

**The Bill Blackwood  
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**Collective Bargaining:  
Establishing a Foundation for all Texas Police Officers**

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## **ABSTRACT**

Collective bargaining is relevant to contemporary law enforcement because it allows police officers and fire personnel an opportunity to have a voice in their working conditions. Collective bargaining creates a legally based, bilateral relationship between the officers and the municipalities in which they serve. Collective bargaining provides employees protections of their rights and promotes fairness and consistency in the hiring and firing process.

The position of the researcher is that all Texas police officers should use collective bargaining as a tool to promote professionalism within their departments. Since the passage of collective bargaining, some Texas police departments have implemented the process. With instances of unfair hiring, firing, and promotional processes reported in the media, collective bargaining is key to reestablishing the image of those agencies that have been subjected to the fall out associated with at will employment.

The types of information used to support the researcher's position were a review of articles, internet sites, periodicals, journals, and state laws. The recommendation drawn from this position paper is that collective bargaining should be implemented by all Texas police agencies. In doing so, police officers will have a voice in their working environment over matters such as salary, benefits, hiring practices, promotional procedures, and termination processes.

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## INTRODUCTION

Texas law enforcement has been around since 1823, when Stephen F. Austin called on a group of men to protect some of the first settlers in Texas. Austin referred to them as “Rangers, and their primary duties were to protect people from Native Americans, who were actively seeking out colonists in hostile manners. This group of Rangers eventually evolved into an agency known today as the Texas Rangers (“A Brief History,” 2008).

Since then, Texas law enforcement has evolved into a large conglomerate of officers representing numerous police agencies. As of August 1, 2009, the Texas Commission of Law Enforcement Standards and Education (TCLEOSE) reported that there are 2,595 active police agencies in Texas (TCLEOSE, 2009). An overwhelming majority of these agencies work under non-civil service rules. Most are governed by rules and regulations in which the officers work at the will of the governing body. Few departments work under civil service rules and regulations, which were put in place to allow police officers to do their jobs without being influenced by the political powers within their perspective cities. Collective bargaining has been adopted by some agencies, which allows for contractual negotiations between the municipality and the bargaining agent for the police or fire department. Not all agencies have adopted civil service or collective bargaining, but all Texas Police officers would benefit from being involved in one or the other.

Currently, state law only allows departments the ability to work under civil service rules and regulations if the population in which they serve exceeds 10,000 citizens (Local Government Code 143, § 143.02, 1987). For those departments that do not

qualify to work under civil service rules and regulations, collective bargaining is available. The Texas Municipal Police Association indicated there are 80 law enforcement agencies in Texas that work under civil service rules and regulations (personal communication, D. Brock, December 27, 2010). Eighty police agencies represent a small minority when compared to the 2,595 active agencies in Texas.

Police officers who work for “at will” employers have a history of being subjected to the pitfalls of at-will employment. There are documented cases where police officers have been terminated or suspended without a fair and consistent process. In addition, there is evidence where officers in smaller agencies are compensated far less than other municipalities of comparable size. Furthermore, there is a stigma portrayed by the media that an officer representing a smaller agency is somehow inferior to his or her colleagues who represent larger agencies.

The Texas Commission of Law Enforcement Standards and Education (TCLEOSE) has established prerequisites to be a police officer in Texas. If all police officers in the state of Texas are required to meet TCLEOSE requirements before being hired as a police officer, then all police officers should be afforded some of the same rights. Therefore, all Texas police officers should adopt collective bargaining as a way to establish consistency within the profession of law enforcement.

## **POSITION**

In order to be a police officer in Texas, the Texas Commission of Law Enforcement Standards and Education (TCLEOSE) mandates one must have a GED, high school diploma, or 12 hours college credit from an accredited college or university. In addition, one must not have been convicted or placed on court order supervision for a

class B offense or above within the last ten years, and must pass a health and psychological examination. An officer is not eligible for licensing until he or she passes a basic peace officer's course approved by the commission (Texas Administrative Code, 2009). All Texas police officers must meet these basic requirements, regardless of what size agency the officer represents. Once an individual has met these requirements and passed their state exam, he or she is now ready for employment.

Civil service originated as a response to a practice commonly known as the spoils system, where politicians hired people to carry out their agendas and then people would lose their jobs when a different politician was in control (Castillo, 1993). The intent behind the implementation of civil service was to eliminate a large portion of the corruption that was affiliated with the spoils system. There are many different blends of civil service throughout the nation. In Texas, civil service rules and regulations are identified and covered under chapter 143 of the Texas Local Government Code. The purpose of chapter 143 is to secure fire and police personnel that are free from political influence (Local Government Code 143, § 143.01, 1987). According to the Texas Municipal Police Association, civil service has been adopted by 80 police agencies throughout Texas (personal communication, D. Brock, December 27, 2010). For those agencies that have not been afforded the opportunity to work under civil service rules and regulations, collective bargaining has become a viable option.

Collective bargaining can be found in chapter 174 of the Texas Local Government Code. This law provides an opportunity for police officers and fire fighters representing any size municipality the ability to enter into contractual negotiations with the municipality in which they serve. Some of the things that can be considered in

these negotiations include compensation for salary and benefits, promotion procedures, hiring and firing standards, and other factors that are important to officers and the municipality in which they represent. In order for collective bargaining to be utilized, there would need to be a signed petition from at least 5% of the qualified voters within the municipality. The matter would then be placed on a ballot for a vote. Once a vote in favor for collective bargaining has been established, the municipality and the association representing the officers of the department shall bargain collectively (Local Government Code 143, 1987). Currently, Federal Bill HR 413, The Public Safety Employer-Employee Cooperation Act of 2009, has passed the US House of Representatives. The bill is expected to pass the Senate, which provides collective bargaining rights for all public safety officers in every branch of government.

With police officers having to deal with the negative connotations associated with terminations through the media, collective bargaining provides a fair and consistent process for employment and personnel policies for all Texas police officers. A recent article submitted by the Herald News in Lone Oak, Texas indicated that a police officer was terminated because he wrote a local bank officer a citation. The report indicated that the officer was asked by the mayor and the chief of police not to write certain members of the community citations (Walker, 2008). As a result of the officer's actions, he was initially terminated and then placed on suspension. This officer has now been punished without any form of due process. If this officer worked for an agency that operated under the rules and regulations of chapter 174, this officer would have been afforded a fair and consistent process. Officers could have negotiated a process similar

to Sec. 143.051 (Local Government Code 143, § 143.051, 1987) of the local government code, where the statute clearly states how an officer could be terminated.

In addition, collective bargaining is an effective way to address salary and benefit issues within a department. The profession of law enforcement needs to bridge the salary gap between agencies of comparable size. In doing so, the recruiting process would be played out on a fairer playing field. This process can be good for the municipality and the police department. The process would allow a municipality more time to plan for salary and benefit cost. In addition, a police officer would have the opportunity to engage in proactive financial planning, rather than wonder what is to come from one year to the next. Communicating with the city about salary and benefits would allow the opportunity to address comparability issues with other cities of similar size.

Furthermore, collective bargaining can lead to high performance from the municipality's employees. An officer representing an agency, knowing he or she is free to utilize discretion without political interference, should feel comfortable knowing the decision to act will be based on the merits of the case, rather than who is involved. This type of protection would increase the likelihood of an officer being more engaged with his or her department.

Creating an atmosphere where officers throughout the state are on a more even playing field would bring a higher degree of professionalism, not only for the profession, but also for those officers who represent smaller agencies. The collective bargaining process would allow current officers the ability to have more control over who gets hired. This could potentially decrease the likelihood of a police officer with a



questionable background from finding a safe haven with a smaller agency. Officers who work in the field are more in tune with the dynamics of police work. Being a part of a local association that acts as the bargaining agent in the collective bargaining process allows officers an opportunity for expression on topics such as hiring and firing standards. This kind of environment creates a sense of ownership amongst officers.

## **COUNTER POSITION**

According to the Attorney General of Texas, collective bargaining allows the federal government to dictate how Texas should deal with the process of bargaining with state employees. Greg Abbott (2010) stated, "This law would force the State of Texas into federally mandated collective bargaining agreements with labor unions... If this constitutionally suspect legislation is passed, I will take legal action to protect our state from yet another case of federal overreach" (para. 3). It appears as if Greg Abbott's concern is with state employees. Gregg Abbott openly admitted there is current legislation affording police officers and fire fighters at the local level the ability to adopt collective bargaining; however, it is clear that any public safety officials on the state level are not afforded the same opportunity. Abbott's concern is that the collective bargaining process on the state level could potentially violate the 10th and 11th amendments of the United States. Abbott is clear to point out that his lack of support is not with the state's public safety officials. It is not really clear how allowing collective bargaining on the state level would impact the state's ability to manage its public safety officials. If anything, collective bargaining provides the necessary framework for serious bilateral discussions between the state and its public safety officials.

Proponents of collective bargaining have stated that collective bargaining would take away local control of the police and fire departments. The Texas Municipal League recently published an online article indicating that members of the Texas Municipal League should contact their local representative thanking them for not voting for the Federal bill regarding collective bargaining (Texas Municipal League, n.d.). Without addressing why it would take away from local control, this organization chose to make a recommendation of thanking their local house representative. If one were to look at the collective bargaining statute as detailed in chapter 174, he or she would clearly recognize the intent behind the law is to provide public safety an opportunity to engage the governing body in a way that lends more credence to the process of governing public safety within their jurisdictions.

Furthermore, the city of Abilene, Texas recently used the collective bargaining statute as a way to benefit the city and the officers who represent the city of Abilene. Being that the city of Abilene worked under the conditions set forth in chapter 143 of the Texas Local Government code, the local association and the municipality were able to come to an agreement where an entry level test was not considered in the hiring and firing of public safety officials who wished to work for the city of Abilene ("Meet and Confer Agreement...", 2008). This allowed the administration of the police department to take into consideration other important factors they felt were important in the hiring process. Not only did this allow the local government an opportunity to have control over who gets hired and fired, it allowed local officers a voice.

## CONCLUSION

Taking into consideration all the pros and cons associated with collective bargaining, it is apparent that all Texas police officers should adopt collective bargaining as a way to increase the professionalism throughout their perspective departments. All Texas police officers should appoint a bargaining agent and pursue collective bargaining within their perspective municipalities. In doing so, all Texas police officers would be able to have a voice about the conditions of their employment. Collective bargaining would allow for a fair and consistent hiring and firing process within their agencies. Collective bargaining would be a viable option in addressing salary and benefit issues that plague the law enforcement profession. It would allow for a more compatible system, which would bring more consistency to the profession of law enforcement, which in turn would increase the professionalism throughout the profession.

In addition, proponents of collective bargaining have failed to address why collective bargaining would not be a viable option to state and local public safety officers. There is clear evidence, such as the situation that happened with Lone Oak Police Department, that local government control subjects officers to termination without any form of due process. In addition, Gregg Abbott, the Attorney General of Texas wrote in opposition to collective bargaining, suggesting that collective bargaining violates the 10th and 11th amendment of the US Constitution without providing concrete details of how collective bargaining eliminates local control.

If anything, collective bargaining provides all public safety officials a voice over their working conditions. Society expects a level of service from public safety officials

that is beyond the political realm. All Texas police officers should take advantage of the right to engage in collective bargaining so the profession of law enforcement can be solidified in a manner that is consistent with what law enforcement represents.

Collective bargaining for law enforcement is essential because it establishes some ownership amongst police officers who sacrifice their livelihood to protect society. All Texas police officers need to take advantage of collective bargaining. They deserve it.

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