Public confidence in law enforcement is a public safety strategy. Public trust depends on transparency, accessibility, and accountability.

Texas Law Enforcement Regulation at the Crossroads

The 2020 Sunset Report for the Texas Commission on Law Enforcement (TCOLE) described Texas’s system of law enforcement regulation as “largely ineffective,” “toothless,” and “fundamentally broken.” After failing to pass a sunset bill in 2021, the Texas Legislature will face the same questions about the basic regulatory structure overseeing law enforcement.

An effective regulatory structure that oversees law enforcement and serves Texans needs a strong foundation in data. Texas 2036 partnered with Benchmark Analytics to explore two issues:

1) The sufficiency of TCOLE’s data collection and management; and
2) How Texas handles the “wandering officer” problem.

The resulting Data Landscape report shows a serious need to support an improved data capacity and infrastructure at TCOLE that is based on transparency, accessibility, and accountability.

Data Landscape Key Takeaways

1. Texas’s broken system for handling the “wandering officer” needs transparency and reform.
2. Compared to peer states, TCOLE oversees more agencies with fewer resources.
3. TCOLE’s database for licensees and agencies has potential to support agencies and inform the public.
4. Texas needs to drastically improve the collection of motor vehicle stop data.

Wandering Officers in Texas

Dishonorably Discharged Peace Officer Rehirings 2012-2022 – Top 10 Agencies

<table>
<thead>
<tr>
<th>Department Name</th>
<th># Peace Officers as of 08/2022</th>
<th>County</th>
<th># DDPO Rehirings: 2012-2022</th>
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<tr>
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<td>HENDERSON</td>
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Key Findings on Wandering Officers

- 1,400 peace officers rehired after receiving a dishonorable discharge since FY2012
- 59% of the time, officers won an upgraded discharge by default in FY2021 because the agency didn’t participate
- 75% of cases before SOAH where an officer won an upgraded discharge in FY2021
- Dishonorably discharged officers are concentrated in smaller agencies and less densely populated areas of Texas
Wandering Officers in Texas

A “wandering officer” is a peace officer who is fired or resigns in lieu of getting fired, and is then rehired to work in law enforcement at another agency. Research on Florida’s law enforcement showed that despite being only 3% of all peace officers, wandering officers were more likely to be fired again for misconduct and receive more complaints of “moral character violations.”

Texas has used the F-5 separation report, where a Chief ranks a peace officer’s discharge as “honorable,” “general,” or “dishonorable” depending on the nature of the separation. If an officer believes that a “general” or “dishonorable” discharge is incorrect, they can petition to amend the F-5. This appeal of the Chief’s decision goes through the State Office of Administrative Hearings (SOAH).

The F-5 report, the hearings at SOAH, and the discharges are all confidential.

1. The F-5 System is broken: The “dishonorable discharge” category does not distinguish between insubordinate backtalk and violent criminal conduct. The confidentiality surrounding also hurts officers, agencies, and stakeholders in law enforcement. The categories should be redefined and the information should be publicly available.

2. Hiring agencies need complete records: SB 24 (87R) passed in 2021 is an important step forward, but Texas has more law enforcement agencies than any other state. Agencies, both public and private, have their own record retention rules. All agencies should have uniform employment record requirements to ensure hiring agencies have access to all relevant records.

The Legislature should invest in TCOLE’s data and IT infrastructure, and require TCOLE to adopt clear guidelines and policies to help agencies and proactively identify data errors.

Other Data Issues & Deficiencies in Motor Vehicle Stop Data

Law enforcement agencies are generally required to report data to TCOLE about all the stops conducted by officers every year. However, the motor vehicle stop data have been plagued with quality problems for years. For example, 2021 data improbably suggests that the number of stops where both officers and suspects were injured outnumbered the total number of stops where an injury occurred.

Bad data quality obscures real problems that should be scrutinized and it makes good agencies look bad.

TCOLE’s recent acquisition of the data system “TCLEDDS” represents an opportunity to lay a strong foundation for future changes to the regulatory structure of law enforcement.

78% of Texans supported using $1 billion of federal funds to improve the state’s cybersecurity and technology systems in 2021.

68% of Texas voters trust their local police and law enforcement to handle crime and public safety issues.

79% of Texas voters support improved transparency to make F-5 information available to the public.

83% of Texas voters said making it harder to rehire law enforcement officers who were previously fired for poor conduct would increase their confidence in law enforcement.

6.8 million motor vehicle stops conducted by Texas law enforcement agencies in 2021.

4,893 stops in 2021 where physical force led to any bodily injury.

4,897 stops in 2021 where officer & suspect were both injured by force.

The Legislature should invest in TCOLE’s data and IT infrastructure, and require TCOLE to adopt clear guidelines and policies to help agencies and proactively identify data errors.

For more information, please contact Luis Soberon, Policy Advisor
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