received.

***Recommendation 3.14***

***The Commission should consider using informal settlement conferences as part of its enforcement function.***

**Agency Response to 3.14**

TCLEOSE management disagrees with this recommendation. The State Office of Administrative Hearings (SOAH) has conducted seventy-four (74) TCLEOSE criminal misconduct hearings during fiscal years 2005, 2006, and 2007. This is less than twenty-five (25) yearly. This is not an undue hardship on SOAH or TCLEOSE considering that 958 misconduct cases were disposed of during these three fiscal years. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

**For 3.14**

None received.

**Against 3.14**

None received.

***Commission Decision***

Adopted Recommendations 3.1 through 3.14.

***Legislative Action***

House Bill 3389 includes 10 provisions that bring TCLEOSE in line with standard licensing agency practices, including the following.

- ◆ Removes the requirement for the Commission to establish standards for the certification of *all* county jail personnel. (Recommendation 3.1)
- ◆ Removes the provision requiring applicants with high school equivalency certificates to obtain additional higher education hours. (Recommendation 3.3)

- ◆ Requires the Commission to clearly identify which crimes relate to the ability of a person to perform the occupation of county jailer. (Recommendation 3.4)
- ◆ Requires the Commission to establish clear rules for conducting audits of law enforcement agencies. (Recommendation 3.5)
- ◆ Requires the Commission to establish a risk assessment methodology for its auditing activities. (Recommendation 3.6)
- ◆ Authorizes TCLEOSE to levy administrative penalties against law enforcement agencies that violate the Commission's statute or rules. (Recommendation 3.7)
- ◆ Requires the Commission to analyze sources and types of complaints to identify and address problem areas and trends. (Recommendation 3.8)
- ◆ Requires the Commission to clearly outline its enforcement process and make information about the process available to licensees and the public. (Recommendation 3.9)
- ◆ Requires the Commission to adopt procedures for all phases of the jurisdictional complaint process. (Recommendation 3.10)
- ◆ Provides that TCLEOSE clarify its enforcement procedures for training providers. (Recommendation 3.11)





# Issue 4

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## *The Commission's Ex Officio Members No Longer Provide a Needed Function.*

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### **Summary**

#### **Key Recommendation**

- ◆ Remove ex officio members from the Commission's composition.

#### **Key Findings**

- ◆ The Commission's ex officio members serve with very limited frequency, showing the lack of necessity for their input.
- ◆ The purpose of ex officio members is to provide needed expertise to a Commission that appointed members cannot provide.
- ◆ TCLEOSE has other means of obtaining needed expertise.

#### **Conclusion**

The Commission is composed of 14 members, five of whom are non-voting ex officio members. TCLEOSE's ex officio members do not represent expertise necessary for Commission decisions. Participation among ex officio members is infrequent and inconsistent, and the Commission has alternative means for soliciting input. Removing the Commission's ex officio members from the Commission's composition would eliminate the need for attendance of these members. The Commission would still obtain input from state agencies as needed through existing advisory committees and direct contacts.

## Support

**The Commission consists of 14 members, five of whom are non-voting ex officio members.**

- ◆ The Commission is composed of 14 members. The voting members include three members who are sheriffs, constables, or chiefs of police; three licensees in non-supervisory positions, two of whom must be peace officers; and three Governor-appointed public members. Statute also designates five, non-voting ex officio members. These ex officio members include:
  - the Commissioner of Higher Education at the Texas Higher Education Coordinating Board,
  - the Commissioner of the Texas Education Agency,
  - the Director of the Department of Public Safety,
  - the Executive Director of the Criminal Justice Division of the Office of the Governor, and
  - the Attorney General.

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*For more than half of the Commission's meetings since 2000, none of the five ex officio members attended.*

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**The Commission's ex officio members serve with very limited frequency, showing the lack of necessity for their input.**

- ◆ Most of the ex officio members have not had a consistent, sustained presence on the Commission. The table, *Attendance of Ex Officio Members*, lists the number of meetings each agency's ex officio member or designee has attended since 2000. The Commission generally meets four times per year for quarterly meetings, as well as for an annual strategic planning session. For more than half of the Commission meetings – 20 of the 38 – held from September 2000 to June 2008, the Commission did not have any ex officio members in attendance. At most, two of the members attended eight, or 21 percent, of the Commission meetings in the past eight years.

***Attendance of Ex Officio Members***

	Meetings Per Fiscal Year									Percent Overall
	2000	2001	2002	2003	2004	2005	2006	2007	2008	
<b>THECB</b>	2	1	1	0	0	2	0	2	0	21%
<b>TEA</b>	0	0	0	0	0	0	0	0	0	0%
<b>DPS</b>	1	3	2	0	0	1	0	0	1	21%
<b>CJD</b>	0	2	0	0	0	0	1	1	3	18%
<b>AG</b>	1	1	0	0	0	0	1	0	0	8%

- ◆ In comparison, if a voting Commission member is absent from more than half of the regularly scheduled Commission meetings, statute provides for the member's removal.<sup>1</sup> Statute does not allow for an ex officio member's removal.

**Ex officio members are supposed to provide needed expertise that appointed members cannot provide, but that is not the case for TCLEOSE.**

- ◆ Ex officio members should offer expertise and an outside perspective that is not currently available to a commission or board. They generally serve strictly in an advisory capacity. Commissions and boards also have ex officio membership to allow agencies with related functions to coordinate. The board of the Texas Office of Rural Community Affairs (ORCA), for example, includes the Commissioner of Agriculture as a non-voting, ex officio member.<sup>2</sup> The inclusion of the Agriculture Commissioner is intended to facilitate coordination in rural economic development by linking the two agencies – ORCA and the Texas Department of Agriculture – that jointly administer the Texas Capital Fund, and to promote the importance of agriculture in rural economies.
- ◆ With the exception of the Criminal Justice Division of the Governor's Office, which provides valuable input on law enforcement and criminal justice in general, the Commission's ex officio members do not represent needed expertise on the Commission. THECB, for example, theoretically advises TCLEOSE when the Commission makes curricular changes that could affect institutions of higher learning, but such changes rarely occur.

**TCLEOSE has other means of obtaining needed expertise.**

- ◆ TCLEOSE has 19 informal advisory committees that provide expertise on an array of law enforcement and corrections topics. The committees consist of individuals with expertise in a given law enforcement or corrections area, who provide input regarding requirements for training course curricula and proficiency certificates. A representative from the Attorney General's Office already serves on one of the committees, and DPS employees serve on six of the committees as licensees. Some of the topics of these advisory committees include law, wellness, traffic, patrol, and professionalism.
- ◆ TCLEOSE staff also have the option of contacting other agencies, such as THECB, if the Commission needs outside consultation on a matter. TCLEOSE also receives input through public comment at Commission meetings. Representatives of other agencies, such as the Texas Commission on Jail Standards (TCJS), regularly provide input through the TCLEOSE's annual strategic plan meeting. For example, TCJS provided valuable input regarding the creation of a separate, shortened jailer training course for jailers who supervise inmates outside of the jail facility.

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*The Commission does not need expertise intended by the ex officio positions.*

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*TCLEOSE has 19 informal advisory committees that provide expertise.*

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## Recommendation

### Change in Statute

#### 4.1 Remove ex officio members from the Commission's composition.

Removing ex officio members from the Commission's required membership would allow the Commission the flexibility to work with and obtain input from other state agencies, without unnecessary attendance of ex officio representatives at Commission meetings. TCLEOSE could incorporate the state agencies that ex officio members represent into the Commission's advisory committees, as needed.

### Fiscal Implication

This recommendation would not have a fiscal impact to the State.

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<sup>1</sup> Texas Occupations Code, sec. 1701.056 (a)(5).

<sup>2</sup> Texas Government Code, sec. 487.021 (b)(4).

## *Responses to Issue 4*

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### **Recommendation 4.1**

**Remove ex officio members from the Commission's composition.**

#### **Agency Response to 4.1**

TCLEOSE management does not take a position on this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 4.1**

None received.

#### **Against 4.1**

None received.

## *Commission Decision*

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Adopted Recommendation 4.1.

## *Legislative Action*

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House Bill 3389 removes the following ex officio members from the Commission:

- ◆ the Commissioner of Higher Education of the Texas Higher Education Coordinating Board;
- ◆ the Commissioner of the Texas Education Agency;
- ◆ the Director of the Department of Public Safety;
- ◆ the Executive Director of the Criminal Justice Division of the Office of the Governor; and
- ◆ the Attorney General. (Recommendation 4.1)



# Issue 5

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## *Texas Has a Continuing Need for the Texas Commission on Law Enforcement Officer Standards and Education.*

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### **Summary**

#### **Key Recommendation**

- ◆ Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 years.

#### **Key Findings**

- ◆ Texas has a continuing need to establish and enforce minimum standards for law enforcement and county corrections personnel.
- ◆ Review of the Commission and other related agencies did not reveal any significant beneficial alternatives for consolidation or transfer of functions.
- ◆ All 50 states train and regulate law enforcement personnel in some capacity.

#### **Conclusion**

Law enforcement and corrections personnel perform a critical role in protecting public safety and are authorized to exercise extraordinary powers over other citizens. For these reasons, setting and enforcing minimum standards for law enforcement and county corrections personnel is vital to the State. Sunset staff's evaluation of TCLEOSE's functions and structure found that the Commission is uniquely positioned to establish standards and licensure for law enforcement and county corrections personnel, and to license and approve training providers. The Commission should be continued for another 12 years.

## Support

**The Texas Commission on Law Enforcement Officer Standards and Education seeks to ensure competent and highly trained law enforcement and county corrections personnel in Texas.**

- ◆ The Legislature established the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) in 1965 to set voluntary training and education standards for law enforcement. Standards for peace officers became mandatory in 1969, followed by regulation of county jailers and telecommunicators. TCLEOSE's mission is to ensure highly trained and ethical law enforcement and county corrections personnel.
- ◆ TCLEOSE issues peace officer and jailer licenses and telecommunicator acknowledgements, as well as 23 different types of certification.

### **TCLEOSE Proficiency Certificates**

- ◆ Peace Officer: Basic, Intermediate, Advanced, Master
- ◆ Jailer: Basic, Intermediate, Advanced, Master
- ◆ Telecommunicator: Temporary, Basic, Intermediate, Advanced
- ◆ Academic Recognition
- ◆ Civil Process
- ◆ Crime Prevention Inspector
- ◆ Firearms Instructor
- ◆ Firearms Proficiency for Community Supervision Officers
- ◆ Homeowners Insurance Inspector
- ◆ Instructor
- ◆ Investigative Hypnosis
- ◆ Mental Health Officer
- ◆ Special Investigator
- ◆ Standardized Field Sobriety Testing Practitioner (SFST)

The textbox, *TCLEOSE Proficiency Certificates*, lists the various certificates the Commission issues. TCLEOSE regulates 94,337 individual licensees and telecommunicator acknowledgement holders who operate within 2,555 law enforcement agencies located throughout the State. Many individual licensees hold multiple licenses, such as peace officer and jailer licenses. The Commission currently regulates 70,155 peace officer licenses, 26,487 jailer licenses, and 9,041 telecommunicator acknowledgements. The Commission also approves and evaluates 300 training providers and develops and maintains training and continuing education courses. Commission staff investigate and resolve complaints and take disciplinary actions on violations of TCLEOSE statute and rules. In addition, TCLEOSE is responsible for maintaining and adding names to the Texas Peace Officers' Memorial.

- ◆ In fiscal year 2007, the Commission employed a staff of 42 – including four field service agents located throughout the state – and operated on a budget of \$2.5 million from a dedicated account funded primarily by court fees on felonies and misdemeanors. The Commission consists of nine voting members and five non-voting ex officio members.



**Texas has a continuing need to establish and enforce minimum standards for law enforcement and county corrections personnel.**

- ◆ Law enforcement has an impact on every community in Texas. Peace officers have the power to arrest and detain other citizens, denying them their civil liberties. Jailers are responsible for the safety of those under confinement, keeping potentially dangerous individuals out of communities. In addition, peace officers are armed and, under certain circumstances, both peace officers and jailers may use lethal force. For these reasons, TCLEOSE's functions serve an important public safety purpose: the Commission ensures that only qualified individuals are able to receive and maintain a peace officer or jailer license.
- ◆ Because law enforcement needs vary, the State needs to maintain a basic set of standards to ensure consistency in law enforcement across the state. For example, some licensees operate in heavily staffed agencies, while others work at agencies with a staff of one. Some agencies are located in large, densely populated metropolises and others in small towns or rural areas. The types of crimes committed and the types of offenders also may vary depending on size, location, and population demographics. TCLEOSE, therefore, protects public safety by balancing license and training standards to ensure consistency in training for law enforcement and county corrections personnel in every Texas community, while providing training flexibility for officers to respond to the specific needs of communities they serve.
- ◆ Texas needs to ensure current licensees continue to meet professional standards. TCLEOSE takes disciplinary action against licensees who commit criminal offenses to remove these licensees from of the profession. TCLEOSE seeks license suspension or revocation for licensees convicted of, or placed on community supervision for, criminal offenses above, and including, Class B misdemeanors as well as some Class C misdemeanors. Commission staff also investigate possible rule and law violations, including violations of continuing education requirements.

For training providers, disciplinary action results from failure to get out of at-risk status, usually because of consistently low pass rates on the licensure exam. In fiscal year 2007, the Commission took disciplinary action on 224 licenses for criminal offenses and issued 93 reprimands against licensees that failed to report an arrest or conviction.

**Review of the Commission and other related agencies did not reveal any significant beneficial alternatives for consolidation or transfer of functions.**

- ◆ No other agency is responsible for licensing or establishing minimum standards for law enforcement and county corrections personnel. Sunset

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*TCLEOSE ensures only qualified people hold a peace officer or jailer license.*

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*In fiscal year 2007, TCLEOSE took action against 224 licensees for criminal offenses.*

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staff examined organizational alternatives for the State's efforts to regulate law enforcement and county corrections but did not find clear opportunities for merging or transferring the regulation of law enforcement and county corrections personnel to another agency.

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*Other state agencies lack the expertise or capacity to absorb the Commission's functions.*

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- ◆ Other agencies, such as the Department of Public Safety, the Texas Parks and Wildlife Department, and the Texas Alcoholic Beverage Commission, employ a sizeable concentration of law enforcement officers. However, none of these agencies set standards for law enforcement, and having these agencies perform regulatory responsibilities related to law enforcement could present a potential conflict of interest.
- ◆ Other state agencies, including the following, lack the expertise or capacity to absorb the Commission's functions. While consolidation could be feasible in some cases, consolidation would not yield significant benefits to the State.

The Texas Commission on Jail Standards (TCJS) establishes and enforces minimum standards for jail construction, equipment, maintenance, and operations. While moving the licensure and regulation of jailers to TCJS is feasible, TCJS does not currently establish or provide minimum standards for the regulation of individuals. TCJS only enforces standards concerning county jail facilities. In addition, sheriffs would still be accountable to and have to interface with both TCLEOSE and TCJS.

The Texas Commission on Fire Protection (TCFP) establishes and enforces standards for the training, certifying, and equipping of paid fire fighting personnel. TCFP has fewer staff and resources than TCLEOSE, and lacks the capacity to license and set minimum standards for law enforcement and county corrections personnel.

The Texas Department of Licensing and Regulation (TDLR) serves as an umbrella licensing agency for 20 different regulatory programs. Moving TCLEOSE's responsibilities to TDLR would require a direct transfer of resources, yielding limited administrative savings, but providing no significant benefits to the State.

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*Forty-three states license and regulate law enforcement personnel in some capacity.*

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**All 50 states train and regulate law enforcement personnel in some capacity.**

- ◆ All states have established minimum training standards for law enforcement personnel, but the structure by which states administer law enforcement training varies.<sup>1</sup> In some states, standards for law enforcement personnel are voluntary, but other states enforce these requirements through licensure. Forty-three states license and regulate law enforcement personnel in some capacity, but many states provide exceptions for certain groups within law enforcement, such as certain types of elected officials or state police.<sup>2</sup> Twenty-one states, including Texas, require that all law enforcement personnel be licensed.<sup>3</sup> All

states enforce basic training standards through three general models of approving basic training academies. Sixteen states – including Texas – certify police academies, 23 states have one state academy, and 11 states have a state academy but also certify other academies.<sup>4</sup>

- ◆ The degree and manner in which other states regulate county corrections personnel also varies. Twenty-four states require that county corrections officers be licensed or certified to operate within a county jail. Some state peace officer standard and training entities do not regulate county corrections officers. Others regulate county corrections officers along with parole and probation officers. Some states, meanwhile, license all corrections personnel – including those that operate in state prisons and county jails – through a State Department of Corrections or Department of Public Safety.

## Recommendation

### Change in Statute

#### 5.1 Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 years.

This recommendation would continue the Texas Commission on Law Enforcement Officer Standards and Education for the standard 12-year period.

### Fiscal Implication

If the Legislature continues TCLEOSE using the existing organizational structure, the Commission's annual appropriation of \$2.5 million would continue to be required for its operations.

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<sup>1</sup> Hawaii does not have a set of statewide standards, but Honolulu Police Department, whose jurisdiction covers the island of Oahu, sets its own minimum standards.

<sup>2</sup> International Association of Directors of Law Enforcement Standards and Training, "Unlicensed Police: Sworn Law Enforcement Officers Exempt from State POST Certification Requirements," *Newsletter*, Volume 18, Number 4 (October 2007), pp. 4-7 (newsletter).

<sup>3</sup> Ibid.

<sup>4</sup> Honolulu Police Department in Hawaii operates its own academy, but does not operate a state academy.



## *Responses to Issue 5*

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### **Recommendation 5.1**

**Continue the Texas Commission on Law Enforcement Officer Standards and Education for 12 years.**

#### **Agency Response to 5.1**

TCLEOSE management agrees with this recommendation. (Timothy Braaten, Executive Director – Texas Commission on Law Enforcement Officer Standards and Education)

#### **For 5.1**

Patricia Cross, Manager, Training and Education Development – Denco Area 9-1-1 District / Texas 9-1-1 Trainers, Lewisville

Richard Zavala Jr., Manager – North Central Texas Council of Governments Regional Police Academy, Arlington

James McLaughlin, General Counsel and Executive Director – Texas Police Chiefs Association, Elgin

#### **Against 5.1**

None received.

## *Commission Decision*

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Adopted Recommendation 5.1.

## *Legislative Action*

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House Bill 3389 continues the Texas Commission on Law Enforcement Officer Standards and Education for the standard 12-year period. (Recommendation 5.1)



# ACROSS-THE-BOARD RECOMMENDATIONS



## Texas Commission on Law Enforcement Officer Standards and Education

Recommendations	Across-the-Board Provisions
Already in Statute	1. Require public membership on the agency's policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency's policymaking body.
Already in Statute	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Update	6. Require training for members of the policymaking body.
Already in Statute	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Update	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Apply	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

### *Commission Decision*

Adopted staff recommendations.

### *Legislative Action*

Adopted Commission decision.





# AGENCY INFORMATION



# Agency Information

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## Agency at a Glance

The Legislature established the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) in 1965 to set voluntary training and education standards for law enforcement. Standards for peace officers became mandatory in 1969, followed by regulation of county jailers and telecommunicators. The Commission also licenses and approves training providers for both basic training and continuing education. The Commission does not investigate complaints against, or alleged crimes by, individual law enforcement or county corrections officers. The mission of the Commission is to ensure highly trained and ethical law enforcement and county corrections personnel. The agency accomplishes its mission by performing the following main functions:

- ◆ licensing and certifying qualified individuals as peace officers, county jailers, and telecommunicators;
- ◆ approving and evaluating training providers;
- ◆ developing and maintaining basic training and continuing education courses;
- ◆ taking disciplinary actions against licensees to enforce statute and rules; and
- ◆ maintaining and adding names to the Texas Peace Officers' Memorial.

## Key Facts

- ◆ **Funding.** In fiscal year 2007, the Commission operated on a budget of \$3 million from a dedicated account funded primarily by court fees on felonies and misdemeanors.
- ◆ **Staffing.** The Commission employed a staff of 42 in fiscal year 2007, four of whom were field agents working across the state.
- ◆ **Licensing.** The Commission regulates 70,155 peace officers, 26,487 jailers, and 9,041 telecommunicators. Because some licensees hold both peace officer and jailer licenses, TCLEOSE regulates a total of 94,337 individuals. In fiscal year 2007, the Commission issued 13,547 new licenses and 34,383 certificates.
- ◆ **Enforcement.** In fiscal year 2007, the Commission took disciplinary action on 224 licensees for criminal offenses, issued 93 reprimands against licensees that failed to report an arrest or conviction, and monitored approximately 800 cases pending court disposition.

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*Information about the regulation of law enforcement and county corrections personnel can be found on the Commission's website, [www.tcleose.state.tx.us](http://www.tcleose.state.tx.us).*

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- ◆ **Training.** The Commission regulates 283 training providers, including 102 academies, 6 academic alternatives, and 191 contract training providers. The Commission has 618 approved training courses.

## Major Events in Agency History

- 1965 The Legislature creates the Texas Commission on Law Enforcement Officer Standards and Education to establish voluntary training and certification standards for peace officers.
- 1969 Peace officer training and certification standards become mandatory.
- 1979 TCLEOSE begins certifying county jailers.
- 1981 The Commission transitions from certifying to licensing law enforcement personnel.
- 1999 TCLEOSE is charged with designing, funding, constructing, and enrolling officers into the Texas Peace Officers' Memorial.
- 2001 The Legislature requires peace officers and jailers to take continuing education courses on civil rights, cultural diversity, and racial sensitivity every 48 months. Peace officers must also complete special investigative topics on child abuse, family violence, sexual assault, and sex offender characteristics.
- 2005 Law enforcement agencies must obtain copies of the separation forms (called F-5 forms) for all licensees before hire. Individuals may appeal the contents of the F-5 form to TCLEOSE.
- 2007 The Legislature requires TCLEOSE to suspend an individual's license after two dishonorable discharges.

## Organization

### Policy Body

The Commission on Law Enforcement Officer Standards and Education consists of nine voting members – three members who are sheriffs, constables, or chiefs of police; three licensees in non-supervisory positions, two of whom must be peace officers; and three public members – appointed by the Governor with the advice and consent of the Senate. Commission members serve staggered six-year terms, with the term of one member from each category expiring after each two-year period. The Commission also has five non-voting ex officio members, which include: the Commissioner of the Texas Higher Education Coordinating Board, the Commissioner of the Texas Education Agency, the Director of the Department of Public Safety, the Executive Director of the Criminal Justice Division of the Office of the Governor, and the Attorney General.

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*The Commission consists of nine voting and five ex officio members.*

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The Governor designates the Commission's presiding officer, while Commission members elect other officers. The table, *Texas Commission on Law Enforcement Officer Standards and Education Policy Body*, identifies current Commission members.

***Texas Commission on Law Enforcement Officer Standards and Education  
Policy Board***

<b>Member</b>	<b>City</b>	<b>Qualification</b>	<b>Term Expiration</b>
Charles Hall Presiding Officer	Midland	Constable	2011
Gary Swindle Assistant Presiding Officer	Tyler	Chief of Police	2009
Ada Brown	Dallas	Public Member	2013
Allan Cain	Carthage	Public Member	2011
Roman Chavez	Houston	Peace Officer	2009
Stephen Griffith	Sugarland	Peace Officer	2013
Betty Harper-Murphy	Fredericksburg	Public Member	2009
Patt Scheckell-Hollingsworth	Arlington	Peace Officer	2011
Joel Richardson	Canyon	Sheriff	2013
The Honorable Greg Abbott	Austin	Ex Officio Attorney General	N/A
Thomas A. Davis	Austin	Ex Officio Director, Department of Public Safety	N/A
Ken Nicolas	Austin	Ex Officio Executive Director, Criminal Justice Division of the Office of the Governor	N/A
Robert P. Scott	Austin	Ex Officio Director, Texas Education Agency	N/A
R. David Couch	Austin	Ex Officio Director of Professional Programs, Texas Higher Education Coordinating Board	N/A

The Commission sets policies and adopts rules to carry out statutory provisions, determines eligibility for licensure for certain applicants, approves training programs, gives final approval for disciplinary actions, and hires the agency's Executive Director. The Commission typically meets quarterly.

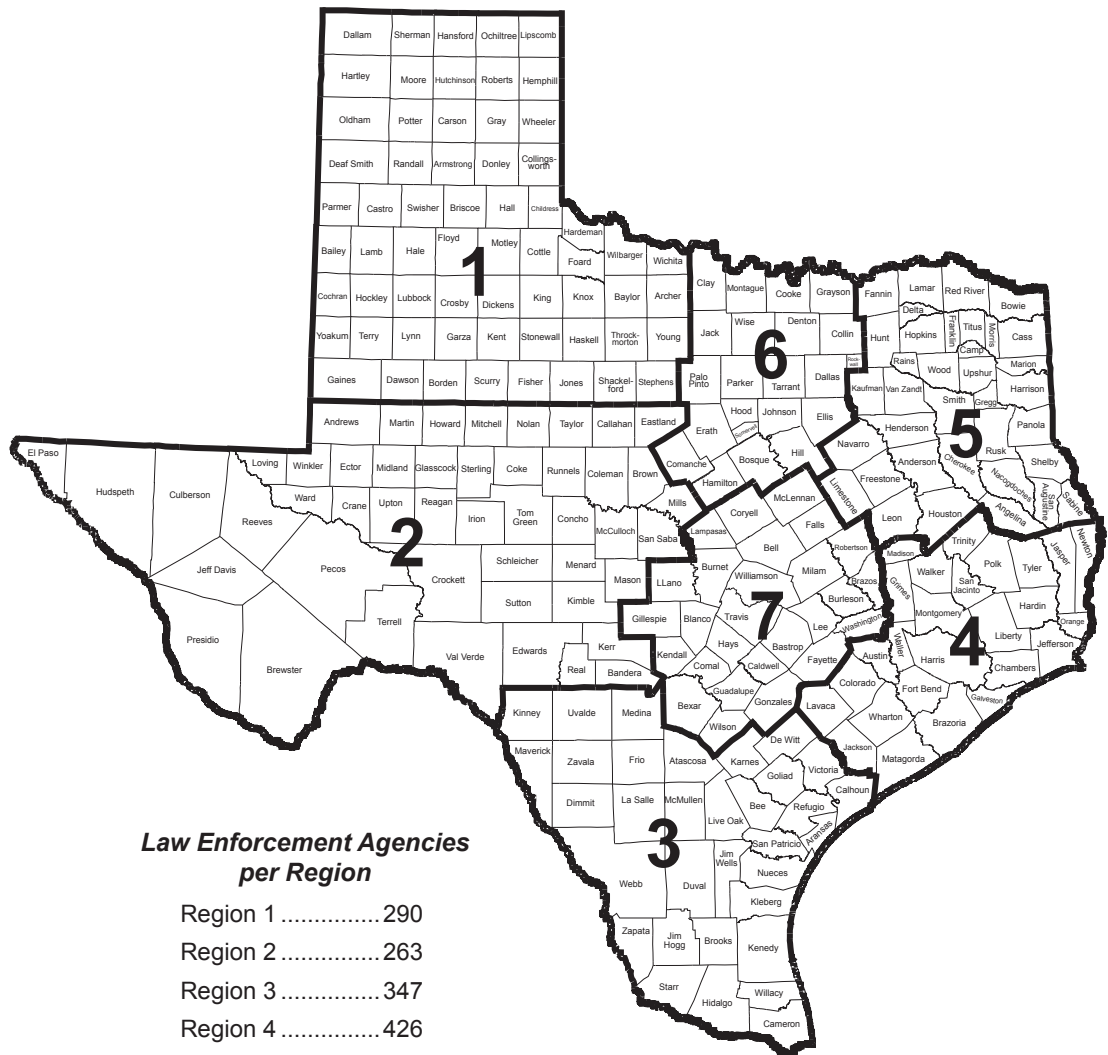
The Commission has three standing subcommittees. The Executive Committee consists of three Commission members and meets as needed to advise the Executive Director on issues not requiring a special called meeting between Commission meetings. The Commission's Audit Committee,

which includes four Commission members, meets to review and discuss the Commission’s internal and external audits, and adopts audit recommendations. The Commission’s Legislative Committee consists of four members who meet as needed to review needed statutory and rule changes.

**Staff**

The Commission has a staff of 42, four of whom are field staff located across the state. The map below shows the regional boundaries of the Commission’s field staff.

**Texas Commission on  
Law Enforcement Officer Standards and Education  
Regional Map**



**Law Enforcement Agencies  
per Region**

Region 1 .....	290
Region 2 .....	263
Region 3 .....	347
Region 4 .....	426
Region 5 .....	436
Region 6 .....	421
Region 7 .....	414

The Executive Director, under the direction of the Commission, manages the agency's day-to-day operations and implements policies set by the Commission. Employees work in three general areas:

- ◆ Education and Training;
- ◆ Credentialing, Enforcement and Legal; and
- ◆ Fiscal and Staff Services.

Staff primarily processes license applications; investigates complaints; develops, maintains, and approves training curricula; administers licensing exams; approves name additions to the Texas Peace Officers' Memorial; and delivers continuing education training.

Appendix A compares the agency's workforce composition to the minority civilian workforce over the past three years. Generally, the Commission met the civilian workforce percentages in most job categories. In those categories where the Commission experienced difficulty meeting the percentages, the agency typically has a small number of employees.

## Funding

### Revenues

In fiscal year 2007, the Commission received \$4 million, \$3.5 million of which is from a dedicated account funded by court fees assessed on criminal offenses. The Commission also receives approximately \$500,000 in appropriated receipts, proficiency certificate fees, and license reinstatement fees per year. Unlike most licensing agencies, the Commission does not charge license fees.

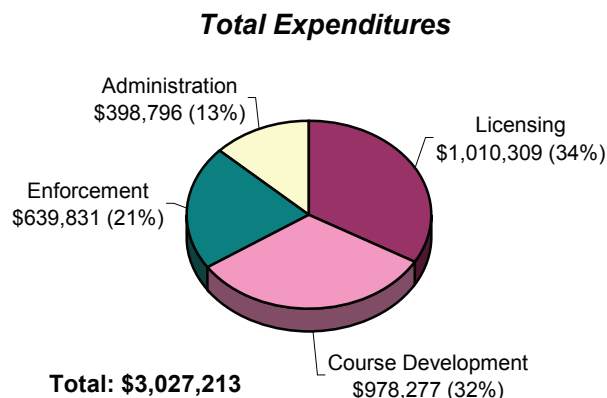
### Expenditures

In fiscal year 2007, the Commission spent \$3 million on four main areas: licensing, course development, enforcement, and administration, as detailed in the pie chart, *Total Expenditures*. The majority of the Commission's expenses were spent in licensing and training areas.

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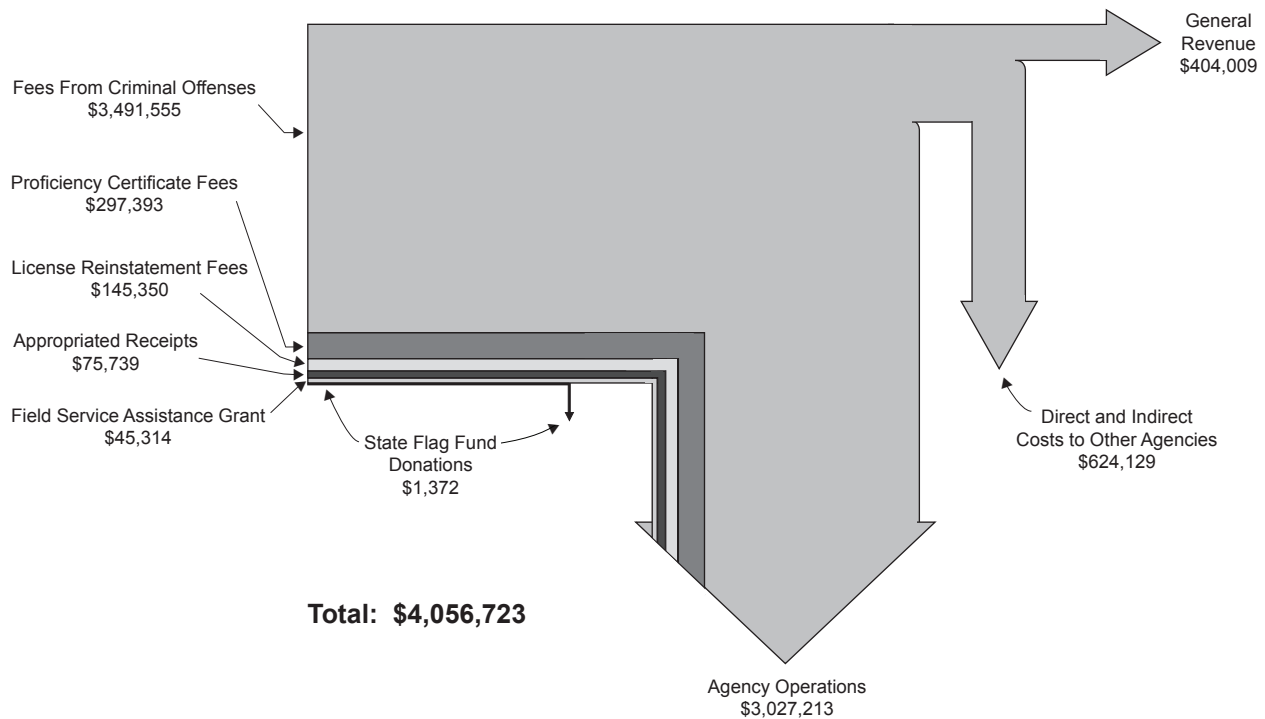
*Unlike most  
licensing agencies,  
the Commission  
does not charge  
license fees.*

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The chart, *Flow of TCLEOSE Revenues and Expenditures*, breaks down the revenues and expenditures for fiscal year 2007 for the agency. Because not all of the funds dedicated to TCLEOSE are appropriated by the Legislature, the non-appropriated portion is swept to the General Revenue fund. Subtracting the agency's operating expenses and direct and indirect costs incurred by other agencies from total revenues, \$404,009 is set to be swept to the General Revenue fund in fiscal year 2007 for other state purposes.

**Flow of TCLEOSE Revenues and Expenditures  
Fiscal Year 2007**




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*The Commission  
has \$404,009  
set to be swept  
into General  
Revenue from  
fiscal year 2007.*

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Appendix B describes the agency's use of Historically Underutilized Businesses (HUBs) in purchasing goods and services for fiscal years 2004-2007. The agency makes purchases in four categories: special trade, professional services, other services, and commodities. During the past four fiscal years, the agency met or exceeded the statewide goals for the commodities category. The Commission exceeded some of the statewide purchasing goals, but had difficulty meeting other goals because the agency does not make many purchases in some categories and the agency purchases from contracts where HUB vendors are not always available.

**LEOSE Funds**

Five percent of the dedicated funds from court fees assessed on criminal offenses is used to fund TCLEOSE and Law Enforcement Officer Standards and Education (LEOSE) training funds. While the agency gets one-third of this funding, described above, two-thirds of this money is distributed to



local law enforcement agencies by the Comptroller's Office to supplement continuing education costs for law enforcement and county corrections personnel. TCLEOSE provides the Comptroller with a list of all the law enforcement agencies in Texas, as well as the number of licensees at each agency. The Comptroller distributes LEOSE funds to law enforcement agencies based on a formula considering the number of agencies and the number of licensees at each agency. In fiscal year 2007, the Comptroller's Office distributed \$5,991,876 to local law enforcement agencies to supplement continuing education costs.

## Agency Operations

The primary functions of the Commission on Law Enforcement Officer Standards and Education include setting minimum training standards, licensing and certifying peace officers, jailers, and telecommunicators, and disciplining licensees that violate Commission rules or statute. In fiscal year 2007, the Commission regulated a total of 94,337 jailers, peace officers, and telecommunicators.

### Credentialing

#### *Licensing Requirements*

Applicants for licensure as a peace officer or jailer must have a high school diploma, a GED with at least 12 college hours, or an honorable discharge from the military after at least 24 months of active duty service. TCLEOSE requires local law enforcement agencies to conduct a psychological and physical examination as well as a fingerprint-based criminal history check on all applicants for licensure. A conviction or court-ordered community supervision for any criminal offense above the grade of Class B misdemeanor, a Class B misdemeanor within the last ten years from the date of the court order, and certain Class C misdemeanors bar an individual from licensure.

Peace officer applicants may either be sponsored in basic training by their employing law enforcement agency or pay their own way through basic training. After successful completion of at least 618 hours of basic training, the training provider may endorse the applicant to take the licensing exam. Individuals may take the licensing exam at one of 63 testing sites located throughout the state, including at TCLEOSE's Austin headquarters. Individuals receive their exam results immediately. In fiscal year 2007, 3,854 students attempted the peace officer exam, 91 percent of which passed on their first attempt, and 3,367 students attempted the county jailer exam, 84 percent of which passed on the first attempt. If a peace officer is not already employed, the applicant has two years to gain employment as a law enforcement officer or else the applicant must retake the licensing exam. The hiring agency sends TCLEOSE a license application on the applicant's behalf, and verifies that the applicant has passed a criminal history check and a psychological and physical exam. TCLEOSE sends the peace officer license to the hiring

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*The Comptroller's office distributed almost \$6 million to law enforcement agencies to supplement continuing education costs.*

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*Convictions or court-ordered community service above a Class B misdemeanor bar an individual from licensure for life.*

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**Peace Officer and Jailer  
Licensing Qualifications**

- ◆ Complete basic training.
- ◆ Pass the licensing exam.
- ◆ Obtain a declaration of satisfactory psychological health.
- ◆ Pass a physical exam and be free from drug dependency.
- ◆ Demonstrate weapons proficiency.
- ◆ Be a U.S. citizen at least 18 years of age for jailers, or, for a peace officer, be at least 21 years of age, or 18 years of age plus 60 college hours or two years of military service.

law enforcement agency. The textbox, *Peace Officer and Jailer Licensing Qualifications*, details the requirements for licensure.

TCLEOSE licenses county jailers and jailers working in for-profit jails. Individuals may operate with a temporary jailer license for up to one year, by which time they must complete 96 hours of basic training and pass the licensing exam. If the individual does not complete the training or pass the licensing exam for a jailer license within one year, the temporary jailer license expires, and the person must wait one full year before becoming eligible for a new temporary license.

Law enforcement agencies that have 20 or more employees and offer 24-hour service must report their telecommunicators to TCLEOSE. Telecommunicators obtain a temporary telecommunicator acknowledgement for up to one year, by which time they must complete a 40-hour training course and receive a telecommunicator acknowledgement. Temporary

telecommunicators do not have to meet any entry requirements to receive an acknowledgement, nor must they pass an exam. Like temporary jailer licenses, if the temporary telecommunicator does not complete training within one year, the temporary telecommunicator acknowledgement expires and the telecommunicator must wait one year before becoming eligible for a new temporary acknowledgement.

**Other Law Enforcement and Armed Forces Personnel**

To obtain a Texas peace officer license, out-of-state and federal law enforcement officers must submit a letter to TCLEOSE from their previous employer verifying the number of basic training hours completed and a letter from the police officer standards and training agency in their home state indicating the officer's license is in good standing. Recipients of an honorable military discharge after at least 24 months of active duty service, with a Military Police specialty may apply for a Texas peace officer license by submitting a copy of their military discharge papers to TCLEOSE. If an individual is still serving active duty when applying, however, the individual's commanding officer may submit a letter verifying the applicant is in good standing with the military. These other law enforcement officers and armed forces personnel must complete a 120-hour supplemental course in Texas law before they are eligible to take the licensing exam. The Commission may allow a person trained and certified by the Texas Department of Criminal Justice as a corrections officer and appointed as a part-time county jailer to take the basic jailer exam without completing the basic training requirement, based on experience.

**Training**

TCLEOSE sets minimum basic training enrollment, licensure, and proficiency standards for peace officers, jailers, and telecommunicators. The Commission also creates and updates basic training curriculum, designs

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*Out of state  
and other law  
enforcement  
personnel must  
complete a 120-  
hour course in  
Texas law to  
become a Texas  
peace officer.*

---

and maintains the licensing exam, and approves and monitors licensed and contract training providers. The Commission regulates 283 training providers.

### **Licensing and Evaluating Training Providers**

The Commission approves three types of training providers, detailed in the textbox, *Law Enforcement Training Providers*. Training provider applicants must meet the following criteria for approval: submit an assessment of local training needs, pass a facility inspection, pass a review of its curricula and instructional materials, as well as designate a training coordinator. Training providers are statutorily required to assemble an advisory board.

The Commission conducts evaluations to ensure that training providers are in compliance with Commission rules and statute. In fiscal year 2007, staff conducted 106 evaluations.

#### **Law Enforcement Training Providers**

**Licensed law enforcement academies** provide basic and advanced training for law enforcement and county corrections personnel. Law enforcement academies are affiliated either with a law enforcement agency or a council of government.

**Licensed academic alternatives** are colleges or universities that teach a series of academic and skills courses in lieu of basic training. Students complete basic training as a requirement for an associate's degree.

**Contract training providers** are law enforcement agencies or private entities that provide continuing education. Sheriff's offices are the only contract trainers that may teach a basic licensing course – the basic jailer course.


### **Course Development and Maintenance**

TCLEOSE sets minimum peace officer and jailer curriculum standards and learning objectives for each training course, including legislatively mandated course topics. As part of its effort to ensure that training for peace officers, jailers, and telecommunicators in Texas is current and in line with national standards, TCLEOSE updates course curriculum at least every two years to reflect changes in rule, statute, and law enforcement trends. The Commission relies on curriculum committees, which consist of individuals in the law enforcement field with expertise in a given area, who volunteer to assist in developing and maintaining course curricula. These committees, which are responsible for 13 specialized areas of law enforcement, help develop requirements for legislatively mandated courses, proficiency certificates, basic training, and other training courses. TCLEOSE also frequently reviews curricula and content for new training courses offered by contract training providers.

### **Continuing Education**

Statute requires peace officers to take 40 hours of continuing education and training every 24 months. TCLEOSE may reprimand or suspend the license of a person that fails to obtain all continuing education requirements within the training unit. The Legislature also mandates training every 48 months covering the topics of civil rights, racial sensitivity, cultural diversity, and special investigative topics, which include child abuse, family violence, sexual assault, and sex offender characteristics for peace officers. Jailers must complete continuing education in civil rights, racial sensitivity, and cultural diversity every 48 months.

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*TCLEOSE  
provides  
continuing  
education to  
licensees online  
24 hours a day.*

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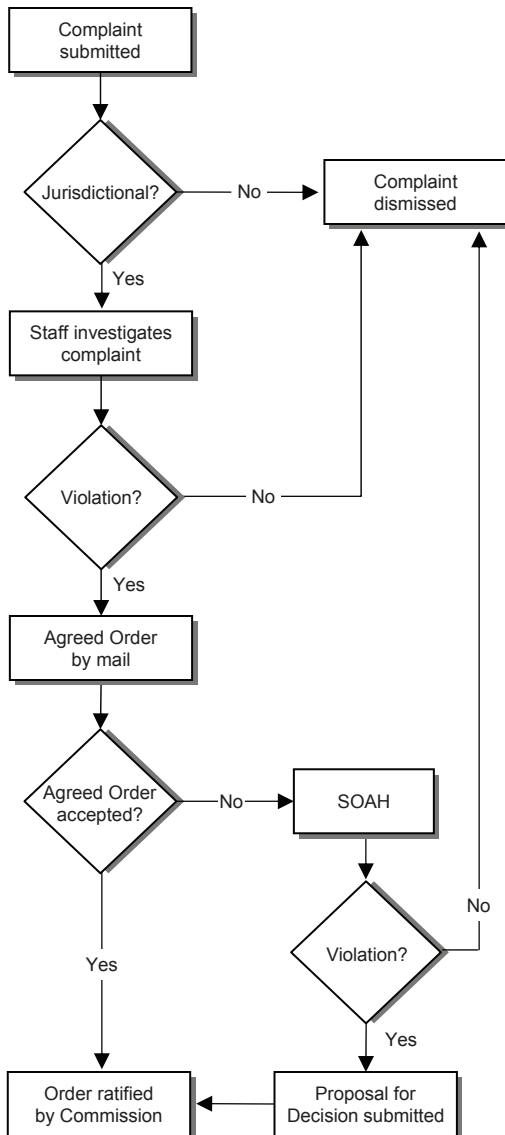
## POSEIT

The Commission offers continuing education online through its Peace Officer Standards and Education Internet Training (POSEIT) program. POSEIT has been in operation since 2001 and has delivered over 2 million hours of training to date. POSEIT offers 23 training courses, including state mandated courses, available to licensees 24 hours a day, seven days a week. POSEIT allows peace officers and jailers to obtain all required continuing education and mandated course topics, except for crisis intervention training, for each training cycle at no cost.

## Enforcement

The Commission receives and investigates complaints regarding alleged violations of the Commission's statute and rules. For peace officers and jailers, the Commission primarily acts on violations of continuing education requirements and seeks license action against licensees convicted of, or placed on community supervision for, criminal offenses above, and including some, Class C misdemeanors. The majority of complaints originate from law enforcement agencies or licensees themselves, as Commission rules require the licensee, the appointing agency, and the arresting agency to report arrests and charges to the Commission. For training providers, disciplinary action results from failure to get out of at-risk status, usually because of consistently low pass rates on the licensing exam. The flow chart, *TCLEOSE Enforcement Process*, illustrates how the agency resolves complaints against licensees.

### TCLEOSE Enforcement Process



The flow chart, *TCLEOSE Enforcement Process*, illustrates how the agency resolves complaints against licensees.

### Investigations

Statute requires the Commission to revoke the license of a licensee convicted of a felony. By rule, the Commission may seek a ten-year license suspension against any licensee convicted of, or placed on community supervision for, an offense above the grade of Class C misdemeanor. The Commission may also suspend the license of a licensee convicted of a Class C misdemeanor that directly relates to the licensee's job duties, such as abuse of official capacity. Commission staff send the licensee or applicant a draft agreed order outlining the Commission staff's decision and proposed license action. If not agreed, the case is resolved through a hearing at the State Office of Administrative Hearings (SOAH) and eventual Commission action, as shown in the chart. The Commission took disciplinary action against 224 licensees for criminal offenses in fiscal year 2007.

Following the end of each two-year training unit, the Commission also takes action on licensees who fail to obtain their 40 hours of continuing education. The Commission will also take disciplinary action on licensees that fail to complete mandated training topics at the end of each four-year training cycle. Each licensee has 60 days to comply with training requirements after receiving notice of noncompliance before Commission staff issue a reprimand. Licensees that do not comply with continuing education requirements may receive a three-month license suspension. At the end of the 2005 training cycle, the Commission issued 172 reprimands for training violations, including 39 for failure to complete training on legislatively mandated topics. The table, *Disciplinary Actions*, highlights information regarding the Commission's disposition of cases in fiscal year 2007.

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*TCLEOSE took disciplinary action against 224 licensees for criminal offenses in fiscal year 2007.*

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***Disciplinary Actions  
Fiscal Year 2007***

<b>Type of Allegation</b>	<b>Enforcement Actions</b>						
	<i>Revocation</i>	<i>Suspension</i>	<i>Voluntary Surrender</i>	<i>Reprimand</i>	<i>Cancellation</i>	<i>Dismissed</i>	<i>Total Actions</i>
Criminal Offense	60	116	48			179	403
Failure to Report				93			93
Other Rule Violations					27	16	43
<b>Total</b>	<b>60</b>	<b>116</b>	<b>48</b>	<b>93</b>	<b>27</b>	<b>195</b>	<b>539</b>

### ***Evaluations***

For training providers, Commission staff evaluate licensees and contract providers annually, and place providers not in compliance in at-risk status. Typically, the Commission places training providers in at-risk status for low passing rates on the licensing exam. The provider must produce a management response outlining the measures the provider will take to become compliant. If the provider is not out of at-risk status after 12 months, the Commission may seek revocation of the license.

### ***Audits***

Commission investigators, including field staff, conduct random audits of licensing records in law enforcement agencies to ensure compliance with Commission rules and statute. During an audit, investigators review licensee personnel files to ensure copies of documents verifying appointment, physical and psychological exams, criminal history checks, and proficiency certificates are present. Auditors also verify the credentials of chief administrators. In fiscal year 2007, the Commission conducted 134 full or partial audits

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*The Commission may seek license revocation for training providers at-risk for 12 months.*

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of law enforcement agency records. TCLEOSE conducts audits from the Commission's headquarters in Austin, or as an on-site visit to the law enforcement agency.

### ***F-5 Appeals***

Since 2005, the Legislature has provided licensees an avenue to contest the contents of their agency separation form, or F-5 form. Licensees may submit an appeal to the Commission requesting the separating law enforcement agency to amend the contents of the F-5. While TCLEOSE has authority to resolve F-5 appeals, the agency instead sends the appeals to SOAH, allowing an administrative law judge to determine whether comments on the F-5 form are correct, or should be amended by the separating agency. Commission staff attend these hearings as a third party, to establish jurisdiction and present the officer's official employment and training record.

***F-5 Appeals***

<b>Year</b>	<b>Number of Appeals</b>	<b>SOAH Hearings</b>
2005	0	0
2006	30	19
2007	58	38

### ***Hearings***

If a licensee does not agree with an agreed enforcement order proposed by Commission staff, the Commission sets a contested case hearing at SOAH before an administrative law judge. The judge recommends action in the case in a proposal for decision, subject to final approval of the Commission. For enforcement actions, the Commission accepts, rejects, or modifies the proposal for decision. Since September 1, 2007, the decision of the administrative law judge for F-5 appeals is final. In fiscal year 2007, SOAH heard 67 cases. Of these cases, 29 cases were criminal offenses and 38 cases were F-5 appeals.

### **Other Operations**

#### ***Texas Peace Officers' Memorial***

The names of Texas peace officers killed in the line of duty are eligible for addition to the Texas Peace Officers' Memorial. The Commission researches and validates submitted names of officers for inclusion on the Memorial. The Commission was instrumental in the design and construction of the Memorial, and is now responsible for its engraving and maintenance. In 2007, TCLEOSE added 143 names to the Texas Peace Officers' Memorial.

#### ***Law Enforcement Achievement Awards***

Each year, the Commission accepts nominations of officers who exceed the normal expectations of job performance. The Commission may select up to 20 officers who have demonstrated valor, public service, or professional achievement for the Achievement Awards.

#### ***State Flag Distribution***

Upon request, the Commission presents a state flag to the families of deceased Texas peace officers. In fiscal year 2007, the agency delivered 79 flags to the families of deceased peace officers. A letter and certificate from the Governor,

and a letter from the Commission's Executive Director accompany the flag. Flags are funded through donations.

### **Administration**

The remaining agency functions provide management and support for the Commission's law enforcement regulatory activities. The Commission's support functions include: strategic planning; employee payroll, time, and insurance; purchasing; travel; facilities maintenance; risk management; financial reports; accounts payable and receivable; performance measures; property management; responding to public information requests; and producing the agency's newsletter – *Close Up*.





# APPENDICES

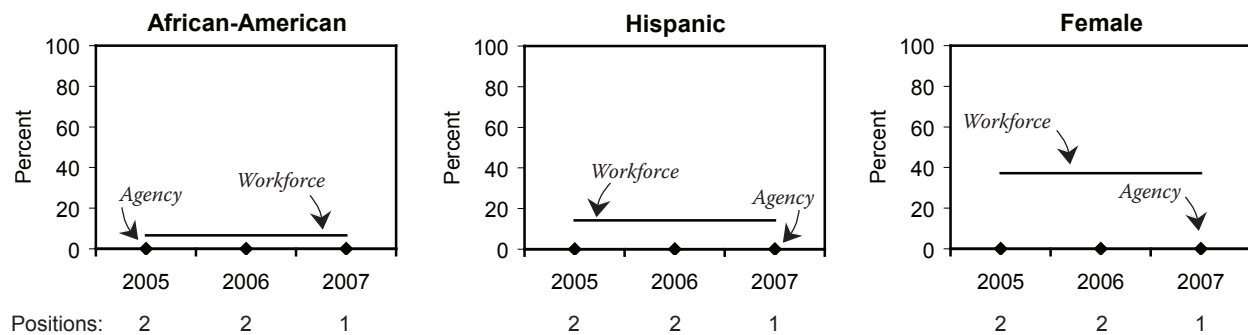


# Appendix A

## Equal Employment Opportunity Statistics 2005 to 2007

In accordance with the requirements of the Sunset Act, the following material shows trend information for the employment of minorities and females in all applicable categories by the Texas Commission on Law Enforcement Officer Standards and Education.<sup>1</sup> The agency maintains and reports this information under guidelines established by the Texas Workforce Commission.<sup>2</sup> In the charts, the flat lines represent the percentages of the statewide civilian workforce for African-Americans, Hispanics, and females in each job category. These percentages provide a yardstick for measuring agencies' performance in employing persons in each of these groups. The diamond lines represent the agency's actual employment percentages in each job category from 2005 to 2007. The agency generally met the civilian workforce percentages in the administrative support and service/maintenance categories, but fell short of the percentages for African-Americans, Hispanics, and females in the administration and professional categories. In those categories where the agency experienced difficulty meeting the percentages, the agency typically had a small number of positions in the category. The agency did not have any employees in the technical or skilled craft categories.

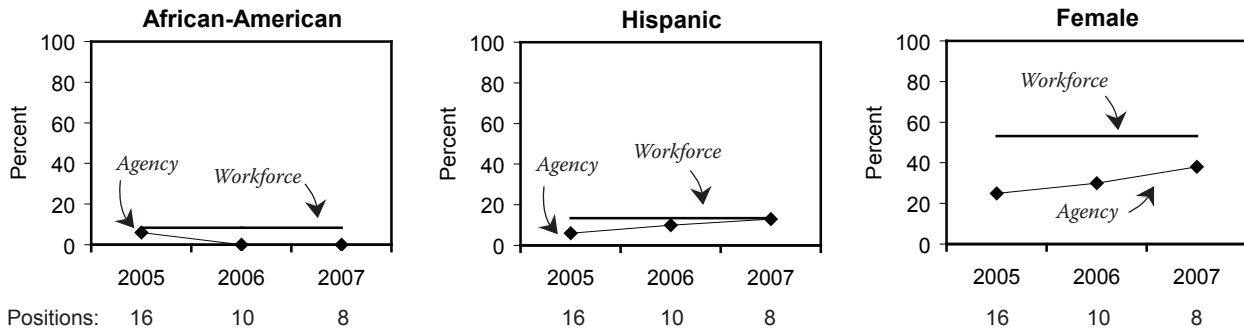
### Administration



The agency fell short of the civilian workforce percentages for African-Americans, Hispanics, and females in the last three fiscal years. The agency had only one or two employees in this category each fiscal year.

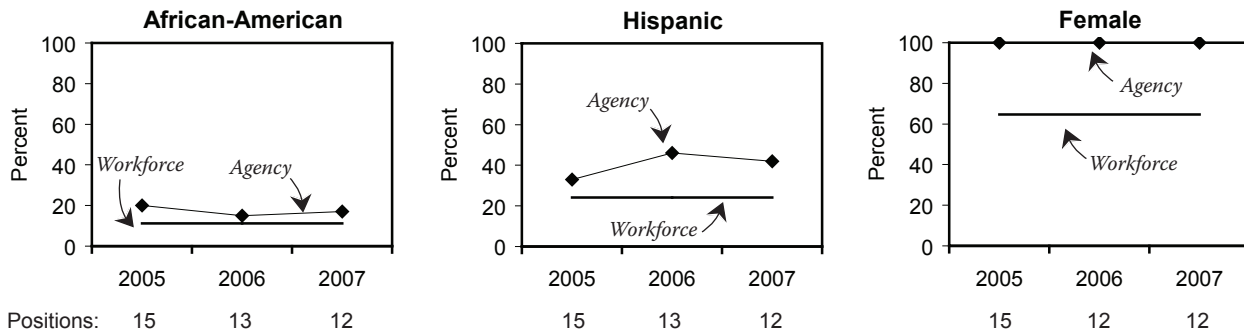
# Appendix A

## Professional



The agency fell short of the civilian workforce percentages for African-Americans and females in the last three fiscal years. The agency also fell short of the civilian workforce percentages for Hispanics in 2005 and 2006, but met the percentage in 2007.

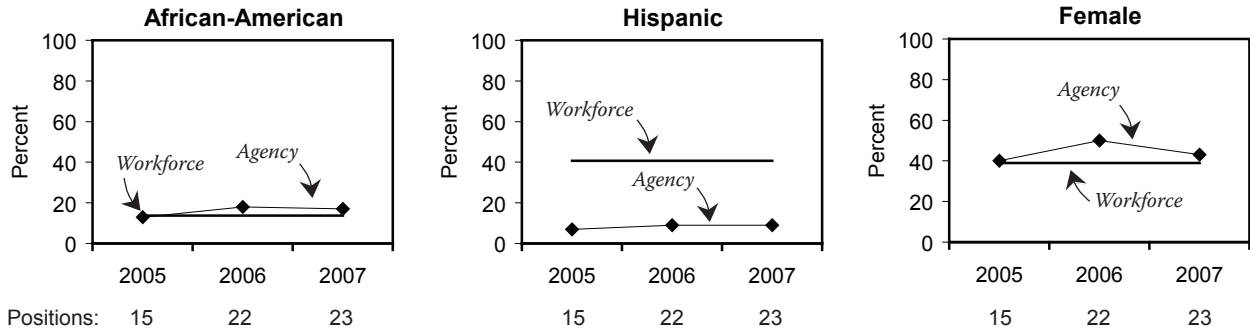
## Administrative Support



The agency exceeded the civilian workforce percentages for African-Americans, Hispanics, and females, in the last three fiscal years.

# Appendix A

## Service/Maintenance<sup>3</sup>



Generally, the agency met or exceeded the civilian workforce percentages for African-Americans and females all three fiscal years. The agency fell short of civilian workforce percentages for Hispanics in the last three fiscal years.

.....  
<sup>1</sup> Texas Government Code, sec. 325.011(9)(A).

<sup>2</sup> Texas Labor Code, sec. 21.501.

<sup>3</sup> The Service/Maintenance category includes three distinct occupational categories: Service/Maintenance, Para-Professionals, and Protective Services. Protective Service Workers and Para-Professionals used to be reported as separate groups.



# Appendix B

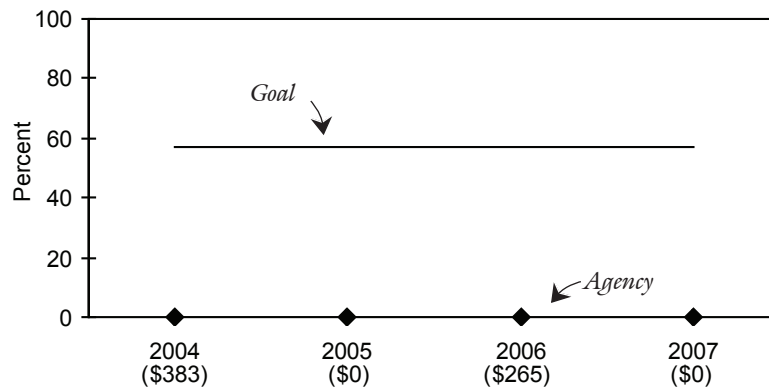
## Historically Underutilized Businesses Statistics

### 2004 to 2007

The Legislature has encouraged state agencies to increase their use of Historically Underutilized Businesses (HUBs) to promote full and equal opportunities for all businesses in state procurement. The Legislature also requires the Sunset Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews.<sup>1</sup>

The following material shows trend information for the Texas Commission on Law Enforcement Officer Standards and Education's use of HUBs in purchasing goods and services. The agency maintains and reports this information under guidelines in statute.<sup>2</sup> In the charts, the flat lines represent the goal for HUB purchasing in each category, as established by the Comptroller's Office. The diamond lines represent the percentage of agency spending with HUBs in each purchasing category from 2004 to 2007. Finally, the number in parentheses under each year shows the total amount the agency spent in each purchasing category. The agency exceeded some of the State's HUB purchasing goals, but had difficulty meeting other goals because the agency does not make many purchases in some categories, and the agency makes purchases that are not always available from HUB vendors. The agency made no purchases in the heavy or building construction categories. The agency met other HUB-related requirements, such as appointing a HUB coordinator and establishing a HUB policy.

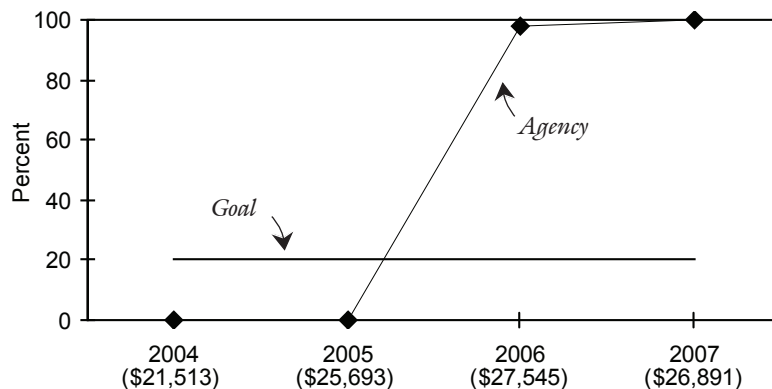
#### Special Trade



The agency fell below the State's goal for spending for special trade in each fiscal year. The agency only made purchases in this category in two years, both of which were small amounts for facilities maintenance and repair. Since the agency doesn't own the building, the agency typically uses vendors recommended by the building owners.

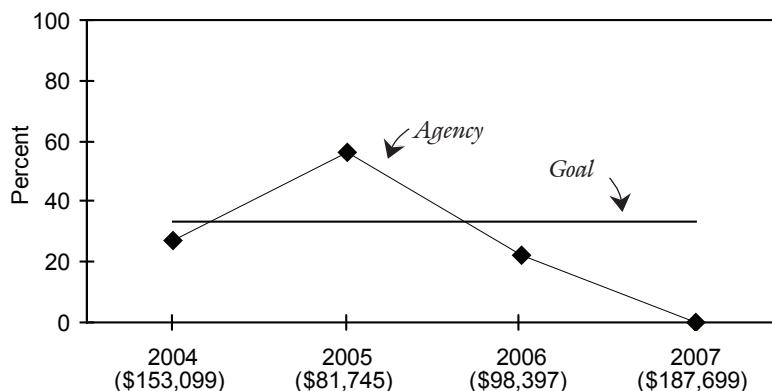
## Appendix B

### Professional Services



In fiscal years 2004 and 2005, the agency did not meet the State's HUB purchasing goals. The agency almost exclusively contracts for its internal audit function under this category. Since fiscal year 2006, the agency has contracted with HUB businesses for this service.

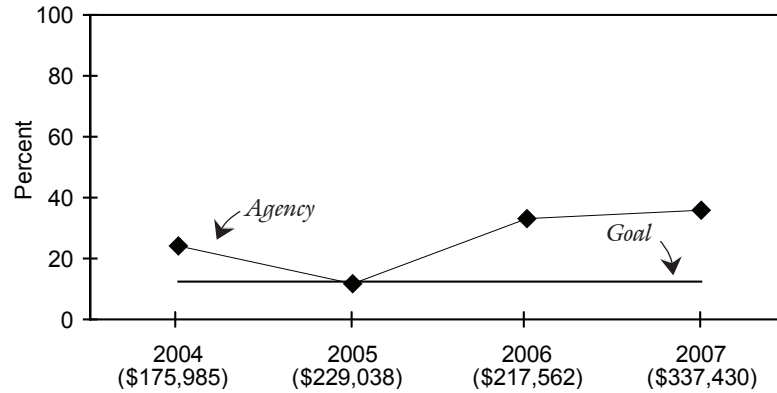
### Other Services



The agency exceeded some of the State's HUB purchasing goals, but had difficulty meeting other goals because this category contains expenses which have historically been difficult to obtain from HUBs. This category is predominantly represented by the agency's contract to maintain its online training program, POSEIT.

## Appendix B

### Commodities



The agency generally exceeded the State's goal for spending for commodities each fiscal year. Spending in this category includes items such as computer equipment and telephones.

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<sup>1</sup> Texas Government Code, sec. 325.011(9)(B).

<sup>2</sup> Texas Government Code, ch. 2161.





# Appendix C

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## Staff Review Activities

During the review of the Texas Commission on Law Enforcement Officer Standards and Education, Sunset staff engaged in the following activities that are standard to all Sunset reviews. Sunset staff worked extensively with agency personnel; conducted interviews and solicited written comments from interest groups and the public; reviewed agency documents and reports, state statutes, legislative reports, previous legislation, and literature; researched the organization and functions of similar state agencies in other states; and performed background and comparative research using the Internet.

In addition, Sunset staff also performed the following activities unique to this agency.

- ◆ Interviewed staff from the State Auditor's Office, the Department of Information Resources, the Office of the Attorney General, and the State Office of Administrative Hearings.
- ◆ Accompanied a TCLEOSE field service agent during an audit of a law enforcement agency.
- ◆ Observed evaluations of two training academies.
- ◆ Attended TCLEOSE quarterly meetings and legislative hearings regarding matters related to law enforcement.
- ◆ Attended a meeting and interviewed members of the Training Coordinators Consortium.
- ◆ Met with and interviewed chief administrators of law enforcement agencies, training coordinators, peace officers, telecommunicators, and jailers.
- ◆ Attended administrative hearings at the State Office of Administrative Hearings.



# NEW ISSUES



# New Issues

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The following issues were raised in addition to the issues in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

6. Set a state minimum salary for licensed peace officers at \$30,000. (Betty Harper Murphy, Fredericksburg)
7. The State should provide up to a \$10,000 stipend to licensed peace officers earning less than \$30,000 per year, to bring annual peace officer salaries up to \$30,000 per year. (Betty Harper Murphy, Fredericksburg)
8. Hold 9-1-1 telecommunicators and public safety communications personnel to the same hiring and licensing standards as peace officers and jailers. (Kelle Hall – Randall County Sheriff's Office, Amarillo)

**Staff Comment:** Peace officers and jailers have differing licensing and hiring standards.

9. Amend Occupations Code 1701 to require TCLEOSE to oversee the licensure and establishment of standards for 9-1-1 telecommunicators. (Patricia Cross, Manager, Training and Education Development – Denco Area 9-1-1 District / Texas 9-1-1 Trainers, Lewisville)

## *Commission Decision*

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The Commission did not adopt any of the new issues.

## *Legislative Action*

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No action needed.



# PROVISIONS ADDED BY LEGISLATURE



# *Provisions Added by Legislature*

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**1. Require annual firearms proficiency for peace officers in law enforcement agencies with one or more peace officers.**

House Bill 3389 removes a loophole that previously exempted peace officers in law enforcement agencies with only one peace officer from annual firearms proficiency requirements.

**2. Establish the venue for the prosecution of criminal violations of Occupations Code, Chapter 1701.**

House Bill 3389 clarifies the venue for the prosecution of criminal violations of Chapter 1701 of the Occupations Code as Travis County or the county where the offense occurred.

**3. Remove the statutory provision that transfers money from the TCLEOSE dedicated account to general revenue at the end of each fiscal year.**

The bill removes a provision that transfers non-appropriated money from TCLEOSE's dedicated account to the General Revenue Fund. As a result, non-appropriated money in the account will become accumulative and can only be appropriated for the Fund's dedicated purpose.

**4. Require law enforcement agencies to report additional information to the Comptroller regarding the use of Law Enforcement Officer Standards and Education (LEOSE) training funds.**

House Bill 3389 requires law enforcement agencies to report to the Comptroller the number of peace officer positions authorized and filled at the agency, for purposes of allocating LEOSE funds. The bill also requires law enforcement agencies to report the percentage of LEOSE money used during the previous year, the number of training hours funded by LEOSE money, and whether the law enforcement agency complied with requirements for the use of LEOSE money.

**5. Establish standards for the creation of a new law enforcement agency.**

The bill establishes standards for the creation of new law enforcement agencies by authorized political subdivisions. Standards include establishment of the political subdivision's need for a law enforcement agency; funding sources for the agency; physical resources and facilities; liability insurance; administrative structure of the agency; and law enforcement policies such as the use of force, vehicle pursuit, professional conduct, domestic abuse protocols, response to missing persons, supervisions of part-time officers, and impartial policing.

**6. Require law enforcement agencies to submit annual racial profiling reports to TCLEOSE.**

House Bill 3389 requires law enforcement agencies to submit racial profiling reports to TCLEOSE, instead of a non-profit entity. The bill requires TCLEOSE to work with other entities to develop a standard format for racial profiling reports and creates a civil penalty for law enforcement agencies that fail to submit this report to TCLEOSE. The bill establishes a fee of 10 cents on all moving violations to fund the Civil Justice Data Repository Fund, to be used by TCLEOSE to collect and maintain the reports.



**7. Change continuing education requirements and intermediate proficiency requirements for peace officers.**

House Bill 3389 requires TCLEOSE to establish a statewide comprehensive education and training program that covers state and federal laws pertaining to peace officers as part of the minimum continuing education requirements for peace officers. The bill requires all peace officers to take a continuing education course on state and federal law pertaining to peace officers every 24 months. The bill limits the requirement for peace officers to take continuing education courses on the topics of civil rights, racial sensitivity, cultural diversity, and special investigative topics every four years to those peace officers that have not yet obtained intermediate proficiency. The bill makes civil rights, racial sensitivity, cultural diversity, and special investigative topics a prerequisite for intermediate proficiency.

**8. Require peace officers to take de-escalation and crisis intervention training.**

House Bill 3389 requires peace officers with a basic proficiency certificate to take de-escalation and crisis intervention training once every four years to facilitate interaction with persons with mental impairments. The bill requires TCLEOSE to determine best practices for interaction with persons with mental impairments and review the training program at least once every 24 months. The bill prohibits the course from being offered online.

**SUNSET STAFF REVIEW OF THE  
TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER  
STANDARDS AND EDUCATION**



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