

The logo for the Texas Sunset Advisory Commission is a semi-circular emblem with a thick black border. Inside the semi-circle, the words "Texas", "Sunset", "Advisory", and "Commission" are stacked vertically in a bold, serif font.

**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

State Depository Board

State Banking Board

Credit Union Commission

*Commission on Law Enforcement Officer
Standards and Education*

A Staff Report
to the
Sunset Advisory Commission



1982

SUNSET ADVISORY COMMISSION

STAFF REPORT

on the

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

1982

FOREWORD

Over the past several years, there has been a sustained interest among the states in a new concept in legislative review popularly described as sunset. Since 1976, more than half the states have enacted legislation which embodies the primary element of sunset, the automatic termination of an agency unless continued by specific action of the legislature.

The acceptance of this concept has been aided by a general agreement that the normal pressures of the legislative process tend to prevent a systematic review of the efficiency and effectiveness with which governmental programs are carried out. The sunset process is, then, an attempt to institutionalize change and to provide a process by which a review and redefinition of state policy can be accomplished on a regular systematic basis.

The Texas Sunset Act (Article 5429K, V.A.C.S., as amended) was enacted by the 65th Legislature in 1977. Under the provisions of the Act, agencies are automatically terminated according to a specified timetable, unless specifically continued by the legislature.

To assist the legislature in making the determination of whether an agency should be continued and, if continued, whether modifications should be made to its operations and organizational structure, the Act establishes a ten-member Sunset Advisory Commission composed of eight legislative members and two public members. The commission is required to evaluate the performance of the agency in accordance with specific criteria set out in the Act and to recommend necessary changes resulting from the findings of the evaluation.

The process by which the commission arrives at its recommendations moves through three distinct phases beginning with a self-evaluation report made by the agency to the commission. The second phase involves the preparation of a report to the commission by its staff, evaluating the activities of the agency, and proposing suggested changes for commission consideration. The final phase involves public hearings on the need to continue or modify an agency and the development of commission recommendations and legislation, based on the agency self-evaluation, staff report, and public testimony.

The Sunset Commission's findings, recommendations, and proposed legislation are then required to be transmitted to the legislature when it convenes in regular session.

INTRODUCTION AND ORGANIZATION OF AGENCY REVIEWS

The Texas Sunset Act abolishes these agencies on September 1, 1983 unless each is re-established by the 68th Legislature.

The staff reviewed the activities of these agencies according to the criteria set out in the Sunset Act and has based its conclusions on the findings developed under these criteria.

Taken as a whole, these criteria direct the review of an agency to answer four primary questions:

1. Does the state need to perform the function or functions under review?
2. Could the public still be adequately served or protected if the functions were modified?
3. Is the current organizational structure the only practical way for the state to perform the function?
4. If the agency is continued and continues to perform the same functions, can changes be made which will improve the operations of the agency?

The report is structured to present the performance evaluation of each agency separately. The application of the across-the-board recommendations developed by the commission to deal with common problems are presented in a chart at the end of each report and are not dealt with in the text except in one instance. When the review develops a position which opposes the application of a particular recommendation, the rationale for the position is set forth in the text.

SUMMARY OF STAFF FINDINGS AND CONCLUSIONS

SUMMARY

The Texas Commission on Law Enforcement Officer Standards and Education was established in 1965. The primary functions of the agency are the licensing of peace officers, reserve officers, and jailers; the regulation of schools to train law enforcement officers; and the provision of technical assistance to law enforcement agencies, officers, and training facilities.

The results of the review indicated that the agency is generally operated in an efficient and effective manner. Because of the extraordinary enforcement powers that are allowed commissioned peace officers, and the potential danger to the public if these powers are improperly used, the review identified a continuing need to ensure that peace officers meet certain minimum qualifications.

The review included an analysis of the need to have a separate agency for this purpose and the results of the analysis indicated that there were no substantial benefits to be gained from consolidation or transfer of functions. One alternative method of implementing the licensing function was identified which would involve the elimination of the currently existing temporary license to provide additional protection to the public from incompetent law enforcement officers. The review also indicated that if the agency is continued, several modifications should be made which would improve the efficiency and effectiveness of the agency's operations.

Approaches for Sunset Commission Consideration

I. MAINTAIN THE COMMISSION WITH MODIFICATIONS

A. Policy-making structure

1. The statute should be amended to change the composition of the membership of the commission to three public members, one licensed jailer, and five licensed law enforcement officers. Licensed members should be currently appointed and have at least five years' continuous experience in law enforcement. The director of the Criminal Justice Division in the Governor's office should be added to the existing ex officio membership. (statutory change)
2. The statute should be amended to eliminate the requirement that ex officio members vote or be counted in the computation of a quorum. (statutory change)

B. Agency Operations

1. Overall administration

- a. The program structure of the agency should be modified to separate the licensing division from the administration division. (management improvement - non-statutory)
- b. The agency should develop written procedures for accounting, purchasing and data processing operations and documentation for computer programs. (management improvement - non-statutory)
- c. The agency should cross-train employees to enable replacement of accounting and purchasing personnel during absences. (management improvement - non-statutory)
- d. The agency should provide for the security of master file computer back-up tapes by storing them in another building. (management improvement - non-statutory)

2. Evaluation of Programs

- a. The agency should eliminate the licensure qualification requiring a personal interview of the applicant by local law enforcement agencies. (management improvement - non-statutory)
- b. The statute should be amended to eliminate licensure under grandfather provisions after August 31, 1984. (statutory change)
- c. The statute should be amended to require that a person pass a statewide examination before receiving the basic proficiency certificate as a peace officer, reserve officer, or jailer. (statutory change)
- d. The agency should eliminate the routine on-site audits of academies and should focus future efforts on investigation of complaints or of irregularities in examination results. (management improvement - non-statutory)
- e. The statute should be amended to allow the agency to suspend licenses and certificates, to probate the suspensions, and to issue formal reprimands. (statutory change)

- f. The statute should be amended to provide for exclusive venue in Travis County on appeals of commission administrative orders. (statutory change)
- C. Recommendations for other sunset criteria
 - 1. Open Meetings/Open Records
 - a. The agency should discontinue its practice of holding educational transcripts contained in licensee files confidential. (management improvement - non-statutory)
 - 2. Public participation
 - a. The statute should be amended to require advisory boards for all training programs certified by the agency, and to require citizen members on such advisory bodies. (statutory change)
 - c. The statute should be amended to require that the agency hold biennial public hearings. (statutory change)
 - d. The statute should be amended to require that the agency report to the governor and the legislature any findings or recommendations developed pursuant to the public hearings. (statutory change)

II. ALTERNATIVES

A. Agency reorganization

An analysis of the alternatives of merging the functions of the agency with those of another existing agency did not show any significant benefits to be gained.

B. Change in the method of regulation.

Amend the statute to eliminate the temporary license for peace officers, reserve officers and jailers.

The elimination of the temporary permit would essentially require that all persons meet the training requirements needed to receive a basic proficiency certificate and provide the commission a completed FBI criminal history check before being licensed and allowed to work as law enforcement personnel. This alternative would substantially reduce the potential harm to the public, but would also restrict local law enforcement agencies' ability to fill vacancies in their work force quickly.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
2. Does the agency operate efficiently?
3. Has the agency been effective in meeting its statutory requirements?
4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
5. Is the agency carrying out only those programs authorized by the legislature?
6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?

BACKGROUND

Organization and Objectives

The Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) was created in 1965 and is currently active. The commission is composed of nine members appointed by the Governor with the concurrence of the senate for overlapping six-year terms. Four additional ex officio members include the Attorney General; the Commissioner of Education, Texas Education Agency; the Commissioner of Higher Education, Coordinating Board, Texas College and University System; and the Director of the Department of Public Safety. Appointed members must be citizens who are "well qualified by experience or education in the field of law enforcement." Funding for the agency is provided through a special fund (Law Enforcement Officer Standards and Education Fund No. 116) established by the legislature in 1977. The fund is generated from the collection of \$1.00 court costs attached to fines levied upon conviction of criminal or traffic offenses. Funds collected in excess of those needed to operate the agency are transferred on an annual basis to the General Revenue Fund. It is estimated that \$5.3 million will be transferred to the General Revenue Fund during the 1982-83 biennium. Agency operations are staffed by 64 persons and funded in the amount of \$1,843,685 for fiscal year 1982 and \$1,915,974 for fiscal year 1983.

TCLEOSE is the state agency responsible for setting minimum standards for the qualifications, conduct, and licensure of peace officers, jailers and reserve law enforcement officers. The agency also certifies instructors and establishes curriculum requirements for training in law enforcement. The agency certifies training schools, conducts special studies relating to law enforcement officer training and education, and provides police management consultation services. In addition, the agency visits and inspects all training institutions and facilities to determine their compliance with commission standards. The agency also conducts a certification program for advanced courses of study carried out voluntarily by licensed law enforcement officers.

The review of TCLEOSE indicated that the agency has generally been effective in carrying out its responsibilities. However, various areas were identified and are discussed in the report where modifications would increase the efficiency and effectiveness of agency activities.

REVIEW OF OPERATIONS

The evaluation of the operations of the agency is divided into general areas which deal with: 1) a review and analysis of the policy-making body to determine if it is structured so that it is fairly reflective of the interests served by the agency; and 2) a review and analysis of the activities of the agency to determine if there are areas where the efficiency and effectiveness can be improved both in terms of the overall administration of the agency and in the operation of specific agency programs.

Policy-Making Structure

In general, the structure of a policy-making body should have as basic statutory components specifications regarding the composition of the body and the qualifications, method of selection, and grounds for removal of the members. These should provide executive and legislative control over the organization of the body and should ensure that the members are competent to perform required duties, that the composition represents a proper balance of interests impacted by the agency's activities, and that the viability of the body is maintained through an effective selection and removal process.

The review of the policy-making structure focused on whether the structure of the commission was appropriate to carry out its roles effectively. The primary roles of the commission are to set standards for law enforcement professionals; to approve, deny or revoke licenses; to establish training curriculum and approve or revoke certification of training facilities; to certify instructors; to award certificates for voluntary completion of proficiency courses; to provide police management consultation services; and to conduct relevant studies in the area of law enforcement. The analysis of the commission's structure indicated that nine appointed members is an adequate number to provide proper representation of interests. The review indicated however, that the composition of the membership of the commission could be improved so that there would be better representation of concerned interests. Current membership requirements specify that the commission be made up of Texas citizens who are "well-qualified by experience or education in the field of law enforcement." This general qualification does not specifically include licensees or members of the general public. In fact, the qualification excludes members of the general public and does not ensure that licensees be represented. Under the current qualification, jailers have not been appointed although they are licensed by the commission. The pattern used in other

licensing boards of having a balance between current licensees and members of the public would be an appropriate pattern for this agency and would allow for better representation of interests.

The review indicated that this pattern could be met and an appropriate balance could be obtained in the appointed membership with five of the nine members being individuals who: 1) are licensed by TCLEOSE; 2) are currently appointed as a law enforcement officer; and 3) have had at least five continuous years of experience as a law enforcement officer. One member should be an individual who is licensed by TCLEOSE and currently appointed as a jailer or guard of a county jail. To reflect the view of the public in the activities of the agency, the three remaining members should be members of the general public.

The agency's policy-making structure also includes four ex officio members. Current members include: 1) the Commissioner of Education of the Texas Education Agency; 2) the Commissioner of Higher Education of the Coordinating Board; 3) the Attorney General; and 4) the Director of the Department of Public Safety. Ex-officio members are usually added to an agency's policy-making body to help advise that body on the conduct of its business and help coordinate the activities of agencies in related fields. Such advice is appropriate when, by nature of the ex officio members' duties, they have special knowledge which can assist in the accomplishment of the agency's activities. The review indicates the four already included are appropriate but that functions of the Governor's Criminal Justice Division (CJD) impinge on the agency's activities and ex officio representation from the director of that office would also be appropriate. The CJD is active in funding 24 law enforcement training academies and has grant funds available to assist in criminal justice activities throughout the state.

Since the primary role of the ex officio members is to give advice, their activities should be limited to this function. Currently, all members are allowed to vote. Although this allowance is generally permissible, it raises two concerns. To allow the ex officio members the same privileges as regularly appointed commission members while they are not subject to other standards such as attendance requirements is not appropriate. Also, if the director of the Governor's Criminal Justice Division is added as an ex officio member, conflicts of interest might arise when TCLEOSE applies for CJD funds. TCLEOSE has used CJD grant funds in the past and it would be inappropriate for the director of the CJD to be able to influence the decision of the agency to use such funds in the future.

It would be appropriate therefore to limit the role of the ex officio members as being advisory to the commission and to eliminate the requirement that they be allowed to vote on matters before the commission or to count in determining a quorum of the commission.

Overall Administration

The evaluation of the overall agency administration focused on determining whether the management policies and procedures of the agency, its monitoring of management practices, and its reporting requirements were adequate and appropriate for its internal management of time, personnel, and funds. The results of the evaluation indicated that, in general, the agency's administrative operations function adequately. However, problems were encountered in the overall structure and organization of the administration division, its accounting and purchasing functions and its data processing operations. The problems encountered in these three areas are discussed separately below.

Administrative Division Structure. The organizational structure of an agency should provide for the logical division of labor and activities as they assist in accomplishing the mandates of the agency. The division of activities into related categories allows for internal consistency of employee efforts and full accountability for the output of the various divisions and proper planning for each of the agency's major functions. The review of the agency's division of labor within its administrative and licensing areas indicates that these two functions should be separated.

The 67th Texas Legislature gave TCLEOSE the mandate to license law enforcement officers as opposed to certifying them, and added reserve law enforcement officers as a category to be licensed. The agency's Administration Division absorbed these changes in mandate and resultant additional licensing duties within its licensing and certification function. However, as a matter of practical application, the licensing function is treated as a separate entity in daily operations, in commission minutes, and in job descriptions, equal with other free-standing divisions. Agency budgets, performance reports and the appropriation pattern do not break licensing out as a separate program. The executive director has indicated his intent to request in the October 1982 budget submission to the Governor and Legislative Budget Office, that "Licensing/Certification" be separated as a new division. The agency should accomplish this separation in order that proper planning may occur and complete accountability of significant agency functions may be ensured.

Accounting/Purchasing. Within the framework of the Administration Division, the accounting and purchasing functions reveal a need for improvement to align them with accepted management policies and procedures. Two employees currently accomplish the accounting and purchasing functions for the agency. Should the agency be without these employees, particularly the accountant, for an extended length of time no other staff member would be able to take over their responsibilities. The agency should develop written accounting and purchasing policies and procedures as an improvement to the overall management of the agency. Other agency employees should be trained as backup personnel in these critical areas.

Data Processing. The review of the data processing segment of the Administration Division also revealed a need for improvement in management policies and procedures. Again, only one employee is knowledgeable in data processing programs and procedures. Should the agency be without this employee for an extended length of time, no other staff member would be able to take over his responsibilities. Additionally, there is no written documentation for any computer programs or operations which ordinarily would allow an outside expert to come in and understand the system. The agency should develop written policies and procedures and prepare adequate documentation for computer programs as an improvement to the overall management of the agency.

One other area of concern in the data processing area is the lack of adequate protection of master file computer back-up tapes. Accepted data processing management procedures call for the storage of computer master files outside of the agency's physical facilities. At the time of the review, master file back-up records were being stored in the same room as the computer equipment. The agency should make immediate arrangements for back-up master file storage in another building to avoid loss of information maintained on the tapes in the event of damage to the computer room or the agency's entire office space.

Evaluation of Programs

The programs of the Texas Commission on Law Enforcement Officer Standards and Education were divided into five main functional areas for purposes of evaluation: Licensing, Compliance, Enforcement, Training and Curriculum Development, and Technical Assistance.

Licensing

A major statutory responsibility related to the commission's regulation of law enforcement activities is the licensing and certification of certain law enforce-

ment personnel and facilities. These licensing and certification operations are conducted through activities contained in two agency programs. Through the certification/license operation, the agency issues temporary and permanent licenses to peace officers, jailers, and reserve law enforcement officers. In addition, proficiency certificates are issued to licensees who achieve certain combinations of experience and education. Training school instructors are also issued proficiency certificates on the basis of their training and experience. Through the training division, TCLEOSE approves schools to offer training courses which the commission will accept toward fulfilling the requirements for proficiency certificates.

These licensing and certification services were broken into two basic parts for the purpose of the review. In any licensing process, the agency must first make the initial determination of competence. Once the license or certificate is issued, a renewal process should be in place when necessary to keep the system current. To evaluate the effectiveness of the initial determination, the review focused on whether the determination of competence is based on qualifications which are clear, easily determined, and reasonably related to practice; whether these qualifications include an evaluation which accurately and fairly determines competence; whether processing procedures are designed to handle applications in a reasonable amount of time and whether the renewal process is appropriate.

Issuance of temporary and permanent licenses. Under the licensing scheme currently in place in Texas, a person must be licensed by the commission to be legally appointed as a peace officer, reserve officer, or jailer. This licensing system provides for the issuance of two types of licenses -- a temporary license and a permanent license. To be eligible for a temporary license, a person must meet certain minimum standards which include: the equivalent of a high school education; a physical and psychological examination; a criminal history check that shows no felony, recent driving while intoxicated, or recent driving under the influence of drugs convictions; an honorable discharge if the person ever performed military service; good moral character; and a personal interview by the law enforcement agency employing the person. In practice, the temporary licensing is initiated by the local law enforcement agency's submission to the commission of an application package which contains documents supporting a person's qualifications. Once this application is processed, that person is issued a temporary license and may be legally appointed to work as a peace officer. Based on identical qualifications, temporary licenses are also issued to jailers and reserve officers. A

temporary license is valid for a period of twelve months. During that period of time, the person must acquire a basic proficiency certificate in order to convert the temporary license to a permanent license. Should the person fail to take the necessary steps, the temporary license expires and the eligibility to remain appointed as a peace officer is lost. Once a permanent license has been issued, the license remains valid without renewal unless revoked. Law enforcement agencies are required to file notices of employment changes, and must file a new criminal history check on those licensees newly employed who have a break in employment which exceeds six months. Permanent licensure may also be achieved through a grandfather clause which permits the licensing of all persons appointed as peace officers prior to September 1, 1970 or jailers prior to September 1, 1979.

The review of these licensure operations indicated that the system in place is generally adequate and that even though the system does not require a renewal of licenses, the methods used by the agency to keep a continuing check on the activities of its licensees are sufficient to eliminate the need for renewal. However, two concerns were identified during the review of the steps used to determine initial competence. One of these steps requires a personal interview and does not appear to be reasonably related to determining if a person is qualified. Also, the open ended nature of the grandfather clause requires the agency to license persons without an accurate evaluation of competence.

In reviewing the circumstances surrounding the personal interview, it was determined that through its rule-making authority, the commission has established a standard which requires that each applicant be personally interviewed by the employing law enforcement agency before they are eligible for licensure. In general, licensure qualifications should be clear, easily determined, and reasonably related to practice. This personal interview requirement does not appear to be easily determined or reasonably related to practice for state licensure purposes. Such a requirement is more appropriate as a local law enforcement agency prerequisite for appointment. In fact, the commission does not currently require any documentation of this requirement in the package of application information used to issue a temporary license. To limit the qualifications for state licensure to those that are practice related, the commission should eliminate the personal interview requirement.

Licensure requirements and procedures should include an accurate and unbiased evaluation of a person's competence to perform the regulated activity. When the state initiates a licensing procedure to regulate any activity, it is

customary to provide for the licensure of those practicing the activity at that time. The validity of this grandfathering of existing practitioners is based upon the assumption that those already engaged in the activity have achieved some level of competence through experience, that the enforcement mechanisms will eventually eliminate incompetent persons, and that basic fairness would allow those already practicing to continue to practice. While these assumptions have some merit at the time the state initiates regulation, they do not continue to be valid for an indefinite period of time. Generally the grandfather provisions limit the period of time in which licensure by grandfather may be achieved. The grandfather provision for peace officers allows anyone who was appointed as a peace officer prior to September 1, 1970 to be licensed upon the submission of an acceptable criminal history check and a psychological fitness statement. By submitting the same general information, jailers may be licensed if they were appointed as jailers prior to September 1, 1979. In fiscal year 1981, 73 peace officers and 260 jailers were licensed under the grandfather provision. Both of these grandfather provisions have already served their purpose and should be eliminated as of September 1, 1984. All persons licensed through the grandfather clause before this date would remain licensed but no new licensees would be allowed under the grandfather provision after that time.

Issuance of proficiency certificates. The commission currently offers six different proficiency certificates. Peace officers may earn a basic, an intermediate, and an advanced certificate, while jailers and reserve officers are offered the basic certificate. Instructor certificates are available to those who teach in approved academies. The requirements for the basic certificates for peace officers, jailers, and reserve officers are all similar and differ only in the type and amount of training required. To receive a basic certificate, a person must be licensed and currently employed, have one year experience, and have completed the basic training course or an educational equivalent. The basic training course for peace officers consists of a 320 hour program, while reserve officer courses are 70 hours and jailer courses are 36 hours. Intermediate and advanced peace officer proficiency certificates can be earned through a combination of training and experience. Instructor certificates may be issued to instructors assigned to an approved school who have completed a 30-hour instructor training course and have five years experience in the field to be taught. As of May 1982, there had been 33,728 proficiency certificates issued to peace officers and reserve officers.

A review of the proficiency certificate qualifications and issuance procedures showed that the qualifications are clear and easily determined and that processing procedures work well. One concern was identified, however, regarding the effectiveness of the basic certificate qualifications in accurately evaluating competence.

Under the current licensing scheme, the critical factor in the licensing process is the issuance of the basic certificate. This basic certificate is intended to ensure that a person has met certain minimum training and experience requirements necessary to be competent as a peace officer, reserve officer or jailer. Upon the issuance of this basic certificate, a temporary license is converted into a permanent license which remains valid unless revoked. Of all the licensure qualifications, the basic certificate is the only requirement that addresses the person's ability and skill to perform law enforcement tasks. This basic certificate should, then, only be issued when the commission has determined that the person has achieved a certain minimum level of competence obtained through a combination of a year's work experience and basic training instruction. Currently, the commission has no process in place that can accurately make that determination and relies only on the successful completion of the basic training course and employment dates provided by the local law enforcement agencies. No uniform, comprehensive evaluation is made of the knowledge the person gained through the basic training course and work experience. In most other licensing agencies, this is done through a state licensing examination which evaluates competence, training and experience qualifications are regarded as necessary preparation for the examination. Through the administration of a state-wide examination, the commission could ensure that a uniform level of competence is achieved by the officer before receiving a basic proficiency certificate. This examination could be administered by TCLEOSE personnel at the regional academies upon the completion of each basic course around the state. To accomplish this assurance of competence, the statute should be amended to require that a person pass a state-wide examination developed and administered by the commission before receiving a basic proficiency certificate as a peace officer, reserve officer, or jailer.

Approval of schools. The training division approves schools to offer training courses which count toward training requirements for proficiency certificates. This approval is achieved in two ways: the certification of schools which train peace officers, and contractual arrangements with schools which train jailers. Schools may be certified on a permanent or temporary basis. An evaluation is

made by the state agency concerning the school's physical facilities, the proposed course content, the identification of a training coordinator, and the need for the school. The application for certification along with the agency evaluation is submitted to the commission for approval or denial. The same type of an evaluation is made for schools which train jailers, but instead of a certification the approval of a school results in a one-year contract to conduct certain courses. Currently, 69 peace officer schools have permanent certification, and 19 jailer schools are under contract.

The review indicated that certification requirements are clear and reasonably related to training quality. Application and processing procedures appear appropriate.

Compliance

The agency performs two monitoring activities which are designed to ensure compliance with its act and rules. First, in the Field Services Division, on-site inspections of law enforcement agency personnel records are conducted to ensure that all employed peace officers comply with licensing requirements. Second, in the Training Division, TCLEOSE performs on-site audits of training academies and requires the filing of reports intended to ensure that institutions which train peace officers and jailers conduct their operations in accordance with agency rules.

Three basic parts of these compliance activities were evaluated during the review. First, the method of scheduling the activity was examined in terms of whether it was conducted as frequently as necessary to ensure compliance and whether travel funds were used efficiently. Next, the performance of the monitoring activity was examined to determine whether a specified procedure was used in conducting the on-site audits, whether the scope of the examination was as broad as necessary to ensure compliance, and whether requirements imposed on the entity being reviewed by the agency were reasonable. Finally, the agency's use of information gained during its monitoring activities was examined to determine whether audit results were reported to the proper people and whether a procedure existed for follow-up of violations discovered during the process.

The scheduling, performance, and use of results of the inspections of law enforcement agencies' personnel records generally are conducted in a reasonable manner. Improvements can be made, however, in the agency's procedures for monitoring training facilities.

Agency rules concerning the operation of training facilities are directed toward ensuring that quality training is delivered to law enforcement officers and

jailers. To achieve continuous compliance with these rules, the agency monitors the schools in two ways -- by on-site audits, and through reports required of the academies.

The on-site audits of the schools are scheduled so that each of the 82 facilities which teach basic peace officer or basic jailer courses are visited at least once every two years. Audits are conducted more often in schools in which previous problems indicate that additional attention is needed. The staff member conducting the inspection spends an average of two to three days at an eight-week basic peace officer course, or one day at the one-week basic jailer course. During that time the auditor attends classes, talks with the academy coordinator and some of the instructors, checks academy records, and obtains student evaluations of the course in an effort to determine whether the required curriculum is being taught, whether the classroom and training equipment are adequate, whether the instructors are competent, and whether trainees attend the classes.

The review of the scheduling, the performance, and the use of results of the academy audits indicated that several aspects of the procedure are adequate. By scheduling more than one audit per trip, the agency uses travel funds efficiently. When performing the audit, evaluators follow a specified procedure, and no unreasonable administrative burdens are imposed on the school. The use of the results is appropriate in that the findings are reported to the academy coordinator, and ways of correcting deficiencies are discussed. Any violations discovered during the audit are re-investigated by TCLEOSE later to determine if compliance has been achieved.

Despite these satisfactory aspects of the academy audits, one aspect of the scheduling and performance procedure prevents the audit process from effectively ensuring compliance with agency rules. The on-site audit should be of sufficient duration and frequency to ensure that the activity observed is a valid segment in that it is representative of the type of activity which occurs on any day of the school's operation. Given the variety of instructors and many different types of classes offered during the training period, the agency's current biennial, two-to three-day observation sample is insufficient to determine the overall quality of the training program offered by the school.

Because the agency's resources prevent it from monitoring the academies' basic training courses as frequently as necessary and for a sufficient duration to ensure the quality of training offered, the process of routinely auditing the schools should be discontinued. The establishment of a state-wide licensing exam will

supply TCLEOSE with a more precise means of judging the quality of training than the on-site audit process offers. Using the examination pass/fail rates, the agency will be able to concentrate its efforts on investigations of academies where problems are apparent. A narrowing of focus in this way will enable TCLEOSE to use the considerable staff time currently spent doing on-site audits for other purposes.

The second part of the process of monitoring the academies involves three reports which the schools must file with TCLEOSE. First, the academies notify TCLEOSE on a quarterly basis of the courses it intends to offer during the quarter, with the date and location of each course. The agency uses this report to compile a training calendar which it publishes and distributes to law enforcement agencies. The second report is filed within ten days after the completion of a course and includes the course hourly schedule, a list of instructors, a class roster indicating attendance, scores on exams, ways in which students who missed segments of the course made up the instruction, and information on trainees who dropped out of the course. This report is used to compile records on how many students enrolled but failed to complete the course and to ascertain whether the required curriculum is being taught and whether attendance requirements are being enforced. The third report is a form on each trainee who successfully completes the course, and is used by TCLEOSE to record that each officer has complied with the training requirements and is entitled to a permanent license.

The review of the scheduling, performance, and use of results of TCLEOSE's process of monitoring by report indicated that the reports are appropriate. The scheduling of the due dates, the scope of the information requested and the uses the reports serve are reasonable. Although the information requested is detailed, the reports do provide desk audit materials of the schools under the regulation of the agency. As discussed earlier, the school audit function of the agency is difficult to perform adequately. The materials provided in the reports augment the agency's on-site audit efforts and do not appear unreasonably to burden the schools being reviewed.

Enforcement

Like most other licensing agencies, TCLEOSE has the statutory responsibility to ensure that minimum standards required to receive a license or certification are maintained by persons or facilities while they participate in the regulated activity. This enforcement function is accomplished through investigative operations conducted in two separate programs. In the Field Services Division, the agency

investigates complaints which allege a violation of the act by peace officers, reserve officers, jailers, or law enforcement agencies. Investigations of violations by peace officers generally relate to possible felony convictions, while investigations of law enforcement agencies usually involve reporting violations or the appointment and retention of unlicensed officers. To perform these investigations, the state is divided into five geographical regions with a field office staffed by two investigators and a secretary located in each region. During 1981, a total of 2,847 investigations were completed by the Field Services Division, 1,501 of which related to local law enforcement agency violations. In the Training Division, the agency investigates training and reporting violations by instructors or academies. Five violations against schools were investigated in 1981. Investigations conducted in both of these divisions can result in administrative action by the agency or in the filing of criminal charges through a local prosecutor.

The enforcement activities have been broken into three basic parts for the purposes of the review. First, the agency must have a system to receive and process complaints which includes a reliable method of detecting violations and which involves a consistent method for logging and maintaining current status on complaints received. Second, the investigation of complaints received should be conducted according to clear procedures which ensure that documentation is complete, that investigations are concluded in a reasonable period of time, and that serious complaints are given priority. Finally, sanctions imposed as a result of investigations should be clearly defined in the statute, should conform to the seriousness of the violations, and should follow, when the violator is a licensee, from administrative action in compliance with the Texas Register and Administrative Procedure Act (APA).

Generally, the agency's procedures for receiving and processing complaints are adequate. Central file numbers are assigned to all meritorious complaints and regular status reports are required until the file is closed. Also, investigations are conducted according to clear procedures that ensure complaints will be well documented and completed in a reasonable time. Although hearing procedures appear in compliance with the APA, the range of sanctions available to the commission does not include appropriate penalties for certain violations of the act. Also, procedures for appeal from commission administrative orders would be improved by restricting the venue for those appeals to Travis County. These are discussed below.

Violations that are investigated by the agency and receive staff recommendations that penalties be imposed are divided into two main categories -- those that require administrative action by the commission and those where criminal penalties are appropriate. While criminal actions are always referred to and handled by the local district attorney or county attorney in the county where the criminal act was committed, administrative actions must be conducted by the commission. Under the current license and certification system, all licensees (peace officers, reserve officers, and jailers), certified instructors, and certified training facilities are subject to commission administrative actions. In general, licensees are subject to license revocation for the violation of the act or a board rule, or the conviction of a felony. School certification is subject to revocation if the training is inadequate, the school is no longer needed, the school fails to conduct a course within a one year period, or commission reporting requirements are not followed. Instructor certification may be revoked if the instructor commits a felony, makes a false report, violates a rule, or loses the professional license upon which the certification was issued. As a general principle, an agency's range of penalties should be able to conform to the seriousness of the offenses presented to it. Although many of the possible violations that could be committed by a person or facility regulated by the commission would not warrant the revocation of the license or certificate, revocation is the only administrative sanction currently available to the commission. To make the range of sanctions available to the commission conform to the possible violations, the statute should be amended to expand the commission's enforcement powers to include suspension, probation of suspension, and formal reprimands.

The APA presently provides that venue for appeals from final administrative orders be filed in a District Court of Travis County unless otherwise provided in the agency's statute. Under the TCLEOSE statute, a person may appeal the action of the commission in the county where the person resides or in Travis County. Therefore, venue for appeal of commission orders currently lies either in Travis County or in the county where the appellant resides. Ordinarily the question concerning the necessity for exclusive Travis County venue involves consideration of two factors: the need for the administrative law expertise of Travis county courts due to the complexity of the administrative question, and the balancing of the increased travel expense incurred by the state against the increased inconvenience and expense to the appellant. The venue question for TCLEOSE final order appeals, however, includes an additional factor. The criminal justice system within

a particular county generally consists of law enforcement personnel, prosecutors, judges, and jailers. All of these people must work together on a daily basis to achieve effective law enforcement for their county. Because of this working relationship, a potential for bias exists when a judge in a particular county hears the appeal of a commission revocation order for a law enforcement officer that has worked in that same county. Additionally, commission revocations are generally based upon a final criminal conviction decided in a court of law, thereby offering little potential for commission orders to contain abuse of discretion which might be overturned on appeal. To improve the appellate review process, the statute should be amended so that venue for appeals of commission orders lies only in Travis County.

Training and Curriculum Development

In accordance with its statutory authority, TCLEOSE develops and maintains curricula which are used in training law enforcement officers and jailers. Four types of courses are formulated by the agency: the basic peace officer course, the reserve officer course, the basic jailer course, and various courses which count toward the intermediate, advanced, and instructor proficiency certificates. The first three of these courses have been approved by TCLEOSE and are maintained by the Training Division of the agency. All the academies which teach the courses are required to use the approved curricula. The Training and Career Education Divisions each develop some of the courses which count toward the intermediate, advanced, and instructor certificates. In the Training Division these courses take the form of in-service courses for peace officers which are taught by TCLEOSE staff, and in the Career Education Division they are correspondence courses which are available to peace officers who may not have access to other types of continuing education.

Two basic parts of the agency's formulation of curricula were evaluated during the review. First, the procedure for developing each course was examined in terms of whether it was based on a sound determination of knowledge needed by the groups affected; and second, the method of maintaining the course was evaluated to discover whether the existing curriculum is periodically reviewed and updated to reflect changes in the law and in the duties of law enforcement officers and jailers.

The review indicated that the agency's methods of developing and maintaining the various courses are generally sound. In each of the four types of curricula, the agency either is following the standards of evaluation applied or is attempting

to do so. The basic peace officer course has been in use since 1980. It consists of 320 hours of instruction and is based on an analysis of tasks performed by peace officers which was conducted by a consultant under an agency contract. The course is updated continuously by agency research personnel to reflect changes in legislation or court decisions. The original task analysis currently is being re-evaluated under a contract with Sam Houston State University which is funded by a Criminal Justice Division grant. At the completion of the study, the curriculum will be revised to reflect the findings.

The reserve peace officer course, which consists of 70 training hours, was devised before the task analysis on peace officers was conducted. It is the only one of the three required curricula that is not based on a sound determination of the knowledge needed to perform the duties of the position. However, the current contract with Sam Houston State University includes an examination of reserve officers' duties, and TCLEOSE intends to revise the course in accordance with the outcome of the study. This course, like the basic, is up-dated continuously to reflect changes in the law.

The basic jailer course has been in use since early 1980. After the Sixty-sixth Legislature assigned to TCLEOSE the responsibility of training jailers, a task analysis of jailers' duties was conducted using a CJD grant. The study resulted in the current 36-hour course. Agency staff have indicated that the curriculum needs to be revised because of changes in jail practice which have occurred since the original task analysis was conducted, and a grant for a new study has been requested.

The fourth category of curriculum formulated by TCLEOSE, the courses which count toward intermediate, advanced, and instructor proficiency certificates, are developed differently than the basic, reserve, and jailer courses. While the task analysis method of determining the knowledge needed by law enforcement officers and jailers is necessary to ensure the validity and fairness of the required courses, such an expensive and involved process is not essential to the development of the in-service and correspondence courses which are not mandatory. The research staff in the Training and Career Education Divisions develop the courses based on expressions of need by law enforcement officers and administrators. Texts and content of the courses are revised periodically based on relevant legal developments and student evaluations of the instruction.

Technical Assistance

The agency performs three types of technical assistance activity. The Management Consulting and Career Education Divisions provide standardized examinations for use by colleges and law enforcement agencies in assessing the capabilities of applicants for law enforcement training. The Management Consulting and Field Services Divisions deliver management consulting services to law enforcement agencies; and the Training and Career Education Divisions offer instruction assistance for various training courses.

Two basic parts of the technical assistance activities were evaluated during the review. First, the method of deciding who should receive the service was examined to determine whether information about the service was readily available, whether the decision was fair and unbiased, and whether the decision was based on a valid determination of need for the service. Second, the means of providing the service was examined to discover whether the scheduling of service delivery was efficient, whether the service was performed by competent personnel, and whether the service met the needs of the recipients. The review indicated that the agency's methods of choosing recipients and performing the three types of technical assistance service are generally appropriate.

Examination Provision. Two types of examinations are provided by the agency. The Management Consulting Division distributes a validated entry selection system to local law enforcement agencies. The system consists of a written examination as well as manuals on recruiting procedures, oral interviews, and background investigations. The total system assists the local agency in selecting applicants for employment who are capable of learning to perform law enforcement duties. The determination of who will receive the system and the method of distributing it are appropriate in that law enforcement agencies are informed of the service, the system is available upon request, and TCLEOSE staff instructs police or sheriff's department personnel in the techniques for using it.

The Career Education Division supplies examinations to colleges and universities which offer law enforcement degree programs. There are seven college-level courses which are recognized by TCLEOSE as the collective equivalent of the basic peace officer course. The exams supplied by TCLEOSE are used by the colleges to allow students who have a law enforcement background to challenge any of the seven courses. After the examinations have been administered at the college, they are returned to TCLEOSE for grading. The determination of who will receive the service and the method of performing it are reasonable because all Texas colleges

and universities which offer law enforcement degrees are informed of the availability of the exams, they are distributed upon request, and the security of the exams is protected by the grading system which TCLEOSE has developed.

Management Consulting. TCLEOSE consults with local law enforcement administrators and supervisors in two ways. Field Services Division personnel assist the agencies in their regions in understanding what the department and the individual peace officer must do to comply with state requirements. This service is offered upon request.

A more extensive management assistance function is conducted by the Management Consulting Division of the agency. In this area, TCLEOSE staff visit the local agency requesting the service and provide analyses of the agency's administrative or operational practices. The scope of these surveys varies from a limited examination resulting in a few suggestions to a comprehensive evaluation resulting in a detailed report. Since TCLEOSE is unable to fulfill every request for the service, the decision as to who will receive assistance is made so that agencies which serve populations of 50,000 or less receive priority. Since these smaller departments often do not have access to the services of consultants which larger law enforcement departments are able to afford, this basis for the decision appears appropriate. The method of delivering the service is also reasonable. The staff members who perform the analyses are qualified to do the work, and the agencies receiving the service are given an opportunity to evaluate its usefulness and make suggestions at the completion of the study.

Instruction. In the third technical assistance function, TCLEOSE teaches some segments of the various training courses. Upon the request of local law enforcement agencies, academies, and associations, the Training Division provides instruction of a few parts of the basic peace officer course and of several in-service training courses. The basic course subjects are taught when an academy is unable to obtain an instructor or when a scheduled instructor is unable to attend. The in-service courses taught by TCLEOSE staff emphasize management techniques, a subject area which usually is not addressed by the academies. TCLEOSE's method of deciding who will receive instruction assistance appears appropriate because information about the activity is widely disseminated to academies and local agencies, and because priority is placed on helping in rural areas where instructors and in-service courses are not as widely available as in urban areas. The performance of the service is also satisfactory in that necessary travel is scheduled efficiently and staff instructors are well qualified.

The Career Education Division provides instruction services by supplying correspondence courses to peace officers and jailers who may be unable to attend courses in person. The basic jailer course, as well as several courses which count toward the intermediate and advanced proficiency certificates for peace officers, are available. Agency staff supplies course lessons on request, and grades the lessons when they are completed. When several students have finished a course, the staff administers an exam at a location in their area. The methods of deciding who should receive the service and of performing it appear appropriate because information is adequately distributed, no requests for courses are refused, administration of the tests is efficiently scheduled, and the service meets the needs of a group of recipients who are unable to obtain the training elsewhere.

EVALUATION OF OTHER SUNSET CRITERIA

The review of the agency's efforts to comply with overall state policies concerning the manner in which the public is able to participate in the decisions of the agency and whether the agency is fair and impartial in dealing with its employees and the general public is based on criteria contained in the Sunset Act.

The analysis made under these criteria is intended to give answers to the following questions:

1. Does the agency have and use reasonable procedures to inform the public of its activities?
2. Has the agency complied with applicable requirements of both state and federal law concerning equal employment and the rights and privacy of individuals?
3. Has the agency and its officers complied with the regulations regarding conflict of interest?
4. Has the agency complied with the provisions of the Open Meetings and Open Records Act?

EVALUATION OF OTHER SUNSET CRITERIA

The material presented in this section evaluates the agency's efforts to comply with the general state policies developed to ensure: 1) the awareness and understanding necessary to have effective participation by all persons affected by the activities of the agency; and 2) that agency personnel are fair and impartial in their dealings with persons affected by the agency and that the agency deals with its employees in a fair and impartial manner.

Open Meetings/Open Records

The review of this area indicated that the commission has generally complied with the provisions of the Open Meetings Act and the Open Records Act. However, there is one area of agency operations which does not comply with the Open Records Act.

The agency currently holds several types of records confidential under the provisions of Article 6252-17a, V.T.C.S., including all grade reports from schools, submitted by the licensure applicant as a part of the application process.

Open Records Decision No. 157 specifically indicates that educational transcripts held by the licensing entity, at the behest of the applicant, are not excepted by present law from public disclosure. The agency has indicated that it will consider such records open in the future.

EEOC/Privacy

A review was made to determine the extent of compliance with applicable provisions of both state and federal statutes concerning affirmative action and the rights and privacy of individual employees. The commission is operating under an affirmative action plan, last updated in 1977. The agency indicates that procedures to review and update the plan are underway.

In reviewing the employment practices of the agency, it was found that a particular standard may be applied when filling positions in Grades 17 or above. In several of the agency divisions, an unofficial standard is used which requires at least 5 years of law enforcement experience for all professional-level employees. The agency appears to have consistently applied this standard except in cases where the requirement is not essential to the hired individual in carrying out his or her duties. For example, personnel in data processing have not been required to have the five years experience nor have persons primarily engaged in certification duties. Although the standard is a bar to employment for certain persons it does

appear the agency has applied it with reasonable consistency and in a manner which does not exclude consideration of persons actually qualified for the jobs available at the agency.

Public Participation

The agency encourages public participation, and has, in its "Self-Evaluation Report" to the Sunset Advisory Commission, recommended that its statute be amended to specifically provide for citizen membership on the commission, to be appointed by the Governor. The staff has addressed this in the "Policy-making Structure" section of this report.

Agency efforts concerning public participation include the publication of a quarterly combination newsletter/training calendar to inform interested persons of upcoming educational opportunities and other activities occurring in various divisions of the agency. The agency also has acted as a co-sponsor with the United States Department of Justice in meeting with representatives of police and Hispanic groups from throughout Texas to help increase understanding of the agency's role. This in turn increased input to the agency from such organizations as MALDEF and LULAC, as well as private citizens. These programs were duplicated at the national level by the Department of Justice. The agency has also involved citizen and minority group representatives in police training programs at the management level.

In considering the area of Public Participation in relation to the overall function of TCLEOSE, it is readily apparent that the public has considerable interest in the type of training law enforcement personnel receive. It is also apparent that such training should be uniform but with some allowance for variation to take into account the differences between the many communities in the state. Currently, TCLEOSE requires by rule that all training schools certified by the agency have an advisory board. One of the purposes of these advisory boards is to provide information to the educational facility concerning the types of training courses to be offered at the school or academy. These boards are ideally suited to help translate community concerns into course work for law enforcement personnel reflective of the particular needs of their community. At present, however, the boards are composed of law enforcement personnel, generally the heads or chiefs of the law enforcement departments served by the school. Such a composition leaves out input from the general public and minority groups living in that area. Since the law enforcement officers being trained in such academies will eventually be serving the general public, it appears that the advisory boards should

be required by statute, not agency rule, and that their composition should include citizen representation. Where appropriate, such citizen representation should include representatives of the different minority groups present in the area.

In looking at the agency operation as a whole, it appears additional valuable public and professional input can be obtained from open public forums conducted on a regular basis. A biennial public meeting should be conducted by the agency, with written and/or oral testimony sought from interested citizens, and from members of the profession, regarding the training and standards for law enforcement officers. TCLEOSE commission and staff members should be present to take such testimony and to query witnesses. The agency has endorsed such a concept and has agreed such input could be valuable. As an adjunct to the biennial public forum, an additional reporting tool should be used. Section 2(p) of Article 4413(29aa), V.T.C.S., requires an annual report from the agency to the Governor, and biennially, to the Governor and the legislature, to provide information about the agency's activities and any recommendations for improving agency operations. The review indicated that the agency has not prepared either report for approximately eight years, and in the Sunset Commission's "Self-Evaluation Report", has rated the reports as having "little or no usefulness," since other reports, such as the biennial budgets, performance reports, annual 100-day report, etc. furnish sufficient opportunities for the development of such information. However, if the biennial public forums are utilized, this statutory provision for a report of activities and recommendations should be amended to require only a biennial report to the governor and the legislature to serve as a reporting mechanism on the results obtained from such meetings.

Conflicts-of-Interest

A review of commission members' compliance with statutory standards of conduct and conflict of interest provisions showed overall compliance with the requirements. As new commission members have been appointed, the records of the Secretary of State's Office indicate that the "Disclosure of Regulated Business Interest" forms, as required by Article 6252-9b, V.A.C.S., have been filed, as have annual financial reports required of the executive director of the agency. New employees are informed, in writing, of applicable provisions of the State Appropriation Act, and are required to sign a statement that they have received such information.

**NEED TO CONTINUE AGENCY FUNCTIONS
AND
ALTERNATIVES**

The analysis of the need to continue the functions of the agency and whether there are practical alternatives to either the functions or the organizational structure are based on criteria contained in the Sunset Act.

The analysis of need is directed toward the answers to the following questions:

1. Do the conditions which required state action still exist and are they serious enough to call for continued action on the part of the state?
2. Is the current organizational structure the only way to perform the functions?

The analysis of alternatives is directed toward the answers to the following questions:

1. Are there other suitable ways to perform the functions which are less restrictive or which can deliver the same type of service?
2. Are there other practical organizational approaches available through consolidation or reorganization?

NEED

Functions

The primary function of the Texas Commission on Law Enforcement Officer Standards and Education is to ensure that law enforcement officers meet minimum standards of competency. The regulation of law enforcement officers and jailers is justified because of the public harm which could result from the employment of incompetent people in these positions. The authority of law enforcement officers to carry a firearm, to kill legally, and to remove a person's freedom by arrest, constitute substantial powers; and the abuse of them could present a significant threat to public safety. Two types of regulatory standards are necessary to insure that law enforcement officers and jailers are competent: (1) minimum entry requirements and (2) practice standards. Unlike most other occupational licensing activities, the responsibility for insuring the competence of law enforcement officers and jailers does not lie entirely with the state, but is shared with the various local governments which employ them. Currently, the state's efforts primarily are directed toward establishing and enforcing minimum entry standards which include educational and training requirements and the provision that no person who has ever been convicted of a felony, or who has recently been convicted of driving while intoxicated or of driving while under the influence of drugs may serve as a law enforcement officer or jailer. TCLEOSE performs this role through the functions related to licensing and training which have been discussed in this report.

Local governments, on the other hand, perform the second aspect of the regulatory function by setting standards of conduct, investigating complaints against officers, and conducting disciplinary actions in all matters other than those enforced by TCLEOSE.

The review indicated that the present division of responsibility for the regulation of law enforcement officers and jailers is generally workable and appropriate. Entry requirements are reasonably handled by the state because it is in a better position than local governments to establish, approve and monitor large-scale training programs in an efficient and effective manner. At the same time, standards of conduct can best be handled by the local governments which can monitor officers' conduct on a daily basis.

Agency

The review and analysis of the organizational structure indicated that an independent agency is the most efficient and effective means of carrying out the function.

ALTERNATIVE APPROACHES FOR COMMISSION CONSIDERATION

Agency Reorganization

State-wide enforcement of minimum standards for law enforcement personnel is most appropriately done through an agency like the Texas Commission on Law Enforcement Officer Standards and Education. While other states do carry out this type of regulation through agencies such as the Department of Public Safety or through a division of the Office of the Attorney General, the review concluded that there were no substantial benefits to be gained from consolidation or transfer of functions.

Change in Method of Regulation

While the scope and method of regulation appear appropriate to protect the public health and safety, the procedures authorized in the statute for conducting the licensure process provide a potential for public harm.

Elimination of Temporary Licenses. Under the current process, temporary licenses may be issued to peace officers, reserve officers, and jailers before they receive any formal law enforcement training. This issuance occurs upon the showing of only certain minimum qualifications, such as a high school education and a partial criminal history check. The basic proficiency certificate which demonstrates minimum proficiency in law enforcement skills is not required prior to the issuance of a temporary license, and the applicant is given twelve months to obtain required training. The comprehensive criminal history check conducted by the FBI from a fingerprint card submitted at the time the temporary license is issued generally takes about two months to complete. As a result, the potential exists for an untrained person to perform the duties of a regular peace officer, reserve officer, or jailer for a period of up to one year before being required to meet the minimum competency standards of the basic proficiency certificate. In addition, appointed peace officers or jailers who have an out-of-state felony conviction could work in their official capacity for approximately two months before a comprehensive criminal history check would reveal the conviction. The system that permits this potential public harm is designed to allow those local law enforcement agencies without the resources for maintaining a pool of trained personnel to fill vacancies quickly. Generally, these local agencies are located in small towns or rural counties. In fact, most of the larger metropolitan police forces have implemented recruit training programs which usually require new

recruits to receive training in excess of the TCLEOSE basic course requirement before getting a duty assignment.

The elimination of the temporary permit would essentially require that all persons meet the training requirements needed to receive a basic proficiency certificate and provide the commission a completed FBI criminal history check before being licensed and allowed to work as law enforcement personnel. This alternative would substantially reduce the potential harm to the public, but would also restrict local law enforcement agencies' ability to fill vacancies in their work force quickly.

ACROSS-THE-BOARD RECOMMENDATIONS

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

Applied	Modified	Not Applied	Across-the-Board Recommendations
A. ADMINISTRATION			
X			1. Require public membership on boards and commissions.
X			2. Require specific provisions relating to conflicts of interest.
X			3. A person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
X			4. Appointment to the board shall be made without regard to race, creed, sex, religion, or national origin of the appointee.
		X	5. Per diem to be set by legislative appropriation.
X			6. Specification of grounds for removal of a board member.
X			7. Board members shall attend at least one-half of the agency board meetings or it may be grounds for removal from the board.
X			8. The agency shall comply with the Open Meetings Act, and the Administrative Procedure and Texas Register Act.
X			9. Review of rules by appropriate standing committees.
X			10. The board shall make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.
X			11. Require the board to establish skill oriented career ladders.
X			12. Require a system of merit pay based on documented employee performance.
X			13. The state auditor shall audit the financial transactions of the board during each fiscal period.
X			14. Provide for notification and information to the public concerning board activities.
		*	15. Require the legislative review of agency expenditures through the appropriation process.

*Already in statute.

**Commission on Law Enforcement Officer
Standards and Education
(Continued)**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			B. LICENSING
		X	1. Require standard time frames for licensees who are delinquent in renewal of licenses.
X			2. A person taking an examination shall be notified of the results of the examination within a reasonable time of the testing date.
X			3. Provide an analysis, on request, to individuals failing the examination.
X			4. (a) Authorize agencies to set fees.
		X	(b) Authorize agencies to set fees up to a certain limit.
X			5. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
X			6. (a) Provide for licensing by endorsement rather than reciprocity.
		X	(b) Provide for licensing by reciprocity rather than endorsement.
		X	7. Authorize the staggered renewal of licenses.
			C. ENFORCEMENT
X			1. Authorize agencies to use a full range of penalties.
X			2. Require files to be maintained on complaints.
X			3. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
X			4. Specification of board hearing requirements.
			D. PRACTICE
		X	1. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
X			2. The board shall adopt a system of voluntary continuing education.