

The Texas Commission on Law Enforcement (TCOLE) and its staff are appreciative of the time and dedication the Sunset Advisory Commission and its staff have put into the review process. TCOLE generally agrees with each of the issues set forth in the Staff Report and is committed to improvement in each of the areas identified. The Commission looks forward to working with the Sunset Advisory Commission and the Texas Legislature toward improving its operations and posture toward the regulated community and meeting the public's expectations for the oversight of law enforcement.

Issue 1: Texas' Approach to Regulating Law Enforcement is Ineffective.

TCOLE recognizes the importance of local control in the establishment of policies and employment decisions for law enforcement agencies. That said, Texas has indeed fallen behind other states in its ability to hold individual licensees accountable for actions that undermine public trust in the law enforcement profession. Additionally, TCOLE agrees that law enforcement agencies should be held to certain minimum standards to continue serving their communities in a way that upholds their credibility. Finally, with the increased scrutiny that has come upon law enforcement nationwide, a more comprehensive look at what training is required for licensees at all levels is needed.

Change in Statute

1.1 Establish a blue ribbon panel to comprehensively evaluate the regulation of law enforcement in Texas.

TCOLE always welcomes input from stakeholders with an interest in law enforcement, from the profession to the public to policymakers and looks forward to further discussion on this issue. The blue ribbon panel is charged with an aggressive timeline, but the agency will assist in any way possible.

1.2 Continue the Texas Commission on Law Enforcement for two years.

The Commission agrees that the empaneling and findings of a blue ribbon panel would require a review sooner than the standard 12 year cycle.

Issue 2: The Commission Does Not Follow Best Contracting Practices for Its IT Services.

The Commission agrees with this finding in principle, and recognizes that significant improvements can and should be made to the way it handles contracts, particularly in the realm of information technology. That said, the Sunset Staff Report rightly points out that the Commission's priority in its current IT contract has been fiscal responsibility. In the absence of an alternative licensing database system that both met the Commission's needs and was affordable within the available appropriations, the Commission determined that the best

course of action was to continue the existing contract. Efforts to improve this situation are described below.

Management Action

2.1 Direct TCOLE to require regular training for all staff involved in the contracting process.

The Commission agrees. We have received and reviewed a schedule of contract training from DIR and the Comptroller's Office and will ensure that all relevant staff will receive necessary training as soon as possible and on a regular, ongoing basis.

2.2 Direct TCOLE to develop a formal contract development and solicitation process for all of its contracts.

TCOLE is working to develop a process that is in keeping with the State of Texas Procurement and Contract Management Guide.

2.3 Direct TCOLE to include detailed, actionable performance incentives in its contracts.

TCOLE is in the process of working to improve the existing contract and build in accountability measures. Performance measures will be included in all future contracts.

Fiscal Implication: While it is true that contract management and monitoring requirements in and of themselves would not have a significant fiscal implication, the Commission would like to note that any significant technology upgrades would. With the exception of the 82nd Session which was correctly anticipated to be exceptionally difficult, TCOLE has requested resources for the security and stability of its IT systems in each session going back to its previous Sunset review.

Issue 3: Key Elements of TCOLE's Statute and Procedures Do Not Conform to Common Licensing and Regulatory Standards

Change in Statute

3.1 Require TCOLE to conduct fingerprint-based criminal background checks of all licensure applicants and licensees.

The Commission strongly agrees with this recommendation. Having the ability to subscribe to the criminal history of all licensees through TCIC/NCIC and have rap back on each licensee would significantly improve the commission's posture in ensuring only qualified applicants obtain a license and in that TCOLE is timely notified when a licensee is arrested or indicted.

3.2 Remove a subjective qualification for licensure from statute.

As discussed in Issue 1, Sunset staff believes that the ability to take license action only based on criminal conviction or deferred adjudication is inadequate, and TCOLE staff agrees. The removal

of this language would need to come alongside the development of a behavior-based code of conduct that the agency could enforce.

3.3 Clearly authorize TCOLE to maintain confidentiality of complainants when possible.

The Commission agrees. The agency has previously sought legislation that would have addressed this issue, but was unsuccessful. Anonymity of complainants would certainly make the reporting of complaints more likely. In the meantime, the Commission makes effort, when warranted, to protect the identity of complainants as allowed by the Public Information Act while an investigation is ongoing.

3.4 Clearly authorize TCOLE to issue subpoenas for investigative records.

This is an issue TCOLE has discussed internally prior to Sunset review, and the agency would welcome this change. This authorization would assist the Enforcement Division greatly in its investigations.

3.5 Authorize TCOLE to require confidential examinations of licensees suspected of being impaired.

The Commission agrees in principle; however, this recommendation comes with some challenges, including HIPPA concerns, clarification on who would be responsible for the cost of these examinations, how TCOLE would be notified of a concern, and how it would impact employment status.

3.6 Authorize TCOLE to temporarily suspend a license if it finds an imminent threat to public health, safety, or welfare.

The Commission agrees. Codification of the current administrative rule would strengthen this effort that is necessary to preserve public trust. The timeline of 10 days to set a hearing would depend on docketing by the State Office of Administrative Hearings.

Management Action

3.7 Direct TCOLE to remove subjective and anticompetitive requirements for contracted training providers.

The Commission agrees and is in the process of fulfilling this item.

3.8 Direct TCOLE to develop an online complaint submission form.

The Commission agrees and has already taken this action. The form can be found at <http://www.tcole.texas.gov/content/complaint-procedures>.

3.9 Direct TCOLE to develop a penalty matrix.

The Commission agrees and is in the process of fulfilling this item. This is being developed along with the code of conduct referenced above.

3.10 Direct TCOLE to develop a strategy to analyze and use data in commission decision making.

The Commission agrees with this recommendation in principle; however, the limited IT resources already discussed have made it challenging to improve the use of data currently available.

3.11 Direct TCOLE to publish relevant commission information online.

The Commission agrees and is working to make our website more intuitive and user friendly.

3.12 Direct TCOLE to adopt rules to comply with the statutory requirement to establish a risk-based approach to audits.

The Commission agrees and is in the process of fulfilling this item.

3.13 Direct TCOLE to establish a written policy more clearly separating its administrative and criminal investigations and staff.

The Commission agrees and is in the process of fulfilling this item.

Issue 4: The Texas Commission on Law Enforcement's Statute Does Not Reflect Some Standard Elements of Sunset Reviews.

Change in Statute

4.1 Update the standard across-the-board requirement related to commission member training.

The Commission agrees with this recommendation.

4.2 Update the commission's statute to reflect the requirements of the person-first respectful language initiative.

The Commission agrees with this recommendation.

4.3 Authorize the commission to establish advisory committees in rule.

The Commission agrees with this recommendation.

Management Action

4.4 Direct the commission to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law.

The Commission agrees and is in the process of fulfilling this item.