



UNDERCOVER OPERATIONS

Effective Date: 02-01-08**Revision Date 1:** 02/03/09**Revision Date 2:** 06/30/09**Enforcement Division****Policy Number: LE 1.02.02**

POLICY STATEMENT

The Texas Alcoholic Beverage Commission (TABC) will conduct undercover operations to ensure that permittees, licensees, and members of the public are conforming to the Alcoholic Beverage Code, Commission Rules, and other applicable laws.

POLICY PURPOSE

The purpose of this policy is to outline the requirements and details of planning and executing an undercover operation.

DEFINITION

An undercover operation is a form of inspection in which a certified peace officer (CPO) conceals his or her identity as a member of the TABC and checks for violations or collects evidence. Undercover operations may include but are not limited to: minor stings, shoulder tap stings, *Cops in Shops*, *Operation Fakeout*, and other undercover activity.

PLANNING THE OPERATION

1. A CPO identifies the need for an undercover operation. The CPO communicates the need for the operation to his or her or supervisor. The following may happen.
 - The supervisor may direct further conventional investigations be done, or may designate a lead agent to initiate a written operations plan.
 - The supervisor can modify, or reject a written operations plan. Once corrections have been made the supervisor will approve the operations plan and select a lead agent for the undercover operation.
 - The lead agent and supervisor will identify specific CPOs to act in open, undercover and surveillance/cover capacities.
 - The supervisor is responsible for the safe conduct of the entire operation, and whenever practical, will not be used in any undercover capacity.
2. The supervisor approves a date and time of the operation based on the following:
 - the times at which complaints allege violations;
 - the probability that a violation may occur; and
 - any other relevant circumstances.
3. The supervisor will determine the number of CPOs needed based on the following:
 - the location's administrative and/or criminal violation and complaint history;
 - the size and layout of the location;

- the date and time that operations are planned; and
 - any other relevant circumstances.
4. Once the supervisor approves the written operations plan, the lead agent and/or supervisor will conduct an operation briefing. **Attendance at the briefing is mandatory for all involved personnel.** The lead agent and/or supervisor will:
 - explain the purpose of the operation (on-site action, investigative, purchase of evidence, etc.);
 - explain the operation plan to the participating CPOs;
 - provide each participant a copy of the operations plan;
 - make appropriate assignments for the operation; and
 - coordinate the collection of any necessary intelligence prior to execution of the operation.
 5. If the supervisor decides to coordinate an undercover operation with another law enforcement agency, he or she must designate a TABC CPO to act as an undercover CPO in the operation. This undercover CPO will preferably act as the lead undercover officer.
 6. The lead agent will estimate and acquire any undercover funds necessary for the operation. See *Purchase of Evidence*, § 3.00.00 of this manual.

SPECIAL REQUIREMENTS FOR CERTAIN OPERATIONS

Note: Although minor stings, shoulder tap stings, *Cops in Shops*, or *Operation Fakeout* are types of undercover operations, the requirements for those operations are outlined in the *Minor & Shoulder Tap Stings* §1.02.03 and *Cooperative Operations* §1.02.04 sections in this manual. This subsection applies to all other undercover operations.

CPOs may only use undercover operations to investigate violations when the following occurs:

- An external complaint regarding a violation has been made against the specific licensed premises; or
- A CPO has a reason to believe that a violation is being committed on a licensed premise; or
- The location is on the priority list.

EXECUTING THE OPERATION

1. For investigation of major violations (Engaging in Organized Criminal Activity, Bootlegging, Illegal Gambling, Money Laundering, Narcotics trafficking, etc.), or any situation where the undercover is going into an establishment or situation with a historical risk of danger, at least one CPO shall be assigned as a cover/backup officer for the undercover CPO. The cover officer's sole responsibility is to provide emergency response for safety purposes. Cover is ideally performed with continuous visual surveillance, but monitored electronic surveillance or even periodic drive by surveillance

may be a suitable alternative.

2. The undercover CPO enters the location and observes the location for violations. The identification/detention team will maintain a position that allows them to be close enough to respond quickly to the needs of the operation, but out of view of patrons and employees of the location.
3. The undercover CPO may purchase or consume the necessary amount of alcoholic beverages or other items to maintain cover.
4. If the CPO is required to consume alcoholic beverages as part of the operation, the CPO will not operate a vehicle in violation of the law.
5. Most undercover operations for non-violent misdemeanor violations (Sale to Intox, Sale to Minor, Shoulder Tap, etc.) should last no longer than 1 hour, and will conform to applicable policy. If additional time is needed to investigate specific violations, the CPO will notify his or her supervisor.
6. Investigation of major violations will require more flexible time constraints, but the operations plan should include designated periodic benchmarks to assess investigative progress and safety issues.
7. Contingencies for change in scope of the operation should be written in to the operations plan, and the operation may be aborted by ANY team member at ANY time for public or officer safety issues.
8. If the undercover CPO observes a violation, he or she will describe the subject, including his or her physical appearance and clothing, to the identification/detention team. The undercover CPO may discontinue cover to assist the identification/detention team only if exigent circumstances exist. The CPO shall discontinue cover and default to his/her statutory duties to intervene in any incident involving imminent death or serious bodily injury to another.
9. If the purpose of the operation is to address the violations on-site, the identification/detention team will enter the establishment and locate the person whom the undercover CPO has observed committing a violation. The undercover CPO will ensure that the identification/detention team makes contact with the appropriate person.
10. A CPO on the identification/detention team will identify him or herself and explain the reason he or she is speaking with the individual.
11. The CPO will escort the individual to a safe location in order to minimize any disruption to the location, to effectively interview the individual, minimize exposure of the undercover, and to determine what action to take.
12. A CPO on the identification/detention team will locate a representative of the establishment, preferably the permit or license holder or the person in charge of establishment. The CPO will explain any action that has been taken or will be taken.

FORMS

Purchase of Evidence Expense Report

REVISION HISTORY

06-01-09: This policy was revised under the Planning the Operation section. The wording was changed to clarify the procedures and “supervisor” is used instead of “sergeant or supervisor.”

The policy was also revised under the Executing Operation section to provide more supervisory discretion and accountability during the operation, while still providing a safety mechanism for the individual working undercover.

02-03-09: This policy was revised under the Planning and Executing the Operation sections to require a written operations plan and briefing on the plan that defines guidelines of the operations including the roles and responsibilities of the parties involved.
