



December 17, 2015

Delivered via public comment@tcole.texas.gov

Mr. Kim Vickers
Texas Commission on Law Enforcement
6330 East Highway 290, Suite 200
Austin, TX 78723

RE: School-Based Law Enforcement Training Draft, December 2015

Dear Commissioners and Director Vickers:

We write regarding the School-Based Law Enforcement Training Draft released by the Texas Commission on Law Enforcement (TCOLE) pursuant to the requirements of the 2015 legislative session's HB 2684.

We commend TCOLE on developing this training, which is critically important to ensure that officers in schools are adequately prepared to address the unique challenges of school-based policing. HB 2684 was passed to ensure that "officers have all of the tools they need to appropriately and effectively interact with students" and that Texan children have "a healthy and safe environment for their education."¹ We are happy to see the first iteration of the training ready for public comment.

However, we have strong concerns that the training does not meet the intentions of HB 2684, in that it has minimal practical application and skill development for the officers who will receive the training. Because this is the first time that advocates have been permitted to engage in the curriculum's development, our comments are wide-ranging. We had hoped to be involved in the drafting process so that we could offer these points for discussion prior to the training's release date. Because the number of people involved in drafting was so limited, we recommend that TCOLE submit the proposed training to subject-matter experts for review. We are happy to provide recommendations of experts with whom TCOLE can collaborate.

In the meantime, we recommend that TCOLE reformulate the training along four major lines: structuring the training more clearly around the roles and responsibilities of school-based law enforcement officers; refocusing the training on practical application of the principles presented; incorporating more structured discussion and role-play opportunities; and addressing substantive issues and omissions in the training.

- 1. Training should clearly define the roles and responsibilities of school-based law enforcement officers in the school community and explain how the principles articulated intersect with those roles and responsibilities.**

The training should more clearly define the roles and responsibilities of the officer in the school community and connect those roles to each of the topics that the training covers. As the training stands, the discussion of the role of the officer is limited to two pages (pages

¹ Press Release, Rep. Helen Giddings, Giddings Passes School Resource Officer Training Bill out of Texas House (May 20, 2015), <http://www.house.state.tx.us/news/member/press-releases/?id=5601>.

120–21), which encourage the officer to meet with school administration to discuss “roles and expectations” and meet with faculty and parents to develop positive working relationships with the whole school community.

This is inadequate to prepare officers for their work in schools. As recently as October of this year, the Department of Justice emphasized that “SROs and law enforcement agencies need to ensure that their responsibilities in the school setting are clearly delineated.”² There must be limits to officer involvement in schools—for example, officers should never address minor classroom misbehaviors that do not threaten the safety of staff or students in the school. While the proposed training covers a range of substantive information, it is important to also remind school-based law enforcement officers that their new knowledge and training does not mean that they are expected to intervene in situations that should be handled by educators, counselors, special education professionals, or mental health providers. By framing training around the very specific safety role that law enforcement officers should play in schools,³ trainers can structure specific lesson content to clearly connect the officer’s roles and responsibilities with the five substantive areas covered in the curriculum.

For example, the training provides in-depth information on bullying, its effect on victims, and appropriate strategies for intervention. However, the training is unclear whether the strategies discussed are within the officer’s role, or whether those strategies are administration strategies about which the officer should be aware. Other trainings throughout the country provide models for more precise and defined training on interventions; for example, the Department of Justice’s guide for law enforcement on Preventing and Addressing Bullying and Intolerance provides step-by-step instruction on responding to a child who has been bullied and coaching students on refusal skills.⁴ The guide also provides explicit suggestions about ways that officers can support schools in addressing and responding to bullying.⁵ By more clearly defining the practical application of interventions and the role of the officer in those interventions, the training provides more practical value to officers in schools.

2. Training should focus on practical application.

The training should focus more heavily on practical application and provide officers with the skills and tools they need to interact with youth. The training provides significant detail about general principles concerning (1) child and adolescent development and psychology; (2) positive behavioral interventions and supports, conflict resolution techniques, and restorative justice techniques; (3) de-escalation techniques and techniques for limiting use of force; (4) mental and behavioral health needs of children with disabilities or special needs; and (5) mental health crisis intervention. However, it provides very little practical application of those principles to officer-student interactions. In an effort to make the training more useful for officers in schools, we ask TCOLE to revise the training to focus more on the practical application of principles and how officers can apply their knowledge appropriately.

² Statement of Interest of the United States at 14, *S.R. v. Kenton Cnty.*, No. 2:15-CV-143 (E.D. Ky. Oct. 2, 2015).

³ COMMUNITY ORIENTED POLICING SERVS., DEP’T JUST., POTENTIAL EFFECTS OF THE U.S. DEPARTMENTS OF EDUCATION AND JUSTICE RECENTLY RELEASED SCHOOL DISCIPLINE GUIDANCE PACKAGE ON LAW ENFORCEMENT 3 (2014), <http://ric-zai-inc.com/Publications/cops-w0736-pub.pdf> (“[S]chools choosing to use school-based law enforcement officers should carefully ensure that law enforcement’s role is focused on protecting the physical safety of the school or preventing criminal conduct and not on routine school disciplinary matters.”).

⁴ BECKI COHN-VARGAS, PREVENTING AND ADDRESSING BULLYING AND INTOLERANCE 11–19 (2015), <http://ric-zai-inc.com/Publications/cops-p334-pub.pdf>.

⁵ *Id.* at 19.

3. Training should incorporate more explicit guidance on discussion and role-play.

The training abstract indicates that instruction will be composed of three parts: lecture, group discussion, and scenarios and role-play. Although the lecture material is substantial, discussion and role-play are inconsistently incorporated into the training. For example, Sections 1 and 2 offer discussion topics very sparingly (pages 9, 24, 36, 50, 67, 82–83, and 91). Those discussions are limited to discussions of videos, and the training provides no outline of the subjects to cover or the goals of those discussions. Section 3 offers more directed discussion questions integrated into the lecture material, but only offers two activities/role-play scenarios. By integrating more specific guidance and goals for discussion, as well as additional activities and role-play scripts into the curriculum, TCOLE can ensure that the curriculum accomplishes its intended objectives.

4. Training should address substantive issues and omissions, including those concerning racial/ethnic bias, special education, and mental health.

Finally, TCOLE should address substantive issues and omissions in the training as proposed by submitting the training to subject-matter experts for review. A few, nonexclusive examples of substantive issues and omissions include:

- Use of Force: At present, the training’s discussion of use-of-force is limited to the use of restraints and de-escalation techniques for each phase of a severe behavior cycle. It lacks any specific discussion about the full range of use of force options in the school context, when those options are appropriate, and how interacting with a student with a developmental or mental disability affects the use of force spectrum. The current use of force section is inadequate to train officers effectively about use of force in schools. The omission is glaring, given that HB 2684 was passed in part to respond to excessive force incidents in schools in Texas and across the country.⁶
- Racial/Ethnic Bias Training: As the training stands, it lacks specific instruction on cultural competency in the context of race and ethnicity, as well as training on racial and ethnic bias. Such training is critical in light of data demonstrating that minority students are continually overrepresented in court referrals and arrests on school campuses across the state.⁷ Officers should receive training on recognizing and overcoming explicit and implicit racial and ethnic bias in an effort to better inform their actions with students and address the racial and ethnic disproportionalities in law enforcement contact.⁸
- Special Education Training: At present, the training acknowledges that a student’s Individualized Education Program (IEP) should dictate appropriate discipline (page 120), but it stops there. It also fails to connect the mental health and disabilities that it discusses to lessons about knowing violations of school rules (page 120). Both areas of instruction are critical to an officer’s work within the school community, given that special education students are overrepresented in contact with law enforcement on school campuses.⁹ Additional training on how IEPs dictate school discipline and interactions with law enforcement will help officers avoid violations of the Individuals with Disabilities

⁶ Press Release, *supra* note 1.

⁷ See, e.g., *Hearing: Ending the School to Prison Pipeline Before the S. Judiciary Comm.*, 2011 Leg., 81st Sess. (Tex. 2012) (statement of Texas Appleseed), <https://www.texasappleseed.org/sites/default/files/157-STPP-TexasAppleseedTestimony.pdf>.

⁸ COMMUNITY ORIENTED POLICING SERVS., *supra* note 3, at 4 (training should include instruction on “bias-free policing (including implicit or unconscious bias and cultural competence)”).

⁹ Statement of Interest of the United States, *supra* note 2 at 12; COMMUNITY ORIENTED POLICING SERVS., *supra* note 3, at 2.

Education Act, the Americans with Disabilities Act, and other federal and state law. Training on the intersection between mental health and disabilities and knowing violations of school rules will ensure that officers approach interactions with students with disabilities successfully. Moreover, these changes will align the training with the Department of Justice’s October statement on the appropriate scope of officer training as related to students with disabilities.¹⁰

- **Mental Health Training:** The training provides extensive information about a wide array of developmental disorders and mental health disabilities. To our knowledge, these topics will be taught by a trainer without a professional background in counseling or therapy. Because of the complexities of developmental disorders and mental health disabilities, a less clinical approach to addressing mental health and developmental disorders will avoid risks of misinformation and better equip officers to understand their role in interacting with students with developmental disorders and mental health disabilities. So long as the training prepares the officer to distinguish between behaviors that pose a real risk from behaviors that do not and to identify and use proper de-escalation techniques for the circumstances, the training will adequately prepare officers for interacting with students with developmental disorders and mental health disabilities.
- **Lack of Focus on Middle and High School Students:** The training’s sections on child and adolescent development and psychology focus heavily on infancy and early childhood. For example, the section on aggression (pages 38 through 40) address aggression only in children ages one to nine. Additional materials focused on adolescent development are necessary to fully prepare officers for interactions with middle and high school students.

By addressing these concerns, the proposed training will provide more practical value to officers through instruction aligning with best practices. We are happy to discuss our recommendations further and to provide suggestions for subject-matter experts to review the substantive portions of the training. Please do not hesitate to contact us with any questions or concerns.

Sincerely,

American Civil Liberties Union of Texas | www.aclutx.org

Contact: 512-478-7300 x114

Texas Appleseed | www.texasappleseed.org

Contact: 512-473-2800

Texans Care for Children | www.txchildren.org

Contact: 512-473-2274

Children’s Defense Fund—Texas | www.cdf-texas.org

¹⁰ *Id.* at 15 (“It is particularly important that SROs be trained to recognize and respond appropriately to youth behavior that may be a manifestation of disability. Indeed, appropriate training can help law enforcement agencies avoid interactions that violate children’s rights under federal and civil rights laws, including the ADA. Discriminatory treatment, such as arrests for disability-related behavior that law enforcement officers may perceive as criminal, can be avoided by proper training.’ While law enforcement officers are charged with addressing risks to safety when they arise, to comply with the ADA, it is critical that officers receive training to ‘distinguish behaviors that pose a real risk from behaviors that do not.’ Appropriate training is often essential to ensuring that law enforcement officers’ conduct comports with the ADA’s requirement that public agencies make reasonable modifications to policies, programs, and procedures when necessary to avoid disability-based discrimination.”).

Coalition of Texans with Disabilities | www.txdisabilities.org

Disability Rights Texas | www.disabilityrightstx.org

Grassroots Leadership | www.grassrootsleadership.org

Mental Health America Texas | www.mhatexas.org

Mexican American Legal Defense Fund | www.maldef.org

National Alliance on Mental Illness (NAMI) Texas | www.namitexas.org

National Association of Social Workers – Texas Chapter | www.naswtx.org

Texas Civil Rights Project | www.TexasCivilRightsProject.org

Texas Criminal Justice Coalition | www.texascjc.org

Texas Organizing Project | www.organizetexas.org

The Arc of Texas | www.thearcoftexas.org