

*Policy, Procedures & Forms***PURCHASE OF
EVIDENCE****Effective Date: 2/1/08****Revision Date: 8/4/09****Enforcement Division
Policy Number: LE 3.00.00****POLICY STATEMENT**

Certified peace officers (CPOs) will use agency money designated as “undercover funds” as means to collect evidence including, but not limited to purchasing items for evidentiary purposes, maintaining “cover” in an undercover operation, and paying a confidential informant.

Undercover funds are for official TABC use only.

- ◆ All expenditures of undercover funds will be reasonable.
- ◆ CPOs will only spend the amount necessary to acquire the evidence sought.
- ◆ Funds will not be deposited in employees’ personal bank accounts or used for purchases other than purchase of evidence.
- ◆ Funds in the regional bank accounts are primarily for enforcement use only, however for certain investigations, Compliance Division personnel may utilize these funds.

CPOs may purchase pornographic material in the course of a job task or duty assignment. When the CPO has custody of the evidence, he or she will ensure that the pornographic material is in a container that protects the evidence from view.

This section does not apply to seized property. Refer to *Seizure of Property*, § 2.03.00 and *Seizure of Pornographic Material* § 2.04.00 of this manual, for policies and procedures.

POLICY PURPOSE

The purpose of this policy is to promote the proper use of funds and to protect the TABC and its employees from charges of financial mismanagement.

PROCEDURES**a. Requesting Undercover Funds.**

1. A TABC employee may not spend his or her own money as part of an enforcement activity.
2. A CPO may request the use of undercover funds if he or she anticipates the need to:
 - A. purchase evidence including alcoholic beverages or related equipment during an enforcement operation;
 - B. purchase items or otherwise expend funds in order to maintain cover in an undercover operation;
 - C. pay a confidential informant; or
 - D. spend funds for another reasonable purpose that furthers the agency’s mission.
3. The CPO will submit the request to his or her sergeant or supervisor.

4. The sergeant or supervisor will determine whether the expenditure of undercover funds is necessary, and will ensure the requested amount is appropriate and sufficient. The sergeant or supervisor will not authorize an unreasonable amount of undercover funds.

b. Use of Undercover Funds.

1. CPOs will only use undercover funds when the expenditure is reasonable, appropriate, and necessary.
2. A CPO's immediate sergeant or supervisor, the regional captain, and a compliance auditor will review use of undercover funds as necessary, at least once a year.
3. CPOs will only use the amount of funds absolutely necessary to acquire the evidence sought. The TABC will consider any use of funds exceeding the amount necessary to be unreasonable.
4. CPOs will obtain sergeant or supervisor approval for the expenditure of undercover funds for the following purchases:
 - A. cover charges, drinks, meals, etc.;
 - B. payments to confidential informants;
 - C. public lewdness or prostitution investigations involving sexually oriented businesses; or
 - D. purchases necessary to maintain undercover status.
5. CPOs should be able to explain the need for the expenditure of undercover funds.

c. Checking Accounts.

1. Each enforcement regional office has a checking account and ATM cards assigned to each office with funds available for the purchase of evidence.
 - A. The captain of each region is the primary custodian of each account.
 - B. While each designated supervisor has an issued ATM card, the captain will be the only person with the checkbook and authorized to write checks.
2. The enforcement supervisor (lieutenant or sergeant) charged with the responsibility of maintaining the district's purchase of evidence fund is provided with an ATM card that is tied to the regional office's checking account.
 - A. The designated district office supervisor will use the ATM card to withdraw funds from the region's checking account for their purchase of evidence cash fund on an as needed basis.
 - B. Before withdrawing funds, the supervisor should e-mail the captain to confirm sufficient funds are in the account before withdrawal.
 - C. A withdrawal receipt signed by the supervisor must be requested and maintained as documentation.

3. The checkbooks and ATM cards must be kept secured.
4. A maximum of \$500.00 may be maintained as cash on hand in the office. Funds needed that exceed this amount will be withdrawn either by writing a check for the necessary amount or utilizing the ATM card on an as needed basis.
5. ATM Withdrawals.
 - A. When using the ATM card, it should be at a bank where the account is held to avoid transaction fees.
 - B. The ATM receipt for district withdrawals will be signed by the enforcement supervisor and faxed to the captain as soon as possible.
 - C. In addition, the original ATM receipt will be attached to the *Purchase of Evidence Expenditure Report* for the month ending MM/DD/YYYY, Form 4-6.
 - D. Each District will have a limit of \$300.00 per withdrawal transaction.
- d. **Unused Funds.**
 1. As operations are completed and if all funds are not used, they will be submitted to the supervisor.
 2. The supervisor will deposit funds in excess of the \$500.00 back into the checking account by the last day of the month, preferably before the last banking day.
 3. The deposit will be noted in the checkbook register.
- e. **Documentation of Disbursement of Purchase of Evidence Funds.**
 1. All ATM withdrawal receipts and deposit receipts are required to be maintained.
 2. Each district office will prepare the *Cash Advance Log*, Form 4-34, to maintain written documentation of the amount of funds on hand. The form will be updated after each cash transaction and maintained at the district office. A separate line will be used for funds given and funds returned.
 3. As funds are withdrawn from the checking account, the captain will update the transaction in the region's checkbook register log found on the agency's server.
 4. The supervisor issuing funds to agents will require the agent to acknowledge receipt of the funds by signature and badge number on the *Receipt of Cash Advance*, Form 4-33. The same form will be used to document the total amount spent and the amount returned, along with dates and the agent and supervisor's signatures.
 5. Each CPO utilizing these funds will prepare the *Purchase of Evidence Expenditure Report* for the month ending MM/DD/YYYY, Form 4-6. The form requires a summary listing of the month's activity.
 6. Lieutenants will complete a *Summary of Use of Covert Operation Funds* each month for their district and will submit the form to their captain. The form outlines the results of the use of these funds.

7. The captain will consolidate the lieutenants' reports and complete one *Summary of Use of Covert Operation Funds* for the region and submit it to Enforcement Headquarters at the end of each month.
 - A. The captain will send this report to the assistant chief of enforcement or their designee.
 - B. The assistant chief of enforcement will review the report for operation uses and then forward to Fiscal Services.
- f. **Notification of Personnel Change.** In the event of a personnel change, the captain will notify Fiscal Services immediately so that the authorized signatures can be updated with the bank. The captain will also notify compliance personnel to conduct an audit of the funds prior to the new personnel arriving.
- g. **Purchased Property as Evidence.**
 1. If the CPO purchases property as evidence, the CPO will complete a *Purchased as Evidence* form and create three copies. The CPO will keep one copy of the form and give a copy to the property officer, and attach a copy to the property.
 2. At or before the end of the shift during which the CPO purchases the property, he or she will put the property in the property room, ensuring that the room is securely locked.
 3. If the CPO's office does not have a property room, he or she will put the property in another secure, locked area.
 4. The CPO will document the transfer of custody of the property from the CPO to the property officer at the next reasonable opportunity.
 - A. A CPO stationed in an office that employs a property officer will transfer custody to the property officer during the next shift at which both the CPO and the property officer are present.
 - B. A CPO stationed in an office that does not employ a property officer will deliver the property to the appropriate property officer at the next reasonable opportunity.
- h. **Disposing of the Property.**
 1. The property officer will retain the property and sell or destroy the property according to procedures in the Compliance Policy and Procedures Manual.
 2. Any CPO that fulfills the duties of the property officer will do so according to the policies and procedures in the Compliance Policy and Procedures Manual.
 3. The CPO will monitor the disposition of any case related to the property and will notify the property officer when evidence is no longer needed.

FORMS

Cash Advance Log, Form 4-34

Purchased as Evidence, Form 4.3

Purchase of Evidence Expenditure Report, Form 4-6

Summary of Use of Covert Operation Funds, Form 4-140

REVISION HISTORY

08-04-09: The policy was changed in the "Requesting Undercover Funds" section to state that a TABC employee will not use his/her money in an enforcement activity.

Also in that section, under #4, the statement that the sergeant or supervisor will ensure that the amount of money requested for an operation is sufficient was added.
