

WTF-5?

# Adapting to the New F-5 Procedures

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# *June 19, 2023 Headline*

Gov. Abbott signed legislation expanding the TCOLE's authority to set standards for law enforcement hiring, licensing, creating new departments and more.



# *Intended Goals*

- (1) Advance the profession in a positive direction.
- (2) Places value on rank-and-file officers and advancement of professional standards
- (3) Building public confidence establishing good data, transparency and accountability.
- (4) New misconduct report system, removing categories on F-5

# *Form Change*

- Removes the three categories of separation.
- Rather than categories on an F-5 form, an officer's personnel file will contain information showing what led to their separation.

# *Big Change*

- F-5 Administrative Appeal hearings ended.
- Officers will only be allowed to submit a written rebuttal in the file.



# *New Plan*

- TCOLE will also establish a confidential database containing the license status of each licensed officer.
- Records of any adverse actions taken must be in the personnel file.
- This information must be reviewed by hiring agencies.

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# *Hiring Requirements*

- Before hiring a new officer, law enforcement agencies must also crosscheck a national database to find any infractions in another state.



# *Employing Agency*

- TCOLE will adopt model policies for investigating misconduct and sending completed investigation reports to the commission.
- Documents with a negative impact on an officer would be maintained in a personnel file, and officers would be notified when those types of records were put in their files.
- An officer's personnel file would be provided to TCOLE within 30 days of their separation.
- Agencies hiring an officer entitled to view the contents of the personnel file.



# *When Does This Happen?*

TCOLE, not later than March 1, 2024, establish a database containing:

- Officer's license status,
- Personnel files provided by former PD employer.



# *Hiring Agency/Officer Receives:*

- TCOLE to make available to a law enforcement agency any relevant information in the database for purposed of fulfilling its duties in the hiring and preemployment processes.
- TCOLE must provide to the officer any information maintained in the database regarding the officer.



# *Hiring Agency Must Confirm with TCOLE Before Hiring*

- Misconduct investigation reports maintained by TCOLE,
- Person's law enforcement background as available through a designated national law enforcement database
- If applicable, a file or record obtained by TCOLE from an out-of-state licensing authority.
- These provisions apply only with respect to a person hired on or after March 1, 2024.

# *TCOLE 3/1/24 Model Policy*

- Prescribing minimum standards regarding.
  - pursuit of a suspect;
  - arrest and control tactics;
  - executing high-risk warrants; and conducting traffic stops, including a uniform standard for conducting a traffic stop for an offense punishable by fine only;
  - establish a process by which a law enforcement agency must investigate alleged misconduct of an officer employed by the agency
  - require a law enforcement agency to report to TCOLE an officer employed by the agency found to have engaged in egregious misconduct as determined by TCOLE.

# *Agency Responsibility*

- The bill requires each law enforcement agency in Texas to adopt the model policy or a substantively similar policy and requires a policy adopted by a law enforcement agency to be submitted to TCOLE.
- The bill requires TCOLE, not later than 3/1/24, to establish a date by which each agency must adopt their policy.



# *TCOLE w/ Require Agency's Personnel Files to Contain:*

- Any letter, memorandum, or document relating to: a commendation, congratulation, or honor bestowed on the license holder
- Any misconduct by the license holder if the letter, memorandum, or document is from the employing agency and the misconduct resulted in disciplinary action by the employing agency;
- Periodic evaluation of the license holder by a supervisor;



*Requirements*

# *TCOLE to Require (Cont.)*

- Misconduct documentation may not be placed in the personnel file if the employing agency determines there is insufficient evidence to sustain the charge of misconduct;
- Officer must be notified within 30 days after negative documentation is placed in the personnel file;
- The officer may, within 30 days of this notice file a written response;
- The documentation may not be released without the officer's written permission, unless the release is required by law;
- Officers are entitled to a copy of any letter, memorandum, or document placed in the license holder's personnel file.

# More Rules

- Investigation into the alleged misconduct of an officer may not be terminated by the resignation, retirement, termination, death, or separation from employment of the license holder;
- Officer under investigation for misconduct is entitled to any Agency internal due process;
- Establish a provisional hiring period of at least 45 days for agency to terminate if informed of alleged misconduct within the provisional period
- Take into account the variation in size, function, and jurisdiction of law enforcement agency.



# Questions?

