

# Texas Alcoholic Beverage Commission



## Enforcement Policy, Procedures and Forms Manual

February 1, 2008

# TABC Enforcement Policy, Procedures and Forms Manual Table of Contents

0.00.00	<b>Introduction</b>
0.01.01	<u>Mission &amp; Philosophy</u>
0.01.02	<u>Authority &amp; Applicability</u>
1.00.00	<b>Enforcement Operations</b>
1.01.00	<u>Investigations</u>
1.01.01	Source Investigations
1.01.02	Licensing Standards Investigations
1.02.00	<u>Inspections</u>
1.02.01	Risk Based Inspections
1.02.02	Undercover Operations
1.02.03	Minor & Shoulder Tap Stings
1.02.04	Cooperative Operations
1.03.00	<u>Education Programs</u>
1.04.00	<u>Special Events</u>
1.05.00	<u>Task Forces &amp; Joint Operations</u>
1.06.00	<u>Incident Notification</u>
2.00.00	<b>Search &amp; Seizure</b>
2.01.00	<u>Search of Persons and Property</u>
2.02.00	<u>Search of Licensed Premises</u>
2.03.00	<u>Seizure of Property</u>
2.04.00	<u>Seizure of Pornographic Material</u>
2.05.00	<u>Investigative Detention</u>
2.06.00	<u>Executing an Arrest</u>
2.07.00	<u>Vehicle Impoundment &amp; Inventory</u>
3.00.00	<b>Purchase of Evidence</b>
3.01.00	<u>Confidential Informants</u>
4.00.00	<b>Use of Force</b>
4.01.00	<u>Use of OC Spray</u>
4.02.00	<u>Use of Expandable Baton</u>
4.03.00	<u>Use of Firearm</u>
4.03.01	Firearm Proficiency
4.03.02	Handguns & Related Equipment

- 4.03.03 Shotguns
- 4.03.04 Rifles
- 4.03.05 Ammunition

5.00.00 **Equipment**

- 5.01.00 Vehicles & Related Equipment
  - 5.01.01 Proper Use of Vehicles & Related Equipment
  - 5.01.02 Radio System
- 5.02.00 Bicycle Program
- 5.03.00 Weapons & Related Equipment
  - 5.03.01 Care & Maintenance of Weapons
  - 5.03.02 Body Armor
  - 5.03.03 Purchase of Firearm by Peace Officer

6.00.00 **Administrative Actions**

- 6.01.00 Summary Suspension
- 6.02.00 Administrative Cases & Warnings
- 6.03.00 Settlement of Administrative Cases
- 6.04.00 Administrative Hearing

7.00.00 **Criminal Actions**

8.00.00 **Minors**

9.00.00 **Field Training Program**

10.00.0 **TABC Commissions**

**Appendix A: Definitions**

**Appendix B: Forms List**



# MISSION & PHILOSOPHY

**Effective Date: 2/1/08****Revision Date: 9/16/08****Enforcement Division  
Policy Number: LE 0.01.01**

## INTRODUCTION

The Texas Alcoholic Beverage Commission (TABC) is the state agency that regulates all phases of the alcoholic beverage industry in the State of Texas. The duties of the Commission include inspecting, supervising, and regulating every phase of the business of manufacturing, importing, exporting, transporting, storing, selling, advertising, labeling, and distributing alcoholic beverages, and the possession of alcoholic beverages for the purpose of sale or otherwise.

The TABC collects in excess of \$200 million annually in taxes and fees, which aids in the financing of the state's public schools, local governments, research, human services, and other areas in which state government provides services to all Texans.

## LEGAL AUTHORIZATION

The Alcoholic Beverage Code authorizes the Texas Alcoholic Beverage Commission to:

- Grant, refuse, suspend, or cancel permits and licenses in all phases of the alcoholic beverage industry;
- Supervise, inspect, and regulate the manufacturing, importation, exportation, transportation, sale, storage, distribution, and possession of alcoholic beverages;
- Assess and collect fees and taxes;
- Investigate for violations of the Alcoholic Beverage Code and assist in the prosecution of violators;
- Seize illicit beverages;
- Adopt standards of quality and approve labels and size of containers for all alcoholic beverages sold in Texas;
- Pass rules to assist the agency in all of the above.

Although the laws regulating the alcoholic beverage industry are consistent statewide, the Alcoholic Beverage Code allows local (county, city, justice precinct) determination of the types of alcoholic beverages that may be sold and how they can be sold by means of local option elections.

## CUSTOMERS

The TABC has a wide and varied group of customers throughout the state. Not only does the agency focus on its most immediate group -- the alcoholic beverage industry -- it must also give adequate attention and concern to the issues of the general public, law enforcement groups, educators, various coalitions, and public interest groups concerning the regulation of alcoholic beverages sales.

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**VISION**

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A safe and responsible Texas served by an Alcoholic beverage Commission committed to innovative partnerships with our communities and the alcoholic beverage industry.

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**MISSION**

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The mission of the Texas Alcoholic Beverage Commission is to promote public safety and serve the people of Texas through consistent, fair and timely administration of the Alcoholic Beverage Code while fostering education, voluntary compliance and the legal, responsible alcohol consumption.

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**PHILOSOPHY**

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The Texas Alcoholic Beverage Commission will:

- apply the alcoholic beverage code in a fair, consistent, and timely manner;
- exemplify courteous, ethical, and professional behavior;
- be fiscally responsible and accountable to the people of Texas; and
- be accessible, transparent, efficient and effective.

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**TABC FOUR CORNERSTONES**

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The agency's cornerstones provide the foundation for the agency – who we are and what we do. The cornerstones are the following:

- Service
- Courtesy
- Integrity
- Accountability

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**GUIDING PRINCIPLES**

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1. We value our employees, and are committed to their continual improvement and empower them to make key decisions.
2. We expect ethical and professional behavior of ourselves.
3. We recruit, train, mentor, and develop individuals who are committed to our vision.
4. We do the right thing, not just what we have the right to do.
5. We exercise discretion in our authority when making decisions based on ethical and legal principles.
6. We know our mission and understand our purpose, and we integrate our efforts in order to accomplish it in a consistent and efficient manner.
7. We work together to achieve goals and solve problems.
8. We strive to put responsible people into business and promote good business practices through integrated partnerships.

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**COMPACT WITH TEXANS**

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The commission's leadership and personnel are dedicated to the principles of exemplary customer service, believing that the citizens of this state, as well as those who may conduct business in Texas, deserve the highest degree in service standards. The commission expects these characteristics to be obvious to citizens in their interactions with the commission's employees:

- Commitment
- Quality
- Honesty
- Efficiency
- Friendliness
- Professionalism

The *Compact With Texans* goes even further to delineate not only the universal guiding principles of how the service should be delivered, but when to expect it.

- Provide accurate and timely information.
- Respond to inquiries within three working days.
- Acknowledge receipt of complaints within three working days.
- Resolve complaints within 60 days.
- Provide helpful and up-to-date information on the agency's website.
- Ensure our facilities are easily accessible and clean.

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### **REVISION HISTORY**

The **Mission & Philosophy** section of the **Enforcement Manual** was updated to reflect the new agency vision, mission, philosophy, four cornerstones, and guiding principles.

**REVISED BY:** PAT SYMOLON

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*Policy, Procedures & Forms*

# AUTHORITY & APPLICABILITY

Enforcement Division  
Policy Number: LE 0.01.02

Effective Date: 2/1/08

**POLICY**

1. This Enforcement Policy, Procedures and Forms Manual is adopted to assist employees in understanding and applying the policies and procedures addressed in the manual.
2. These policies and procedures are not a contract or guarantee of any particular result in the application of the policy and/or procedure.
3. TABC Management and Enforcement personnel in accordance with sound management practices and the mission and goals of the agency may resolve issues that are not addressed in this manual, or which require the exercise of discretion in the application of procedures.
4. The agency may make exceptions, changes and/or amendments to these policies and procedures when justified to accomplish the mission and goals of the agency and better serve the public.

Approved By:

Approval Date  
DECEMBER 21, 2007

\_\_\_\_\_  
Administrator

\_\_\_\_\_  
General Counsel

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Chief of Enforcement



# ENFORCEMENT OPERATIONS

Enforcement Division  
Policy Number: LE 1.00.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will enforce the provisions of the Alcoholic Beverage Code, Commission Rules and other state laws by conducting investigations, inspecting licensed premises, carrying out undercover operations, providing education to the public, regulating special events, working with other law enforcement agencies, and participating in other law enforcement activities.

The Enforcement Division will conduct all operations in a manner that results in the least amount of disturbance possible. All TABC employees will interact with permittees, licensees, and other members of the public in a professional manner and will always advance the agency's goal of voluntary compliance.

## ROLES AND RESPONSIBILITIES

**a. All Certified Peace Officers (CPOs) in the Enforcement Division shall:**

1. Follow the policies and procedures in this manual.
2. Conduct investigations, inspections, and other duties as assigned.
3. Request additional resources when circumstances require.
4. Write administrative notices and criminal citations according to the policies and procedures in this manual and applicable law.
5. Prepare case reports and ensure the accurate identification of the elements of violations, the accused, all potential witnesses, and all participants in the operation.
6. Prepare and submit reports and other documentation as directed by these policies and procedures or a supervisor.
7. Complete and submit *Daily Activity Reports* to the sergeant or supervisor.
8. Deliver educational programs as requested by the public. See *Education Programs*, § 1.04.00.
9. Maintain a current understanding of laws related to alcoholic beverages and industry "best practices" and respond to public inquiry.



**b. Enforcement Headquarters shall:**

1. Oversee and direct the development and training of Enforcement Division employees in TABC policies and procedures and in other subjects and practices pertinent to the operations of the division and/or the agency.
2. Ensure that enforcement personnel successfully implement the policies and procedures in this manual.
3. Review annual action plans submitted to Enforcement Headquarters by each captain.
4. Review all cases submitted by CPOs in which a party requests an administrative hearing, and periodically review the remaining cases.
5. Report to executive management on the status and effectiveness of enforcement operations. Effectiveness shall be measured by the increase or decrease of voluntary compliance.

**c. Captains shall:**

1. Supervise the activities of enforcement personnel in his or her region.
2. Ensure that enforcement personnel in his or her region understand and follow the policies and procedures in this manual.
3. Review reports and other data provided by Enforcement Headquarters and disseminate information as necessary.
4. Provide reports to Enforcement Headquarters as requested.
5. Submit a *Captain's Weekly Report* to the chief of enforcement or his or her designee.
6. Create annual action plans considering goals set by Enforcement Headquarters and input from lieutenants and submit them to enforcement headquarters.
7. Monitor the effectiveness of enforcement operations in his or her region. Effectiveness shall be measured by the increase or decrease of voluntary compliance.
8. Periodically review cases submitted by CPOs in his or her region.

**d. Lieutenants shall:**

1. Supervise enforcement personnel under his or her command and ensure that personnel understand and follow the policies and procedures in this manual.
2. Assist sergeants in developing work plans.
3. Assist agents and sergeants in executing enforcement operations.
4. Review 10% or more of all cases approved by sergeants.
5. Review all cases in which a party has requested an administrative hearing.

**e. Sergeants shall:**

1. Plan and guide the activities of agents under his or her leadership and ensure that they understand and follow TABC policies and procedures.
2. Develop and implement work plans. Refer to *Agent's Weekly Work Plan* for an example form.
3. Verify that adequate resources are available for planned enforcement operations.
4. Provide agents with adequate training, information, and other necessary resources prior to any enforcement operation.
5. Assign agents to participate in enforcement operations and specify each agent's individual function, or delegate this duty to a lead agent.
6. Assist and advise agents in the execution of enforcement operations.
7. Ensure that during an enforcement operation, the acts of all TABC employees conform to the work plan, as well as the policies and procedures of the TABC.
8. Oversee the submission of agents' reports and ensure that they are both timely and accurate.
9. Review all administrative and criminal cases submitted by agents and ensure accuracy.

**f. Agents shall:**

1. Be able to clearly articulate the elements of common violations.
2. Understand and be prepared to execute a work plan or other assignments.
3. Verify that all necessary resources are available for an enforcement operation prior to its execution.
4. Ensure that during an enforcement operation, the acts of all TABC employees conform to the work plan, as well as the policies and procedures of the TABC.

**FORMS**

*Daily Activity Report*  
*Agent's Weekly Work Plan*  
*Captain's Weekly Report*



# INVESTIGATIONS

Enforcement Division

Policy Number: LE 1.01.00

Effective Date: 2/1/08

## Policy

The Texas Alcoholic Beverage Commission (TABC) shall investigate all suspected violations of and complaints related to violations of the Alcoholic Beverage Code, Commission Rules, and applicable laws.

The TABC generally classifies investigations into four categories: source investigations, licensing standards investigations, marketing practices investigations, and other investigations. Because all investigations begin in response to a complaint, the four categories of investigations may all be referred to as "complaint investigations."

The TABC strives to complete all complaint investigations within 60 days of the date that the allegations were first received. To ensure that all complaints receive proper investigation, certified peace officers (CPOs) will track complaints and ensure their resolution using the agency's computer system and these policies and procedures.

The TABC will maintain a database in its computer system that contains information on all investigations conducted by the different agency divisions. Certified peace officers, analysts, and other employees will use this database to track a complaint from the time it is received until it is resolved, to review trends, and to eliminate duplication of investigative work.

Note: This section does not apply to investigations of employee misconduct and other investigations conducted by the Office of Professional Responsibility.

## Procedures

### a. Receipt of the Complaint.

1. All TABC personnel will accept complaints in person, via telephone, e-mail, mail, fax, internet or other method of communication. TABC personnel may also generate complaints based on their own knowledge or observations.
2. Upon receiving or gaining complaint information, a TABC employee will complete a *Complaint Information* form, also referred to as a "complaint card." The employee will enter the complaint information into the computer system and then give the complaint card to the local sergeant or supervisor.

**Exception:** If the complaint alleges a violation in another district or a violation that is best handled by another division, then the employee will instead give the complaint information to a sergeant or supervisor to be forwarded to the appropriate district or division. The sergeant or supervisor in the receiving district or division will ensure that a complaint record is or has been created.

3. The sergeant or supervisor will review the complaint and determine whether there is sufficient information to warrant investigation by the TABC or another agency.

4. If there is not sufficient information to investigate the complaint, the sergeant or supervisor will close the electronic complaint record and will note in the comments section the reason for closing the complaint without investigation. The sergeant or supervisor will also ensure that a similar notation is made on the complaint card.
5. If the sergeant or supervisor determines that another agency is better suited for the investigation, the sergeant or supervisor will refer the information to that agency and note the referral in electronic complaint record and on the complaint card. The sergeant or supervisor will then close the electronic complaint record.

**b. Assignment of the Complaint for Investigation.**

1. If the sergeant or supervisor determines that the complaint provides sufficient information to proceed with an investigation at the TABC, the sergeant or supervisor will assign the complaint to a CPO in his or her own operating unit or transfer the complaint to the sergeant or supervisor of another operating unit—whichever is the most appropriate group to conduct the investigation.
2. The computer system will automatically assign an identification number to the record of the complaint. This number is referred to as the “complaint number.”
3. The sergeant or supervisor will record the basic complaint information in the office’s complaint log.

**c. Investigation and Documentation.**

1. If the complainant described the setting in which the alleged violations occurred, the investigating CPO should conduct the inspection or other enforcement operation during a similar setting. For example, if the complainant stated that the violations occurred on Thursdays during “happy hour” the CPOs should try to visit the location during that time.
2. The CPOs will provide a clear, concise, and accurate report to the sergeant or supervisor describing the findings and recommendations and summarizing any enforcement actions taken. The report may be delivered either orally or in writing at the discretion of the sergeant or supervisor, unless otherwise directed by a supervisor or these policies and procedures.

**d. Closing the Complaint.**

1. The sergeant or supervisor will determine the disposition of the complaint. He or she may choose:
  - to close the complaint because the evidence does not support further investigation or filing of charges;
  - to keep the complaint open and continue investigating the complaint;
  - to refer the evidence collected to another agency for further investigation; or
  - to close the complaint noting that administrative or criminal charges have been filed.
2. If the sergeant or supervisor decides to close the complaint, he or she will ensure that the complaint card and the electronic complaint record have been accurately updated and that the complaint card is appropriately filed.

3. The sergeant or supervisor will ensure that any known complainant is notified of the outcome of the investigation, if requested, and that notification is documented. [Texas Alcoholic Beverage Code § 5.54]

e. **Filing the Complaint Card.**

1. A sergeant or supervisor will ensure that the complaint card has been filed in the permit or license folder of the investigation target.
2. If the investigation target is an unlicensed location, the sergeant or supervisor will ensure that the complaint card is filed by month with other complaints on unlicensed locations.

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## Rules

### Texas Alcoholic Beverage Code § 5.36. Investigation of Violations.

(a) The commission shall investigate violations of this code and of other laws relating to alcoholic beverages, and shall cooperate in the prosecution of offenders before any court of competent jurisdiction. The commission may seize alcoholic beverages manufactured, sold, kept, imported, or transported in violation of this code and apply for the confiscation of the beverages if required to do so by this code.

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## RESOURCES

The following provides a list of potential resources. CPOs should communicate with local supervisors to determine whether specific resources are available in their area.

- a. **Accurint** – Accurint is a web-based investigative tool. Accurint uses public records and nonpublic information to provide data including people's names, phone numbers, addresses, and work information. Accurint may help verify identity, visualize complex relationships, and detect fraud.
- b. **Comptroller** – The Comptroller maintains and will provide information regarding franchise tax, sales tax, mixed beverage tax, tobacco tax, and corporate names and addresses. The Comptroller makes information available on its website at <http://www.cpa.state.tx.us/>. Helpful information found on the website includes names of corporations, names of corporate officers and directors, corporate tax identification numbers, and certification of a corporation's franchise tax account status.
- c. **Computerized Criminal History System** – The CCH is the statewide repository of criminal history data reported to the Texas Department of Public Safety (DPS) by local criminal justice agencies in Texas. The CCH includes information on arrests, prosecutions, and the disposition of cases for persons arrested for a Class B misdemeanor or greater violation of Texas criminal statutes. The CCH can be accessed through the DPS website.
- d. **Dallas Computer Systems (DCS) Information Systems** – DCS offers a collection of publicly available information through an online database. Such information may be useful for verifying application information, locating assets, preventing and detecting fraud, and other investigative purposes.
- e. **Driver's License Image Retrieval System** – The Driver's License Image Retrieval System is a secure database maintained by the DPS. Users may access a Texas

driver's license image, the image date, and other related information.

- f. **Financial Crimes Enforcement Network (FinCEN)** – FinCEN is a database maintained by the U.S. Department of the Treasury to help safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. FinCEN facilitates information sharing among law enforcement agencies as well as partners in the regulatory and financial communities.
- g. **PACER** - Public Access to Court Electronic Records is an electronic public access service that allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts, and from the U.S. Party/Case Index.
- h. **SARMA** - San Antonio Retail Merchants Association offers a wide array of products and services including credit reporting, bad debt collections, mortgage reporting, business reporting, tenant and employment screening, and many other information sources.
- i. **Secretary of State (Texas)** – The Secretary of State maintains information on all filing entities in Texas. A filing entity is a business organization that must file certain documents with the Secretary of State in order to exist in Texas. Filing entities include corporations, limited liability companies, limited partnerships, and others. Filing entities must have a registered agent that resides in Texas. The Secretary of State also maintains information on registered agents. The website of the Texas Secretary of State can be accessed at <http://www.sos.state.tx.us>.
- j. **Social Security Death Index (SSDI)** – The SSDI contains a listing of persons, including their names, social security numbers, and birthdates, who had a social security number, who are deceased, and whose death was reported to the Social Security Administration. The SSDI is available from a variety of free commercial services.
- k. **Texas Law Enforcement Telecommunication System (TLETS)** – TLETS provides access to both the Texas Crime Information Center (TCIC) and the National Crime Information Center (NCIC) databases. TCIC provides information regarding protective orders; wanted persons; stolen and wanted vehicles, boats, and guns; arrests; prosecutions; dispositions of cases; and other information. NCIC provides the same information, but on a national scale.
- l. **Texas Workforce Commission** – The Texas Workforce Commission maintains and provides information regarding personal wage history, worker's compensation claims, business wage history, total wages paid by employer, individuals employed at a business, wages earned at a business.

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**FORMS**

*Complaint Information, Form 4-64*  
*Complaint Log*

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# SOURCE INVESTIGATIONS

Enforcement Division  
Policy Number: LE 1.01.01

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will investigate alcohol-related incidents that result in serious injury, death, or felonious assault. Certified peace officers (CPOs) will attempt to discover the source of alcoholic beverages consumed by an individual, or individuals, involved in an incident and investigate whether the source of the alcohol violated the Texas Alcoholic Beverage Code.

## PROCEDURES

- a. **Obtaining Information from Other Agencies.** CPOs will collect reports from the Department of Public Safety (DPS) or other law enforcement agencies that have investigated an alcohol-related incident.
- b. **Deciding to Open a Source Investigation.**
  1. A sergeant or supervisor will assess each report using the *Source Investigation Checklist*. The sergeant or supervisor may use this form to help decide whether to proceed with a source investigation.
  2. If the sergeant or supervisor decides to open a source investigation, he or she will complete a *Complaint Information* form (complaint card) and will create an electronic complaint record according to *Investigations*, § 1.01.00 of this manual.
- c. **Investigating the Source of Alcoholic Beverages.**
  1. The sergeant or supervisor will assign a CPO, or group of CPOs, the duty of investigating the incident.
  2. The CPOs will use whatever time necessary to conduct a thorough and complete investigation of whether an administrative and/or criminal violation occurred prior to the incident.
- d. **Documenting the Investigation.**
  1. CPOs will create a detailed report that outlines their investigation, contains all statements, and identifies witnesses. CPOs should also include in their reports reasons for pursuing or choosing not to pursue an investigation and reasons for filing charges or deciding not to file charges.
  2. CPOs will file the following documents in the district office: the *Source Investigation Checklist*, case reports, and reports obtained from outside sources.
  3. Incidents that are not investigated or assigned will be filed separately from open or closed source investigations.

4. The TABC will maintain the *Source Investigation Checklist* for at least two years, regardless of whether the TABC conducts an investigation. Any related reports will only be saved if the TABC decides to conduct an investigation.

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**FORMS**

*Source Investigation Checklist, Form 4-110*  
*Complaint Information, Form 4-64*

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# LICENSING STANDARDS INVESTIGATIONS

Enforcement Division  
Policy Number: LE 1.01.02

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) investigates applicants, permit holders, and license holders as necessary to ensure that all permit and license holders meet the standards set out in the Alcoholic Beverage Code and Commission Rules.

To qualify for a permit or license under the Alcoholic Beverage Code and Commission Rules, the applicant, the funding, and the location must meet certain standards. The TABC has designed applications for an alcoholic beverage permit or license to help determine whether an applicant meets these standards.

A licensing standards investigation may result in:

- no action;
- the issuance of a permit or license;
- the TABC protesting the issuance of a permit or license;
- an applicant withdrawing an application;
- the voluntary cancellation of the permit or license;
- the TABC refusing to issue a permit or license; or
- the TABC bringing administrative or criminal charges against a permittee or licensee or any other person who has violated the law.

## PROCEDURES

### a. Identifying an Original or Renewal Application for Investigation.

1. At any point in the application process, a TABC employee may refer an original or renewal application to a licensing standards investigator.
2. A licensing standards investigator will initiate an investigation when:
  - he or she suspects that information provided by an applicant is false, incomplete, or inaccurate;
  - he or she suspects that the applicant, permittee, or licensee does not meet the standards for the specific permit or license;
  - he or she requires more information to determine whether the applicant meets the standards for holding an alcoholic beverage permit or license; or
  - any person files a complaint alleging that the applicant, permittee, or licensee fails to meet the standards for a specific permit or license.

### b. Investigating Applications in the Field.

1. If a field accounts examiner, or someone acting in a similar capacity, identifies a need for a licensing standards investigation, he or she will forward the file to the field licensing standards investigator (FLSI). If no FLSI is available locally, he or she will

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- make a note on the clearance sheet of the application indicating the specific need for a licensing standards investigation and will forward the completed application to headquarters.
2. Upon obtaining the application file, the FLSI will briefly describe his or her reason for investigation on the clearance sheet, if the accounts examiner has not done so.
  3. The FLSI will review the file and attempt to resolve whether the applicant meets the standards for the permit or license.
    - If the FLSI decides that the applicant satisfies the standards for the permit or license, he or she will note this conclusion on the clearance sheet and return the application file to the accounts examiner for submission to the licensing headquarters.
    - If the FLSI requires further information to determine whether the applicant satisfies the standards for the permit or license, the FLSI will create a complaint record in the agency computer system, which begins the documentation for a licensing standards investigation. Refer to *Investigations*, § 1.01.00 in this manual, for general procedures regarding opening and tracking complaints. The FLSI may request information directly from the applicant, permittee or licensee, or may ask the accounts examiner to request additional information.
    - If the FLSI decides that the application requires further investigation by a headquarters licensing standards investigator (HQLSI), he or she will note this on the clearance sheet and return the application to the accounts examiner to be forwarded to licensing headquarters when it is otherwise complete. FLSI's may recommend an investigation by an HQLSI when the investigation requires a significant amount of time or other resources, involves multiple districts, or any other reason that prevents the FLSI from completing a thorough investigation.
    - If the FLSI concludes that the applicant, permittee, or licensee, does not meet the standards required of an applicant for an alcoholic beverage permit or license, he or she will begin procedures to reject the application. The FLSI will enter a complaint record in the agency computer system.
  4. The FLSI will not investigate an application for more than 10 workdays without the approval of the captain.

**c. Headquarters Investigation.**

1. The district offices will forward applications to licensing headquarters for review.
  2. An accounts examiner at licensing headquarters will refer an application to a licensing standards investigator if the application file contains a note from a field employee requesting licensing standards investigation or if any other evidence indicates that the applicant may not satisfy the standards for the requested alcoholic beverage permit or license.
  3. An HQLSI will review the file and attempt to resolve whether the applicant meets the standards for the permit or license.
    - If the HQLSI finds that the applicant satisfies the standards for the requested alcoholic beverage permit or license, he or she will return the file to licensing
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headquarters for processing.

- If the HQLSI concludes that the applicant must provide more information, the HQLSI will create a complaint record in the agency computer system or add to an existing electronic complaint record for the application. The HQLSI should note the action taken and the reason for the action. The HQLSI will ask licensing headquarters to request additional information from a permittee or licensee, if necessary.
  - If the HQLSI concludes that the applicant does not satisfy the standards for holding the requested alcoholic beverage permit or license he or she will begin procedures to reject the application.
4. The HQLSI will not investigate an application for more than 10 workdays without the approval of the supervising assistant chief of enforcement. Time spent waiting for requested information will not count toward this time limit.

**d. Rejecting the Application.**

1. The LSI will enter a violation record into the agency computer system and relate it to the complaint record. If a complaint record has not already been entered into the computer system, this must be done before entering a violation record.
  2. The LSI will complete a report in the agency computer system detailing both the investigation and the reason or reasons that the agency must protest the issuance of the permit or license.
  3. The LSI will return to the violation record. In the “comments” section, the LSI will note that a report has been completed in the agency computer system and will provide the reference number for that report.
  4. The LSI will inform his or her sergeant or supervisor that the violation record is ready for approval in the computer system and will submit the paper file on the case containing all related documents and evidence to the sergeant or supervisor.
  5. The sergeant or supervisor will approve or reject the case. If the sergeant or supervisor approves the file, he or she will approve the violation record in the computer system and submit the file to the Legal Services Division. Upon sergeant or supervisor approval, the computer system will automatically notify the Licensing Division to begin procedures to reject the application.
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# INSPECTIONS

Enforcement Division

Policy Number: LE 1.02.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) conducts inspections to deter and detect violations of the Alcoholic Beverage Code, Commission Rules, and applicable laws and to encourage voluntary compliance on the part of permittees, licensees, their customers, and the general public.

An inspection is a compliance check involving a specific physical location. The location may be a licensed premise, or it may be a location for which no permit or license has been issued. Certified peace officers (CPOs) conduct various forms of inspections, including *full-open inspections*, *open violation checks*, *external surveillance*, *undercover operations*, and other enforcement operations. Open inspections involve the six-step process described in this section. Refer to *Activity Class & Type Selections* for a complete description of the various forms of inspections.

CPOs may select a specific location for inspection for one or more reasons. The most common of these include:

- a history of administrative or criminal violations;
- a complaint from another agency or a member of the public alleging unlawful conduct at or around the location;
- a request from a permittee, licensee or property owner for assistance with preventing others from committing alcohol-related violations on the licensed premises;
- direct observation of suspicious activity or unlawful behavior; and
- the need to visit a location that has not yet been inspected during the current fiscal year.

The TABC refers to inspections of locations that have not been visited during the current fiscal year as "unique inspections." These inspections are unscheduled compliance checks, usually regulatory in nature. They are intended to verify continued compliance on the part of a permit or license holder and his or her staff and to provide them with a better understanding of their legal responsibilities.

The Compliance Division also conducts inspections. To avoid duplicative work, both the Enforcement Division and the Compliance Division will use the *Not Inspected List* to choose which locations to inspect.

## PROCEDURES

### a. Identify Self.

1. The CPO will identify himself or herself to a location representative by stating his or her name and title and will present his or her identification.
2. The CPO will explain that he or she is visiting the location in order to conduct an

- 
- inspection of the licensed premises.
3. The CPO will speak with the location representative and will attempt to determine who the owners are and what role the representative plays in the business.
  4. If the location representative is not a manager, the CPO will then ask to speak with a manager and will repeat this identification process to the manager.
- b. Explain Inspection.**
1. The CPO will explain what will occur during the inspection.
  2. The CPO will notify the permittee or licensee of any problems reported regarding the location or in the local area.
  3. The CPO will discuss seller training. The CPO should do the following:
    - inquire about the location's policy regarding seller training and whether the policies are posted;
    - ask whether all employees are seller-trained;
    - inform the location's representative of the benefits of seller training; and
    - offer to answer any questions.
- c. Locate the Permit or License.**
1. The CPO will ask where the permit or license is posted.
  2. The CPO will identify the type of permit or license and ensure that it is valid.
- d. Observe Location for Violations and Offenses.** The CPO will observe the location for any administrative or criminal violation.
- e. Take Appropriate Action.**
1. The CPO will contact any individual whom he or she observes violating the Alcoholic Beverage Code, Commission Rules, or other applicable law.
  2. If possible, the CPO will explain the reason he or she is speaking with the individual.
  3. The CPO will escort the individual to a safe location in order to minimize any disruption to the location, to effectively interview the individual, and to determine what action to take.
  4. The CPO will interview the individual and determine whether to issue a verbal or written warning or to write an administrative notice or criminal citation. The CPO will then determine whether to arrest the individual.
- f. Leave the Location.** The CPO will ask the manager or other representative if he or she has any questions and discuss any concerns discovered during the inspection.
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**RELATED INFORMATION**

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*Activity Class & Type Selections  
Not Inspected List*

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# RISK-BASED INSPECTIONS

Enforcement Division  
Policy Number: LE 1.02.01

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) performs its statutory duty of protecting the welfare, health, peace, temperance and safety of the people of Texas by conducting risk-based inspections, which focus enforcement operations on locations that present a public safety risk.

Violations involving minors, intoxicated persons, drugs, breaches of the peace, and consumption or sales during prohibited hours are generally a risk to public safety. The TABC refers to these breaches of the law as *public safety violations*.

The Enforcement Division will monitor the occurrence of public safety violations and will conduct risk-based inspections of locations on which a public safety violation has occurred in the previous 12 months. Certified peace officers (CPOs) will communicate with permittees or licensees of these locations and will inspect and provide assistance to the permittees or licensees until the public safety risk is eliminated or greatly diminished.

Success of risk-based inspections will be measured by the increase of voluntary compliance of priority locations as well as all permittees and licensees.

## ROLES AND RESPONSIBILITIES

- a. **All Certified Peace Officers shall** understand the development and function of the priority list, and other related information.
- b. **Enforcement Headquarters shall:**
  1. Monitor priority locations' violation histories.
  2. Develop, maintain, and distribute the priority list and any other reports necessary for implementing a risk-based inspection and measuring its success.
  3. Facilitate statewide training, in conjunction with the Legal Services Division, on risk-based inspections to certified CPOs.
  4. Ensure statewide consistency in the planning and execution of risk-based inspections.
  5. Determine whether risk-based inspections are successful by measuring voluntary compliance.
  6. Report the status and results of risk-based inspections to executive management upon request.
- c. **Regional Captains shall:**
  1. Oversee risk-based inspections and ensure consistency across the region.

2. Review the priority list and other related reports.
  3. Report to Enforcement Headquarters the status and results of risk-based operations, when appropriate.
- d. **District Lieutenants shall:**
1. Advise and assist sergeants and agents in planning and executing risk-based inspections.
  2. Contact priority locations and conduct notification meetings according to the procedures in this section, or assign this duty to a sergeant or agent.
  3. Provide training and other assistance and advice to retailers, or assign this duty to a sergeant or agent.
- e. **Sergeants shall:**
1. Provide agents with training, information and other appropriate resources prior to the execution of a risk-based inspection.
  2. Contact priority locations and conduct notification meetings as assigned by a lieutenant according to the procedures in this section.
  3. Perform risk-based inspections as assigned by a supervisor, or assign this duty to an agent.
  4. Provide training and other assistance and advice to retailers as directed by a supervisor, or assign this duty to an agent.
- f. **Agents shall:**
1. Contact priority locations and conduct a notification meeting as assigned by a sergeant or supervisor according to the procedures in this section.
  2. Perform risk-based inspections as assigned by the sergeant.
  3. Provide training and other assistance and advice to retailers.

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**PROCEDURES**

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a. **Identifying Priority Locations: The Priority List**

1. The Enforcement Division will use the agency computer system to monitor histories of public safety violations.
2. The agency computer system will place locations on the priority list based on the type of violation.
3. When more than one violation occurs during one incident, these violations will count as only one violation for the purpose of the priority list. A location can only be listed once on the list at any time.



4. **PRIORITY THREE.** A location will be listed as *priority three* when:

- the location was previously classified as a *priority two* location and it has been six months since the most recent violation; or
- the location was not previously classified as a priority location and a CPO issues a citation for a *priority three violation*.

### **Priority Three Violations**

Misdemeanors committed on a licensed premises by any person—typically a person other than a permittee or licensee.

<b>Code</b>	<b>Criminal Violations</b>	<b>Category</b>
100	Possession or Consumption of A/B by Minor	Minors
101	Possession or Consumption of A/B by Juvenile	Minors
102	Making A/B Available to Minor	Minors
103	Making A/B Available to Juvenile	Minors
106	Misrepresentation of Age by Minor	Minors
107	Misrepresentation of Age by Juvenile	Minors
108	Consumption of A/B During Prohibited Hours	Prohibit
150	Attempted Purchase of A/B by Minor	Minors
151	Attempted Purchase of A/B by Juvenile	Minors
200	Public Intoxication	Intox
201	Disorderly Conduct	Breach
204	Unlawful Carrying of Weapon	Breach
207	Offenses Against Property	Breach
208	Assaultive Offenses	Breach
209	Resisting or Evading Arrest	Breach
211	Possession of Marijuana	Drugs
212	Possession of Drug Paraphernalia	Drugs
213	False or Altered Identification	Minors
215	Possession of a Controlled Substance	Drugs

5. **PRIORITY TWO.** A location will be listed as *priority two* when:

- the location was previously classified as *priority one* and has completed three consecutive inspections without a CPO issuing citations for any additional *public safety violations*;
- the location was previously classified as a *priority three* and a CPO issues one or more additional citations for *priority two* or *priority three public safety violations* on the licensed premises; or
- the location was not previously classified as a priority location and a CPO issues a citation for a *priority two public safety violation*.

### **Priority Two Public Safety Violations**

Misdemeanors committed by a permittee or licensee on the licensed premises or felonies committed by any person

Code	Criminal Violations	Category
104	Sale, Service, Delivery, or Making Available A/B to Minor	Minors
105	Sale, Service, Delivery, or Making Available A/B to Juvenile	Minors
109	Permitting Consumption of A/B During Prohibited Hours	Prohibit
110	Sale, Service, or Delivery of A/B During Prohibited Hours	Prohibit
111	Consumption of A/B During Prohibited Hours by Permittee/Licensee	Prohibit
112	Permittee/Licensee Intoxicated on Licensed Premises	Intox
113	Sale, Service, or Delivery of A/B to Intoxicated Person	Intox
300	Unauthorized Carrying of Weapon on Licensed Premises	Breach
301	Offenses Against Property	Breach
302	Assaultive Offenses	Breach
303	Resisting or Evading Arrest	Breach
304	Possession of Marijuana	Drugs
305	Possession of Cocaine	Drugs
306	Possession of Other Drugs	Drugs
307	Sale or Delivery of Drugs	Drugs

6. **PRIORITY ONE.** A location will be listed as priority one when a CPO enters into the agency computer system a “violation follow up” after issuing an administrative notice for one of the following *priority one violations*.

### Priority One Public Safety Violations

Administrative violations committed by a permittee or licensee

Code	Violation	Category
502	Permitting Possession or Consumption of A/B by Minor Age 17 & Under	Minors
503	Permitting Possession or Consumption of A/B by Minor Age 18 & Over	Minors
504	Sale to Minor	Minors
511	Simple Breach	Breach
512	Aggravated Breach	Breach
531	Possession of Drugs by Permit/License Holder	Drugs
532	Possession of Drugs by Agent, Servant, or Employee	Drugs
533	Sale or Delivery of Drugs by Permit/License Holder	Drugs
534	Sale or Delivery of Drugs by Permittee	Drugs
535	Permit/License Holder Permitting Any Person to Sell, Deliver, or Possess Drugs	Drugs
536	Employee, Agent, Servant, or Employee Permitting Any Person to Sell, Deliver, or Possess Drugs	Drugs
537	Sale, Delivery, or Possession of Drug Paraphernalia by Permit/License Holder	Drugs
538	Sale, Delivery, or Possession of Drug Paraphernalia by Agent, Servant, or Employee	Drugs
561	Sale to an Intoxicated Person	Intox
562	Permittee/Licensee Intoxicated on Licensed Premises	Intox
563	Sale to an Obviously Intoxicated Person	Intox
600	Sale of Wine Over 17% During Prohibited Hours	Prohibit
601	Sale, Service, or Delivery of A/B During Prohibited Hours	Prohibit
602	Sale of Wine over 14% During Prohibited Hours	Prohibit
603	Sale of A/B Sunday, 1am-2am Where Prohibited	Prohibit
604	Consumption During Prohibited Hours by Permittee/Licensee	Prohibit
605	Permit/License Holder Permitting Consumption During Prohibited Hours	Prohibit
606	Agent, Servant, or Employee Permitting Consumption During Prohibited Hours	Prohibit
787	Place or Manner: On-Premises Promotions	Intox
788	Place or Manner: MB Permittee Permitting Consumption During Prohibited Hours	Prohibit

**b. General Inspection Schedule.**

1. Every two weeks, the lieutenant or sergeant responsible for each office will access updated *Priority Locations Needing Inspection* reports on the agency computer system.
2. Locations appear on *Priority Location Needing Inspection* reports based on priority level and length of time since the previous inspection.

<b>Priority Level</b>	<b>Inspection Frequency</b>
Priority One	Bi-weekly
Priority Two	Monthly
Priority Three	Quarterly

**c. Notification Meeting for Priority One and Priority Two Locations.**

1. Lieutenants or another designated CPO will hold notification meetings with priority one and priority two locations. (A second notification meeting is not required when a location moves down from priority one to priority two.)
2. The CPO will attempt to arrange a notification meeting with the license or permit holder of the priority location. If the license or permit holder is not an individual, the CPO will attempt to arrange a meeting with the person in charge of operations and the owner of the location. If these persons are unavailable, the CPO will arrange a meeting with a manager of the location.
3. At the notification meeting, the CPO will explain the following topics:
  - the general operation and purpose of risk-based inspections;
  - the priority list;
  - the reason the location is listed on the priority list;
  - the general inspection schedule for the different levels of the priority list; and
  - the possibility that some inspections may be conducted undercover.
4. The CPO will offer an educational program to the representative at the notification meeting. If the representative decides to participate in training, the CPO will schedule the training within a reasonable time period.
5. The CPO may also offer other assistance to the representative at the notification meeting including general suggestions of “best practices” and ways to prevent violations of the Alcoholic Beverage Code, Commission Rules and other related laws.
6. The CPO will create a record of the notification meeting in his or her *Daily Activity Report* by the next workday. For each location contacted, the report should include:
  - the date and time of the notification meeting;

- the full names and titles of the representatives of the licensed premises present at the notification meeting;
- a description of the issue(s) discussed;
- a statement of whether training was accepted; and
- if training was accepted, a statement of when the training is scheduled.

**d. Training for Priority One and Priority Two Locations.**

1. The lieutenant will deliver an educational program at the scheduled time, or will delegate this duty to another CPO.
2. The CPO will create a separate record for each location trained in his or her *Daily Activity Report* by the next workday. The report should include:
  - the date and time of the training;
  - the permit or license number;
  - the trade name of location; and
  - the full names and titles of the representatives of the licensed premises present at the meeting.
3. To record the full names and titles of the representatives of the licensed premises present at the meeting, the CPO may use the *Education Program Sign-In Sheet* and attach it to the *Daily Activity Report*.

**e. Conducting Inspections According to the Priority List.**

1. The TABC will allow locations one of the following specified time periods to make operational changes. Lieutenants will ensure that sergeants and agents observe these time periods.
  - A sergeant or supervisor will not assign CPOs to conduct a risk-based inspection of a location whose representatives complete training until the 20<sup>th</sup> calendar day after the training.
  - If representatives of a location schedule training then later fail to attend or do not complete the training, a sergeant or supervisor will not assign CPOs to conduct a risk-based inspection of the location until the 5<sup>th</sup> calendar day after the notification. If this day has already passed, a sergeant or supervisor will ensure that the location is immediately inspected.
  - Sergeants will not assign CPOs to conduct a risk-based inspection of a location whose representatives reject training until the 5<sup>th</sup> calendar day after the notification meeting.
2. Sergeants will use the agency computer system to record education data in order to update a list of priority locations to be inspected.
3. Sergeants will create a work plan that includes inspections at one or many priority

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locations.

4. Sergeants will assign roles and responsibilities to CPOs and will oversee the execution of risk-based inspections.
5. Sergeants will ensure that CPOs enter risk-based inspections into their *Daily Activity Reports* and into the agency computer system. CPOs will identify risk-based inspections in the agency computer system by using the “priority” activity class.
- f. **Removal from the Priority List.** The agency computer system will remove a location from the priority list when 12 months have elapsed since the date of the most recent public safety violation.

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## FORMS

*Daily Activity Report*

*Education Program Sign-In Sheet*

*Priority Locations Needing Inspection*

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# 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.

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**FORMS**

*Purchase of Evidence Expense Report*

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**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.

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# MINOR & SHOULDER TAP STINGS

Effective Date: 2/1/08

Revision Date: 8/4/09

Enforcement Division  
Policy Number: LE 1.02.03

## POLICY STATEMENT

The Texas Alcoholic Beverage Commission (TABC) will use minor stings and shoulder tap stings to identify locations and people that sell or provide alcoholic beverages to minors.

The Enforcement Division will recruit minors to participate in minor and shoulder tap stings. CPOs and minors participating in a minor or shoulder tap sting will not make any untrue verbal statements. With the exception of concealing their relationship with the TABC, minors will not deceive, trick, or entice a permittee, licensee, or other person to sell or provide them with an alcoholic beverage.

Additionally, the TABC will make every effort to recruit minors to participate in minor stings who are not residents of or frequent visitors to the operation area in order to avoid a situation in which a permittee, licensee or other person recognizes a minor as a friend, acquaintance, or previous customer.

Above all other interests, CPOs will ensure the safety of minors participating in minor and shoulder tap stings.

## POLICY PURPOSE

The purpose of this policy is to provide a general guide to the execution of minor and shoulder tap stings.

## PROCEDURES

### a. Recruiting Minors.

1. The CPO must choose minors who:
  - are 18 years of age or younger;
  - appear youthful and have no facial hair;
  - are willing to dress in typical teenage attire consistent with minors in the area; and
  - according to information provided on the *Minor Information Sheet*, have not been convicted of a crime related to alcoholic beverages.
2. If possible, CPOs will locate male or female minors who are not residents of, or frequent visitors to, the operation area. CPOs may establish a "minor pool" to simplify the recruiting process.
3. CPOs will preferably recruit minors who have a valid driver's license or identification card issued by the Department of Public Safety (DPS). CPOs must recruit minors who have a valid driver's license or personal identification card if required by the local prosecutor.

4. CPOs will obtain approval from the captain before recruiting a minor who does not live with his or her parents, custodians or guardians.

**b. Communicating with the Local Prosecutor.**

The supervisor will periodically communicate with the local prosecutor to outline the general procedures of minor and shoulder tap sting operations and discuss any additional guidelines that the local prosecutor wishes to add to the general procedures.

**c. Holding a Parent/Guardian Meeting.**

1. CPOs will arrange a meeting with the parents or guardians of potential minor participants. If possible, the minors should be present as well.
2. CPOs will explain the minor or shoulder tap sting procedures.
3. CPOs will explain that participation in a minor sting may require the minor to be out late and that parents will be notified immediately if a minor will be out later than expected.
4. CPOs will explain the *Parent Authorization* required before a minor may participate in the operation. The *Parent Authorization* form must be signed by the minor and a parent, guardian, or custodian.
5. CPOs will require the minors to complete the *Minor Information Sheet*.
6. CPOs will file the *Parent Authorization* and the *Minor Information Sheet* in a file created for each minor.
7. If the minor is available for further participation, his or her file may be added to the minor pool for use in future stings. A CPO should also note in the minor's file the times at which he or she is available to participate in minor or shoulder tap stings.

**d. Planning the Operation.**

1. A sergeant or supervisor may assign CPOs to carry out minor or shoulder tap sting operations as part of a work plan or as needed.
2. A sergeant or supervisor will choose a lead agent for each operation.
3. The lead agent identifies potential locations, assesses each location to determine whether to include it in the operation, and presents the potential locations to his or her sergeant or supervisor for approval 48 hours prior to the planned operation. The sergeant or supervisor approves, rejects, or modifies the selection of locations.
4. The lead agent determines the route to be traveled. When determining the route the lead agent should consider population, traffic, and geographic area.
5. The lead agent will coordinate the operations and make specific assignments regarding CPO participation and equipment use.
6. The lead agent provides all participating CPOs with the list of locations and the route.

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**e. Preparing the Minor.**

1. The sergeant or supervisor will approve or reject the selected minor. If the sergeant or supervisor approves the minor, he or she will sign the *Minor Information Sheet* to indicate approval.
2. The undercover CPO will set up a meeting with the minor at some time prior to the operation. The CPO will use this time to become familiar with the minor, explain the operation and the specific duties expected of the minor, and answer any questions. The undercover CPO will also explain to the minor what actions to take should a safety concern arise. The undercover CPO will direct the minor to react promptly to any command given by the undercover CPO.
3. A CPO will take a photograph of the minor on each day of the operation, dressed in the manner in which he or she will enter or has entered the location. The CPO attaches the photograph to the case reports and other documents as necessary and files a copy of the photograph in the minor's file.
4. A CPO will ensure that the minor carries valid identification (if any), money provided by CPO, and other items authorized by the CPO.
5. A CPO will describe to the minor the type and amount of alcoholic beverages he or she should purchase. The CPO may also instruct the minor to purchase other items if necessary for the minor to maintain cover.
6. The minor will be transported to and from an agreed upon meeting place by two TABC employees.

**f. Conducting Minor Sting Operations.**

1. The lead agent obtains undercover funds to be used for the minor's purchase(s) and ensures that all necessary equipment is available for the operation. See *Purchase of Evidence*, § 3.00.00 of this manual.
2. If video and/or audio recording equipment is being used, the minor will state his or her name and age, the date, the location he or she is about to enter, and that he or she will attempt to purchase an alcoholic beverage.
3. The minor will enter the location and attempt to purchase an alcoholic beverage.
4. The undercover CPO will stay close enough to the minor at all times to ensure the minor's safety. The undercover CPO will also attempt to be close enough to observe the minor's transaction.
5. 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 team.
6. The undercover CPO will discontinue cover if necessary to ensure the safety of the minor or to assist the identification team if exigent circumstances exist.
7. The identification 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 team makes contact with the appropriate person. No CPO will claim an inspection during the operation unless they are physically present at the licensed location.

8. A CPO on the identification team will identify himself or herself and explain the reason he or she is speaking with the individual.
9. The CPO will escort the individual to a safe location in order to minimize any disruption to the location, to effectively interview the individual, and to determine what action to take.
10. A CPO on the identification team will locate a representative of the establishment, preferably the permit or license holder or the person in charge of operations. The CPO will explain any action that has been taken or will be taken. The CPO will offer to answer any questions that the representative may have.
11. The identification team will note:
  - the location;
  - the time of sale;
  - the item or items purchased;
  - the price of the purchase; and
  - whether identification was requested and shown.
12. The identification team will determine whether the permittee or licensee meets the requirements for a defense under:
  - Alcoholic Beverage Code § 109.61 (related to driver's license or identification certificate scanners); or
  - Commission Rule § 50.10 (related to seller training).
13. The sergeant or supervisor will periodically conduct ride-along reviews of operations involving minors in order to ensure operations are in compliance with policy guidelines.
14. The sergeant or supervisor will ensure that letters are written to representatives of the locations that were visited during a minor sting operation, but refused to sell to the minor. The letters should notify the permittee or licensee that a minor sting was conducted at their establishment and should applaud them for complying with the law by refusing to sell to a minor.

**g. Conducting Shoulder Tap Sting Operations.**

1. The lead agent will obtain cash to be used for the minor's purchase(s) and will ensure that all necessary equipment is available. The minor will be given a minimal amount of money necessary to make the transaction.
2. If video and/or audio recording equipment is being used, the minor will state his or her name and age, and that he or she intends to approach an individual and ask the individual to purchase an alcoholic beverage on his or her behalf.
3. The minor will:

- approach an individual as directed by a CPO;
  - identify himself or herself as a person under 21 years of age; and
  - ask the individual to buy or provide him or her with an alcoholic beverage.
4. An undercover CPO and/or the identification team will observe the minor and will remain close enough to the minor at all times to ensure the minor's safety.
  5. If the individual agrees to provide the minor with an alcoholic beverage, a CPO will make contact with the subject after the transaction. The CPO will take the appropriate action.
  6. The identification team will note:
    - the location;
    - the time of transaction;
    - the type and amount of alcoholic beverage provided;
    - the amount of money the minor gave the subject.

#### **h. Submitting Reports.**

1. If possible, the lead agent will ensure that any photos or videos are uploaded to the agency computer system.
2. The lead agent will ensure that the following documents are completed:
  - *Purchase of Evidence Expenditure Report*;
  - *Purchased as Evidence*;
  - *Minor's Statement*; and
  - and any other necessary forms or case reports.
3. The lead agent will make a file for each location in which the minor completed a purchase, or will delegate this task to another CPO and ensure its completion. The file must contain all documents related to the purchase.
4. The lead agent will ensure that all evidence is properly marked and submitted to the property officer in the district where the sting operation was conducted. Refer to *Purchase of Evidence*, § 3.00.00 of this manual.
5. CPOs will submit *Offense Reports* and any related forms, reports, photographs, documents or other evidence as required by the local prosecutor.

## **FORMS AND RELATED DOCUMENTS**

*Parent Authorization*  
*Minor Information Sheet*

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*Cash Advance Log, Form 4-34*

*Purchase of Evidence Expenditure Report, Form 4-6*

*Purchased as Evidence, Form 4.3*

*Minor's Statement*

*Purchase of Evidence Policy, Policy LE 3.00.00*

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## **REVISION HISTORY**

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**08-04-09:** A "Policy Purpose" section was added and the purpose statement was moved from the Policy Statement section to the purpose section.

In the "Communicating with the Local Prosecutor" section, the supervisor is solely responsible with meeting with the local prosecutor and can longer designate someone to perform this function.

The policy was changed in the "Planning the Operation" section to state that the CPO will submit the proposed sting locations to his or her supervisor for approval 48 hours prior to the operation.

In the "Preparing the Minor" section, the sergeant or supervisor, not "his or her designees," approves or rejects the minor. Also in this section, the policy requirement of having two TABC employees transport the minor was added.

In the "Conducting Minor Sting Operations" section, it is now policy that no CPO will claim an inspection during the operation unless present at the licensed location. Also the sergeant is now required to conduct periodic, ride-along reviews of sting operations.

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# COOPERATIVE OPERATIONS

Enforcement Division  
Policy Number: LE 1.02.04

Effective Date: 2/1/08

## POLICY

Texas Alcoholic Beverage Commission (TABC) will conduct operations in cooperation with permittees or licensees to assist the retailer and foster compliance with the Alcoholic Beverage Code, Commission Rules, and applicable laws.

The Enforcement Division generally conducts two standard forms of cooperative operations—Cops In Shops and Operation Fake Out. Certified peace officers (CPOs) may also conduct shoulder tap stings and other forms of cooperative operations on a licensed premises with the cooperation of the licensed entity.

## PROCEDURES

### a. Choosing Locations.

1. CPOs will attempt to carry out a cooperative operation at the request of a permittee or licensee as resources allow. The CPO may identify a location that might benefit from a cooperative operation and suggest the operation to the permittee or licensee. Locations that might benefit from a cooperative operation include, but are not limited to, those that have:
  - a large volume of customers under 21 years of age;
  - multiple complaints;
  - ongoing investigations; and
  - violation histories.
2. A CPO will notify the sergeant or supervisor when a permittee or licensee expresses a desire to participate in a cooperative operation. The sergeant or supervisor may choose to coordinate the operation or may delegate this duty to another CPO.
3. The sergeant or supervisor will assign a lead agent and other CPOs to the operation. A CPO will meet with a representative of the location, preferably the permit or license holder or the person in charge of operations. The CPO will describe the program to the representative and answer any questions.
4. If the representative would like to participate in a cooperative operation, the CPO will require the representative to read and complete the *Cooperative Operation Statement of Understanding*.
5. A CPO will explain the following to the representative:

- CPOs will be enforcing all laws at all times and any person who is found violating a law may be charged;
- all employees will act using their own judgment and not at the direction of a CPO;
- CPOs will not assist employees in performing duties related to the sale, service, or delivery of any items; and
- CPOs will never operate any type of cash register or accept money from anyone.

**b. Planning the Operation.**

1. The lead agent will coordinate the operations and make specific assignments regarding equipment use, CPOs' duties and will identify which CPOs will act in an open or undercover capacity.
2. Prior to commencement of the operation, a CPO will meet with a representative of the location, preferably the person in charge of operations, and ensure that the person understands the operation and wants to participate.
3. The CPO will request that the representative keep information regarding the operation as confidential as possible. Sharing information about cooperative operations with the public may disqualify the location from participation in the operation.

**c. Conducting the Operation.**

1. The undercover CPO will plan to pose as an employee or customer. An undercover CPO acting as an employee may wear employee attire, if provided by the establishment. The undercover CPO will carry an authorized firearm in a concealed position and any other equipment as directed by the lead agent.
2. The identification team will maintain a position that allows them to be close enough to respond quickly to the needs of the undercover CPO; to ensure his or her safety; and, if possible, to view the undercover CPO's activity.
3. During times when employees are not occupied with job duties, CPOs will consult with employees on detection methods of false identification and answer any questions that they may have.
4. 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 team.
5. The identification team will make contact with subjects as directed by the undercover CPO. If there are multiple subjects, or if the identification team cannot get to the subjects before they leave the premises, the undercover CPO may discontinue cover to assist the identification team in contacting the subjects.
6. A CPO who makes contact with a subject will identify himself or herself and explain the reason he or she is speaking with the individual.
7. The CPO will escort the individual to a safe location in order to minimize any disruption to the location, to effectively interview the individual, and to determine what action to take.

8. CPOs may continue to observe the area for violations. Prior to leaving the location, a CPO on the identification team will locate a representative of the location, preferably the permit or license holder or the person in charge of operations. The CPO will explain any action that has been taken or will be taken. The CPO will offer to answer any questions that the representative may have.

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**FORMS**

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*Cooperative Operation Statement of Understanding*

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# EDUCATION PROGRAMS

Enforcement Division  
Policy Number: LE 1.03.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) offers various education programs to the public for the purpose of fostering compliance with the law and improving public safety. The Enforcement Division will offer educational programs as required by these policies and procedures and, as resources allow, will provide education to the public upon request.

Some educational programs produced by the TABC are made possible by grants. The Enforcement Division will satisfy all grant requirements and will rely on the Education and Prevention Division to communicate these requirements.

## EDUCATION PROGRAMS

- a. **Manager's Awareness Program (MAP)** – A two-hour educational program designed for owners and managers of establishments licensed to sell alcoholic beverages. MAP provides information and skills that managers need to help employees provide responsible alcohol service. Topics covered in the program include responsible management practices, defenses to administrative action (safe harbor), civil liability for the licensed establishment, minors, private clubs, intervention techniques, signs of intoxication, refusing sale, and checking employee certification for seller/server training. TABC personnel teach two versions of MAP—one for on-premises establishments and one for off-premises establishments.
- b. **Project SAVE (Stop Alcohol Violations Early)** – The TABC offers different versions of this educational program that target the specific concerns of school groups, different types of permit and license holders, and other concerned citizens. TABC provides the program to alcoholic beverage permit and license holders in order to instruct employees on alcoholic beverage laws and strategies to facilitate and foster the legal service of alcoholic beverages.
- c. **Shattered Dreams** – A two-day educational event that dramatizes community and peer response to alcohol-related tragedies.
- d. **Liquor Law Education** – Instruction in the Alcoholic Beverage Code and Commission Rules provided to other law enforcement agencies upon request.

## PROCEDURES

- a. **Identifying the Need for Education.**
  1. CPOs will offer education as directed by these policies and procedures.
  2. CPOs may offer education when the CPO identifies a citizen, or group of citizens, that would benefit from one of the programs conducted by the TABC.
  3. CPOs will accept requests for education and communicate these requests to their sergeant or supervisor.

**b. Planning an Education Program.**

1. When a CPO alerts a sergeant or supervisor to a need or request for education, the sergeant or supervisor will approve or reject the request.
2. If the sergeant or supervisor approves a request, or several requests, he or she will choose a lead agent to conduct the education.
3. The lead agent will choose the appropriate education program and determine whether additional personnel will be necessary.
4. The lead agent will attempt to schedule education for multiple citizens at one time to effectively utilize agency resources.
5. The lead agent will choose a location at which to hold the education program and schedule a specific time.
6. The lead agent will ensure the availability of all necessary resources.

**c. Conducting the Education Program.**

1. The lead agent will conduct the education program using materials approved by supervisors and the Education and Prevention Division.
2. The lead agent will attempt to tailor his or her presentation to address the specific needs of the audience.

**d. Documenting the Education Program.**

1. The lead agent will ensure that each permittee and licensee who attends an educational program records his or her name and signature on an *Education Program Sign-In Sheet*.
2. The lead agent and any other participating CPOs will record the educational program as part of their *Daily Activity Report*.

**e. Grant-Funded Education Programs.**

1. In addition to the procedures described above, all CPOs will conform to any additional forms or procedures required by grants. The Education and Prevention Division will communicate the additional forms or procedures to the captains. Captains will ensure the dissemination of this information to supervisors in the field.
2. Supervisors will ensure that CPOs who provide education understand the requirements of specific grants.

**FORMS**

*Educational Program Sign-In Sheet*  
*Daily Activity Report*

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**RELATED INFORMATION**

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Human Resources Manual 1.10, Off-Duty Employment.

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# SPECIAL EVENTS

Enforcement Division

Policy Number: LE 1.04.00

Effective Date: 2/1/08

## POLICY

The Enforcement Division will support other law enforcement agencies by providing assistance at special events. A "special event," as used in this manual, is an event that typically attracts a large gathering of people and involves alcoholic beverages. Special events include, but are not limited to, outdoor concerts, livestock shows, rodeos, and local parties and festivals.

Certified peace officers (CPOs) will enforce the Alcoholic Beverage Code and Commission Rules, and other applicable laws at special events. CPOs may also help other law enforcement agencies with controlling crowds and maintaining a safe atmosphere. To accomplish these goals, CPOs may utilize a variety of enforcement activities, including the TABC bicycle patrol program, which allows CPOs greater mobility, visibility, and the speed required to reach trouble spots quickly. See *Bicycle Program*, § 5.02.00 of this manual, for related policies and procedures.

## PROCEDURES

### a. Identifying Special Events.

1. All CPOs will monitor the occurrence of special events in their areas and will communicate to a sergeant or supervisor the need to provide assistance at a special event.
2. Captains will identify anticipated special events in their annual action plan.

### b. Planning Special Event Operations.

1. A sergeant or supervisor will complete a *Special Event Operational Plan* whenever a special event requires allocation of resources outside normal job duties.
2. Prior to a special events operation, the sergeant or supervisor will submit the *Special Event Operational Plan* to Enforcement Headquarters if:
  - the special event lasts longer than 72 hours; or
  - the special event requires overnight accommodations for the participating CPOs.
3. The sergeant or supervisor will estimate the resources required for the special event and will request resources from other districts or regions, if necessary.

### c. Executing Special Event Operations.

1. Captains will determine the appropriate attire for CPOs in his or her region to wear during special events.

2. Sergeants or supervisors will coordinate the execution of special events operations with local law enforcement agencies.
3. CPOs will observe for violations and will take necessary action according to the policies and procedures in this manual.

d. **Documenting Special Events Operations.**

1. CPOs will record participation in special events in the *Daily Activity Report*.
2. CPOs will complete other documentation required by the policies and procedures in this manual.

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**FORMS**

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*Daily Activity Report*  
*Special Event Operational Plan*

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# TASK FORCES & JOINT OPERATIONS

Enforcement Division  
Policy Number: LE 1.05.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will partner with other law enforcement agencies to pursue goals that further the mission of the TABC by participating in task forces or joint operations.

Task forces are formal agreements to address a specific problem and typically last over six months. A task force supervisor who may be a member of the TABC or a member of another law enforcement agency will supervise task forces.

CPOs may, at their discretion, participate in joint operations with other law enforcement agencies. Joint operations most often involve the provision of informal or short-term assistance.

## ROLES & RESPONSIBILITIES

**a. All Certified Peace Officers Shall:**

1. Perform duties as assigned by task force supervisors.
2. Make monthly reports to his or her lieutenant or other immediate supervisor regarding task forces.

**b. Captains or Their Designees Shall:**

1. Represent the TABC when communicating with other law enforcement agencies.
2. Notify Enforcement Headquarters upon the formation of a task force.

**c. Lieutenants Shall:**

1. Monitor monthly progress of task forces to ensure agency mission and goals are being supported.
2. Meet quarterly with task force supervisors.
3. Prepare a monthly report of general task force activity and submit it to captain.
4. Oversee joint operations.

## PROCEDURES: TASK FORCES

**a. Initiating the Task Force.**

1. CPOs will communicate any requests or needs for a task force up the chain of command to the captain.

2. The captain will give temporary approval of the task force if he or she determines that the agency has the ability to offer the necessary resources and that participation in the task force will further the goals and mission of the agency.

**b. Planning the Task Force.**

1. The captain or his or her designee will meet with the participating law enforcement agency or agencies to determine the structure of the task force, the specific resources necessary, and whether the TABC must complete any documents or sign any formal agreements.
2. The captain will ensure that he or she understands the purpose of the task force and the amount of time and resources that will be required of the TABC.
3. Prior to committing agency resources, or entering into any agreements, the captain will forward any proposed agreements to headquarters for approval by the chief of enforcement or his or her designee, the Legal Services Division, and the administrator or his or her designee.

**c. Executing and Supervising a Task Force.**

1. The captain or his or her designee will assign a task force supervisor and task force participants.
2. Task force participants will act under the immediate direction of the task force supervisor.
3. The captain or his or her designee will monitor task force operations to ensure that the operations continue to support the goals and mission of the TABC.

**d. Documenting a Task Force.**

1. CPOs will complete documentation required by any approved task force agreement and as required by supervisors.
2. CPOs will record task force operations in their *Daily Activity Report*. Security concerns may limit the amount of detail that CPOs may reveal in their *Daily Activity Report*.

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**PROCEDURES: FEDERAL TASK FORCES**

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**a. Identifying the Opportunity to Create a Federal Task Force.**

1. The Enforcement Division will consider participating in a federal task force when requested by a federal agency.
2. The Enforcement Division will communicate any opportunities to participate in a federal task force to the administrator or his or her designee.

**b. Setting Up a Federal Task Force.**

1. The administrator or his or her designee and a representative of Enforcement

Headquarters will meet with the participating federal agency or agencies in order to understand the structure of the federal task force, the specific resources necessary, and any required documentation or formal agreements.

2. If the participating agency or agencies require a memorandum of understanding (MOU), the MOU must be approved by the chief of enforcement or his or her designee, the Legal Services Division, and the administrator or his or her designee.
3. Federal task force participants will use agency resources as directed by the MOU.
4. Enforcement Headquarters will communicate any agreements regarding participation in a federal task force to the captains.
5. Captains will assign CPOs to the federal task force or will ask for volunteers. After the captain's approval, potential participants must then be approved by the federal agency or agencies, before participating in the task force.

**c. Executing and Supervising a Federal Task Force.**

1. Approved federal task force participants will act under the supervision of the participating federal agency or agencies.
2. Federal task force participants will give a general explanation of federal task force activities to their sergeant or supervisor for the purpose of describing their work load. Security issues may limit the amount of detail that CPOs may reveal to their sergeants or supervisors.

**d. Documenting a Federal Task Force.**

1. Federal task force participants will complete documentation as required by the participating federal agency or agencies.
2. Federal task force participants will enter a general description of task force activities into their *Daily Activity Reports*. Security issues may limit the amount of detail that CPOs may reveal in their *Daily Activity Report*.

## PROCEDURES: JOINT OPERATIONS

- a. CPOs will participate in joint operations as necessary.
- b. If a joint operation requires significant resources, CPOs must get sergeant or supervisor approval prior to participating. The amount of resources that constitutes "significant resources" will vary depending upon the office. Supervisors will determine what constitutes "significant resources" in their area and will communicate this to CPOs under their supervision.
- c. CPOs will report participation in joint operations in their *Daily Activity Reports*.

## FORMS

*Daily Activity Report*



# INCIDENT NOTIFICATION

Enforcement Division  
Policy Number: LE 1.06.00

Effective Date: 2/1/08

## POLICY

All certified peace officers (CPOs) will report deaths, injuries, significant arrests, or other events that may result in abnormal press coverage according to these policies and procedures.

## PROCEDURES

### a. Incidents That Require Immediate Notification.

1. After providing any necessary aid, certified peace officers (CPOs) will immediately notify sergeant or supervisor via telephone, regardless of the time when one of the following incidents occurs:
  - serious injury to or death of any person related to any enforcement activity; or
  - any injury resulting from the discharge of a TABC CPO's firearm; or
  - a CPO makes an arrest of a public figure, famous person, or other uncommon arrest.
2. All CPOs will have access to emergency phone numbers for the assistant chiefs and the chief of enforcement.
3. The sergeant or supervisor will communicate the situation up the chain of command and will ensure that the notification reaches the assistant chief, or chief of enforcement.
4. If the incident involves serious injury or death of any person, or any injury resulting from the discharge of a TABC CPO's firearm, a representative of Enforcement Headquarters will immediately notify the administrator and the Office of Professional Responsibility.

*For procedures regarding the discharge of a firearm resulting in the injury or death of a person, see Use of Firearm, § 4.03.00 of this manual.*

### b. Incidents that Require Next-Day Notification.

1. A CPO will notify a sergeant or supervisor no later than the following morning if one of the following incidents occurs:
  - a high number of arrests at a single location;
  - a high number of arrests at a limited number of locations; or
  - abnormal press coverage or an event that may result in abnormal press coverage.

2. The sergeant or supervisor will communicate the situation up the chain of command and will ensure that the notification reaches the assistant chiefs or chief of enforcement before the end of the day.
- c. **Required Information.** A CPO reporting an incident will supply the following information:
1. the type of operation;
  2. relevant dates and times;
  3. the location;
  4. the number of people investigated and released without a citation;
  5. the number and type of citations issued without arrest;
  6. the number of persons arrested and the charges;
  7. if a portable breath test (PBT) was used, the PBT results and the average of those results;
  8. the number and type of administrative notices issued; and
  9. whether digital recordings were made or pictures were taken.
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# OPERATIONS PLANNING

**Effective Date: 02/03/09****Enforcement Division  
Policy Number: LE 1.07.00**

## INTRODUCTION

The Texas Alcoholic Beverage Commission (TABC) will from time to time engage in operations requiring a higher level of coordination of manpower and resources. To better serve the mission and help ensure the safety and success of these operations, the submission and approval of a written Operations Plan approved by a supervisor will be required for certain operations. This document is in addition to the Weekly Work Plan.

## WRITTEN OPERATIONS PLAN REQUIREMENTS

### 1. Supervisory approval of a written operations plan is required in the following situations.

- a. The agency undertakes an operation described in Policy Number 1.04.00 Special Events, where arrests and seizures are expected.
- b. An operation involves a CPO or cooperating individual acting in an undercover capacity, whether or not on-site enforcement is anticipated.
- c. A vehicular surveillance operation involves more than two surveillance vehicles, whether or not on-site enforcement is anticipated.
- d. A multi-agency cooperative operation in which TABC is the lead agency, whether or not on-site enforcement is anticipated.
- e. A search warrant execution is planned.
- f. A supervisor deems necessary to conduct a safe and efficient enforcement operation.

### 2. An operations plan is written by a supervisor, or a lead agent designated by the supervisor.

The lead agent will act in a general oversight capacity to ensure the safe conduct of the entire operation, and will not be acting in an undercover capacity on the operation.

### 3. Minimum components of the Operations Plan include the following:

- a) Goal/Purpose of the operation (on-site action, ongoing investigation, surveillance, etc.)
- b) Subject (person(s), location(s), vehicle(s), etc.)
- c) Personnel and Assignments (chain of command, evidence custodian, identification/detention, undercover, "good guy" vehicles, etc)
- d) Communications (radio frequencies, cell numbers, trouble signals, action signals, etc)
- e) Contingencies (emergency actions, staging area, rally point, timed status checks, expansion of scope, medical, outside agency notifications, etc.)

An operations plan does not restrict or inhibit CPOs from acting on unforeseen incidents, which may occur during the conduct of the operation. CPOs will always default to their statutory

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responsibility as a peace officer in the event of imminent serious bodily injury or death, and weigh their actions by the guiding principles and mission of the agency.

#### 4. Briefing Requirements

- a) **ALL INVOLVED PERSONNEL** will be provided a copy of the operations plan and briefed in person by the supervisor or lead agent.
- b) Supervisors will make any advanced notification or coordination with area law enforcement agencies that are appropriate based upon the totality of circumstances for each individual operation.

#### 5. Records Maintenance

Operations plans may contain sensitive and/or confidential information that compromise the identity of an undercover or cooperating individual, and will be maintained in a separate file from the case file, and should not be disclosed.

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#### RELATED POLICIES

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1.02.02 Undercover Operations  
1.02.04 Cooperative Operations  
1.04.00 Special Events  
1.05.00 Task Forces & Joint Operations  
2.01.00 Search of Persons and Property  
2.02.00 Search of Licensed Premises  
2.03.00 Seizure of Property  
2.04.00 Seizure of Pornographic Material  
2.06.00 Executing an Arrest  
3.00.00 Purchase of Evidence  
3.01.00 Confidential Informants

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## SEARCH & SEIZURE

Enforcement Division  
Policy Number: LE 2.00.00

Effective Date: 2/1/08

### POLICY

Certified peace officers (CPOs) will conduct searches and seizures according to federal law, state law, and these policies and procedures. CPOs will, at all times, respect the rights of persons subject to searches and seizures.

CPOs will only conduct searches and seizures that are reasonable. A reasonable search is supported by probable cause, executed pursuant to a warrant or recognized exception to the warrant requirement, and conducted in a reasonable manner.

CPOs will exercise the minimum amount of restraint necessary to ensure officer safety and the safety of others. CPOs will always treat individuals in a professional manner.

### RULES

#### **The United States Constitution, 4<sup>th</sup> Amendment**

"The right of the people to be secure in their persons, houses, papers, and effect, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

#### **The Texas Constitution, Article 1, Section 9**

"The people shall be secure in their persons, houses, papers, and possession, from all unreasonable seizures, and no warrant to search any place or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation."





# SEARCH OF PERSONS & PROPERTY

Enforcement Division  
Policy Number: LE 2.01.00

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) will only conduct searches that are reasonable. A reasonable search is supported by probable cause, executed pursuant to a warrant or recognized exception to the warrant requirement, and conducted in a reasonable manner.

This manual contains additional policies and procedures for searches of licensed premises. Refer to *Search of Licensed Premises*, § 2.02.00 of this manual.

## RULES

### The United States Constitution, 4<sup>th</sup> Amendment

"The right of the people to be secure in their persons, houses, papers, and effect, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

### The Texas Constitution, Article 1, Section 9

"The people shall be secure in their persons, houses, papers, and possession, from all unreasonable seizures, and no warrant to search any place or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation."

### Code of Criminal Procedure Chapter 18, Search Warrants

## PROCEDURES

- a. **Determining Whether the Activity Constitutes a Search.** The CPO must decide whether an act constitutes a search. The following acts do not constitute a search and thus do not require a search warrant or the explanation of an exception to the search warrant requirement.
  1. Observing Objects in Plain View. A CPO does not conduct a search of an object when the object is located in a public area, or in an area where the CPO has a right to be. The object must also be where anyone, including the CPO, can plainly see it. CPOs will often observe objects in plain view in public areas as they conduct inspection and other enforcement activities.
  2. Searching Abandoned Property.
    - When a person abandons property, the person gives up his or her expectation of privacy with regard to the property.
    - A CPO will only consider property to be abandoned when:

- (1) the person clearly intended to abandon the property; and
- (2) the person's decision to abandon the property was not made because of CPO misconduct including improper stops, stops made without reasonable suspicion, or any violation of search or seizure laws.

b. **Exceptions to the Warrant Requirement.** If the CPO wants to conduct a search, the CPO must either get a search warrant or be able to explain a warrantless search by describing facts supporting one of the following exceptions.

1. Consent. \*

- A CPO may obtain either verbal or written consent to search any person, place, or thing. If the CPO chooses to accept written consent, the CPO will complete the *Consent to Search* form.
- The person giving consent must have the authority to do so.
- The CPO may not coerce the individual into giving consent. The individual must voluntarily give consent.
- The person may withdraw consent at any time.

\* *When a person accepts an alcoholic beverage permit or license, he or she consents to inspection of the premises for which he or she accepts the permit or license. See Search of Licensed Premises, § 2.02.00 of this manual, for policies and procedures.*

2. Protective Search.

- A CPO may conduct a protective search following a properly executed investigative detention. See *Investigative Detention*, § 2.05.00 of this manual, for related policies and procedures.
- The CPO must believe, based on specific and articulable facts that he or she is dealing with a person who may be armed or dangerous.
- The CPO will only search those areas for which the CPO believes, based on specific and articulable facts, that the person may be concealing a weapon. These areas include, but are not limited to areas within the person's immediate access and the person's clothing, purse, and car.

3. Search Incident to Lawful Arrest.

- When a CPO arrests a person, the CPO will search that person in order to remove any objects that could be used to escape or resist arrest, or to prevent possible destruction of evidence. Refer to *Warrantless Arrest* and *Arrest with Warrant*, §§ 2.06.00 and 2.07.00 of this manual, for related policies and procedures.
- Once a CPO lawfully arrests a person, the CPO does not need a warrant, probable cause, or reasonable suspicion to search the person—the only requirement is a lawful arrest.

- The CPO may search the person and the area within the person's immediate control.
- The CPO will search a subject at the time of arrest and again immediately before the CPO releases the subject to the detention facility in order to ensure that the subject possesses no weapons.

#### 4. Exigent Circumstances.

- A warrantless search may be made if there is probable cause and exigent circumstances.
- The scope of a search conducted under the exigency exception will be limited by the nature of the exigency.
- Exigent circumstances include situations in which;
  - (1) a person's life is at risk;
  - (2) a person is threatened by serious injury;
  - (3) a felony crime is in progress;
  - (4) CPOs are involved in pursuit; or
  - (5) evidence is at risk of imminent destruction.
- CPOs will be able to explain the circumstances giving rise to the exigency.
- If a CPO conducts a warrantless search because a risk of imminent destruction of evidence, the CPO should be able to explain:
  - (1) the degree of urgency and the amount of time required to obtain a search warrant;
  - (2) the CPOs reasonable belief that the evidence was about to be destroyed or removed;
  - (3) the possibility of danger to CPOs guarding the premises while other CPOs get a search warrant;
  - (4) information showing that the persons in control of the evidence are aware of the CPOs activities; and
  - (5) the ready destructibility of the evidence.

#### 5. The Inventory Search Exception to the Warrant Requirement.

- If a person is arrested and taken to a detention facility, CPOs may search the person's belongings.
- A CPO may search a subject's vehicle if the person was in or near the vehicle at the time of the arrest. Refer to *Vehicle Impoundment and Inventory*, § 2.08.00, for policies and procedures.

**c. Conducting the Search**

1. A CPO will not attempt a search of a person or property without sufficient personnel to complete the search safely.
2. When searching persons or property, CPOs will treat all individuals related to the search in a professional manner.
3. If the CPO is only conducting a protective search, and does not have reason to execute a full search, the CPO:
  - will not handcuff the subject, unless he or she can articulate why handcuffing is necessary for officer safety;
  - will only search areas in which the CPO reasonably believes, based on articulable facts, that the subject may be concealing a weapon;
  - may conduct a brief pat-down of the subject's outer clothing and any personal articles, such as purses;
  - may search the passenger compartment of a car, limited to areas within the subject's immediate area in which a weapon may be placed or hidden.
4. Other Searches of Persons.
  - The CPO will handcuff the subject securely before performing the search.
  - A CPO of the same sex as the person being searched will conduct the search. If a CPO of the same sex is not present, a CPO of the opposite sex may conduct the search.
  - If possible, a CPO conducting a search of someone of the opposite sex will locate an impartial witness of the same sex as the subject to observe the search.
  - When conducting a search of a person of the opposite sex, the CPO will conduct a frisk search of the person using the backs of his or her hands.
  - If the CPO discovers any illegal items during the search, he or she will seize those items. Refer to *Seizure of Property*, § 2.03.00 of this manual, for related policies and procedures.

**FORMS AND EXHIBITS***Consent to Search*



# SEARCH OF LICENSED PREMISES

Enforcement Division  
Policy Number: LE 2.02.00

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) will search licensed premises as part of an investigation, inspection, or any duty imposed by the Alcoholic Beverage Code or the Commission Rules. CPOs will conduct searches in a way that minimizes the disruption, if any, necessary to complete the search.

## RULES

### **Alcoholic Beverage Code § 101.04. Consent To Inspection; Penalty.**

- (a) By accepting a license or permit, the holder consents to the commission, an authorized representative of the commission, or a peace officer entering the licensed premises at any time to conduct an investigation or inspect the premises for the purpose of performing any duty imposed by this code.
- (b) A person commits an offense if the person refuses to allow the commission, an authorized representative of the commission, or a peace officer to enter a licensed or permitted premises as required by Subsection (a). An offense under this section is a Class A misdemeanor.

## PROCEDURES

- a. A CPO will enter licensed premises for the purpose of performing a duty imposed by the Alcoholic Beverage Code or the Commission Rules.
- b. The CPO will determine what areas constitute the licensed premises.
- c. The CPO will determine whether an act constitutes a search.
- d. **Search Beyond the Scope of § 101.04.** If the CPO needs to search property that is not part of the licensed premises, he or she must do so in accordance with *Search of Persons and Property*, § 2.01.00 of this manual.
- e. The CPO will conduct any necessary seizures according to § 2.03.00, *Seizure of Property*.



# SEIZURE OF PROPERTY

**Effective Date:** 02-01-08**Revision Date:** 02-24-09**Enforcement Division****Policy Number: LE 2.03.00**

## POLICY STATEMENT

The Texas Alcoholic Beverage Commission (TABC) will conduct inspections and investigations to ensure that permittees, licensees, and members of the public are conforming to the Alcoholic Beverage Code, Commission Rules, and other applicable laws. During those operations, certified peace officers (CPOs) may seize, retain, and dispose of evidence and other seized property when necessary for the purpose of collecting evidence or protecting the property.

## POLICY PURPOSE

The purpose of this policy is to explain the requirements and procedures for the seizure of property.

## CODES REFERENCES

**Texas Code of Criminal Procedure, Chapter 59 Forfeiture of Contraband**

**Texas Code of Criminal Procedure, Chapter 18 Search Warrant**

**Alcoholic Beverage Code § 103.03. Seizure of Illicit Beverages, Etc.**

A peace officer may seize without a warrant:

- (1) any illicit beverage, its container, and its packaging;
- (2) any vehicle, including an aircraft or watercraft, used to transport an illicit beverage;
- (3) any equipment designed for use in or used in manufacturing an illicit beverage; or
- (4) any material to be used in manufacturing an illicit beverage.

**Alcoholic Beverage Code § 103.05. Report of Seizure.**

- (a) A peace officer that makes a seizure under § 103.03 of this code shall make a report in triplicate which lists each item seized and the place and name of the owner, operator, or other person from whom it is seized. One copy of the report shall be verified by oath.
- (b) The verified copy shall be retained in the permanent files of the commission or other agency making the seizure. The copy is subject to inspection by any member of the legislature or by any authorized law enforcement agency of the state.
- (c) One copy of the report shall be delivered to the person from whom the seizure is made.
- (d) A peace officer that makes a false report of the property seized commits a felony punishable by confinement in the penitentiary for not less than two years and not more than five years.
- (e) A peace officer who fails to file the reports of a seizure as required by this section

commits a misdemeanor punishable by a fine of not less than \$50 nor more than \$100 or by confinement in jail for not less than 10 nor more than 90 days or both. The commission shall insure that the reports are made by peace officers.

### **Alcoholic Beverage Code § 103.06. Beverage Delivered to Commission.**

Any alcoholic beverage, its container, and its packaging which has been seized by a peace officer, as provided in § 103.03 of this code, may not be replevied and shall be delivered to the commission for immediate public or private sale in the manner the commission considers best.

### **Alcoholic Beverage Code § 103.07. Beverage of Illicit Manufacture or Unfit for Consumption.**

- (a) The commission may not sell alcoholic beverages seized by a peace officer, as provided in § 103.03, that are unfit for public consumption or are of illicit manufacture.
- (b) Alcoholic beverages are unfit for public consumption if:
  - (1) the manufacturer or wholesaler of the beverages determines that the beverages are inappropriate for sale to a consumer;
  - (2) the beverages are damaged; or
  - (3) the code date affixed by the manufacturer to the beverages has expired.
- (c) If the commission determines that seized alcoholic beverages are unfit for public consumption or are of illicit manufacture, the commission shall destroy the alcoholic beverages.

## **PROCEDURES**

1. **The Basis for the Seizure.** A seizure is considered valid if one of the following events occur.
  - a. A valid search warrant has been issued.
  - b. A CPO confiscates alcoholic beverages and related property pursuant to § 103.03 of the Alcoholic Beverage Code.
  - c. “Application of the “Plain View Doctrine” occurs. There are two requirements for a plain view seizure:
    - the CPO is in a public place or has the right to be in the place where the evidence is seen; and
    - it must be immediately apparent to the CPO that the item seen relates to a crime or contraband.
  - d. “Application of the Abandoned Property Exception” occurs.
    - When a person abandons property, then the person gives up his or her expectation of privacy with regard to the property.

- A CPO will only consider property to be abandoned when:
  - (1) the person clearly intended to abandon the property; and
  - (2) the person's decision to abandon the property was not made because of a CPO's misconduct including improper stops, stops made without reasonable suspicion, or any violation of search or seizure laws.
- e. A CPO seizes proceeds from the listed offenses and/or instruments used in furtherance of listed offense pursuant to Chap. 59 Texas Code of Criminal Procedure (Forfeiture of Contraband).

## 2. Executing the Seizure.

- a. Upon determining that seizure of that property is appropriate, the CPO will locate the owner or current possessor of the property, if possible. The CPO will identify himself or herself to the person and will identify the property that he or she intends to seize (or has seized) and will explain to the person the reason for the seizure. If the owner cannot be located, a statement should be entered to document this fact.
- b. The CPO will complete a *Seized Property Report*. The CPO will give a copy of the report to the owner or current possessor of the seized property, if possible.
- c. A CPO may immediately destroy seized alcoholic beverages rather than deliver them to the property officer if:
  - the CPO determines that the seized alcoholic beverages are unfit for public consumption or are of illicit manufacture;
  - the local prosecutor does not require the illicit beverages for evidentiary purposes; and
  - a sergeant or supervisor approves the destruction.
- d. On search warrant operations and other "single site" operations involving initiation of an Operations Plan (1.07.00), the person discovering evidence or property requiring seizure will notify the designated property custodian for that site, and only the designated property custodian for that site will document and physically seize any items of property/evidence from their initial point of discovery. This designated property/evidence custodian will execute all applicable notifications, and make disposition as prescribed by this policy.

## 3. Storing the Property and Documenting Chain of Custody.

- a. Possessors of seized property must document the chain of custody of that property. TABC employees will take special care to secure seized property and document the chain of custody.
- b. At or before the end of the shift during which the CPO seizes the property, he or she will put the property in the property room, ensuring that the room is securely locked. If the CPO's office does not have a property room, he or she will put the property in another secure, locked area with controlled access.



- c. The CPO will document the transfer of custody of the property from the CPO to the property officer at the next reasonable opportunity:
- 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.
  - 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.
- d. The property officer will retain the property and sell or destroy the property according to procedures in the Compliance Policy and Procedures Manual. 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.

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**FORMS**

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*Seized Property Report*

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**RELATED DOCUMENTS**

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*Compliance Policy and Procedures Manual*

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# SEIZURE OF PORNOGRAPHIC MATERIAL

Enforcement Division  
Policy Number: LE 2.04.00

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) will not seize pornographic material without:

- (1) authorization from the Legal Services Division; or
- (2) a valid search warrant.

CPOs may enforce § 104.01(6) of the Alcoholic Beverage Code as it applies to acts such as public lewdness and prostitution.

CPOs may enforce Administrative Rule 35.31(c)(12) as it applies to printed or recorded material.

CPOs will not enforce §§ 104.64 and 104.01(6) of the Alcoholic Beverage Code as they apply to printed or recorded material.

## PROCEDURES

- a. If a CPO seizes pornographic material pursuant to a search warrant or approval from the Legal Services Division, he or she will ensure that the evidence is in a container that protects the evidence from view.
- b. The CPO will maintain and document the evidence according to *Seizure of Property*, § 2.03.00 of this manual.

## RULES

### **Alcoholic Beverage Code § 104.01. Lewd, Immoral, Indecent Conduct.**

No person authorized to sell beer at retail, nor his agent, servant, or employee, may engage in or permit conduct on the premises of the retailer which is lewd, immoral, or offensive to public decency, including, but not limited to, any of the following acts... (6) permitting lewd or vulgar entertainment or acts...

### **Alcoholic Beverage Code § 11.61(b)(7). "Place or Manner Violation."**

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(7) the place or manner in which the permittee conducts his business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency...

### **Alcoholic Beverage Code § 61.71(a)(17). "Place or Manner Violation."**

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premises license if it is found, after notice and

hearing, that the licensee:

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people...

**Commission Rule § 35.31. Offenses Against the General Welfare.**

(a) This rule relates to §§11.46(a)(8), 11.61(b)(7), 61.42(a)(3) and 61.71(a)(17) of the Alcoholic Beverage Code.

(b) A licensee or permittee violates the provisions of the Alcoholic Beverage Code cited in paragraph (a) of this rule if any of the offenses listed in paragraph (c) of this rule are committed:

- 1) by the licensee or permittee in the course of conducting his/her alcoholic beverage business; or
- 2) by any person on the licensee or permittee's licensed premises; and
- 3) the licensee or permittee knew or, in the exercise of reasonable care, should have known of the offense or the likelihood of its occurrence and failed to take reasonable steps to prevent the offense.

(c) The offenses that are the subject of this rule are as follows:

- 1) any preparatory offense described in Chapter 15 of the Texas Penal Code;
- 2) any homicide offense described in Chapter 19 of the Texas Penal Code;
- 3) any sexual offense described in Chapter 21 of the Texas Penal Code;
- 4) any assaultive offense described in Chapter 22 of the Texas Penal Code;
- 5) any arson, criminal mischief or property damage or destruction offense described in Chapter 28 of the Texas Penal Code;
- 6) any theft offense described in Chapter 31 of the Texas Penal Code;
- 7) any fraud offense described in Chapter 32 of the Texas Penal Code;
- 8) any money laundering offense described in Chapter 34 of the Texas Penal Code;
- 9) any bribery offense described in Chapter 36 of the Texas Penal Code;
- 10) any obstruction offense described in Chapter 38 of the Texas Penal Code;
- 11) any disorderly conduct or related offenses described in Chapter 42 of the Texas Penal Code;
- 12) **any public indecency offense described in Chapter 43 of the Texas Penal Code;**
- 13) any weapons offense described in Chapter 46 of the Texas Penal Code;
- 14) any gambling offense described in Chapter 47 of the Texas Penal Code;
- 15) any narcotics related offense described in Chapters 481 and 483 of the Texas Health and Safety Code;
- 16) any law, regulation or ordinance of the federal government or of the county or municipality in which the licensed premises is located, violation of which is detrimental to the general welfare, health, peace and safety of the people.

(d) This rule does not constitute the exclusive means by which §§11.46(a)(8), 11.61(b)(7), 61.42(a)(3) and 61.71(a)(17) may be violated.



Enforcement Division  
Policy Number: 2.05.00

# INVESTIGATIVE DETENTION

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) may stop and temporarily detain a subject without a warrant in order to investigate a violation or to obtain information. This temporary detention is referred to as an *investigative detention*.

To initiate a lawful investigative detention, a CPO must have specific, articulable facts which, in light of the CPO's experience and personal knowledge, reasonably raise a suspicion that the subject has committed or was about to commit a criminal act.

## PROCEDURES

A CPO may conduct an investigative detention if the CPO:

- can articulate facts demonstrating suspicious or strange behavior;
- has reason to believe that there is a connection between the behavior and a subject; and
- has a reason to believe that there is a connection between the behavior and a criminal act.



**Enforcement Division**  
**Policy Number: LE 2.06.00**

# EXECUTING AN ARREST

**Effective Date: 2/1/08**  
**Revision Date: 8/4/09**

## **POLICY**

Certified peace officers (CPOs) will execute arrest warrants according to the Code of Criminal Procedure and TABC policies and procedures.

A certified peace officer (CPO) may arrest a person without a warrant if the CPO:

- (1) observed a violation of the Alcoholic Beverage Code or Commission Rules or observed a criminal violation and can justify the arrest under Article 14 of the Code of Criminal Procedure; and
- (2) has probable cause to arrest.

Upon arresting an individual, the CPO assumes primary responsibility for the health, safety, and welfare of the individual until the CPO releases the individual to a detention facility.

CPOs will not engage in pursuit, make traffic stops, make emergency calls, or drive in an erratic manner when transporting a subject to a detention facility unless an immediate threat of serious bodily injury or death exists and no other law enforcement unit is available.

## **PROCEDURES**

### **a. Basis for the Arrest.**

#### 1. Warrantless Arrest.

- A. A CPO will not arrest a subject without probable cause.
- B. A CPO may arrest a subject without a warrant when authorized by the Alcoholic Beverage Code, Code of Criminal Procedure, or other applicable law.

#### 2. Arrest with Warrant.

- A. A sergeant or supervisor will generally assign a CPO the duty of executing an arrest warrant. CPOs may, without sergeant or supervisor approval, execute outstanding arrest warrants when they are discovered during other enforcement activities.
- B. The CPO will attempt to identify the location of the subject of the arrest warrant. If the individual is located outside of the district, the CPO, upon sergeant or supervisor approval, will contact a sergeant or supervisor in the field office closest to the individual and request that a CPO in that office execute the warrant.
- C. Before making contact with the individual, the CPO will attempt to find out if the subject of the arrest warrant is armed or dangerous. The CPO may request the assistance of additional CPOs and local law enforcement as necessary.
- D. The CPO does not need physical possession of an arrest warrant to execute it, but

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must know the location of the warrant and its current status.

- The subject of the arrest warrant must be informed of the existence of the warrant, the offense for which the warrant was issued, and the issuing magistrate.
- The CPO will confirm the continued validity of the arrest warrant by communicating with local law enforcement before transporting the subject to a detention center.
- The CPO must show the arrest warrant upon request of the person identified in the warrant as soon as practical after arrest.

**b. Warrantless Arrest: Considering Alternatives to Transporting the Subject to a Detention Facility.**

1. Prior to transporting a subject to a detention facility, the CPO will consider citing and releasing the person.
2. Reasons that the option to release a person is not available may include, but are not limited to the following:
  - A. The person presents a public safety threat to himself, herself or others.
  - B. Evidence suggests that the person presents a flight risk.
3. Subject Accused of Public Intoxication. Before transporting a subject accused of public intoxication to a detention facility, a CPO will consider citing and releasing the person to an adult who meets the following requirements:
  - A. the adult is willing and capable of assuming responsibility for the individual; and
  - B. the adult agrees to transport the individual to a safe place.
4. Subject Accused of a Violation Listed in Code of Criminal Procedure § 14.06(c). Before transporting subject accused of a violation listed in Code of Criminal Procedure § 14.06(c) to a detention facility, a CPO will consider citing and releasing the person according to Code of Criminal Procedure § 14.06(c).

**c. Executing the Arrest.**

1. The CPO will restrain the subject and follow the guidelines of the Use of Force Policy if confronted with a threat or resistance.
2. If possible the CPO will identify himself or herself and will explain to the individual the reason for the arrest.
3. Miranda Warnings. If the CPO intends to conduct a custodial interrogation, the CPO must read the subject his or her *Miranda* rights.
4. The CPO will conduct a search of the subject. Refer to *Search of Persons & Property*, § 2.01.00 of this manual.

**d. Securing the Subject's Property.**

1. If possible, the CPO will allow the subject to secure his or her property, including a vehicle.
2. If the CPO allows the subject to release property to another individual, the CPO must obtain the appropriate identifying information of the person to whom the property is released and include it in the *Offense / Arrest Report*.
3. If the subject was in or close to his or her vehicle at the time of the arrest, the CPO may allow the subject to release his or her vehicle to a responsible adult or may impound a vehicle and its contents. Refer to *Vehicle Impoundment & Inventory*, § 2.07.00 of this manual.

**e. Transporting the Subject to a Detention Facility.**

1. The CPO will transport the subject to a detention facility as soon as possible.
2. The number of CPOs and subjects in the vehicle determines the proper arrangement of persons inside the vehicle.
  - A. One CPO and One or Multiple Subjects: The CPO places the subject in the front passenger seat and secures the subject with the seat belt. The Agent may place additional subjects in the rear seat, securing each subject with a seatbelt.
  - B. Two CPOs, One Subject: The CPO places the subject in the right rear seat and secures the subject with the seat belt. One CPO drives while the other sits directly behind the driving CPO.
  - C. Two CPOs, Multiple Subjects: The CPO places one subject in the front passenger seat and secures the subject with a seatbelt. The CPO places the second subject in the right rear seat and secures the subject with a seatbelt. One CPO drives while the other sits directly behind the driving CPO.
3. The CPO will search the subject again to ensure that the subject does not possess any weapons.
4. The CPO will process charges at the detention facility and will notify detention facility personnel of any potential danger.
5. Special Requirements for Transporting a Subject of the Opposite Sex.
  - A. Before leaving the scene, the CPO will contact the local dispatcher to communicate his or her intent to transport a subject of the opposite sex.
  - B. The CPO will describe his or her physical location or address and intended destination.
  - C. The CPO will give the dispatcher his or her odometer reading.
  - D. Upon arrival at the detention facility, the CPO will contact the local dispatcher again to report his or her arrival and give the name of the detention facility.
  - E. The CPO will give the dispatcher his or her odometer reading.
  - F. When transporting a member of the opposite sex, it is advisable to use a voice-recording device, if available.

**f. Submitting Reports.**

1. Before the end of the CPO's shift, the CPO will complete *Offense and Arrest Reports* for each person arrested and taken to a detention facility during that shift.
2. The CPOs will enter the *Offense and Arrest Reports* into the agency computer system before the end of the next work shift. If the CPO will be on leave during the next normal work shift, the CPO must enter the *Offense and Arrest Reports* into the agency computer system during the current work shift.

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**RULES**

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**Alcoholic Beverage Code § 101.02. Arrest Without Warrant.**

A peace officer may arrest without a warrant any person he observes violating any provision of this code or any rule or regulation of the commission.

**Alcoholic Beverage Code § 103.04. Arrest of Person in Possession.**

A peace officer may arrest without a warrant any person found in possession of:

- (1) an illicit beverage;
- (2) any equipment designed for use in or used in manufacturing an illicit beverage; or
- (3) any material to be used in manufacturing an illicit beverage.

**Code of Criminal Procedure Art. 14.01. Offense Within View.**

- (a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.
- (b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.

**Code of Criminal Procedure Art. 14.03. Authority of Peace Officers.**

- (a) Any peace officer may arrest, without warrant:
  - (1) persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony, violation of Title 9, Chapter 42, Penal Code, breach of the peace, or offense under Section 49.02, Penal Code, or threaten, or are about to commit some offense against the laws;
  - (2) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is danger of further bodily injury to that person;
  - (3) persons who the peace officer has probable cause to believe have committed an offense defined by Section 25.07, Penal Code (violation of Protective Order), or by Section 38.112, Penal Code (violation of Protective Order issued on basis of sexual assault), if the offense is not committed in the presence of the peace officer;



- (4) persons who the peace officer has probable cause to believe have committed an offense involving family violence;
  - (5) persons who the peace officer has probable cause to believe have prevented or interfered with an individual's ability to place a telephone call in an emergency, as defined by Section 42.062(d), Penal Code, if the offense is not committed in the presence of the peace officer; or
  - (6) a person who makes a statement to the peace officer that would be admissible against the person under Article 38.21 and establishes probable cause to believe that the person has committed a felony.
- (b) A peace officer shall arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under Section 25.07, Penal Code (violation of Protective Order), or Section 38.112, Penal Code (violation of Protective Order issued on basis of sexual assault), if the offense is committed in the presence of the peace officer.
  - (c) If reasonably necessary to verify an allegation of a violation of a protective order or of the commission of an offense involving family violence, a peace officer shall remain at the scene of the investigation to verify the allegation and to prevent the further commission of the violation or of family violence.
  - (d) A peace officer who is outside his jurisdiction may arrest, without warrant, a person who commits an offense within the officer's presence or view, if the offense is a felony, a violation of Chapter 42 or 49, Penal Code, or a breach of the peace. A peace officer making an arrest under this subsection shall, as soon as practicable after making the arrest, notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of the person committing the offense and take the person before a magistrate in compliance with Article 14.06 of this code.
  - (e) The justification for conduct provided under Section 9.21, Penal Code, applies to a peace officer when the peace officer is performing a duty required by this article.
  - (f) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.
  - (g)
    - (1) A peace officer listed in Subdivision (1), (2), or (5), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, other than a violation of Subtitle C, Title 7, Transportation Code.
    - (2) A peace officer listed in Subdivision (3), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer described in this subdivision who is outside of that officer's jurisdiction may arrest a person for a violation of Subtitle C, Title 7, Transportation Code, only if the offense is committed in the county or counties in which the municipality employing the peace officer is located.
    - (3) A peace officer making an arrest under this subsection shall as soon as practicable after making the arrest notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of:
      - (A) the person committing the offense and take the person before a magistrate in

- compliance with Article 14.06; and
- (B) any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

**Code of Criminal Procedure Art. 14.031. Public Intoxication.**

- (a) In lieu of arresting an individual who commits an offense under Section 49.02, Penal Code, a peace officer may release an individual if:
- (1) the officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and
  - (2) the individual:
    - (A) is released to the care of an adult who agrees to assume responsibility for the individual; or
    - (B) verbally consents to voluntary treatment for chemical dependency in a program in a treatment facility licensed and approved by the Texas Commission on Alcohol and Drug Abuse, and the program admits the individual for treatment.
- (b) A magistrate may release from custody an individual arrested under Section 49.02, Penal Code, if the magistrate determines the individual meets the conditions required for release in lieu of arrest under Subsection (a) of this article.
- (c) The release of an individual under Subsection (a) or (b) of this article to an alcohol or drug treatment program may not be considered by a peace officer or magistrate in determining whether the individual should be released to such a program for a subsequent incident or arrest under Section 49.02, Penal Code.
- (d) A peace officer and the agency or political subdivision that employs the peace officer may not be held liable for damage to persons or property that results from the actions of an individual released under Subsection (a) or (b) of this article.

**Code of Criminal Procedure Art. 14.04. When Felony Has Been Committed.**

Where it is shown by satisfactory proof to a peace officer, upon the representation of a credible person, that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, such peace officer may, without warrant, pursue and arrest the accused.

**Code of Criminal Procedure Art. 14.05. Rights of Officer.**

In each case enumerated where arrests may be lawfully made without warrant, the officer or person making the arrest is justified in adopting all the measures which he might adopt in cases of arrest under warrant, except that an officer making an arrest without a warrant may not enter a residence to make the arrest unless:

- (1) a person who resides in the residence consents to the entry; or
- (2) exigent circumstances require that the officer making the arrest enter the residence without the consent of a resident or without a warrant.

**Code of Criminal Procedure Art. 14.06. Must Take Offender Before Magistrate.**

- (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.
- (b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.
- (c) If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.
- (d) Subsection (c) applies only to a person charged with committing an offense under:
- (1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;
  - (2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;
  - (3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(1) of that section;
  - (4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;
  - (5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;
  - (6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or
  - (7) Section 521.457, Transportation Code.

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**DOCUMENTS, FORMS AND EXHIBITS**

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***Use of Force Policy****Offense Report, Form 4-44.1**Arrest Report, Form 4-44.2**Vehicle Impound and Inventory Record, Form 4-95*

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**REVISION HISTORY**

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**08-04-09:** The policy was revised under the Executing the Arrest section to reference the guidelines outlined in the Use of Force Policy.

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# VEHICLE IMPOUNDMENT & INVENTORY

Enforcement Division  
Policy Number: LE 2.07.00

Effective Date: 2/1/08

## POLICY

A certified peace officer (CPO) who legally arrests an individual must determine what action to take with regard to the subject's vehicle, if the subject is in or close to his or her vehicle at the time of the arrest. The CPO may move the vehicle to a protected place, release the vehicle to another individual chosen by the subject, or impound the vehicle. If a CPO chooses to impound a vehicle, he or she will conduct an inventory of the vehicle according to the procedures in this section.

## PROCEDURES

### a. Determining the Disposition of the Vehicle.

1. Following a lawful arrest, a CPO will determine the disposition of the subject's vehicle, if any. The CPO will first consider:
  - moving the vehicle to a protected place;
  - moving the vehicle to a protected place requested by the subject; or
  - releasing the vehicle to another licensed adult chosen by the subject.
2. If none of these alternatives are available, or if the CPO needs to maintain custody of the vehicle for evidentiary purposes, the protection of the public, or the protection of the vehicle; the CPO may choose to impound the vehicle.

### b. Completing an Inventory of the Vehicle.

1. The CPO will complete an inventory of a subject's vehicle when the CPO moves the vehicle, releases the vehicle to a towing company, or otherwise determines that an inventory is necessary for the protection of the vehicle and its contents. If a CPO completes an inventory of a vehicle, the CPO will complete a *Vehicle Impound and Inventory Record*.
2. If the CPO completes a *Vehicle Impound and Inventory Record*, the CPO will ensure that the subject and sergeant or supervisor receives any completed forms.

## FORMS

*Vehicle Impound and Inventory Record, Form 4-95*

*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.

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**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*

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**REVISION HISTORY**

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**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.

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# CONFIDENTIAL INFORMANTS

Enforcement Division  
Policy Number: LE 3.01.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will utilize confidential informants in an efficient, cost-effective way to secure intelligence and information necessary to investigate violations involving the alcoholic beverage industry.

When working with confidential informants, the Enforcement Division will maintain the highest professional standards and will only utilize confidential informants to assist in the detection and prosecution of violations of the Alcoholic Beverage Code, Commission Rules, and applicable laws. Enforcement Division personnel will not solicit or accept anything of value from a confidential informant.

*Note: This section does not apply to the participation of minors in minor or shoulder tap stings. Refer to Minor & Shoulder Tap Stings, § 1.02.03 of this manual, for policies and procedures.*

## PROCEDURES

### a. Establishing a Confidential Informant.

1. When a CPO identifies a potential confidential informant (CI), the CPO will submit the full name and identifying data regarding the individual to his or her sergeant or immediate supervisor. CIs are identified by:
  - a recent photograph; and
  - an original set of fingerprints; or
  - state identification number (SID) or Federal Bureau of Investigation (FBI) number.
2. The CPO will determine whether the individual has been previously established or terminated by the TABC as a CI. If the individual has been previously established, the sergeant or supervisor will contact the CPO who previously established the individual as a CI to determine if there is any reason why the individual should not be reestablished as a CI.
3. The CPO should ask the individual if he or she has ever worked for another law enforcement agency as a confidential informant or another similar capacity. If so, the CPO should contact a representative of the law enforcement agency and determine if there is any reason that the individual should not be established as a CI.
4. If the supervisor approves the individual for establishment as a CI, the supervisor will ensure the completion of the *Confidential Informant Establishment Report* and will submit it up the chain of command to the chief of enforcement.

5. Additional Documentation Required for Establishing Certain Individuals.

- To establish an individual under the age of 17, the supervisor will additionally submit the following documents up the chain of command to the chief of enforcement:

(1) *Consent of Parent or Guardian*; and

(2) written justification\* for establishing the individual as a CI.

*\* When time constraints prohibit submission of written justification, verbal communication and approval will be acceptable. The supervisor, however, must still submit written justification within a reasonable time period.*

- To establish an individual who is on probation, parole, or conditional release, the CPO will additionally acquire written approval\* from the appropriate state or federal official. The CPO will submit this approval up the chain of command to the chief of enforcement. The approval should contain the following information:

(1) the name of the state or federal official from whom the approval was received;

(2) the name of the CPO who secured the approval; and

(3) any restrictions placed on the utilization of the CI.

*\* When time constraints prohibit submission of written approval, verbal communication and approval will be acceptable. Within a reasonable time period, the CPO must document the verbal approval, including the above information and attach it to the Confidential Informant Establishment Report.*

6. After the chief of enforcement has approved an individual for establishment as a CI, the establishing CPO and a supervisor will brief the individual. During this briefing, the CPO will:

- inform the individual of the possibility that, as a CI, he or she may be subject to subpoena and required to testify in judicial proceedings;
- document whether the individual is willing to testify in such proceedings; and
- ask the individual to read, complete, and sign a *Confidential Informant Agreement of Understanding*.

7. **Once the individual signs the *Confidential Informant Agreement of Understanding*, he or she is established as a CI.**

8. The supervisor will assign a confidential informant number to the CI. If the CI has been previously established as a CI, the supervisor will choose a new number.

9. The supervisor will create a file for each CI to maintain copies of documentation of the CI's establishment, status, and payments. Over time, this file will include:

- the *Confidential Informant Establishment Checklist*;

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- the *Confidential Informant Agreement of Understanding*;
  - any *Confidential Informant Establishment Reports*;
  - any *Confidential Informant Status Reports*;
  - any *Confidential Informant Payment Records*; and
  - any other relevant documents.
10. The supervisor will ensure that the original copies of the following forms are sent to Enforcement Headquarters for secure storage:
- the *Confidential Informant Establishment Checklist*;
  - the *Confidential Informant Agreement of Understanding*;
  - any *Confidential Informant Establishment Reports*;
  - any *Confidential Informant Status Reports*; and
  - any *Confidential Informant Payment Records*.
11. All files related to the establishment, reestablishment, and updates regarding each CI will be maintained at Enforcement Headquarters in a separate, secure file. This file is administrative in nature and should not be used as a repository for investigative information.
- b. Utilizing Confidential Informants.**
1. The establishing CPO will periodically debrief the CI in order to assess the potential of the CI, to determine priorities, and to evaluate effectiveness. A supervisor will oversee the debriefing of CIs, but the supervisor need not be present during each debriefing.
  2. A supervisor will participate in at least one debriefing interview with each CI every six months.
  3. CPOs, if possible, will have at least two CPOs present when conducting interviews or meetings with a CI.
- c. Documenting Information Gathered from Confidential Informants.**
1. CPOs who utilize CIs will document all investigative activities resulting from the use of a CI. This includes information maintained for intelligence purposes or information used or intended for use in administrative or criminal proceedings.
  2. The supervisor will ensure that *Confidential Informant Status Reports* are created as necessary to update each CI's file.
  3. The CPO will complete *Confidential Informant Status Reports* to document the following for his or her CI(s):
    - additional intelligence provided;
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- investigations initiated;
  - cases initiated;
  - monies paid;
  - documentation of supervisory participation in the debriefing of a CI;
  - any recommendations regarding change in CI status, including termination; and
  - if the CI is a defendant in a criminal proceeding, a description of any changes in the disposition of the case.
4. Supervisors will ensure that a *Confidential Informant Status Report* is completed every twelve months for each CI. If this report is not submitted prior to the end of the twelve-month period, the CI will automatically change to inactive status. CIs may remain inactive for an indefinite period of time. Once a CI becomes inactive, he or she must be reestablished prior to further utilization.
5. When preparing reports CPOs should refer to a CI by his or her CI number.
- d. **Legal or Administrative Proceedings Involving Confidential Informants.**
1. The TABC authorizes CPOs to communicate with federal, state and county prosecutors to explain the extent of cooperation rendered by a CI.
  2. If a CPO makes representations on behalf of a CI in any legal proceeding, the CPO will notify his or her supervisor and coordinate such representations with other affected agencies and prosecutors.
  3. A CPO will document details of any TABC personnel appearing in a legal proceeding on behalf of a CI by creating an IOC and submitting it to the supervisor. The supervisor will file a copy in the CI's district office file and will send the original copy to Enforcement Headquarters to be filed.
- e. **Payments to Confidential Informants.**
1. Payments for confidential information or expenses incurred during the gathering of confidential information will be made only to individuals established as confidential informants.
  2. Types of Payments. Payments to confidential informants generally fall into one of the following two categories:
    - **Payments for Information.** This category includes payments for information necessary to the development of a case or to the maintenance of general intelligence information.
    - **Payments for Expenses.** Payments for expenses will be made in reasonable amounts at the discretion of the chief of enforcement. These expenses include:
      - (1) travel while gathering information for TABC; and

- (2) living expenses for a definite period of time, if the confidential informant obtains new employment at a lower salary level to obtain better confidential information.
3. When a CPO believes that a CI should receive payment, the CPO will notify the supervising assistant chief of the recommended payment and the justification for it.
4. If the assistant chief approves the payment, he or she will acquire payment in the form of a check and forward it to the supervising captain. The captain will cash the check and ensure that the supervisor or his or her designee pays the CI and that the CI signs a receipt.
5. All payments to CI's must be made by a CPO and in the presence of a second CPO.
6. The supervisor will place a copy of the receipt in the CI's file and will document the payment on the *Confidential Informant Payment Record* in the CI's file.
7. The supervisor will send the original receipt to the supervising assistant chief. The assistant chief will place the receipt in the CI's file and will document the payment on the *Confidential Informant Payment Record* in the CI's file.

**f. Prohibited Behavior.**

1. Enforcement Division personnel will not solicit or accept anything of value from a confidential informant.
2. Enforcement Division personnel will not participate in off-duty fraternizing or have any other social interaction with a CI. Examples of prohibited behavior include, but are not limited to the following:
  - participating in any business or personal financial transactions with a CI;
  - engaging in an intimate relationship with a CI, including sexual relationships, intimate friendships, and cohabitation;
  - giving or receiving any thing of value to or from a CI; and
  - interacting with a CI for reasons that are not duty-related.
3. Enforcement Division personnel will not suggest, condone, or knowingly allow the involvement of a CI in illegal activities outside the scope of an approved investigation. A CI who commits a crime outside the scope of an approved criminal investigation will risk criminal prosecution. In furtherance of an ongoing investigation, CPOs in control of the investigation may direct a CI to violate laws. Examples include, but are not limited to:
  - purchasing or possessing illicit alcoholic beverages or drugs, stolen property, or other contraband; and
  - illegal gambling.

**g. Reestablishing a Confidential Informant.**

1. CIs who are changed to inactive status or are terminated must be *reestablished* in

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- order to resume acting as a CI.
2. When a CPO seeks to reestablish a CI, the CPO must completely repeat the establishment process. See procedures above for *Establishing a Confidential Informant*.
  3. To establish an individual who was arrested for a state or federal felony while acting as a CI for the TABC, the supervisor will additionally submit written justification\* for establishing the individual as a CI up the chain of command to the chief of enforcement.

*\* When time constraints prohibit submission of written justification, verbal communication and approval will be acceptable. The supervisor, however, must still submit written justification within a reasonable time period.*

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## FORMS & EXHIBITS

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*Confidential Informant Checklist*  
*Confidential Informant Establishment Report*  
*Confidential Informant Agreement of Understanding*  
*Confidential Informant Payment Record*  
*Confidential Informant Payment Guide*

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# USE OF FORCE POLICY

Effective Date: 2/1/08

Revision Date: 8/4/09

Enforcement Division

Policy Number: LE 4.00.00

## I. POLICY STATEMENT

1.1 Certified Peace Officers (CPOs) will exercise force prudently for their own protection, in the protection of the life, health, or safety of others, in the protection of property, in the execution of a lawful arrest or search, or as otherwise authorized by the law. CPOs will employ objective reasonableness as a standard for appropriate levels of force.

1.2 The use of force in response to a perceived threat of imminent harm from a subject or to affect the seizure of a subject who is resisting or attempting to escape will be consistent with what is objectively reasonable considering the totality of the circumstances known to the officer at the time the force is used.

## 2. POLICY PURPOSE

2.1 The purpose of this policy is to emphasize reasonableness, both in the perception of a threat or escape attempt, and the application of force. Each circumstance is unique and reasonableness is based on the totality of the circumstances.

2.2 This policy provides guidelines for the Texas Alcoholic Beverage Commission (Commission) CPOs when confronted with a threat or resistance by a subject.

2.3 The use of force training provided by the Commission will be based on the Use of Force Policy.

## 3. DEFINITIONS

3.1 **Threat** is defined as the perception of the person's capability to do harm joined by hostile intent.

3.2 **Reasonableness:** In *Graham v. Connor*, the U.S. Supreme Court declared use of force to be a Fourth Amendment issue subject to an "objective reasonableness" standard. Specifically, the court said:

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.

The "reasonableness" inquiry in an excessive force case is an objective one: the question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. [490 U.S. 386, 396-97 (1989)]

3.3 **Force** is the act of compelling behavior by physical or non-physical means.

3.4 **Authorized Force** is an application that is lawful, reasonable and necessary and conforms to law, departmental policies, procedures and regulations.



3.5 **Non-Deadly Force** is force not calculated or reasonably expected to cause serious bodily injury and/or death.

3.6 **Deadly Force** is force that is known or should have been known or is intended to cause serious bodily injury or death.

**4. RESPONSE TO THREAT OR RESISTANCE GUIDE**



Level of Force	Examples
<b>Command Presence (Active Targeting)</b>	Identification of authority, physical appearance, professional demeanor, number of officers. Elevated command presence.
<b>Verbal Communication</b>	Direct order, questioning, persuasion, word choice, tone
<b>Soft Empty Hand Techniques</b>	Pressure points, takedowns, joint manipulations, physical strength control, handcuffing
<b>Chemical Irritants</b>	Use of OC spray, use of a chemical device
<b>Hard Empty Hand Techniques</b>	Distraction techniques, strikes with hands, feet, elbows, or knees
<b>Impact Weapons</b>	Expandable baton
<b>Deadly Force</b>	Firearms, any force readily capable of causing death or serious physical injury

**5. USE OF FORCE TRAINING**

5.1 Annual training for CPOs includes training in the Texas Alcoholic Beverage Commission use of force policies and the proper application of each force option. Instruction further includes the safety, care and maintenance of each weapon appropriated.

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5.2 The training division coordinates the use of force training with Office of Professional Responsibility (OPR) and the agency's use of force expert and reports the training to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

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## 6. PROCEDURES

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- a. A CPO uses force in response to a perceived threat, or when confronted with active or passive resistance by a subject.
  - b. A CPO evaluates the subject's actions and uses a response that is objectively reasonable.
  - c. After force is used, a CPO's duties include the following:
    1. Medical review of all parties involved for injuries incurred.
    2. A CPO will complete a *Use of Force Report Form (Form)* before the end of his or her shift when:
      - A. the subject complains of injury; or
      - B. the CPO uses force greater than the nonresistant placement of handcuffs on a subject. Levels of force examples that require a report include, but are not limited to, the following:
        - i. Soft Empty Hand Techniques
        - ii. Chemical Irritants
        - iii. Hard Empty Hand Techniques
        - iv. Impact Weapons
        - v. Deadly Force
    3. The CPO will fill out one *Form per* subject for any TABC arrest, or for an arrest where the CPO is assisting another police entity.
    4. The CPO will submit the *Form to* his or her sergeant or supervisor.
  - d. **Supervisor's duties** after force is used includes the following:
    1. The supervisor will ensure that all *Forms* are entered into the agency computer system before the end of the shift.
    2. The supervisor will notify the captain by the next business day of any use of force incidents.
    3. The supervisor will send a copy of the *Form* to the captain and the training coordinator and will forward the original to the Office of Professional Responsibility (OPR).
  - e. **The captain** will note any use of force incidents in his or her *Weekly Captain's Report*.
  - f. The **Office of Professional Responsibility** will do the following:
    1. Reviews the Use of Force Report(s) to ensure proper procedures and policy were applied in each incident;
    2. Enters the incident data into the OPR's database for tracking and training
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purposes; and

3. Reports quarterly to the TABC's Administrator, Commissioners, and training division on the statistical data and documents any training adjustment recommendations to be considered.
- g. The **training coordinator** evaluates the quarterly report and coordinates training updates with OPR and the agency's use of force expert.

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## **7. FORMS**

*Use of Force Report, Form 4-410*

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## **8. RELATED INFORMATION OR DOCUMENTS**

Graham v. Connor, 490 U.S. 386 (1989)  
Tennessee v. Garner, 105 S. Ct. 1694 (1985)  
Texas Penal Code, Chapter 9.

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## **9. REVISION HISTORY**

8-04-09: The Use of Force Policy was updated as a result of the agency's after-action review of the United States Department of Justice report on the Austin Police Department's Use of Force Policy.

The primary change in the policy was to move from a "force continuum approach" to an "objectively reasonable force" model.

Also the use of force training is coordinated by the agency's use of force expert and training recommendations originate from OPR.

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# USE OF OC SPRAY

Enforcement Division

Policy Number: LE 4.01.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) authorizes certified peace officers (CPOs) to use oleoresin capsicum (OC) spray to protect themselves and others when a lesser degree of force is impracticable. CPOs will not use OC spray to intimidate, harass, or punish subjects.

Only CPOs who have been certified through agency-approved OC spray training will be able to carry and use OC spray. CPOs may choose not to be certified. These CPOs will not carry OC spray. All CPOs, however, will carry water in their vehicle for decontamination purposes.

## PROCEDURES

### a. OC Spray Training.

1. CPOs will not carry or use OC spray unless they maintain a current OC spray certification issued by the training coordinator.
2. To receive initial OC spray certification, CPOs must be contaminated during training with OC spray.
3. The training coordinator will arrange recertification every two years for all CPOs who carry OC spray.
4. The training coordinator will maintain records of CPO OC spray certifications.

### b. Carrying OC Spray.

1. CPOs will only carry and use agency-issued OC spray.
2. CPOs will carry OC spray containers in an upright position.
3. CPOs will not store OC spray in excessively hot or cold environments.
4. All CPOs will carry clean water in his or her vehicle to be used for decontamination purposes. This includes CPOs who are not certified to carry OC spray.

### c. Using OC Spray.

1. A CPO may use OC spray if:
  - the training coordinator has authorized the CPO to carry and use OC spray;
  - the CPO believes that the use of the spray is necessary for officer safety or the safety of the others; and
  - the CPO believes that use of OC spray is the appropriate level of force to apply

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under the circumstances and that a lesser level of force is impracticable.

2. To control a subject, CPOs will use bursts of OC spray as instructed during training.
  3. CPOs will only spray a handcuffed subject with OC spray if the CPO determines that other options are not available or are insufficient to control the subject.
  4. After contaminating a subject with OC spray, the CPO will allow the subject to maintain an upright position in order to breathe normally and will monitor the subject for any respiratory distress.
  5. The CPO will decontaminate the subject by flushing the contaminated area with clean water, allowing the subject to receive fresh air, and employing any other decontamination methods learned during OC spray training.
  6. The CPO will immediately seek medical attention if:
    - the subject displays or complains of any medical problems; or
    - the symptoms of OC spray contamination do not subside within 30 minutes and the subject is still in the custody of the CPO.
- d. **Documentation of OC Spray Use.** A CPO who uses OC spray on a subject must complete a *Use of Force Report* before the end of his or her shift. Refer to *Use of Force*, § 4.00.00 of this manual.

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## FORMS

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*Use of Force Report, Form 4-410*

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# USE OF EXPANDABLE BATON

Enforcement Division  
Policy Number: 4.02.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) authorizes certified peace officers (CPOs) to use an expandable baton to protect himself, herself, or others when a lesser degree of force is impracticable. CPOs will not use expandable batons to intimidate, harass, or punish subjects.

Only CPOs who have been certified through agency-approved expandable baton training will be able to carry and use an expandable Baton. A CPO certified to carry and use an expandable baton may choose an agency-issued 21-inch model or may purchase, at his or her own expense, a 26-inch model.

## PROCEDURES

### a. Expandable Baton Training.

1. Before carrying an expandable baton, CPOs will receive expandable baton training and certification arranged by the training coordinator.
2. CPOs must maintain their certification by participating at least every two years in recertification training arranged by the training coordinator.
3. The training coordinator will maintain records of the expandable baton certifications of all CPOs.

### b. Using an Expandable Baton.

1. CPOs will only use an expandable baton when a lesser degree of force is impracticable.
2. CPOs will only use an expandable baton as necessary to subdue a subject.
3. CPOs will use the expandable baton as instructed during training, unless deadly force is justified.
4. A CPO will only use an expandable baton on a handcuffed subject if the CPO determines that other options are not available or are insufficient to control the subject.
5. If a subject complains of medical problems, CPOs will seek immediate medical assistance for the subject.

- c. **Documentation of Expandable Baton Use.** A CPO who uses an expandable baton on a subject must complete a *Use of Force Report* before the end of his or her shift. Refer to *Use of Force*, § 4.00.00 of this manual.

## FORMS AND EXHIBITS

*Use of Force Report, Form 4-410*



# USE OF FIREARM

Enforcement Division  
Policy Number: 4.03.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) authorizes certified peace officers (CPOs) to carry authorized firearms and use them when a lesser degree of force is impracticable. CPOs will maintain proficiency with authorized firearms and will be prepared to use them if necessary.

Misuse or negligent discharge of a firearm will result in disciplinary action.

## ROLES AND RESPONSIBILITIES

**a. Training Coordinator shall:**

1. Coordinate firearms proficiency training to be given by firearms instructors in both the spring and the fall.
2. Maintain all documentation regarding training and certification of CPOs.
3. Notify Enforcement Headquarters annually of all officers who are not in compliance.

**b. Captains shall:**

1. Act as the firearms coordinator.
2. Appoint firearms instructors as needed in each district that:
  - are classified as "Agent I" or above;
  - are or will be certified in a firearm instructor's course;
  - consistently demonstrate 95% proficiency with firearms.
3. Supervise the duties of firearms instructors.
4. Authorize personal firearms for use as a duty weapon.
5. Distribute ammunition to CPOs in his or her region.
6. Request ammunition as necessary from the supervising assistant chief of enforcement.
7. Complete and forward documentation to the training coordinator as necessary.

**c. Firearms Instructors shall:**

1. Schedule two firearms proficiency training sessions each year—one to be completed in the spring and the other to be completed in the fall.

2. Report all required documentation to the captain.

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**PROCEDURES**

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**a. Firearm Proficiency.**

1. All CPOs will complete firearms proficiency training twice a year—once in the spring and once in the fall.
2. The firearms instructors will arrange firearms proficiency training for CPOs as assigned by the captain.
3. Refer to *Firearms Proficiency*, § 4.03.01 of this manual, for policies and procedures regarding firearms proficiency training.

**b. Use of Firearm.**

1. The TABC authorizes CPOs to use firearms when a lesser degree of force is insufficient.
2. A CPO will only discharge a firearm to prevent the loss of life, except that a CPO may:
  - discharge an authorized firearm for practice or recreational shooting at a firing range or in any area where firing a weapon is lawful and safe;
  - discharge an authorized firearm at any animal that is obviously mad or vicious and poses an immediate threat or is suffering from an apparently fatal wound.
3. A CPO will not fire a “warning shot.”

**c. Reporting Deployment or Engagement of a Firearm.**

1. A CPO *engages* a firearm when he or she displays, generally aims, and is prepared to use the firearm.
2. A CPO *deploys* a rifle or shotgun when he or she removes it from his or her vehicle for a purpose other than inspection of the firearm, transferring from one unit to another, or other authorized purpose.
3. A CPO will verbally notify his or her sergeant or supervisor after engaging a firearm in a threatening manner. The CPO will then follow up with a *Use of Force Report* to the sergeant or supervisor.
4. A CPO is not required to submit a *Use of Force Report* for the precautionary deployment of a firearm, unless it is a rifle or shotgun.
5. A CPO who deploys a rifle or shotgun will notify his or her supervisor as soon as possible and will complete a *Use of Force Report*.

**d. Reporting Firearm Discharge.**

1. CPOs must report all discharges of a firearm, whether accidental, intentional, on-duty, or off-duty. The following activities are exceptions to this rule:



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- discharge of a firearm for recreation or sport;
  - organized competitions; and
  - discharge of a firearm to demonstrate proficiency.
2. A CPO will immediately report the discharge of a firearm by verbally describing the incident to his or her sergeant or supervisor. Refer to *Incident Notification*, § 1.06.00 of this manual, if the discharge of a firearm results in an injury.
  3. A CPO will also notify the highest ranking CPO within reasonable proximity to the incident. This CPO will secure the scene and provide assistance to any investigation.
  4. Immediately after giving the verbal report and before the end of the shift, the CPO will submit a written report up the chain of command to the assistant chief of enforcement.
  5. The report should include the following information:
    - date, time, and location of the discharge;
    - any injury or damage resulting from the discharge;
    - type of firearm and ammunition used; and
    - summary of circumstances surrounding the discharge.
  6. The sergeant or supervisor will submit the written report, along with any other official reports and statements, to the regional captain as soon as possible. The captain will submit the reports and his or her recommendations to Enforcement Headquarters as soon as possible.
  7. If a sergeant or supervisor suspects that a firearm has been used improperly, either while on-duty or off-duty, the sergeant or supervisor will immediately report the incident up the chain of command to the chief or assistant chief of enforcement.
  8. The chief or assistant chief of enforcement will determine whether disciplinary action is necessary following a review of the incident by a representative of the Legal Services Division, the Office of Professional Responsibility, and the training coordinator.
- e. Firearm Discharge Resulting in Injury or Death.**
1. A CPO involved in a firearm discharge resulting in injury or death will immediately notify a sergeant or supervisor according to the procedures described in this section and *Incident Notification*, § 1.06.00 of this manual, when the use of a firearm results in injury or death.
  2. The first arriving sergeant or supervisor will provide support for the CPO, help secure the scene, and offer any assistance to responding law enforcement and medical staff.
  3. The sergeant or supervisor shall also ensure that the chain of command notification has been followed so that both a representative of Enforcement Headquarters and the Office of Professional Responsibility have been notified.
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4. A CPO who discharges a firearm resulting in a person's death will immediately be placed on administrative leave and will undergo counseling at the agency's expense by a licensed mental health professional trained to work with law enforcement personnel.
5. Any CPO involved in a use of deadly force incident *may* be placed on administrative leave and *may* undergo counseling at the agency's expense by a licensed mental health professional trained to work with law enforcement personnel.
6. The CPO may be allowed to return to work on administrative duties following release by the mental health professional.
7. The chief or assistant chief of enforcement will review the incident with the general counsel, the Office of Professional Responsibility, and the training coordinator to determine whether the CPO acted within agency policies and procedures.
8. The CPO may only return to field duty upon the release by the licensed mental health professional and after the complete review of the incident by the chief of enforcement.

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**FORMS**

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*Use of Force Report, Form 4-410*

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# FIREARM PROFICIENCY

Enforcement Division  
Policy Number: LE 4.03.01

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) will demonstrate firearm proficiency by completing a course designed by Enforcement Division personnel. CPOs will complete this course twice annually with their primary duty weapon and once annually with any off-duty, secondary, and backup weapons. CPOs must complete one of the two annual proficiency courses in low light conditions.

In addition to the two required proficiency courses, firearms instructors may offer additional training to CPOs as resources allow. Training may include, but is not limited to, weapons retention, speed drills, positional shooting, and tandem shooting.

A CPO who fails to demonstrate proficiency with a required weapon will be reassigned to duties that do not require the use of that weapon. The supervising lieutenant will ensure that the CPO begins remedial firearm training from the firearms instructor. The CPO must demonstrate proficiency within 30 days of the commencement of remedial training. A CPO may not participate in remedial training for more than four hours per week as part of on-duty activities. A CPO in remedial training may be required to incur range costs.

If a CPO fails to demonstrate proficiency at the completion of 30 days of remedial training, the firearms instructor will create a report documenting this failure. The firearms instructor will submit the report to his or her supervisor to be passed through the chain of command to the chief of enforcement. The chief of enforcement may take disciplinary action, including dismissal.

*Note: This section applies only to handguns and shotguns. For procedures regarding proficiency with a rifle, see Rifles, § 4.03.04 of this manual.*

## ROLES AND RESPONSIBILITIES

**a. Training Coordinator shall:**

1. Create or acquire a firearms proficiency course.
2. Maintain all records documenting firearms proficiency.

**b. Captains shall:**

1. Serve as Firearms Coordinators.
2. Oversee the administration of the firearms proficiency course.
3. Choose firearms instructors for each district.

**c. Firearms Instructors shall:**

1. Schedule firearms qualification and training to be completed during the spring and the fall.

2. Administer the proficiency course organized by the training coordinator.
  3. Administer remedial training at the direction of the lieutenant.
  4. Submit all required qualification documents together at the conclusion of a training cycle to the training coordinator including:
    - Firearm Training Form
    - TCLEOSE Instructor's Lesson Plan
  5. Maintain a log that documents the chain of custody of ammunition and shows:
    - the initial receipt of the ammunition from the property manager;
    - the date and amount of ammunition received by the district office firearms instructor;
    - the date and amount of ammunition received by a CPO; and
    - the ammunition balance for each district at the end of the fiscal year.
- d. **Sergeants shall** ensure that all CPOs under his or her leadership have demonstrated proficiency with all weapons they are authorized to carry.

## RULES

### Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) Rule § 217.21.

- (a) Each agency or entity that employs at least two peace officers shall:
- (1) require each peace officer that it employs to successfully complete the current firearms proficiency requirements at least once each year;
  - (2) designate a firearms proficiency officer to be responsible for the documentation of annual firearms proficiency. The documentation for each officer shall include:
    - (A) date of qualification;
    - (B) identification of officer;
    - (C) firearm manufacturer, model;
    - (D) results of qualifying; and
    - (E) course(s) of fire.
  - (3) keep on file and in a format readily accessible to the commission a copy of all records of this proficiency.
- (b) The annual firearms proficiency requirements shall include:

- (1) an external inspection by the proficiency officer, range officer, firearms instructor, or gunsmith to determine the safety and functioning of the weapon(s);
  - (2) a proficiency demonstration in the care and cleaning of the weapon(s) used; and
  - (3) a course of fire that meets or exceeds the minimum standards.
- (c) The minimum standards for the annual firearms proficiency course of fire shall be:
- (1) handguns - a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reload;
  - (2) shotguns - a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;
  - (3) rifles - (AR platform based) a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards, however an agency may, in its discretion, allow a range of less than 100 yards but not less than 50 yards if the minimum passing percentage is raised to 90;
  - (4) patrol rifles - a minimum of 30 rounds of duty ammunition fired at a range of at least 50 yards, including at least one timed reload; however, an agency may, in its discretion, allow a range of less than 50 yards but not less than 10 yards if the minimum passing percentage is raised to 90;
  - (5) fully automatic weapons - a minimum of 30 rounds of duty ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic (short bursts of two or three rounds), and at least five rounds fired semi-automatic, if possible with the weapon.
- (d) The minimum passing percentage shall be 70 for each firearm.
- (e) The executive director may, upon written agency request, waive a peace officer's demonstration of weapons proficiency based on a determination that the requirement causes a hardship.

## PROCEDURES

### a. **Coordinating Firearms Training.**

1. The captains will choose firearms instructors for each district.
2. Firearms instructors will administer the firearms proficiency course to all CPOs.

### b. **Demonstrating Firearms Proficiency.** CPOs must complete the proficiency course with at least 70% accuracy with their agency-issued firearm and any other firearms that they have been authorized to carry.

### c. **Documenting Firearms Proficiency.**

1. The firearms instructor will note on the *Firearm Training* form whether each weapon is approved for undercover, secondary, or off-duty use, or any combination of these three.

2. The firearms instructor will send one copy of the *Firearm Training* form to the training coordinator, one copy to the district office, and one copy to the CPO.
3. CPOs must save their copy of the firearm training form as this document authorizes them to carry the specific weapon described on the form.

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**FORMS AND EXHIBITS**

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*Firearm Training*  
*TCLEOSE Instructor's Lesson Plan*

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## HANDGUNS & RELATED EQUIPMENT

Enforcement Division  
Policy Number: LE 4.03.02

Effective Date: 2/1/08

### POLICY

The Texas Alcoholic Beverage Commission (TABC) will issue an approved handgun to each certified peace officer (CPO) unless the CPO chooses to carry an authorized personally-owned handgun. While on duty, the CPO will only carry a handgun that has been approved by the firearms instructor and a supervisor.

### PROCEDURES

#### a. Handguns.

1. Authorization of a handgun other than the agency-issued handgun requires:
  - the approval of both **the firearms instructor and supervisor** and
  - the completion of a *Personally Owned Weapon Report*.
2. A firearms instructor and a supervisor may approve a handgun between .380 and .45 caliber to substitute for the agency-issued firearm or a secondary handgun to be carried in a safe manner while on or off-duty.
3. A firearms instructor and a supervisor may only approve firearms that:
  - are clean and well maintained;
  - are mechanically safe to fire; and
  - meet the requirements described in this manual.

#### b. Holsters.

1. The TABC will issue to CPOs a holster to accompany the agency-issued weapon. If a CPO chooses to carry an approved personal handgun, the CPO must also wear an approved personal holster.
2. CPOs carrying their duty weapon on their person while on duty will carry it in a holster. CPOs participating in undercover operations may be an exception; however, the weapon must be carried in a safe manner.
3. A firearms instructor and a supervisor may only approve a holster that:
  - is specifically designed for the handgun;
  - covers the trigger when the weapon is holstered;

- is a thumb break type or has another recognized retention system approved by the captain;
  - attaches to the belt by loop or slot and requires the belt to be unfastened in order to remove the holster; and
  - is black, brown, tan, or other neutral color.
4. A firearms instructor and a supervisor may only approve a shoulder holster if:
- the CPO has demonstrated proficiency in wearing and qualifying with a shoulder holster;
  - the shoulder holster is leather and form-fitting to the weapon;
  - the shoulder holster is a horizontal carrying type and thumb break type; and
  - the shoulder holster covers the trigger when the weapon is holstered.
- c. **Grips.**
1. The handgun issued by the TABC may have factory-installed grips, or the TABC may issue grips.
  2. CPOs may, at their own expense, install slip-on, rubber grips.
- d. **Handgun Ammunition.** Refer to *Ammunition*, § 4.03.05 of this manual, for policies and procedures.

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**FORMS**

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*Personally Owned Weapons Report*

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# SHOTGUNS

Enforcement Division  
Policy Number: LE 4.03.03

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will issue a shotgun to a certified peace officer (CPO) when necessary, unless the CPO chooses to carry an authorized personally owned shotgun.

## PROCEDURES

### a. Authorized Shotguns.

1. The TABC will only authorize the use of shotguns designed for law enforcement operations.
2. Authorization of a shotgun other than the agency-issued shotgun requires:
  - the approval of both **the firearms instructor and supervisor** and
  - the completion of a *Personally Owned Weapon Report*.
3. Authorized shotguns will:
  - have an 18" to 24" barrel with a standard law enforcement finish;
  - be used with 12 gauge, 2 3/4", factory-loaded ammunition;
  - have the plug removed from the magazine; and
  - be carried with the trigger pulled and the safety off.

### b. Transporting the Shotgun.

1. A CPO will carry a shotgun with a full magazine, with the chamber empty, and with the trigger pulled and the safety off.
2. When on-duty, a CPO will carry a shotgun in the trunk of his or her vehicle or in a secure device, approved by the captain, mounted in the passenger compartment of the agency vehicle.
3. A CPO must secure the shotgun out of view when the CPO is off-duty or leaves the vehicle for an extended period of time. Leaving the vehicle for routine inspections, meal periods, or other similar activities will not constitute leaving the vehicle for an extended period of time.

- c. **Deploying the Shotgun.** A CPO who deploys a shotgun will notify his or her supervisor as soon as possible and will complete a *Use of Force Report*. See *Use of Firearm*, §4.03.00 of this manual for additional reporting requirements.

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**FORMS**

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*Personally Owned Weapons Report  
Use of Force Report, Form 4-410*

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# RIFLES

**Effective Date: 2/01/08****Revision Date: 6/30/09****Enforcement Division**  
**Policy Number: LE 4.03.04****POLICY**

The Texas Alcoholic Beverage Commission (TABC) will issue a rifle to a certified peace officer (CPO) when necessary, unless the CPO chooses to carry an authorized personally-owned rifle.

**PROCEDURES****a. Authorized Rifles.**

1. Approved CPOs may use an agency-issued rifle.
2. CPOs will not modify an agency-issued rifle.
3. CPOs may be authorized to use a personally owned rifle. Authorization of a rifle other than the agency-issued rifle requires:
  - the approval of both **the firearms instructor and supervisor** and
  - the completion of a *Personally Owned Weapon Report*.
4. The TABC allows modifications of personally owned rifles only with approval of firearm instructor, training coordinator, and chief or assistant chief of enforcement.

**b. Requesting Rifle Authorization.**

1. CPOs who want to carry a rifle while on-duty must submit a written request to their firearms instructor. The request must include:
  - a detailed description of the CPO's reason for requesting authorization;
  - whether the CPO requires a agency-issued rifle or intends to use a personal rifle which meets the qualifications of these policies and procedures; and
  - if the CPO wishes to use a personal rifle, the make, model, and serial number of the rifle and any modifications made to the rifle.
2. The firearms instructor will review the requesting CPO's proficiency with their handgun and will submit the request with recommendations to the CPO's immediate supervisor.
3. The lieutenant and captain will conduct an overall assessment of the CPO's duties and proficiency with firearms and will submit the CPO's request with their recommendations to enforcement headquarters.

4. Approval will be conditional on demonstrated proficiency during rifle training.

**c. Rifle Training.**

1. CPOs who have been conditionally approved to carry a rifle must complete rifle training before they are authorized to carry a rifle while on duty.
2. The initial rifle training course will consist of a patrol rifle course provided by the agency's firearms instructors.
3. The rifle training course will cover operation of the rifle, field stripping and cleaning the rifle, rifle maintenance, various shooting positions, and the differences between the sight pictures used with a handgun and rifle.

**d. Annual Qualification.**

1. CPOs authorized to carry a rifle will qualify once a year by completing a course selected by the training coordinator and firearms instructors. CPOs must pass the course with a minimum score of 90%.
2. CPOs must qualify using only the manufactured iron sights.
3. The firearms instructors will allow CPOs three attempts to pass the qualification course.
4. A CPO who fails the qualification course must successfully complete a remedial rifle course selected by the training coordinator and supervising firearms instructor.
5. If a CPO fails the remedial course, the firearms instructor and training coordinator will revoke the CPO's rifle authorization.
6. The firearms instructor and training coordinator may revoke a CPO's rifle authorization at any time for an unsafe act with a rifle or any firearm or for a violation of the policies and procedures in this section.
7. A CPO whose rifle authorization has been revoked will no longer carry a rifle. The CPO may, however, submit another request for authorization to carry a rifle after three months have passed since the date of the revocation.

**e. Deployment of a Rifle.**

1. Subject to the following exceptions, a rifle will only be deployed at the direction of a supervisor.
2. A CPO may only deploy a rifle without the approval of a supervisor when time constraints prevent the CPO from notifying a supervisor and:
  - there is reason to believe that a subject is wearing protective body armor;
  - there is reason to believe that a subject is armed with or has immediate access to

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a high-powered weapon which surpasses the capability of weapons normally carried by CPOs; or

- the range of the engagement is greater than the distance in which a handgun is effective.
3. A CPO who deploys a rifle will notify his or her supervisor as soon as possible and will complete a *Use of Force Report*.

**f. Transporting the Rifle.**

1. When on-duty, a CPO will carry a rifle in a carrying case or a trunk mount system.
2. The CPO will not remove the rifle from the vehicle except for inspection, transfer from one unit to another, an act authorized under this section, or other authorized purpose.
3. A rifle transported in a vehicle must:
  - have an empty chamber;
  - be de-cocked;
  - have a fully loaded magazine in the magazine well; and
  - have the action closed.

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**FORMS**

*Personally Owned Weapons Report*  
*Use of Force Report*

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**REVISION HISTORY**

06-30-09: The 16-hour course requirement and the instructor's certification by the National Rifle Association reference were deleted from the Rifle Training section.

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# AMMUNITION

Enforcement Division

Policy Number: LE 4.03.05

Effective Date: 2/1/08

## POLICY

On-duty certified peace officers (CPOs) will carry authorized ammunition in their firearms and at least one additional reloading device.

The Texas Alcoholic Beverage Commission (TABC) will provide ammunition to its CPOs for use in the field, for practice, and for demonstrating proficiency. The TABC will provide ammunition for both agency-issued weapons and personal weapons authorized for on-duty use. While on-duty, CPOs will only carry ammunition authorized by the TABC in firearms.

## ROLES AND RESPONSIBILITIES

### Captains shall:

- a. Receive ammunition or designate lieutenants to receive ammunition from the Business Services Division.
- b. Ensure the documentation of the chain of custody for ammunition.
- c. Ensure the maintenance of the ammunition supply inventory.

## PROCEDURES

### a. Authorized Ammunition.

1. On-duty CPOs may only carry factory-loaded ammunition without modification.
2. CPOs who have approval to carry revolvers or semi-automatic pistols must use all lead, semi-jacketed, or jacketed hollow point single projectile cartridges.
3. CPOs may use reloaded and other ammunition for use in practicing firing their personally-owned firearms. CPOs may only use unmodified, factory-loaded ammunition in their agency-issued weapons.
4. CPOs will only use a magazine in the specific weapon for which it was intended by the manufacturer.

### b. Issuing Ammunition.

1. CPOs will be annually issued the following ammunition as necessary in order to meet requirements of TCLEOSE and the TABC for qualification:
  - 4 boxes of practice rounds;
  - 2 boxes of duty ammunition for an agency-issued or personal handgun;
  - 5 rounds of 00 buckshot shotgun ammunition for qualification;

- 5 rounds of slugs and 5 rounds of 00 buckshot of duty rounds for an agency-issued or personal shotgun;
  - 5 boxes of 223 ammunition for authorized rifle practice;
  - 5 boxes of 223 ammunition for authorized rifle qualification; and
  - 5 boxes of duty ammunition for authorized rifle.
2. Captains will order ammunition from the warehouse once a year and will distribute ammunition to firearms instructors as necessary.
  3. The firearms instructors will determine if a CPO has a surplus of ammunition and will only issue the ammunition needed for the current qualification period and will document this dispersal using the *Ammunition Distribution* form.
  4. CPOs will ensure that they have the necessary amount of ammunition required for each qualification session.
  5. Upon receipt of ammunition, CPOs will sign the *Ammunition Distribution* form and indicate the intended use of the ammunition.
  6. Captains will maintain a log that documents the ammunition distribution by showing:
    - the initial receipt of the ammunition from the property manager;
    - the date and amount of ammunition received by the district office firearms instructor;
    - the date and amount of ammunition received by a CPO; and
    - the ammunition balance for each district at the end of the fiscal year.

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**FORMS**

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*Ammunition Distribution Form*

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# EQUIPMENT

Enforcement Division

Policy Number: LE 5.00.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) Enforcement Division supervisors will issue agency-owned equipment to certified peace officers (CPOs) as necessary and as funding permits. They will use the *Equipment Assignment Report* to document the issuance of equipment. CPOs may purchase other equipment at his or her own expense to substitute for or use in addition to agency-issued equipment, upon the approval of a supervisor.

Agency-issued equipment will be used to carry out TABC-related duties. CPOs may additionally use some agency-issued equipment when off-duty. Refer to HR-1.10 Off-Duty Employment in the Human Resources Policy Manual.

Each CPO is accountable for the responsible use, care, and maintenance of all his or her equipment. Employees of the Compliance Division will supervise the equipment issued to the Enforcement Division. Refer to the Compliance Procedures Manual for related policies and procedures.

CPOs will return all equipment upon departure from the agency.

## ROLES AND RESPONSIBILITIES

**Sergeants and supervisors shall** periodically check equipment issued by the agency to ensure that the CPO still possesses the equipment and that it functions properly.

## PROCEDURES

- a. A captain or his or her designee will approve and issue equipment as needed.
- b. CPOs to whom equipment is issued will be responsible for the protection and maintenance of the equipment.
- c. CPOs will keep agency-issued equipment available for immediate use while on duty.
- d. A CPO will notify his or her sergeant or supervisor when equipment needs repair. The supervisor will determine whether to authorize any repairs.
- e. If a CPO loses a piece of equipment, the CPO will explain this loss in writing as an inter-office communication to their sergeant or supervisor. The sergeant will submit this document through the chain of command to Enforcement Headquarters.
- f. If a supervisor determines that the CPO's negligence resulted in the damage or loss of equipment, the CPO may be required to pay for the replacement cost of the equipment. Repeated damage or loss of equipment will be recorded on an employee's evaluation.
- g. Controlled Forms. Lieutenants will ensure that the issuance of the following forms are recorded in the *Controlled Form Log*:



- administrative notice books;
- criminal citation books; and
- seizure books.

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**FORMS**

*Equipment Assignment Report*  
*Controlled Form Log*

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# VEHICLES & RELATED EQUIPMENT

Enforcement Division  
Policy Number: LE 5.01.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will issue a vehicle to each certified peace officer (CPO) as funding permits.

Each CPO is accountable for the responsible use, care, and maintenance of his or her vehicle and any related equipment.

The use of additional equipment, including automotive auxiliary equipment is prohibited without the approval of the regional captain.

## RULES

### **Texas Government Code § 2203.001. Reporting Use of State Vehicle; Penalties.**

- (a) A person who uses a state-owned automobile or truck shall, for each day that the vehicle is used, submit a separate written report of the use to the head of the state agency, including a department, institution, board, or commission of the state, in charge of the vehicle.
- (b) The report must be made daily on a form prescribed by the General Services Commission.
- (c) A report filed under this section must show:
  - (1) the purpose for which the vehicle was used;
  - (2) the mileage traveled;
  - (3) the amounts of gasoline and oil consumed;
  - (4) the passengers carried; and
  - (5) other information necessary to a proper record of the use of the vehicle.
- (d) A report filed under this section is an official state record and is subject to inspection by a state official who is authorized to audit or inspect claims, accounts, or records of a state agency.
- (e) A person commits an offense if the person does not file a report as required by this section on or before the 10<sup>th</sup> day after the date on which the person uses the vehicle. An offense under this subsection is punishable by a fine of not less than \$5 or nor more than \$100.

**ROLES AND RESPONSIBILITIES****a. Captains shall:**

1. Assign vehicles to CPOs, or delegate this duty to a lieutenant and supervise.
2. Supervise the care and maintenance of vehicles.
3. Periodically observe the driving of Enforcement Division personnel who operate a state-owned vehicle and take steps to remedy any deficiencies.

**b. Lieutenants shall:**

1. Maintain *Vehicle Inspection Reports* at local district offices.
2. Review periodic observations of driving skills and vehicle inspection reports at the employee's annual evaluation.

**c. Sergeants shall:**

1. Review all *Daily Activity Reports* to ensure that these reports are timely, complete, and accurate with regard to vehicle use.
2. Conduct quarterly inspections of agency-issued vehicles and take steps to correct any deficiencies noted in the employee's care of the vehicle including the vehicle's physical appearance and operating condition. Inspections should take place in September, December, March and June of each year.
3. Document quarterly inspections using the *Vehicle Inspection Report*.
4. Review *Vehicle Inspection Report* with the employee to which the vehicle is assigned. Both reviewer and employee must sign and date the *Vehicle Inspection Report* indicating that they have satisfactorily reviewed the document.

**PROCEDURES****a. Issuance and Maintenance.**

1. The Business Services Division will equip and issue vehicles to CPOs. See *TABC Fleet Management Plan*.
2. The Business Services Division will maintain records of agency-owned radio equipment, sirens, warning lights, and other accessories installed in the agency's vehicles.
3. CPOs will not be authorized to make custom installations. With Enforcement Headquarters and Business Services Division authorization, special antennas may be installed in vehicles designated for undercover assignments.
4. CPOs will notify the Business Services Division of any exchange of state-owned receivers, transceivers, sirens, and other accessories and will identify the items using the TABC inventory number.
5. CPOs will notify the Business Services Division of any equipment sent to the shop in Austin.

**b. Documenting Vehicle Use.**

1. A CPO will document all use of his or her agency-owned vehicle using the *Daily Activity Report*.
2. A CPO who fails to document use of a agency-owned vehicle on or before the 10<sup>th</sup> day after the date on which the CPO uses the vehicle commits an offense punishable by a fine of \$5-\$100. See *Government Code* § 2203.001.

**c. Vehicle Transfer or Temporary Transfer of Vehicle.** The *Property Procedures Manual* maintained by the Business Services Division governs any temporary or permanent transfer of capital property.**d. Use of Credit Card.**

1. The Business Services Division issues two types of credit cards—a retail fuel card and a State of Texas Procurement Card (STPC). The TABC places specific limits on the use of procurement cards based on the type of purchase, the amount spent on a single purchase, the amount spent in one day, and the amount spent in one month.
2. CPOs will use the retail fuel card to purchase fuel, oil, state inspections, and minor repairs. CPOs will use the STPC card for other repairs.
3. CPOs who are issued an STPC will use the STPC to make purchases in accordance with the State of Texas Procurement Card Manual.
4. Refer to the STPC Manual located on the TABC intranet or contact the STPC administrator in the Business Services Division to determine specific limits on STPC use.
5. When a CPO changes vehicles, the CPO will keep the same credit card.
6. If a CPO moves to a new location, the CPO will notify the STPC administrator and provide updated information.

**FORMS**

*Vehicle Inspection Reports*  
*Daily Activity Reports*



## PROPER USE OF VEHICLES & RELATED EQUIPMENT

Enforcement Division  
Policy Number: LE 5.01.01

Effective Date: 2/1/08

### POLICY

Certified peace officers (CPOs) will use agency-owned vehicles and related equipment according to the law, TABC policies and procedures included in this manual, the *TABC Fleet Management Plan*, and the *TABC Driving Policy*. It is the responsibility of the CPO to know and understand laws and TABC policies and procedures relating to the use of vehicles.

### PROCEDURES

#### a. Storage of Vehicle While Off-Duty.

1. When off-duty, a CPO will store the CPO's agency-owned vehicle at his or her residence or in a secure area approved by a supervisor.
2. CPOs living farther than 30 miles from his or her assigned office may be required to park his or her vehicle in a secure location within 30 miles of his or her assigned office and approved by a supervisor when off-duty.
3. A CPO will not use an agency-owned vehicle for any activities unrelated to TABC duties or to transport individuals unrelated to TABC duties.

#### b. Proper Use of Vehicle While On-Duty.

1. CPOs will operate their vehicles according to the *TABC Driving Policy*.
2. If a CPO executes a vehicle stop, the CPO will complete a *Vehicle Stop Report* for each person with whom the CPO makes contact in the vehicle.

#### c. Proper Use of Emergency Equipment.

1. CPOs will use emergency equipment, as circumstances require.
2. If a CPO chooses to engage in an emergency response or in a pursuit, he or she must turn on the vehicle's emergency equipment, including the red and blue lights and the siren, during the entire emergency response or pursuit. Exceptions to this rule include situations in which a CPO has probable cause to believe that:
  - knowledge of the CPO's presence will cause the suspect to destroy or lose evidence of a suspected felony;
  - knowledge of the CPO's presence will cause the suspect to cease a suspected continuing felony before the CPO has acquired sufficient evidence to make an arrest;
  - knowledge of the CPO's presence will cause the suspect to evade apprehension or identification of the suspect or his or her vehicle; or

- traffic conditions on the road suggest that movement of motorists in response to the emergency warning devices may increase the potential for a collision or may unreasonably extend the duration of the pursuit.

**d. Pursuits**

1. CPOs may only participate in pursuits when:
  - these policies and procedures do not otherwise prohibit the pursuit, and
  - the need to apprehend the suspect outweighs the risk to the public created by carrying out the pursuit.
2. Before participating in a pursuit and when determining whether to continue a pursuit, a CPO will consider:
  - the nature of the suspected violation;
  - the performance capability of the pursuit vehicle;
  - the condition of the road surface;
  - the amount of vehicular and pedestrian traffic;
  - the weather conditions;
  - the age of the suspect and whether the suspect's identity is known; and
  - the direction of travel away from or toward traffic.
3. CPOs may not participate in pursuits when:
  - the suspect is committing, or has committed, a non-hazardous traffic violation or a Class C misdemeanor other than a breach of the peace; or
  - the CPO has a civilian passenger in the vehicle who has not signed a liability release form.
4. A CPO participating in a pursuit will drive with regard for the safety of persons, motorists, and property. If a fleeing vehicle drives the wrong direction on a roadway, the CPO will not do the same. The CPO will follow the suspect on a parallel roadway in the correct direction.
5. The TABC prohibits CPOs from participating in the following acts:
  - firing shots at the vehicle being pursued, except in defense of life;
  - using a vehicle to ram, bump, push, collide with and physically force another vehicle off of the roadway, or pretend to do so unless the use of deadly force would be absolutely justified;
  - using a vehicle to set up roadblocks;

- driving with a total disregard for all traffic laws; and
  - failing to maintain a safe distance behind the fleeing vehicle to allow for sudden stops, changes in direction, or unexpected obstacles.
6. As soon as possible after initiating a pursuit, the CPO will alert others to the pursuit via radio broadcast and provide the following information:
- the reason for the pursuit;
  - the location of the pursuit;
  - the direction of travel and rate of speed;
  - the description and license plate number of the fleeing vehicle;
  - a description of the driver and occupants of the vehicle; and
  - a description of evasive actions being used by the fleeing vehicle, such as running without headlights, intentional collisions, and driving on the wrong side of the road.
7. When participating in a pursuit, a CPO will yield to ambulances and fire equipment.
8. A CPO will abandon a pursuit when immediate and potential danger to the community exceeds the immediate and potential danger presented by the subject escaping. After abandoning the pursuit, the CPO will notify other law enforcement via radio broadcast of abandoning the pursuit due to the potential danger.
9. A CPO who has participated in a pursuit will notify his or her sergeant or supervisor as soon as reasonably possible.
- The CPO will complete and submit a report on the pursuit to his or her sergeant or supervisor before the end of the shift.
  - The sergeant or supervisor will notify the captain as soon as reasonably possible.
  - The sergeant or supervisor will make all reports available via the agency computer system by the next business day.

**e. Emergency Responses.**

1. CPOs may respond to emergency calls when:
- a CPO requires or requests assistance;
  - an emergency involves a felony;
  - an emergency involves death, serious bodily injury, or the risk of death or serious bodily injury; or
  - the CPO is in the immediate area of the emergency call and no local authority is

nearby.

2. A CPO will discontinue an emergency response when:
  - the CPO learns that the emergency has ended;
  - the CPO learns that sufficient assistance has been provided by others; or
  - a sergeant or supervisor advises the CPO to do so.

**f. Civilian Passengers Permitted.**

1. **TABC Employees.** TABC employees who are not CPOs may ride and observe CPOs' work for TABC-related purposes only after receiving approval from the employee's supervisor and the CPO's supervisor.
2. **Other Civilians.** With supervisor approval, CPOs may allow persons who are not TABC employees to accompany CPOs as civilian passengers if their purpose is related to the agency's mission. Civilians who are not TABC employees must sign a *Release of Liability* form and an *Authorization to Release Information* form before riding in the vehicle.
3. When considering whether to approve a person as a civilian passenger, a supervisor should consider:
  - the conditions under which the observation will take place;
  - whether the civilian will present a threat to the safety of anyone; and
  - whether the civilian will impede the CPO from performing his or her duties.

- g. Vehicle Accidents.** In the event of a vehicle incident, the CPO will follow the procedures detailed in the *TABC Driving Policy* and the *Texas Alcoholic Beverage Commission Fleet Management Plan* and use the *Accident Investigation* form to complete the required report.

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**FORMS**

*Vehicle Inspection Report*  
*Vehicle Stop Report*  
*Release of Liability, Form HR-47*  
*Authorization to Release Information, Form HR 41.1*  
*Accident Investigation, Form 4-102*

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**REFERENCE**

*TABC Fleet Management Plan*  
*TABC Driving Policy*

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# RADIO SYSTEM

Enforcement Division

Policy Number: LE 5.01.02

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will maintain a radio system comprised of mobile units and base stations in order to facilitate communication within the Enforcement Division and with other law enforcement agencies. CPOs will use the radio system in an efficient, effective, and professional manner.

## PROCEDURES

### a. Assignment of Unit Numbers.

1. A district supervisor will assign a four-digit unit number to each CPO in the district. The supervisor will notify the Fleet Safety Coordinator in writing of the assigned numbers and any change in assigned numbers.
2. The first two digits of a unit number indicate the region.

Region	First Two Digits of Unit Number
ONE	61
TWO	62
THREE	63
FOUR	64
FIVE	65

3. The third and fourth digits of a unit number indicate the specific unit. Typically, the lower numbers are assigned to supervisors.
4. CPOs acting undercover will use their usual unit number.

### b. Radio Operator Procedures.

1. Operators will use radio procedures consistent with those used in their local area.
2. Station Identification.
  - The FCC requires station identification. Stations must broadcast their station identification at least every thirty minutes or at the end of each transmission or a series of transmissions.

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- Base stations will announce station identification at the end of each transmission or a series of transmissions.
  - Base stations will announce the station identification at the beginning and end of each workday.
3. Radio Activity Log. The base operator will record communications with the base in the *Radio Activity Log*.
  4. Operators will respond to radio transmissions addressed to their unit number or base station. Answering radio calls will usually take precedence over other activities.
  5. Operators will use the normal verbal speech and communication methods consistent with the local area when communicating via radio.
  6. Operators should plan each transmission to ensure accuracy and convey the intended meaning.
  7. Operators will break lengthy transmissions into segments to allow the receiving unit or station to verify the message and to allow emergency traffic to break in. Operators will yield to units conveying emergency information.
  8. Operators will speak in an impersonal and professional manner and remain pleasant, helpful, and courteous at all times.
  9. Operators will refer to members of the Commission by radio call number or by title and surname.
  10. Operators will speak in a normal voice with their mouth close to and directly in front of the microphone. Operators will speak slightly slower than normal conversation speed.
  11. Operators will use the same tone level to make each syllable more easily understood.
  12. Operators will not speak loudly as this distorts the voice and does not increase the signal strength of the equipment.
  13. Before using the radio, the operator will listen to determine that the channel is not being used.
  14. Operators will key the transmitter a second before speaking to prevent the loss of the initial part of the transmission.
  15. If an operator does not receive a response after the first call, the operator will repeat the call after 30 seconds. The operator will continue to repeat the call at reasonable intervals until answered, depending upon the urgency of the message.
  16. An operator will not acknowledge the receipt of a transmission unless the operator is certain that the he or she has correctly understood the message. An operator will verify unclear information with the transmitting operator.

17. When leaving a radio unattended, the operator will announce the station and the amount of time that the operator will be away. The operator will also announce his or her return.

18. Calling and Answering.

- A base station operator will use the official agency name of the base station for identification. Example: TABC Bryan—Brazos County S.O.
- A unit operator will use the official agency name for their base station and his or her specific unit number. Example: TABC Bryan—Brazos County # 123.

19. Emergency Traffic.

- When a condition exists that endangers the life or safety of CPOs or citizens, an operator or supervisor may direct units to transmit only emergency communications.
- If a sergeant or supervisor is present at a base station during an emergency situation, the base station operator will notify the sergeant or supervisor of the situation. The sergeant or supervisor will monitor the situation and make decisions as necessary.
- If units or stations unaware of an emergency situation interfere with communication, an operator will courteously advise the unit or station of the emergency condition.
- Units or stations without emergency transmissions will refrain from using the radio system until the emergency situation is over.
- When the emergency situation has concluded, the base station operator will announce to units and stations that normal communication may be resumed.
- The base operator will record the emergency situation in the *Radio Activity Log*, and will create additional reports regarding the incident as requested by a supervisor.

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**FORMS**

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*Radio Activity Log*

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# BICYCLE PROGRAM

Enforcement Division  
Policy Number: LE 5.02.00

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs), with sergeant or supervisor approval, may use bicycles on a voluntary basis to carry out their law enforcement duties.

## ROLES AND RESPONSIBILITIES

- a. **Captains shall:**
  1. Select CPOs to participate in the bicycle program.
  2. Supervise and command the use of bicycles by CPOs in their region.
  3. Assign a lieutenant or sergeant to coordinate bicycle operations within assigned areas.
  4. Coordinate bicycle patrol operations with the needs of local law enforcement and assist them as necessary.
  5. Procure, issue, collect, manage all bicycle equipment assigned to district offices within the captain's region.
  6. Oversee CPO bicycle training and the maintenance of related records.
- b. **Lieutenants shall** permit, modify, or cancel a CPO's authorization to participate in bicycle patrol.
- c. **Sergeants shall** permit, modify, or cancel a CPO's authorization to participate in bicycle patrol.
- d. **Bicycle Patrol Participants shall** conduct their normal duties as CPOs, but shall be ready and able to participate in bicycle patrol duty, if necessary.

## PROCEDURES

- a. **Choosing CPOs to Participate in the Bicycle Program.**
  1. CPOs chosen for the bicycle program by the captain should possess the following qualities:
    - self motivation;

- the ability to work with little to no supervision;
- the ability to work with other CPOs, including members of other law enforcement agencies;
- physical fitness, or the ability to perform extended duties on a bicycle;
- a professional appearance;
- proficiency in public relations;
- commitment to the bicycle program;
- willingness to patrol on a bicycle in adverse weather and conditions; and
- the ability to adapt rapidly to changing situations and environments without guidance or supervision.

**b. Bicycle Program Training.**

1. CPOs chosen to participate in the bicycle program will successfully complete a bicycle course certified by the Texas Commission on Law Enforcement Standards and Education (TCLEOSE). If a CPO has previous bicycle experience with another agency and can show proof of certification by a TCLEOSE-certified bicycle course, a supervisor may determine that the CPO does not need to take an additional bicycle certification course. The supervisor will make this determination based on the competency and skill of the CPO.
2. The captain or his or her designee will schedule the bicycle course.
3. The captain or his or her designee will arrange continuing training as needed for all CPOs participating in the bicycle program.

**c. Proper Uniform and Accessories.**

1. The TABC will issue a bicycle, bicycle helmet, and water bottle as funding permits to participants in the bicycle program.
2. CPOs on bicycle patrol will wear:
  - a black, gray, or white bicycle helmet that is approved by the American National Standards Institute (A.N.S.I.) or Snell and that has "POLICE" written in contrasting black or white letters on both sides of the helmet;
  - a polo or button-down shirt in either navy or black with "POLICE" on the back in reflective letters at least 2 ½ inches tall;
  - shorts or pants in the same color as the shirt;
  - low to mid-cut, black or other neutral-colored athletic shoes with matching laces and without ornate designs or logos;
  - socks that are either mid-calf or low-cut and have no designs, logos, or stripes;

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- duty gear that is either nylon or leather, but not a mix of both nylon and leather;
  - cycling gloves in a conservative color; and
  - a ballistic vest.
3. CPOs on bicycle patrol may wear:
- padded bicycle shorts underneath shorts or pants, as long as they do not extend below the lower hem of the shorts;
  - protective eyewear—either sunglasses or clear protective lenses—that is conservative and has no logos, emblems, unusual shapes, or bright colors;
  - sweatbands, as long as they are worn high enough under the helmet that they are not visible.
4. During cold or wet weather, CPOs on bicycle patrol may additionally wear a jacket with matching pants, both made out of wind and water resistant material with “POLICE” on the back in reflective lettering at least 2 ½ inches tall;
5. During cold or wet weather, CPOs on bicycle patrol may additionally wear black or other neutral colored boots with matching laces and without ornate designs or logos.
- d. **Bicycle Specification.**
1. Bicycles used for bicycle patrol will:
- be black, dark blue, or silver with “POLICE” on both sides of the frame tube;
  - have all-terrain tires suitable for on or off-road use;
  - be equipped with a bag rack that will accommodate a black equipment bag; the equipment bag will have “POLICE” on both sides in reflective lettering;
  - have battery-operated strobe lights mounted on the front and rear of the bicycle; the front strobe may be red or white and the rear strobe must be red; both strobes must be visible from 500 feet;
  - be equipped with a high intensity headlight, if the bicycle is used in the dark.
2. CPOs may modify these bicycle specifications or add equipment to a bicycle only with the approval of the supervising captain.
- e. **Proper Use of Bicycle.**
1. CPOs will ride their bicycles in a responsible manner and will minimize risk to themselves and others.
2. A CPO will secure his or her bicycle if the CPO is going to be away from it for any amount of time, except in emergency circumstances.

**f. Care and Maintenance of Bicycle.**

1. CPOs will maintain and clean all bicycle equipment.
2. Prior to and after any ride, CPOs will perform routine maintenance of police bicycles including, but not limited to the lubrication of the chain and bearings and inspection of proper brake and de-railer operation.
3. CPOs will inform the captain or his or her designee of any necessary major repairs. The captain or his or her designee will arrange for a certified police bicycle mechanic or a contract maintenance facility to make any major repairs.
4. A bicycle not assigned to a CPO is the duty of the captain or his or her designee to properly care for and maintain.
5. The captain or his or her designee will keep bicycle maintenance records.

**g. Assignment of CPOs to Bicycle Patrol Duty.**

1. Each captain or his or her designee will determine the deployment of CPOs authorized to participate in bicycle patrol according to the district's needs.
2. The captain or his or her designee will consider the following guidelines when deploying CPOs to bicycle patrol:
  - Bicycle assignment will be a two-officer assignment. A CPO from a local law enforcement agency can serve as the secondary officer on assignments.
  - Bicycles will not be deployed upon freeways, interstates, or any high-volume, high-speed roadway.

**h. Inclement Weather.**

1. In the event of inclement weather, the supervisor or senior bicycle patrol participant will determine whether to continue bicycle patrol operations.
  2. The supervisor will consider:
    - the severity of the weather;
    - temperature;
    - surface condition of the roadways; and
    - the duration of the inclement weather.
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# WEAPONS & RELATED EQUIPMENT

Enforcement Division  
Policy Number: LE 5.03.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) authorizes certified peace officers (CPOs) to carry authorized weapons while on-duty or when in an agency-owned vehicle. The TABC authorizes the use of the following weapons by its CPOs:

- Oleoresin Capsicum (OC) Spray
- Agency-Issued Expandable Baton
- Agency-Authorized Firearms

CPOs may carry knives. A knife is a tool and not intended for use as a weapon, except as authorized by Chapter 9 of the Texas Penal Code.

CPOs will not carry an unauthorized weapon on or about his or her person, in an agency-owned vehicle, or while on duty. This rule, however, does not apply to a situation in which a CPO legally seizes weapons and gives them to the property officer within a reasonable time.

## RULES

Texas Penal Code § 46.05.





## CARE & MAINTENANCE OF WEAPONS

Enforcement Division  
Policy Number: LE 5.03.01

Effective Date: 2/1/08

### POLICY

The Texas Alcoholic Beverage Commission (TABC) requires its certified peace officers (CPOs) to care for and maintain their agency-issued weapons. The TABC will provide CPOs with the necessary materials for the care and maintenance of agency weapons.

The TABC strictly prohibits any alteration or modification of a state-issued firearm, other than those authorized by this manual or by the firearms coordinator.

### PROCEDURES

#### a. **Cleaning Agency-Issued Firearms.**

1. The Enforcement Division will provide adequate materials required for the care and maintenance of agency-issued weapons.
2. CPOs will ensure the care and maintenance of agency-issued as well as personal weapons.
3. When cleaning a state issued firearm, a CPO should:
  - remove the slide from the frame and remove the barrel from the slide for a semi-automatic weapon; and
  - remove the follower and the spring from a magazine for cleaning.
4. CPOs will not clean a firearm in a TABC office without the approval of a firearms instructor or a supervisor.

#### b. **Cleaning Other Authorized Weapons.** Other authorized weapons will be cleaned according to manufacturer specifications.

#### c. **Inspection of Weapons.**

1. The firearms instructor will inspect all weapons carried by CPOs before and after CPOs demonstrate proficiency.
2. By signing the *Firearm Training* form, the firearms instructor certifies that each CPO maintains a clean firearm and handles it safely.



# BODY ARMOR

Enforcement Division  
Policy Number: LE 5.03.02

Effective Date: 2/1/08

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**POLICY**

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The Texas Alcoholic Beverage Commission (TABC) strongly encourages its certified peace officers (CPOs) to wear body armor in all circumstances. The Enforcement Division will issue body armor upon request to all CPOs ranked from agent trainee to lieutenant. The Enforcement Division may issue body armor to CPOs ranked as captain and higher as funding permits.

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## PURCHASE OF FIREARM BY PEACE OFFICER

Enforcement Division  
Policy Number: LE 5.03.03

Effective Date: 2/1/08

### POLICY

A retiring certified peace officer (CPO) may purchase his or her firearm in accordance with Texas Government Code § 614.051.

A CPO who desires to purchase a firearm will communicate with the assistant chief of enforcement. In the event that the agency has a surplus of firearms, the assistant chief may sell a firearm to the officer in accordance with agency policy.

### RULES

#### **Government Code. § 614.051. Purchase of Firearm by Honorably Retired Peace Officer.**

- (a) An individual may purchase a firearm from a state agency if:
- (1) the individual was a peace officer commissioned by the agency;
  - (2) the individual was honorably retired from the individual's commission by the state;
  - (3) the firearm had been previously issued to the individual by the agency; and
  - (4) the firearm is not a prohibited weapon under § 46.05, Penal Code.
- (b) An individual may purchase only one firearm from a state agency under this section.

### REFERENCE

Government Code.

§ 614.052. *Purchase of Firearm by Surviving Spouse, Child, or Parent of a Deceased Peace Officer.*

§ 614.053. *Purchase Price of Firearm.*

§ 614.054. *When Firearm May Be Purchased from State Agency; Delay of Sale by Agency.*



*Policy, Procedures & Forms*

# ADMINISTRATIVE ACTIONS

Enforcement Division  
Policy Number: LE 6.00.00

Effective Date: 2/1/08

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**POLICY**

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The Texas Alcoholic Beverage Commission (TABC) will take administrative action against suspected violators of the Alcoholic Beverage Code or Commission Rules to further its mission of protecting the health, welfare, peace, temperance, and safety of the people of Texas through regulation of the alcoholic beverage industry.

Certified peace officers (CPOs) will, at their discretion, take administrative action on behalf of the Commission by issuing administrative warnings and notices, filing administrative cases, settling administrative cases, and initiating summary suspensions of permits and licenses.

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# SUMMARY SUSPENSION

Enforcement Division  
Policy Number: LE 6.01.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) may suspend a permit or license without an administrative hearing according to the provisions of the Alcoholic Beverage Code.

## RULES

### **Texas Alcoholic Beverage Code § 11.61. Cancellation or Suspension of Permit.**

The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and beer retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, posting a copy of the order on the front door of the licensed premises shall provide notice.

### **Texas Alcoholic Beverage Code § 11.613. Summary Suspension of Private Club Permit.**

The commission or administrator without a hearing may for investigative purposes summarily suspend a permit issued under Chapter 32 or 33 for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises that is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 72 hours of the time the violent act occurs. If the permittee cannot be located, posting a copy of the order on the front door of the licensed premises shall provide notice.

### **Texas Alcoholic Beverage Code § 61.71(e). Grounds for Cancellation or Suspension: Retail Dealer.**

The commission or administrator without a hearing may for investigative purposes summarily suspend a retail dealer's on-premise license for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the license shall be given to the licensee personally within 24 hours of the time the violent act occurs. If the licensee cannot be located, posting a copy of the order on the front door of the licensed premises shall provide notice.

## PROCEDURES

### **a. Basis for a Summary Suspension.**

1. A CPO may, under certain circumstances, recommend the following permits and license for summary suspension:
  - a mixed beverage permit,
  - a wine and beer retailer's permit,
  - a private club permit, or

- a retail dealer’s on-premise license.
2. A CPO will only request a summary suspension if he or she finds that:
    - a shooting, stabbing, or murder has occurred on the licensed premises; and
    - the shooting, stabbing, or murder is likely to result in a subsequent act of violence.

**b. Issuing a Summary Suspension.**

1. Time Constraints. CPOs must issue and provide the permittee or licensee notice of the summary suspension within designated time periods.

Mixed Beverage Permit	Within 24 hours of the violent act
Wine & Beer Retailer’s Permit	Within 24 hours of the violent act
Private Club Permit	Within 72 hours of the violent act
Retail Dealer’s On-Premise License	Within 24 hours of the violent act

2. If a CPO learns of a shooting, stabbing, or murder that has occurred on a licensed premises, the CPO will enter a *complaint* into the agency computer system according to *Investigations*, § 1.01.00 of this manual.
3. If the CPO determines that a summary suspension is necessary, the CPO will immediately notify his or her sergeant or supervisor. The sergeant or supervisor will notify the captain and request approval for the summary suspension.
4. The sergeant or supervisor or his or her designee will create the *Emergency Summary Suspension Order* using the agency computer system and submit it to Enforcement Headquarters.
5. The captain will notify the assistant chief as soon as possible and will ensure that the *Emergency Summary Suspension Order* is submitted to Enforcement Headquarters.
6. The sergeant or supervisor or his or her designee will ensure that the permittee or licensee is notified of the summary suspension. If the permittee or licensee cannot be located, posting a copy of the *Emergency Summary Suspension Order* on the front door of the licensed premises shall provide notice.
7. The CPO will file a copy of the completed *Emergency Summary Suspension Order* form in the permit or license folder in the district office and will forward a copy of the completed form to the assistant chief of enforcement and the permit or license holder or an authorized representative.

**FORMS**

*Emergency Summary Suspension Order*



# ADMINISTRATIVE CASES & WARNINGS

Enforcement Division  
Policy Number: LE 6.02.00

Effective Date: 2/1/08

## POLICY

The TABC authorizes certified peace officers (CPOs) to, in their discretion, initiate administrative cases and warnings and void when necessary.

## PROCEDURES

### a. Initiating an Administrative Case or Warning.

1. A CPO will, in his or her discretion, initiate an administrative case or warning against a permittee or licensee for violations of the Alcoholic Beverage Code and Commission Rules.
2. To initiate an administrative case or warning, a CPO will complete an *Administrative Notice* in a complete and legible manner.
3. The CPO will explain to the permittee or licensee the reason for the administrative case or warning and will offer to answer any questions that the permittee or licensee may have. If the permittee or licensee is not a manager or is not in charge of operations at the location, the CPO will attempt to make contact with and explain the case or warning to the manager or person in charge of operations.
4. The CPO will make multiple copies of the *Administrative Notice*, keep a copy for himself or herself, give one copy to the permittee or licensee, and reserve two copies for his or her sergeant or supervisor.

### b. Voiding an Administrative Case or Warning.

1. A CPO will, in his or her discretion, void an administrative case or warning when necessary.
2. To void an administrative case or warning, the CPO will write "VOID" in large letters across each copy of the *Administrative Notice*.
3. If a CPO has already distributed copies of an administrative case or warning that he or she intends to void, the CPO will attempt to retrieve those copies.
4. If a CPO wishes to void an administrative case or warning that has already been entered into the agency computer system, the CPO will notify his or her sergeant or supervisor. The sergeant or supervisor will ensure that all copies of the administrative case or warning are voided in the agency computer system and that the permittee or licensee has been notified.

### c. Supervisory Review and Submission of an Administrative Case or Warning.

1. The CPO will enter an *Administrative Notice* into the agency computer system before the end of the CPO's next shift.

2. The CPO will submit two copies of the administrative case or warning to his or her sergeant or supervisor for review as soon as reasonably possible. Outpost CPOs, for example, may require extra time to submit copies to their local district office.
3. Sergeants or supervisors will review administrative cases or warnings for completeness and accuracy and to ensure that the case supports each element of the violation charged. The sergeant or supervisor will, in his or her discretion, approve the administrative case or warning, return it to the CPO for correction, or void it.
4. Administrative Warnings.

The sergeant or supervisor will submit one copy of an approved *Administrative Notice* to Enforcement Headquarters and ensure that one copy is placed in the permit or license folder in the district office.

5. Administrative Cases.

- A. After approving an administrative case, the sergeant or supervisor will enter the case in the *Administrative Case Log* and ensure that the CPO who issued the *Administrative Notice* completes a case report.
- B. The CPO will submit the completed case report to the sergeant or supervisor within seven days. The sergeant or supervisor will approve the report or return it to the CPO for correction.
- C. The sergeant or supervisor will submit one copy of an approved *Administrative Notice* and the approved case report to Enforcement Headquarters.
- D. The sergeant or supervisor will ensure that a copy of the *Administrative Notice* and the case report is placed in the “seven day folder” in the district office. The lieutenant or his or her designee is responsible for maintaining the “seven day folder” and moving files to their related permit or license folders in the district office after seven days have passed.
- E. The sergeant or supervisor will ensure that the permit or license holder against whom the administrative case is filed is notified of the pending administrative case. The sergeant or supervisor will attempt to arrange a meeting with the permit or license holder or his or her authorized representative.

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## FORMS

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*Administrative Notice, Form 4-46*  
*Administrative Case Log, Form 4-17*

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## SETTLEMENT OF ADMINISTRATIVE CASES

Enforcement Division  
Policy Number: LE 6.03.00

Effective Date: 2/1/08

### POLICY

The Texas Alcoholic Beverage Commission (TABC) will, whenever possible, negotiate settlements of administrative cases.

### RULES

#### Texas Alcoholic Beverage Commission Rules:

§ 37.60. Standard Penalty Chart.

§ 37.61. Suspensions.

### PROCEDURES

#### a. Negotiating a Settlement.

1. A supervisor or his or her designee will attempt to negotiate a settlement with a permit or license holder or an authorized representative.
2. Settlement procedures must be completed and submitted to Enforcement Headquarters within 45 days of the completion of the case report.
3. Determining the Offer for Settlement.
  - Prior to meeting with the permit or license holder or authorized representative, the supervisor or their designee will consult the penalty chart and determine, considering all circumstances, an appropriate penalty to offer for settlement.
  - If the supervisor or his or her designee chooses a penalty that is a deviation from the penalty chart, he or she will justify the deviation in writing and submit the justification up the chain of command to the chief of enforcement.
4. The supervisor or his or her designee will generate an *Agreement and Waiver of Hearing* using the agency computer system.
5. The supervisor or his or her designee will inform the permit or license holder or authorized representative that he or she has the option:
  - to waive the right to a hearing and settle the case; or
  - to request a hearing before an administrative law judge.

#### b. Settlement of Case Outside Original District.

1. When an administrative case is sent to another office for settlement, the supervisor of the receiving office is responsible for all negotiation, processing, documentation, and any other action necessary or required by these policies and procedures.

2. The original office will send to the receiving office the *Administrative Notice* form and the, *Agreement and Waiver of Hearing*. If the party has already requested a hearing, the office will also send the *Request for Hearing*.
  3. The lieutenant in the receiving office will notify the lieutenant in the original office of the final disposition of the case.
- c. **Rejection of Settlement Offer.** If a permit or license holder or an authorized representative rejects a final settlement offer, the supervisor will make the necessary notations in the agency computer system and begin procedures for requesting an administrative hearing. See *Administrative Hearing*, § 6.04.00 of this manual.
- d. **Acceptance of Settlement Offer.**
1. If the permit or license holder or authorized representative accepts the settlement offer, the supervisor or his or her designee will require the individual to sign the *Agreement and Waiver of Hearing*. The supervisor or his or her designee will also sign this form.
  2. The supervisor or his or her designee will make the necessary notations in the agency computer system and send the following documents to Enforcement Headquarters, or make them available via the agency computer system:
    - the original copy of the *Administrative Notice*;
    - the *Agreement and Waiver of Hearing*;
    - the case report;
    - the written justification for a penalty chart deviation, if any; and
    - any other supporting documents.
- e. **Withdrawal of Acceptance of Settlement Offer.**
1. A permit or license holder or authorized representative may request withdrawal of acceptance of a settlement offer within 30 days of the date on which the *Agreement and Waiver of Hearing* was signed.
  2. The permit or license holder or authorized representative should submit the request in writing.
  3. When the district office receives a withdrawal request, the lieutenant will prepare a *Request for Hearing*, and will make the necessary changes in the agency's computer system. Refer to *Administrative Hearing*, § 6.04.00 of this manual, for policies and procedures regarding initiating an administrative hearing.

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**FORMS**

*Administrative Notice, Form 4-46*  
*Agreement and Waiver of Hearing*  
*Request for Hearing*

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# ADMINISTRATIVE HEARING

Enforcement Division  
Policy Number: LE 6.04.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will ensure that permit and license holders have the opportunity to appear at an administrative hearing for the purpose of adjudicating an administrative case that the TABC has filed against them.

## PROCEDURES

- a. **Documenting a Request for Hearing.** If a permit or license holder or authorized representative rejects the offer for settlement and requests a hearing to resolve his or her administrative case, the lieutenant or his or her designee will:
  1. generate the *Agreement and Waiver of Hearing* form and a *Request for Hearing* form, if he or she has not already done so; and
  2. make sure that the settlement offered to the individual is consistent with the penalty recommendation on the *Request for Hearing*.
- b. **Reviewing the Case.**
  1. The lieutenant or his or her designee will submit the following documents up the chain of command to the captain, or make them available via the agency computer system:
    - the original copy of the *Administrative Notice*;
    - the *Agreement and Waiver of Hearing*;
    - the *Request for Hearing*;
    - the case report;
    - the written justification for a penalty chart deviation, if any; and
    - any other supporting documents.
  2. The captain will review administrative cases in which the permit or license holder or authorized representative requests a hearing. The captain will ensure that cases are complete and accurate and support a viable charge or charges. The captain, in his or her discretion, will approve the administrative case, return it to the CPO for correction, or void it.
  3. The captain will submit approved cases to the supervising assistant chief.
  4. The assistant chief will review administrative cases in which the permit or license holder or authorized representative requests a hearing. The assistant chief will ensure that cases are complete, accurate and support each element of the charged violation or violations. The assistant chief, in his or her discretion, will approve the

administrative case, return it to the CPO for correction, or void it.

5. The assistant chief will submit approved administrative cases to the Legal Services Division for prosecution.

**c. Settling a Case After Initiating a Request for Hearing.**

1. After requesting a hearing, a supervisor or his or her designee may still settle an administrative case.
2. If a case has been submitted to the Legal Services Division, the supervisor or his or her designee will contact the attorney assigned to the case prior to entering into a settlement agreement.

**d. Maintaining Documents in the District Office.**

1. The district office will maintain a pending administrative case file even after submitting the case to Enforcement Headquarters. This file will include a copy of a *Notice of Hearing*, should the Legal Services Division issue one.
2. When the Commission issues a final order, Enforcement Headquarters will send a copy of the order to the district office.
3. The district office will attach the final order to the *Notice of Hearing* and the *Agreement and Waiver of Hearing* and place it in the district permit or license folder.

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**FORMS**

*Agreement and Waiver of Hearing*  
*Request for Hearing*  
*Administrative Notice, Form 4-46*



# CRIMINAL ACTIONS

Enforcement Division  
Policy Number: 7.00.00

Effective Date: 2/1/08

## POLICY

A certified peace officer (CPO) will, in his or her discretion, issue a criminal warning or citation when doing so is necessary to ensure the protection of the welfare, health, peace, temperance, and safety of the people of Texas.

## PROCEDURES

### a. Local Criminal Justice System.

1. CPOs will be familiar with the local criminal justice system.
2. When filing criminal charges, CPOs will follow policies and procedures as required by this manual as well as the local criminal justice system.

### b. Issuing a Warning or Citation.

1. A CPO will issue a criminal warning or citation as necessary to ensure the protection of the welfare, health, peace, temperance, and safety of the people of Texas.
2. A CPO may issue a criminal warning or citation when:
  - the CPO observes a person committing a criminal offense and makes contact with that person;
  - the CPO observes a violation and an officer from a different law enforcement agency files the criminal complaint;
  - the CPO develops probable cause to believe that a person has committed a crime.
3. If a CPO decides to issue a criminal warning or citation, he or she will complete a *Criminal Citation* and indicate whether it is a warning or citation.
4. If the CPO issues a criminal warning for any violation or a criminal citation for a Class C misdemeanor, the CPO will keep a copy and give a copy to the subject.
5. If the CPO issues a criminal citation for a violation other than a Class C misdemeanor, the CPO will keep a copy and give copies to the following parties:
  - the subject;
  - the local court, depending on local rules; and
  - his or her sergeant or supervisor.

6. The CPO will enter the criminal citation or warning information into the agency computer system.
  7. The sergeant or supervisor will ensure that the data entry into the computer system is correct and will place a copy of the citation or warning in the seven day folder. The supervisor will ensure that documents are removed from the seven day folder after seven days and are appropriately filed.
- c. **Filing a Criminal Case.** CPOs will file criminal charges according to local rules and will cooperate with local courts and prosecutors.
  - d. **Tracking Criminal Cases.** The supervisor or his or her designee will monitor the status of criminal cases and update the agency computer system to reflect the disposition of the case.

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**FORMS**

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*Criminal Citation, Form 4-48*

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# MINORS

Enforcement Division

Policy Number: LE 8.00.00

Effective Date: 2/1/08

## POLICY

Certified peace officers (CPOs) will interact with minors in accordance with the Texas Family Code, local rules, and TABC policies and procedures.

For policies and procedures related specifically to minor and shoulder tap sting operations, see *Minor & Shoulder Tap Stings*, §1.02.03 of this manual.

## DEFINITIONS

A *minor* is any person under the age of 21. A minor may also be considered a *child*.

A *child* is a person who is:

- a. 10 years of age or older and under 17 years of age; or
- b. 17 years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

## PROCEDURES

### a. Special Requirements for Detention of a Child.

1. CPOs will not detain a child in violation of the Texas Family Code.
2. If a CPO arrests a child, the CPO will, in his or her discretion:
  - release the child;
  - release the child to a responsible adult;
  - transfer custody of the child to local law enforcement; or
  - take the child to a detention center as designated by the county and the Texas Family Code.

### b. Transportation of Minors.

1. CPOs will transport minors in accordance with the Texas Family Code, local rules, and TABC policies and procedures.
2. CPOs will transport minors (who are not children) in the same manner as an adult. See *Warrantless Arrest*, § 2.05.00.
3. CPOs will not transport any arrested children with any arrested persons 17 years of age or older.

### c. Filing Charges. CPOs will file charges against minors in accordance with the Texas

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Family Code, local rules, and TABC policies and procedures.

**d. Documentation and Other Evidence Related to Minors.**

1. Files for children must be clearly marked with the word "JUVENILE."
2. After arresting a minor, who is enrolled in a primary or secondary school, for any felony offense or any misdemeanor listed in Texas Code of Criminal Procedure Art. 15.27(h):
  - The CPO will orally notify the superintendent or designee in the school district in which the student is enrolled within 24 hours or on the next school day.
  - Within seven days after the date the oral notice is given, the CPO shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, or send notification by e-mail, to the superintendent or designee.
3. Photographs.
  - CPOs will not take photographs of a child accused of a violation.
  - CPOs may take photographs of a minor who is not a child when the age of the minor is a factor in related prosecution of that minor.
4. If a CPO charges a minor for a violation punishable by fine only and the violation is later transferred to juvenile court due to two or more prior convictions, the CPO will:
  - file the original citation and complete data entry as he or she normally would for any violation punishable by fine only;
  - after learning that the violation has been transferred to juvenile court, the CPO will enter the final disposition as "DIS" in the agency computer system; and
  - the CPO will enter "Transferred to Juvenile Court" in the remarks section in the agency computer system
5. If a CPO charges a child with a violation, the CPO will stamp the citation with "JUVENILE" in red ink. The CPO will enter the citation into the agency computer system and will ensure that the file indicates that the individual is a child.
6. CPOs will maintain copies of citations and other records related to violations in accordance with the Texas Family Code and these policies and procedures.

**e. Expunging Records.**

1. Texas Alcoholic Beverage Code (Code) § 106.12 allows expunging records of a violation of the Code or Commission Rules under certain conditions after a person reaches the age of 21.
  2. CPOs will submit all requests for expunging records to a local supervisor.
  3. The supervisor will forward all requests for expunging records to the assistant chief of enforcement immediately upon receipt.
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# FIELD TRAINING PROGRAM

Enforcement Division

Policy Number: LE 9.00.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) Field Training Program is designed to improve the agency's overall effectiveness and efficiency by continually enhancing the law enforcement skills and professionalism of its certified peace officers (CPOs). The Field Training Program assists agent trainees in becoming proficient in TABC enforcement duties.

The Field Training Program provides a structure that facilitates training and evaluation of new CPOs. The TABC will use the evaluation of agent trainees' performance level to determine whether to offer the individual permanent employment with the TABC. If an agent trainee fails to successfully complete the Field Training Program, the TABC may terminate the employment of the agent trainee.

The Field Training Program is conducted in accordance with the current *TABC Field Training Manual*, which is available from the Filed Training Coordinator.

The Enforcement Division uses the Field Training Program to achieve the following goals:

- To produce competent agents capable of working alone or in groups in a safe, skillful motivated, productive, and professional manner.
- To provide standardized, entry-level training to all newly assigned agent trainees in the practical application of learned information.
- To provide intensive instruction and remedial training to agent trainees in areas of identified deficiencies.
- To establish clear standards for evaluating agent trainees that give the agent trainee every reasonable opportunity to succeed.
- To identify weaknesses or areas of improvement in applicant hiring qualifications and academy training.
- To enhance the professionalism, job skills, and ethical standards of the law enforcement community.

## ROLES AND RESPONSIBILITIES

a. **Field Training Coordinator (FTC) shall:**

1. Oversee the Field Training Program.
2. Ensure the uniform compliance of all field training personnel with the program standards and guidelines.
3. Prepare a termination report for an agent trainee, if necessary.

**b. Field Training Supervisors (FTS) shall:**

1. Supervise field training officers (FTOs) and agent trainees as they participate in the Field Training Program.
2. Review the *Daily Observation Training Reports* for each agent trainee under their supervision.
3. Prepare *Supervisors Weekly Training Reports*.
4. Prepare phase summary reports using the *Daily Observation Training Report* form as agent trainees graduate from each phase.
5. Choose FTOs according to the requirements in this section.

**c. Field Training Officers (FTOs) shall:**

1. Provide professional training and supervise agent trainees as they demonstrate their ability to carry out various law enforcement duties.
2. Evaluate agent trainees in an honest and sincere manner emphasizing both strengths and deficiencies.
3. Monitor agent trainee performance on a daily basis and complete *Daily Observation Training Reports*.
4. Inform the field-training supervisor (FTS) of any unusual problems with or actions of an agent trainee that may require supervisor attention.
5. Assign work schedules to agent trainees.

**d. Agent Trainees shall:**

1. Participate actively in training opportunities provided by FTOs and FTSs.
2. Devote time necessary on or off duty to meet the requirements of the Field Training Program.
3. Complete all assignments.
4. Comply with the TABC's policies and procedures and other applicable rules, regulations, and laws.
5. Arrive in a timely manner to work shifts as scheduled by the FTO and be prepared to study and learn.
6. Provide the FTO and the FTS with feedback or suggestions regarding training needs or deficiencies or general program improvement.

**PROCEDURES**

- a. **Selecting Field Training Officers.** The local FTS will request volunteers for FTO positions. If no qualified certified peace officers (CPOs) volunteer, the FTS, with FTC approval will select a qualified CPO to act as an FTO. An FTO must meet the following

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**qualifications:**

1. holds the rank of Agent II or higher (exceptions may be made for agents who have prior police experience and demonstrate maturity and a high degree of knowledge in law enforcement procedures, tactics, and the Alcoholic Beverage Code and Commission Rules);
2. has received no sustained complaints in the previous 12 months;
3. does not have a work history of excessive absenteeism, performance complaints, or other unacceptable behavior;
4. demonstrates a high level of maturity, motivation, and the desire to train new agents; and
5. has completed, or is willing to complete the TABC Field Training Officer School.

**b. Field Training Program Phases.**

1. The Field Training Program commences after the TABC Basic Academy and consists of three phases. Each phase is designed to last six weeks. Each week consists of 40 hours.
2. An agent trainee must successfully complete one phase before advancing to the next.
3. To advance to the next phase, an agent trainee must achieve an average acceptable rating in all categories on the end of phase evaluation and must pass a written exam with a score of at least 70% correct. The average ratings for the last workweek will be used to determine if ratings are at an acceptable level.
4. If an agent trainee does not pass either the end of phase evaluation or the written exam, he or she will be given an opportunity to be reevaluated or retake and pass the exam.
5. If the agent trainee does not pass his or her second attempt, the FTO will provide the agent trainee with intensive training and allow the agent trainee a third attempt. The FTO will also notify his or her FTS that the agent trainee failed the second attempt. This notice will be transmitted up the chain of command to the captain.
6. If the agent trainee does not pass on his or her third attempt, the FTO, FTS, and the FTC will meet to determine whether to recommend the termination of the agent trainee's employment with the TABC.

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**FORMS**

*Daily Observation Report*  
*Supervisor's Weekly Report*  
*Agent Trainee Guide*

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**REFERENCE**

*TABC Field Training Manual*

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# TABC COMMISSIONS

Enforcement Division

Policy Number: LE 10.00.00

Effective Date: 2/1/08

## POLICY

The Texas Alcoholic Beverage Commission (TABC) will only carry the commissions of:

- certified peace officers (CPOs) currently employed with the TABC; and
- certified peace officers who have honorably retired from the TABC and meet the requirements for a special agent and/or special representative.

The Texas Attorney General has determined that peace officers may hold two law enforcement commissions. Thus, both currently employed and retired CPOs may hold a commission with another law enforcement agency while also holding a commission with the TABC.

## RULES

**Texas Alcoholic Beverage Code § 5.142. Special Inspectors or Representatives.**

## PROCEDURES

### a. Requirements for Commission as a Special Agent or Representative.

1. Must be a person who is honorably retired as a peace officer from the TABC.
2. Must not have a police record or reputation that would prevent the applicant from being employed as a full-time peace officer in Texas.
3. Must not have a relationship with an alcoholic beverage business as prohibited by § 5.05 of the Alcoholic Beverage Code or otherwise have a direct or indirect interest in the alcoholic beverage industry.
4. Must meet the requirements set by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

### b. Applying for Commission as a Special Agent or Representative.

1. Individuals Applying Less than 180 Days After Honorable Retirement. Applicants may be commissioned as a special agent or representative after the following documentation has been submitted and approved:
  - *Application for Special Agent Commission;*
  - *Enlistment and Oath of Office;*
  - *Special Agent Approval Process and Checklist;* and
  - *Identification Card Data Sheet.*

2. **Individuals Applying More than 180 Days After Honorable Retirement.** Applicants may be commissioned as a special agent or representative after the following documentation has been submitted and approved:

- *Application for Special Agent Commission;*
- *Enlistment and Oath of Office;*
- *Special Agent Approval Process and Checklist;*
- *Identification Card Data Sheet;*
- *Declaration of Medical Condition* (drug screen only);
- *Declaration of Psychological and Emotional Health;*
- two cleared fingerprint cards (FBI and DPS – 1 each); and
- a current criminal history record check (TCIC/NCIC).

**c. Firearms Proficiency of a Special Agent or Representative.**

1. Special agents or representatives will demonstrate firearms proficiency at least once each 12 months with the firearm that the special agent will carry.
2. Special agents or representatives will furnish the weapon and the ammunition.
3. Special agents or representatives will demonstrate firearms proficiency to a TABC firearms instructor or to a Federal firearms instructor.
4. Early each calendar year, the special agent or representative will contact his or her local TABC office to determine the dates and locations of firearm training for full-time agency personnel or to make other arrangements for demonstration of proficiency.
5. If a special agent or representative fails to demonstrate proficiency with a firearm during any 12-month period, the special agent or representative will not be authorized by his or her commission to carry a firearm until proficiency has been demonstrated.
6. A special agent or representative who, due to age, health or other valid reason, elects not to carry a firearm as part of his commission will certify under oath that no firearm will be carried under the authority of the special commission. A special agent or representative who takes this oath need not demonstrate firearms proficiency.

**d. Issuance of a Special Agent or Representative's Commission.**

1. Upon receiving a complete application packet, the Enforcement Division will review the forms and complete the criminal background check.
2. The chief of enforcement, or his or her designee, will review the application packet and will make a recommendation for approval or rejection in writing to the administrator.
3. The administrator will decide whether to approve an application.

- If the administrator approves an application, the TABC will issue a Certificate of Commission, a commission identification card, and a badge to the individual.
  - If the administrator rejects an application, the Enforcement Division will notify the individual via written correspondence of the reason for rejection.
4. Once the TABC authorizes an individual to be a special agent or representative, the Enforcement Headquarters will:
    - notify the local district office of the special commission;
    - submit all applicable information to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE); and
    - create a file for the special agent or representative that includes the application, any firearms proficiency documentation, and other pertinent information.
  5. A special commission expires on January 1<sup>st</sup> of the first odd-numbered year after appointment. The TABC will forward an application form to each current special agent or representative at least 60 days prior to the expiration date of the renewal.
  6. Special agents and representatives are not entitled to compensation from the state for service as a special agent or representative.
- e. Duties of a Special Agent or Representative.**
1. Special agents or representatives are subject to the order of the TABC and of the governor when called for service to the same extent as other law enforcement officers.
  2. Except when called to service by the TABC or the governor, special agents or representatives will not enforce any law in an official capacity except those designed to protect life and property.
  3. Special agents or representatives will not enforce a law regulating the use of a state highway by a motor vehicle.
  4. If a special agent or representative is involved in a situation that may directly or indirectly involve or reflect upon the TABC, he or she will immediately notify the nearest TABC district office supervisor and describe the situation.
  5. Special agents or representatives do not have authorization to and will not obtain information from criminal history or driver's license files or any other information that utilizes the Texas Law Enforcement Telecommunications System (TLETS) based solely on holding these commissions.
  6. Special agents or representatives must comply with the Private Security Act (PSA) when participating in private security, guard, investigative, or other similar work governed by the PSA. Questions concerning PSA regulations should be directed to the Texas Department of Public Safety Private Security Bureau at (512) 424-7710.
  7. Special agents or representatives will notify the Enforcement Division of any change in address or telephone number.

**f. Revocation of a Special Agent or Representative's Commission.**

1. The TABC or the administrator may revoke a special agent or representative's commission at any time for cause.
2. All applicable information relating to the revocation will be submitted to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

**FORMS**

*Application for Special Agent Commission*

*Enlistment and Oath of Office*

*Special Agent Approval Process and Checklist*

*Identification Card Data Sheet*

*Declaration of Medical Condition, TCLEOSE L-2*

*Declaration of Psychological and Emotional Health, TCLEOSE L-3*

**Appendix A:  
TABC Enforcement Policy and Procedures Manual  
Definitions of Terms**

<b>Action Plan</b>	An action plan is the general enforcement operations plan created annually by a captain and submitted to enforcement headquarters in August. An action plan lists quantitative goals for the various enforcement operations including unique inspections, minor stings, and other operations and estimates the employee hours required to achieve those goals.
<b>Agent</b>	A certified peace officer commissioned by the TABC who works under the direct leadership of a sergeant.
<b>Arrest</b>	A person is arrested when he has been actually placed under restraint or taken into custody by an officer or person executing a warrant of arrest, or by an officer or person arresting without a warrant. Texas Code of Criminal Procedure § 15.22 (2006).
<b>Assistant Chief of Enforcement</b>	A certified peace officer commissioned by the TABC who serves at enforcement headquarters and acts under the supervision of the chief of enforcement. The assistant chief of enforcement supervises the activities of the two deputy assistant chiefs of enforcement.
<b>Automated Complaint Record</b>	A record created in the automated complaint tracking system to track complaints and all the activities related to them.
<b>Captain</b>	A certified peace officer commissioned by the TABC who supervises lieutenants, sergeants, agents, and other enforcement division employees located in his or her assigned region. Captains act under the supervision of the deputy assistant chief of enforcement.
<b>Certified Peace Officer (CPO)</b>	In this manual, this term refers to a certified peace officer commissioned by the TABC.
<b>Chief of Enforcement</b>	A certified peace officer commissioned by the TABC who serves at enforcement headquarters as the director of the enforcement division and a member of executive management.
<b>Clearance Sheet</b>	A form used by accounts examiners to ensure that an application packet is complete and to list any errors or problems with the application.
<b>Complaint</b>	A statement made to the TABC by any person alleging that a violation of state law has occurred. A complaint may be submitted by an external source, such as a citizen or another law enforcement agency, or from a TABC employee. The TABC will consider both types of submissions to be "complaints."
<b>Complainant</b>	A person who alerts the TABC to alleged violations of the Alcoholic Beverage Code and applicable state laws. A



	complainant can be any person, including citizens, members of other law enforcement agencies, legislators, members of city and county government, and employees of the TABC.
<b>Complaint Card / Complaint Information</b>	A form used to record complaint information and as a tool for data entry. Sergeants and supervisors may provide agents with copies of complaint cards to assist them in their investigation and to use for recording data in the field. See Complaint Information, Form 4-64.
<b>Complaint Investigation</b>	A source investigation, licensing standards investigation, marketing practices investigation, or other investigation. This is the general term for an investigation conducted by the TABC since the agency conducts all investigations in response to complaints.
<b>Complaint Log</b>	A log maintained by each office listing current complaints. This log is intended to be a quick reference for CPOs. For an example complaint log, refer to Complaint Log, Form 4-32.1.
<b>Confidential Informant</b>	A person chosen by the TABC as an information resource because of the person's criminal record, reputation for involvement or association with individuals in the criminal underworld, or any other position that allows the person to be aware of and report on criminal activity.
<b>Cops in Shops</b>	This activity type refers to an undercover operation conducted in cooperation with a retailer of alcoholic beverages on the licensed premises. During the operation, an undercover CPO poses as a customer or employee of the permittee or licensee and observes the location for violations of the Alcoholic Beverage Code and related state laws. This operation especially seeks to enforce laws that prohibit minors from possessing, purchasing, or attempting to purchase alcoholic beverages. This term also includes activities that were formerly called "Cooperative On-Premise Stings" or "C.O.P.S."
<b>Custodial Interrogation</b>	Questioning initiated by law enforcement officers after a person is taken into custody or otherwise deprived of his or her freedom in any significant way, thus requiring that the person be advised of his or her constitutional rights.
<b>Custodian</b>	The adult with whom a child resides.
<b>Detention Facility</b>	A city jail, county jail, or other facility used to detain people who have been accused of a crime.
<b>District</b>	A division of a region created to facilitate the administration of agency activities.
<b>Enforcement Headquarters</b>	The chief of enforcement, assistant chief of enforcement, and deputy assistant chiefs of enforcement.
<b>Exterior Surveillance</b>	This activity type includes the outside observation of a

	specific physical location by one or more peace officers over a prolonged period of time for the purpose of observing violation of the Alcoholic Beverage Code or other related state laws. Exterior surveillances can target either licensed or unlicensed locations.
<b>Field Licensing Standards Investigator (FLSI)</b>	A lieutenant, sergeant, or agent who works at a district or outpost office and conducts licensing standards investigations in addition to his or her normal duties.
<b>Field Training Officer (FTO)</b>	A certified peace officer chosen by a captain to train agent trainees. An FTO must have completed necessary training and have at least three years of experience as a peace officer commissioned by the TABC.
<b>Field Training Supervisor (FTS)</b>	A certified peace officer who supervises field training officers and agent trainees as they participate in the Field Training Program.
<b>Firearms Coordinator</b>	A regional captain.
<b>Firearms Instructor</b>	A CPO chosen by the regional captain who administers the firearms proficiency course.
<b>Firearms Proficiency</b>	Completion of the proficiency course designed by the firearms coordinator with 70% accuracy.
<b>Full Open Inspection</b>	A full open inspection may be a unique inspection or may be used as part of an operation or investigation. Open inspections follow the six-step procedure described in this manual.
<b>Guardian</b>	The person who, under court order, is the guardian of the person of a child or the public or private agency with whom a child has been placed by a court.
<b>Headquarters Licensing Standards Investigator (HQLSI)</b>	An investigator stationed at enforcement headquarters who primarily conducts licensing standards investigations and participates in other investigations as necessary. HQLSI's act under the supervision of a deputy chief of enforcement.
<b>Identification Team</b>	The CPO or CPOs that act in an "open" capacity during an undercover operation. The identification team makes contact with the permittee or licensee after a violation occurs to take the necessary action.
<b>Illicit Beverage</b>	An alcoholic beverage that fails to conform to any provision of the Alcoholic Beverage Code or is involved in any exchange that violates the Alcoholic Beverage Code.
<b>Investigation</b>	The TABC generally classifies investigations into four categories: source investigations, licensing standards investigations, marketing practices investigations, and other investigations. Because all investigations begin in response to a complaint, the four categories of investigations may all be referred to as "complaint investigations."
<b>Lead Agent</b>	The CPO who is designated by a sergeant or supervisor

	to plan, coordinate and supervise an enforcement operation.
<b>Licensed Premises</b>	The grounds and all buildings, vehicles, and appurtenances pertaining to the grounds of a location for which an alcoholic beverage permit or license has been issued. This includes any adjacent premises if they are directly or indirectly under the control of the same person. Texas Alcoholic Beverage Code § 11.49 (2006).
<b>Licensing Standards Investigation</b>	An investigation of whether an applicant for an original or renewal permit or license, or a current license or permit holder, meets the requirements of that permit or license as stated in the Alcoholic Beverage Code and Commission Rules. Refer to Licensing Standards Investigations, § 1.01.03 of this manual, for related policies and procedures.
<b>Lieutenant</b>	A certified peace officer commissioned by the TABC who supervises sergeants, agents, and other enforcement division personnel, acting under the supervision of the Captain.
<b>Liquor Law Education</b>	Instruction in the Alcoholic Beverage Code and Commission Rules provided by the TABC to other law enforcement agencies upon request.
<b>Manager's Awareness Program (MAP)</b>	A two-hour educational program designed for owners and managers of establishments licensed to sell alcoholic beverages. MAP provides information and skills that help managers ensure that employees provide responsible alcohol service. Topics covered in the program include responsible management practices, defenses to administrative action (safe harbor, driver's license scanners), civil liability for a licensed establishment, minors, private clubs, intervention techniques, signs of intoxication, refusing sale, and checking employee certification for seller/server training. TABC personnel teach two versions of MAP—one for on-premises establishments and one for off-premises establishments.
<b>Marketing Practices Investigations</b>	An investigation of marketing or advertising violations, improper relationships between members of different tiers, and other marketing practices violations.
<b>Master Priority List</b>	A list of all locations currently classified as priority locations.
<b>Miscellaneous Equipment</b>	Cameras, portable breath tests, voice recorders, radios, and other equipment to be used during enforcement operations.
<b>Minor</b>	A person under 21 years of age.
<b>Minor Pool</b>	A list of minors that participate in minor sting operations on a regular basis. The list should show minor's basic information and the dates on which he or she is willing to participate.

<b>Minor Sting</b>	An undercover operation in which CPOs instruct a minor to purchase, or attempt to purchase an alcoholic beverage from a permittee or licensee.
<b>Notification Meeting</b>	A meeting arranged by a lieutenant or his or her designee with a representative of a priority one or priority two location for the purpose of notifying the representative that the location has appeared on the priority list.
<b>Oleoresin Capsicum (OC) Spray</b>	An inflammatory agent that irritates the eyes to cause immediate closing of the eyes, tears, coughing, pain, and even temporary blindness.
<b>Open Violation Check</b>	A six-step inspection conducted in an open (not undercover) capacity at locations identified due to major regulatory or public safety concerns. Unlike the full open inspection, CPOs focus on public safety and/or major regulatory issues during an open violation check rather than the broad spectrum of administrative and criminal violations.
<b>Operation Fake Out</b>	An undercover operation conducted in cooperation with a permittee or licensee that sells alcoholic beverages for on or off-premises consumption. The agency uses this operation to enforce laws that prohibit minors from possessing a false or altered driver's license or personal identification certificate.
<b>Operational Plan</b>	An operational plan is a plan created to outline the details of a special event executed by enforcement division personnel.
<b>Policies</b>	Policies identify the desired result, outcome, or purpose of an activity or situation. They tell <i>what</i> should be accomplished whenever the specified activity or situation is encountered. If the reason for a particular result is not obvious, the policy should inform the affected persons what is desired and also <i>why</i> that result is preferred.
<b>Priority List</b>	A list of all the licensed premises on which a public safety violation has occurred during the previous 12 months. The TABC divides these locations into three groups – priority one, priority two, and priority three. The priority one section lists locations that are the highest priority for the agency. Priority two locations represent a slightly less priority than priority one locations. Priority three locations are of a lesser priority than priority one and two locations, but are a greater priority than locations not listed on the priority list. The priority list takes two forms—the master priority list and the priority locations needing inspection report.
<b>Priority One Violations</b>	Administrative violations that affect public safety. The commission of one of these violations will cause a location to be listed as priority one on the priority list. Priority one locations are generally visited once every two weeks.

<b>Priority Two Violations</b>	Class A or B misdemeanors committed by the permittee or licensee and felonies committed by any person that affect public safety and are committed on a licensed premises. The commission of one of these violations will cause a location to be listed as priority two on the priority list. Priority two violations are generally visited once each month.
<b>Priority Three Violations</b>	Misdemeanors that affect public safety and are committed on a licensed premises usually by someone other than the permittee or licensee. The commission of one of these violations will cause a location to be listed as priority three on the priority list. Priority three locations are generally visited once each quarter.
<b>Priority Location</b>	A location permitted or licensed to sell alcoholic beverages that is on the priority list because of a history of public safety violations within the last 12 months.
<b>Probable Cause</b>	A reasonable belief that a person has committed a crime. To determine whether probable cause existed, courts ask whether the facts and circumstances within the officer's knowledge are sufficient to make a reasonable person believe that a suspect has committed, is committing, or is about to commit a crime.
<b>Procedures</b>	<p>Procedures tell how a policy should be accomplished. Procedures accompany a policy and tell how the desired result should be accomplished under normal circumstances.</p> <p>In some circumstances, the prescribed procedures will not effectively and efficiently accomplish the desired result. In these instances, the good judgment of personnel is essential. Personnel have the discretion to use alternative means to accomplish the specified policy result when required. Personnel should also have a reasonable explanation for resorting to procedures other than those specified. Such actions should be in harmony with the goals of the department and should not conflict with the accomplishment of other policies.</p>
<b>Project SAVE (Stop Alcohol Violations Early)</b>	An educational program designed to instruct employees of alcoholic beverage permit and license holders on alcoholic beverage laws and strategies to ensure legal service of alcoholic beverages. The TABC offers different versions of Project SAVE that target the specific concerns of school groups, different types of permit and license holders, and other concerned citizens.
<b>Project SAVE (Stop Alcohol Violations Early), Retailer Version</b>	An education program developed and provided by the TABC. The purpose of the program is to prevent illegal alcohol sales and use through public education and awareness. TABC provides training on the risks involved in the sale and service of alcoholic beverages to employees, agents, and servants of the permittee or licensee.
<b>Public Safety Violations</b>	Any violation that presents a risk to the public safety of

	the people of Texas. The TABC recognizes violations involving minors, intoxication, drugs, breaches of the peace, and sales or consumption during prohibited hours as risks to public safety. If a CPO issues more than one violation on one occasion, this will only count as one violation for the purpose of the priority list. Such locations will be prioritized according to the highest priority citation issued on that occasion.
<b>Region</b>	Geographic areas into which the TABC has divided the state to facilitate the administration of agency activities.
<b>Risk-Based Inspections</b>	Inspections conducted by the TABC at locations on which one or more public safety administrative or criminal violations have occurred within the previous 12 months. The TABC inspects such locations to ensure that these locations have begun to comply with the law. Refer to Risk-Based Inspections, § 1.02.01 of this manual.
<b>Search</b>	Any intrusion into an area in which a person has a reasonable expectation of privacy. Courts will generally consider a person to have a reasonable expectation of privacy when the person acts as though he or she believes that the area is private and reasonable people would agree that the area is private.
<b>Search Warrant</b>	A written order, issued by a magistrate and directed to a peace officer, commanding him to search for any property or thing and to seize the same and bring it before such magistrate. Code of Criminal Procedure Art. 18.01 (2006).
<b>Seizure</b>	The act or instance of taking possession of a person or property by legal right or process.
<b>Sergeant</b>	A certified peace officer commissioned by the TABC who leads agent work groups. Sergeants act under the direct supervision of a lieutenant.
<b>Seven Day Folder</b>	A folder kept in the district office containing paper copies of all notices and citations completed during the previous seven days. The seven-day folder serves as a back up in case of computer failure. The supervising lieutenant is responsible for overseeing the seven day folder and ensuring that documents remain in the folder for only seven days.
<b>Shattered Dreams</b>	A two-day educational event that dramatizes community and peer responses to alcohol-related tragedies.
<b>Source Investigation</b>	An investigation conducted for the purpose of identifying the source of alcoholic beverages consumed by an individual, or individuals, involved in an incident that results in serious bodily injury, death, or a felonious assault; and determining whether the source of the alcohol violated the Alcoholic Beverage Code. See Alcoholic Beverage Code § 2.02. Refer to § 1.02.02, Source Investigations, for related policies and procedures.

<b>Supervisor</b>	A lieutenant, captain, deputy assistant chief of enforcement, the assistant chief or enforcement, or the chief of enforcement.
<b>Task Force Supervisor</b>	The supervisor chosen from the TABC or other agency participating in a task force.
<b>Unique Inspection</b>	An inspection completed at a location that has not yet been inspected during the current fiscal year. An inspection that is conducted as part of a larger operation or investigation, such as a risk-based operation or a licensing standards investigation, will also be considered a unique inspection if the location has not yet been inspected during the current fiscal year.
<b>Violation</b>	A breach of administrative or criminal law.
<b>Work Plan</b>	A work plan schedules enforcement assignments to be completed by agents or other CPOs. Sergeants typically create work plans every two weeks. Work plans vary with regard to the amount of detail they contain. Most work plans assign CPOs to enforcement operations, such as minor stings and risk-based inspections; and some will define specific roles.

**Appendix B:  
TABC Enforcement Division Forms**

FORM TITLE	POLICY NUMBER
Accident Investigations, Form 4-102	5.01.01
Administrative Case Log, Form 4-17	6.02.00
Administrative Notice, Form 4-46 (exhibit-controlled form)	6.02.00/6.03.00/6.04.00
Agent Trainee Guide	9.00.00
Agent's Weekly Work Plan	1.00.00
Agreement and Waiver of Hearing (ARTS), Form 5-15	6.03.00/6.04.00
Agreement and Waiver of Hearing (ARTS), Form 5-15A (Harris, Dallas, Tarrant Counties ONLY)	6.03.00/6.04.00
All Enforcement Activity Class and Type Combinations (exhibit)	1.02.00
Ammunition Distribution Form	4.03.05
Arrest Report, Form 4-44.2	2.06.00
Authority to Release Information, Form HR 41.1	5.01.01
Cash Advance Log, Form 4-34	1.02.03/3.00.00
Complaint Information, Form 4-64	1.01.00/1.01.01
Complaint Log	1.01.00
Confidential Informant Agreement of Understanding	3.01.00
Confidential Informant Checklist	3.01.00
Confidential Informant Establishment Report	3.01.00
Confidential Informant Payment Guidelines	3.01.00
Confidential Informant Payment Record	3.01.00
Confidential Informant Status Report	3.01.00
Consent to Search (Non-License / Permit Holder)	2.01.00
Controlled Form Log, Form 4-39	5.04.00
Cooperative Operation Statement of Understanding	1.02.04
Criminal Citation, Form 4-48 (exhibit-controlled form)	7.00.00
Daily Activity Report, Form 4-8A (ARTS) Hours Worked, Activities Other than Inspections and Vehicle Use	1.00.00/1.02.01/1.03.00/1.04.00/1.05.00/5.01.00
Daily Activity Report, Form 4-8B (ARTS) Field Inspection Activity	1.00.00/1.02.01/1.03.00/1.04.00/1.05.00/5.01.00
Daily Observation Training Reports (ATERMS)	9.00.00
Declaration of Medical Condition, TCLEOSE L-2	10.00.00
Declaration of Psychological and Emotional Health, TCLEOSE L-3	10.00.00
Education Program Sign-In Sheet	1.02.01/1.03.00
Equipment Assignment Report	5.00.00
Firearm Training	4.03.01
Identification Card Data Sheet	10.00.00
Minor Information Sheet	1.02.03
Minor's Statement	1.02.03
Not Inspected List (Crystal View)	1.02.00
Oath of Office	10.00.00
Offense Report, Form 4.44-1	2.06.00
Parent Authorization	1.02.03
Personally Owned Weapon Report	4.03.02/4.03.03/4.03.04
Priority Locations Needing Inspection (Crystal View)	1.02.01



Purchased as Evidence, Form 4.3 (controlled form)	1.02.03/3.00.00
Purchase of Evidence Expenditure Report, Form 4-6	1.02.03/3.00.00
Radio Activity Log	5.01.02
Receipt of Cash Advance, Form 4-33	3.00.00
Release of Liability and All Claims, Form HR-47	5.01.01
Renewal Application for Special Agent Commission	10.00.00
Request for Hearing (ARTS), Form 4-57	6.03.00/6.04.00
Seized Property Report, Form 4-49 (controlled form)	2.03.00
Source Investigation Checklist, Form 4-110	1.01.01
Special Agent Approval Process and Checklist	10.00.00
Special Event Operational Plan	1.04.00
Summary of Use of Covert Operation Funds, Form 4-140	3.00.00
Summary Suspension Order (ARTS), Form 4-21.03	6.05.00
Supervisors Weekly Training Reports (ATERMS)	9.00.00
TCLEOSE Instructor's Lesson Plan	4.03.01
Use of Force Report, Form 4-410	4.00.00/4.01.00/4.02.00/4.03.00/4.03.04
Vehicle Impound and Inventory Record, Form 4-95 (controlled form)	2.06.00/2.07.00
Vehicle Inspection Report	5.01.00/5.01.01
Vehicle Stop Report (Lotus Notes)	5.01.01
Weekly Captain's Report	1.00.00