

Texas Commission on Law Enforcement Officer Standards and Education

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.


*For additional information,
please contact Sarah Kinkle
at (512) 463-1300.*

Key Facts

- ◆ **Funding.** In fiscal year 2008, the Commission operated on a budget of \$2.7 million from a dedicated account funded primarily by court fees on felonies and misdemeanors.
- ◆ **Staffing.** The Commission employed a staff of 40 in fiscal year 2008, seven of whom were field agents working across the state.
- ◆ **Licensing.** The Commission regulates 73,487 peace officers, 31,396 jailers, and 11,055 telecommunicators. Because some licensees hold both peace officer and jailer licenses, TCLEOSE regulates a total of 103,795 individuals. In fiscal year 2008, the Commission issued 14,351 new licenses and 21,094 certificates.
- ◆ **Enforcement.** In fiscal year 2008, the Commission took disciplinary action on 199 licensees for criminal offenses, issued 28 reprimands against licensees that failed to report an arrest or conviction, and monitored

approximately 700 cases pending court disposition. The Commission also issued 208 reprimands and 144 suspensions for violations of continuing education requirements.

- ◆ **Training.** The Commission regulates 295 training providers, including 102 academies, 6 academic alternatives, and 187 contract training providers. The Commission has 618 approved training courses.

Commission Members (14)

Charles Hall, Presiding Officer (Midland)

Gary Swindle, Assistant Presiding Officer (Tyler)

Allan Cain (Carthage)

Roman Chavez (Houston)

Stephen Griffith (Sugarland)

Betty Harper-Murphy (Fredericksburg)

Patt Scheckell-Hollingsworth (Arlington)

Joel Richardson (Canyon)

Dr. Johnny E. Lovejoy II (San Antonio)

The Honorable Greg Abbott, Ex Officio (Austin)

Thomas A. Davis, Ex Officio (Austin)

Ken Nicolas, Ex Officio (Austin)

Robert P. Scott, Ex Officio (Austin)

R. David Couch, Ex Officio (Austin)

Agency Head

Timothy Braaten, Executive Director

(512) 936-7711

Recommendations

1. Require the Commission to conduct a technology performance review to specifically evaluate the cost, feasibility, and risks associated with options to modernize its IT systems.
2. Streamline the Commission's F-5, or agency separation, appeal process by encouraging mediation and conducting hearings locally, where appropriate.
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.

Issue 1

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

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.
- ◆ Texas Commission on Law Enforcement Data Distribution System (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'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.

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.

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. 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 TCLEDDDS – including TCLEDDDS enhancements and renegotiation of its vendor contract;
- ◆ purchasing TCLEDDDS 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 (DIR), 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.

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. Once it has established the appropriate methodology, the Commission should require law enforcement agencies to submit all required forms, data, and documents electronically. 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.

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 – TCLEDDDS and the Peace Officer Standards and Education Internet Training (POSEIT) program. 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.

Issue 2

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

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.

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 and SOAH's workload. However, the Commission has not initiated efforts, such as mediation and local hearings, to limit the impact of workload increases.

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.

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.

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. Mediation costs, which typically range from \$1,000 to \$2,500 per day, would be split equally among the parties. This recommendation could result in a reduced number of administrative hearings, depending on the number of cases that opt to use mediation.

Issue 3

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

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.

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

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. 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.

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.

However, no data is available that shows a difference in future success based on a GED versus a typical high school diploma. As a result, this recommendation 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.

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.

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.

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

This recommendation would provide TCLEOSE an additional enforcement tool to more effectively hold law enforcement agencies accountable. The recommendation would also 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.

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.

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 require the Commission to 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.

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

The Commission should make a complaint 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 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. 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. TCLEOSE should adopt the plan by agency rule, providing an opportunity for public comment.

Issue 4

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

Key Findings

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

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.

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.

This would remove the following 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.

Issue 5

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

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.

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. The Commission's functions and structure are uniquely positioned to establish standards and licensure for law enforcement and county corrections personnel, and to license and approve training providers.

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 Summary

One recommendation would 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 \$30,000 to \$40,000. 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.