



SHERIFF
Harris County Texas
Department Policy



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| SUBJECT: USE OF FORCE | POLICY #: 501 |
| CALEA STANDARDS REFERENCE(S): 1.2.2, 1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.11, 1.3.12, 1.3.13 | NO. OF PAGES: 21 |

I. Policy:

The Harris County Sheriff's Office is committed to protecting and preserving life and property while serving all of the public interests involved in our diverse community. Preserving the life, safety, property and dignity of every individual in Harris County Texas is our goal. Even so, there are times when our deputies are required to resort to the use of force to enforce the law, protect the citizens we serve, and to protect themselves. This policy should serve as a guide to all members of the Harris County Sheriff's Office when circumstances reasonably dictate the use of force. No policy can cover every specific scenario a deputy might face; therefore this policy shall serve as a guide. Each and every situation will be ultimately judged by the specific facts and circumstances of the incident as viewed objectively and reasonably. In all situations the actions of all employees of the Harris County Sheriff's Office shall fully comply with all applicable state and federal constitutions and laws.

This policy is written in terms to apply to sworn Texas peace officers, but the policy applies equally to all employees of the Harris County Sheriff's Office.

In every situation the use of force will be avoided if reasonably possible. If circumstances dictate it reasonable to wait for back up to arrive before the deputy resorts to any escalation in force, the deputy should wait for back up. It is always safer to approach a dangerous situation when two or more deputies are present. Many situations will de-escalate when the offender realizes that he/she is out manned

Realizing that there are times when a deputy/detention officer must make split second decisions on escalating the use of force in response to an offender's actions a deputy/detention officer should always escalate the force employed to only that which is necessary to respond to the actions of the offender. **[CALEA Standard 1.3.1]**

For planned tactical operations, such as the execution of a search warrant or warrant's of arrest, Sheriff's Office personnel shall develop a tactical plan predicated on preventing the use of force whenever possible. Supervisors shall pre-approve all planned tactical operations.



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This policy supports the progressive and reasonable escalation and de-escalation of officer-applied force in proportional response to the actions and level of resistance offered by the suspect. The level of response is based upon the situation encountered at the scene and the actions of the suspect in response to the officer's commands. Suspects may move rapidly from a low level of resistance to a higher level of resistance or may immediately threaten at a high level of resistance, including the use of deadly force. The officer's use of force is in response to the resistance from the suspect to lawful police control.

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. The Harris County Sheriff's Office is committed to upholding lawful, professional and ethical standards through assertive leadership and supervision before, during and after all force incidents. This includes proper training, prevention efforts, effective tactics utilized during an incident, objective review, and analysis of *all* use of force incidents.

II. Definitions:

- A. **Actor:** means a person whose criminal responsibility is in issue in a criminal action. The term "suspect" and the term "actor" are used interchangeably.
- B. **Bodily Injury:** Physical pain, illness or impairment of physical condition. Tex. Penal Code Sec. 1.07 (8).
- C. **Deadly Force:** Force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury. Tex. Penal Code Se. 9.01 (3).
- D. **Force:** Any physical contact with a subject by an officer using the body or an object, device, or weapon, not including unrestricted escorting or handcuffing a suspect.
- E. **Non-Deadly Force:** Any application of force less than deadly force.



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F. **Serious Bodily Injury:** Means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

III. Objectively Reasonable:

The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See Graham v. Connor, 490 U.S. 386 (1989). Graham states in part, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. 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 test of reasonableness is not capable of precise definition or mechanical application. The force must be reasonable under the circumstances known to the officer at the time the force was used. Therefore, the Harris County Sheriff's Office examines all uses of force from an objective standard rather than a subjective standard.

IV. Factors Used To Determine Reasonableness:

The Harris County Sheriff's Office examines reasonableness using the Graham standard looking at the specific facts of the use of force incident as viewed from the perspective of a Harris County Sheriff's Deputy/Detention Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of the facts and circumstances of each particular case. Those factors may include but are not limited to:

- A. The seriousness of the crime or suspected offense;
- B. The level of threat or resistance presented by the suspect;
- C. The potential for injury to citizens, officers or suspects;



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- D. The risk or any attempt by the suspect to escape;
- E. The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- F. The time available to the officer to make a decision, and his reasonable access to other options;
- G. The availability of other resources;
- H. The training and experience of the officer;
- I. The proximity or access of weapons to the subject;
- J. The relative factors of age, size, strength, skill level, injury exhaustion and the number of officers versus the suspects; and
- K. The environmental factors and/or other exigent circumstances.

V. Use of Force:

A. Unreasonable Force:

Unreasonable force is that force that is unnecessary or excessive given the totality of the circumstances presented to the deputy/detention officer at the time the force is applied. Unreasonable force is prohibited. The use of unreasonable force will subject the deputy/detention officer applying such force to discipline and/or prosecution.

B. Directed Force:

Force used in the execution of one's duties under the immediate direction of a supervisor. It should be noted herein that when force is directed by another the same policy applies both to the one directing the force and the person who applies the force. It is no defense to the unlawful/unreasonable application of force that another person directed the action.



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C. Medical Assistance Force:

When a HCSO employee restrains an individual under the immediate direction and supervision of medical staff, any force used in such instances shall classify as medical assistance force. The training and experience of the medical staff will be considered when determining reasonableness.

D. Force Used to Affect an Arrest or Search:

1. A peace officer is justified in using force when and to the degree he reasonably believes the force is immediately necessary to make or assist in the making of an arrest or search, or to prevent or assist in the preventing an escape after arrest, if :
 - a. The peace officer reasonably believes the arrest or search is lawful, or if made pursuant to a warrant he reasonably believes the warrant is valid; and
 - b. Before using the force he announces his purpose to arrest or search and identifies himself as a peace officer, unless he reasonably believes that his purpose and identity are already known or cannot reasonably be made known to the person to be arrested or searched. Texas Penal Code. Sec. 9.51(a)(2).

2. A peace officer is justified in using deadly force against another when and to the degree he reasonably believes the deadly force is immediately necessary to make an arrest, or to prevent escape after arrest, if the force was justified as set forth above and [CALEA Standard 1.2.2]
 - a. The peace officer reasonably believes the conduct for which the arrest is authorized included the use or attempted use of unlawful deadly force; or
 - b. The peace officer reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to the peace



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officer or another if the arrest is delayed. There is no duty to retreat before using deadly force under this situation.

3. **Misdemeanants:** A deputy may not use deadly force to affect the arrest or to prevent the escape of a person whom the deputy reasonably believes has committed a misdemeanor offense. If conduct that begins as misdemeanor conduct escalates to the degree that the life of the deputy or another is placed in imminent danger then the deputy will follow the guidelines set forth in this policy pertaining to the use of deadly force.

E. Notice of Authority and Identity:

If it is not already reasonably known by the suspect to be searched or arrested, or it is not reasonably impracticable to do so, officers should make clear their intent to arrest or search and identify themselves as a peace officer before using force. Tex. Penal Code Sec. 9.51 (a)(2).

F. Self Defense Force:

1. A peace officer is justified in using **force** against another when and to the degree the peace officer reasonably believes the force is immediately necessary to protect the peace officer or another from the other's use of unlawful force. The force that is justified is only the force necessary to protect the officer or another. **[CALEA Standard 1.3.1]**
2. A peace officer is justified in using **deadly force** against another if the peace officer was justified in using force as set forth above, and he can use deadly force when and to the degree he reasonably believes the deadly force is immediately necessary to protect himself or another from the other's use of unlawful deadly force; or to prevent the other's imminent commission of aggravated kidnapping; murder, sexual assault, aggravated sexual assault; robbery or aggravated robbery. **[CALEA Standard 1.2.2; 1.3.2]**



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G. Automobiles:

1. A deputy shall not utilize deadly force against the occupants of a moving motor vehicle, unless:
 - a. Deadly force, or the threat of deadly force, emanates from a weapon other than the vehicle, and the deputy believes that his/her response will not unreasonably place other lives in jeopardy.
 - b. Deadly force, or the threat of deadly force, is used by the suspect in the moving vehicle towards a third party and/or the deputy, and the deputy believes that his/her response will protect the life of the deputy or third party and not unreasonably place other lives in jeopardy.
2. The safety of the deputy is paramount and must be safeguarded at all times. When confronted by one or more suspects in a motor vehicle, the deputy should:
 - a. Approach the vehicle from the side whenever possible.
 - b. Never intentionally place himself/herself in the path of the motor vehicle, front or rear, unless no other approach is reasonable; and/or
 - c. Move out of the path of an oncoming vehicle, if possible, rather than discharge a firearm at the vehicle or the occupants of a moving vehicle.



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H. Duty to Render Aid: [CALEA Standard 1.3.5]

1. HCSO employees shall ensure that any person who is the subject of a use of force incident receives appropriate and timely first aid and/or professional medical attention.

Document and describe the injuries, or possible injuries and the treatment administered shall be included in the appropriate Sheriff's Office reports.

Whenever a suspect has been the subject of a HCSO employee's use of force and has obvious injuries as a result of the HCSO employee's use of force, or complains of injuries as a result of an HCSO employee's use of force, the HCSO employee shall:

2. Have the suspects evaluated and/or treated by Emergency Medical Service (EMS) personnel, and follow their directions. If the suspect refuses evaluation or treatment from EMS, the Deputy shall ensure that the suspect acknowledges such refusal, by signature, on the EMS record. If the suspect refuses to acknowledge, by signature, his/her refusal of treatment, such refusal shall be documented in the offense report and the EMS workers identified by name, unit number, and EMS provider, e.g. Cypress Creek EMS, Northwest Rural EMS, Houston Fire Department EMS, etc.
3. Provide transport to an appropriate medical facility (if not transported by EMS). An appropriate medical facility may be the nearest county hospital, e.g. Ben Taub, Lyndon B. Johnson Hospital, the closest medical facility depending on the condition of the suspect, or to be examined by the medical staff at the Inmate Processing Center. Injured suspects will not be transported to any outlying jail facility.



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Whenever an arrested suspect has been the subject of a use of force where EMS does not transport, upon arrival at the IPC the deputy shall:

- a. Advise the receiving IPC personnel the suspect was involved in a use of force incident and of the nature and extent of the complaint of injury or possible injury so the suspect can be examined by IPC medical staff.
- b. Document the incident in an offense report and ensure that an on-duty supervisor in your chain of command has been informed.
- c. Whenever a use of force incident occurs in a HCSO detention facility, the suspect shall be taken to the jail clinic for examination and treatment if needed.

I. Incidents Involving the Use of Force: [CALEA Standard 1.3.6]

- 1. The Sheriff's Office of Inspector General will review all incidents wherein Sheriff's Office personnel have applied force as defined herein to ensure that each event is properly documented and independently reviewed/investigated, if needed, for the following reasons:
 - a. To ensure proper and accurate documentation of the incident in the event of legal action being brought against the Sheriff's Office or the deputy/detention officer.
 - b. To evaluate the training needs of the Sheriff's Office.
- 2. All incidents involving an employee's use of force in the following categories shall be documented in Sheriff's Office Reports and a Use of Force Report Form as set forth herein by the involved employee. Such use of force incidents will be reported to the employee's immediate supervisor in addition to all reporting required herein. These incidents include:



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- a. Striking – when a suspect is struck with an open or closed hand or any other object.
- b. When a suspect is forcibly taken down and has incurred a possible injury.
- c. Baton or other impact/restraint device – when the suspect is forcibly restrained struck or jabbed.
- d. Conducted Electrical Weapons (CEW) – deployment of TASER X26 / X2 System or the “Band It” system.
- e. Chemical Weapon – OC Spray.
- f. Canine – when suspect is injured or alleges injury by a HCSO Unit Canine.
- g. A firearm is discharged.
- h. A suspect is struck with a motor vehicle.
- i. Any object or instrument is used to forcibly stop an individual or a motor vehicle.
- j. Any application of physical force against another which has an imminent potential for injury or death to another person.
- k. Any application of physical force against another that results in, or is alleged to have resulted in, the death or injury to another person.

VI. Duties and Responsibilities:

A. Reporting the Use of Force:

It is the duty of all employees of the HCSO who have engaged in the use of force, whether the employee is on or off duty at the time, to report the use of force. The employee’s immediate on-duty supervisor shall be notified immediately so he/she can determine if they need to make the scene of the event. The employee who was involved in the use of force event shall report the use of force promptly, completely and accurately in a “Use of Force Report”. Failure to report the use of force may lead to disciplinary action,



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loss of employment with the HCSO, or prosecution depending on the circumstances. This applies equally to the use of force in a detention facility.

B. Reporting the Observed Use of Force:

It is the duty of all employees of the HCSO, whether on or off duty, who have observed the use of force by another HCSO employee to promptly report the same to an on-duty supervisor, and then to record the same promptly, completely and accurately in a supplemental report of the involved employee's Sheriff's Office report. Failure to report one's observed use of force may lead to disciplinary action, loss of employment with the HCSO, or prosecution depending on the circumstances. This applies equally to the observed use of force in a detention facility. If an employee observes the use of force by another employee of the HCSO and the observing employee does not have access to a HCSO ARS report, then that employee shall make a written report and deliver the same to their immediate supervisor as soon as possible.

C. Further Reporting of All Use of Force Incidents:

1. Supervisory Personnel:

- a. Once notified of a use of force incident that results in serious bodily injury or death of any person the supervisor shall ensure that Internal Affairs is notified. In this instance the supervisor shall notify the chain of command immediately. It shall be sufficient to notify your supervisor. It then becomes the responsibility of the supervisor if necessary to continue the notification up the chain of command.
- b. Prior to accepting the report of the incident from the reportee the supervisor is responsible for conducting a review of the reports for accuracy, thoroughness and completeness to include:
 - i. attachment of all required supporting documents;



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- ii. ensuring that the Use of Force documentation is received by the Watch Commander within 24 hours of the use of force incident.

2. Watch Commanders:

Are responsible for reviewing the use of force documentation to ensure accuracy, thoroughness and completeness. They shall forward the same to the Division Commander within 24 hours of receipt.

3. Division Commanders:

- a. Are responsible for the approval of and ensuring the reported use of force is properly entered into the Personnel Early Warning System (PEWS) in accordance with existing Sheriff's Office policy, and
 - i. maintaining the original use of force documentation within the Division file as required by law and/or Sheriff's Office policy.
 - ii. Upon approval, generating a copy of the use of force documentation and forwarding same to the OIG Use of Force Review Section for review and final disposition.

D. Analysis of Use of Force Reports [CALEA Standard 1.3.13]

- 1. All use of force reports are meant to be a tool for supervisors at all levels to:
 - a. Know and understand the facts of all use of force incidents;
 - b. Prepare for any litigation that might arise;
 - c. Ascertain where problem areas exist;
 - d. Use as an aid in determining what supervision is required;



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- e. Determine necessary training patterns that should be utilized or developed to lessen future use of force incidents.
 - 2. Annually each Division Commander shall submit a report, not later than March 1 of each year, to their respective Bureau Commander detailing any patterns or trends involving the use of force which they believe may require additional training, equipment, or policy modifications.
 - 3. After receiving the reports of the Division Commanders, the Bureau Commanders will meet, as a **Use of Force Review Committee**, to discuss patterns or trends involving the use of force which they believe may require additional training, equipment, or policy modifications and report their findings to the Sheriff.
 - 4. Nothing herein is meant to limit the time at which Commanders may determine and report use of force trends that they believe warrant immediate care and concern so that these problems can be rectified at the earliest possible time.
- E. Administrative Leave/Duty Status: [CALEA Standard 1.3.8]**
- 1. Immediately following an employee's involvement in an incident wherein the use of force or other actions resulted in serious bodily injury the Bureau Commander may assign the employee to administrative leave or administrative duty status.
 - 2. Immediately following an employee's involvement in an incident where the use of deadly force was employed by the HCSO employee that resulted in the death or serious bodily injury of any person, the Bureau Commander shall assign the employee to administrative leave or administrative duty status.
 - a. If it is determined that the employee will be placed on administrative leave, the employee's Bureau Commander shall prepare the appropriate documents



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for submission as required by current payroll procedures.

- b. If it is determined that the employee will be placed on administrative duty, the employee's Division Commander shall assign the employee to administrative duties.
 - c. Within five (5) days of assigning an employee to administrative leave or duty status, the Bureau Commander will complete a preliminary review of the incident and may:
 - i. Extend the administrative leave/duty assignment for a set time; or
 - ii. Return the employee to regular duty;
 - iii. The administrative leave/duty status may be extended until the Internal Affairs investigation has been completed and reviewed by the Sheriff or his designee.
3. While on administrative leave or duty status the employee shall attend a post-incident debriefing with a Sheriff's Office approved counselor.
4. Assignment to administrative leave or duty status is non-disciplinary and, as such, shall not result in the loss of any Harris County pay or employment benefit. Administrative duty is designed to:
- i. Address the personal and emotional needs of the employee involved in the use of force incident, and
 - ii. Assure the community that the facts surrounding the case are fully and professionally investigated and there has been no rush to judgment.



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F. Off Duty Employment:

An employee assigned to administrative leave or administrative duty for a use of force incident shall not engage in any off-duty employment until post-incident debriefing with a Sheriff's Office approved counselor has occurred and a written report has been filed approving the employee for such employment. After the employee has been approved by his/her counselor for such off duty employment, such employment may not occur unless and until such permission has been secured, in writing, from the employee's Bureau Commander. Written permission for such employment shall be specific as to the type and place of employment, and to the times of employment. Since the employee is in a paid non-disciplinary status during this time, there should be no rush to add the stress of off-duty employment to the employee until the Bureau Commander is convinced that the employee has sufficiently recovered from the incident, and received any additional training necessitated by the incident review.

VII. Use of Force Training: [CALEA Standard 1.3.11b; 1.3.12]

- A. All peace officers and detention officers employed by the HCSO will receive annual in-service training on the HCSO Use of Force Policy.
- B. A copy of the HCSO approved Use of Force Policy will be issued to each deputy at the annual in-service training.
- C. This training will be documented and records maintained by the Academy.

VIII. Use of Force Continuum:

- A. Levels of force that a deputy may use to gain control over a subject are divided into the following categories:
 - 1. Deputy physical presence.
 - 2. Verbal direction/ commands.



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3. Empty hand control:
 - a. Soft empty hand control.
 - b. Conducted Electrical Weapons (CEW) / "Band It" system.
 - c. Hard empty hand control (strikes).
 4. Intermediate weapons:
 - a. Soft intermediate weapons.
 - b. Chemical Weapons
 - c. Hard intermediate weapons (strikes).
 5. Lethal force.
- B. Levels of Force and Control;**
1. A Deputy/Detention Officer is authorized to use only the necessary and reasonable amount of force to effect an arrest and deter any aggression or resistance on the part of the suspect being arrested. The deputy's action will be guided by the offender's level of resistance. The level of response is based upon the situation encountered at the scene and the actions of the suspect in response to the officer's commands. Suspects may move rapidly from a low level of resistance to a higher level of resistance or may immediately threaten at a high level of resistance, including the use of deadly force. The officer's use of force is in response to the resistance from the suspect to lawful police control.
 2. Once resistance is overcome or aggression is reduced, the Deputy must correspondingly and immediately reduce the degree of force he/she is applying, or the use of force is not legal. This is commonly referred to as de-escalation.



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3. The Deputy must be able to articulate and document the level of resistance he/she encounters and the reasoning he/she uses for selecting a level of control in response. These factors may include the ability of the offender to violently resist based on his physical condition, a history of aggressive behavior, or the availability of weapons. The Deputy's reaction will also be influenced by his/her training, experience, and knowledge of physical control techniques, and his perception of danger to himself/herself and others presented by the suspect's resistance.

4. The Deputy's reaction to resistance will be in one of the following categories: verbal direction, empty hand control - soft, Conducted Electrical Weapons (CEW), empty hand control - hard, intermediate weapons (impact, chemical), or lethal force.

a. **Verbal Direction:**

The majority of situations can be resolved by good communication skills or verbal direction. Often, the mere presence of a deputy/detention officer and proper verbal direction will be sufficient to persuade most individuals to follow a deputy/detention officer's direction. In any verbal confrontation, fear and anger must be defused before a suspect will be able to understand the deputy/detention officer's commands. This requires good communication skills and patience. Successful communication techniques can prevent many physical confrontations from escalating to higher levels. This is the proper response to the cooperative stage.

b. **Empty Hand Control:**

Empty hand control tactics cover a number of subject control methods. Some of these methods may be as subtle as gently guiding a subject's movements, to more dynamic techniques such as strikes and kicks



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| CALEA STANDARDS REFERENCE(S): 1.2.2, 1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.7, 1.3.8, 1.3.11, 1.3.12, 1.3.13 | NO. OF PAGES: 21 |

which may have a higher potential of injury to the subject. This policy divides empty hand control into two categories, soft empty hand control and hard empty hand control.

i. Empty Hand Control – Soft:

This level of control is designed to control primarily low levels of resistance. Soft Empty Hand Control techniques have a minimal to nonexistent possibility of injury. Generally, these techniques are used to control passive or demonstrator types of resistance and defensive resistance. These techniques are employed in the resistance stage.

ii. Empty Hand Control – Hard:

This level of control is for high levels of defensive resistance, active aggression, or aggravated active aggression. Techniques that fall into this level of force have a probability of soft or connective tissue damage, skin lacerations that require medical attention, or bone fractures. Striking and stunning blows are considered empty hand – hard control techniques.

c. Conducted Electrical Weapons (CEW):

Sheriff's Office approved TASER X26 / X2 System is a tool that can provide a means by which the Deputy can defend himself or another from injury and a means of controlling a suspect. CEW deployment is justified when verbal commands are ignored or empty hand – soft control tactics are ineffective.

Although the use of these techniques may create some minimal injury to the suspect, a deputy may be risking injury



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to himself/herself or may have had to utilize higher levels of control (such as intermediate weapons) if empty hand control hard techniques had not been used.

d. Intermediate Weapons:

Intermediate weapons include impact weapons (straight baton, expandable baton), and chemical agents. This level of control employs the use of these Sheriff's Office approved tools to provide a method of controlling a subject when empty hand control techniques are ineffective or perceived to be ineffective and deadly force is not justified.

Whenever a deputy uses an intermediate weapon for control, it should always be with the intent to temporarily disable an offender, and never with the intent of creating permanent injury. When intermediate weapons are used, it is quite likely that some form of skin irritation, bruising, soft or connective tissue damage, or bone fractures may occur.

i. Impact Weapons:

Sheriff's Office approved batons are tools that can provide a means by which a deputy can defend himself or others from injury and control offenders when a deputy is facing resistance in the form of active aggression.

Deliberate strikes to the head, neck, throat, clavicle, groin, and joints shall be considered deadly force and will only be used in response to deadly force where the suspect is assaulting the deputy or another person with a weapon, and/or uses techniques or objects which threaten the imminent infliction of death or serious bodily injury.



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All strikes should normally be delivered to major muscle mass groups, e.g. forearms, thighs, calves, etc. These areas are primary targets due to the decreased chance of serious injury. Strikes to these locations normally create severe muscle cramping which inhibits a subject's ability to continue aggression.

ii. **Chemical Agents:**

Sheriff's Office approved chemical agent is a tool that can provide a means by which a deputy can defend himself or another from injury and a means of controlling the offender. Chemical agents are justified when the use of force has escalated and intermediate weapons are justified.

e. **Lethal Force:**

It is the view of our society, as well as the Harris County Sheriff's Office, that the value of human life is immeasurable. Deputies are delegated an awesome responsibility to protect life, property, and apprehend criminal offenders. The apprehension of criminal offenders and the protection of property must at all times be subservient to the protection of life. Even so, there may be times when the deputy is attacked with unlawful deadly force or the deputy will witness another being attacked with unlawful deadly force, and in those instances the use of deadly force by the deputy is justified.



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Revision:

This policy has been revised on the below listed dates:

April 8, 2013

May 1, 2013

May 5, 2015



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| CALEA STANDARDS REFERENCE(S): | NO. OF PAGES: 11 |

I. Policy:

It is the policy of the Harris County Sheriff's Office "HCSO" to ensure the protection and preservation of every person's Constitutional rights.

In furtherance of this policy, no member of the HCSO may prevent or prohibit any person's ability to observe, photograph, and/or make an audio/video recording of police activity occurring in the public domain, so long as the person's location, actions, and/or behavior do not create a legitimate, articulable threat to deputy safety, or an unlawful hindrance to successful resolution of the police activity.

II. Definitions:

- A. Photographing -- The act of capturing and storing a still image, whether in an electronic/digital format, or on any type of light-sensitive film (e.g., traditional 35mm film).
- B. Video Recording -- The act of capturing a series of still images that, when projected in rapid succession, produce the optical effect of a continuous picture in which the objects move. Video recordings may be stored on various media (light-sensitive film, videotape, or digitally, and may or may not contain a simultaneous audio recording).
- C. Video Recording Device -- For the purposes of this policy, a Video Recording Device includes, but is not limited to, any device capable of capturing a still or moving image(s), regardless of whether or not a simultaneous audio recording is included. Examples may include any of the following devices:
 - 1. A cellular telephone of any make, model, or manufacturer, including those devices referred to as "Smart Phones."
 - 2. A Personal Digital Assistant, also known as a PDA.



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3. A tablet-style mobile computer commonly referred to simply as a "tablet," such as an Apple iPad or a BlackBerry PlayBook.
 4. Any camera, whether still-photo and/or video, of any make, model, or manufacturer, regardless of whether or not the device is capable of capturing a simultaneous audio recording, and regardless of how the device stores the images it captures.
- D. Audio Recording – The act of capturing acoustic sound waves either digitally or by analog means. Audio recordings may be stored on a number of media types and capable of repeated play back.
- E. Audio Recording Device - any device capable of audio recording.

III. Procedures:

It is increasingly common for uninvolved bystanders at the scene of police activity to photograph and/or audio/video record the actions and conduct of peace officers. HCSO deputies must internalize two (2) assumptions:

- The general public is highly likely to video and/or audio record their activities at any time; and,
 - Modern technology makes such recordings easy to make and of very high quality.
- A. As a result, deputies must recognize any bystander has an absolute right to photograph and/or audio/video record the enforcement actions of any deputy so long as the bystander's actions do not:
1. Place the safety of the bystander, or of any deputy(s), witness(es), victim(s), or suspect(s), or any other person (s) in jeopardy;



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2. Interfere with the execution or performance of a deputies' official duties, to the extent the offense of *Interference with Public Duties (Sec. 38.15 Texas Penal Code)* or some other offense is committed;
 3. Involve an intrusion into any crime scene, private property, or other location under lawful police control and/or not normally accessible to the general public;
 4. Threaten, by words or actions, other persons; or
 5. Attempt to incite an immediate breach of the peace or incite others to commit a violation of the law.
- B. The acts of observing, photographing, and/or making an audio/video recording of any police activity occurring in a public setting is not a criminal offense. On their own, these acts **DO NOT** constitute probable cause for the arrest of the observer/bystander, and they **DO NOT** provide any justification whatsoever for any member of the HCSO, without a Search and Arrest Warrant or other appropriate court order, to review, seize, damage, erase, or otherwise inspect the contents of a person's camera or audio/video recording device.

NOTE: BEFORE taking any police action which would stop a bystander from observing, photographing, or audio/video recording the conduct of police activity, deputies must have observed the bystander committing some act falling within one of the five numbered conditions listed above.

- C. Nothing in this policy should be construed by HCSO deputies as an elimination or obstruction of their ability to lawfully seek out, collect, or otherwise gather evidence in the course of a criminal investigation.
- D. If a deputy has probable cause to believe, and exigent circumstances so indicate, a bystander is in possession of any still photographs/images, video recordings, and/or audio/sound



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recordings that are, or could reasonably be considered, evidence of a crime, HCSO deputies shall take all lawful actions to collect said evidence.

- E. Deputies seeking to obtain material contained on a camera/audio/video recording device that is the private property of a bystander must recognize the camera/audio/video recording device, and the bystander who possesses it, are protected by the same Constitutional protections against unreasonable search and/or seizure as they would in any other law enforcement activity or investigation unless the bystander voluntarily consents to:
1. Surrendering his/her camera/audio/video recording device
 2. An examination of the contents of the camera/audio/video recording device.
 3. Seizure by a Deputy of any images, audio or videos contained within the camera/audio/video recording device.

Note: Deputies **MUST** adhere to the requirements of this policy and HCSO search and arrest procedures.

- F. One exception to the warrant requirement would be a situation where the bystander in control of the device voluntarily consents to:
1. Surrendering his/her camera/audio/video recording device; and
 2. An examination of the contents of the camera/audio/video recording device; and
 3. Seizure by a deputy of any images, audio or videos contained within the camera/audio/video recording device.



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4. If a deputy believes that another exception to the warrant requirement exists, the deputy shall contact the Assistant District Attorney in Charge at Intake and have them review all facts and circumstances of the event BEFORE a seizure is made.

NOTE: Deputies **MUST** adhere to the requirements of this policy and HCSO search and arrest procedures.

- G. Upon discovery a bystander is observing, photographing, or audio/video recording the conduct of police activity HCSO deputies:
 1. **SHALL NOT** impede or prevent the bystander's ability to continue do so based solely on the discovery of his/her presence.
 2. **SHALL NOT** seize or otherwise demand to take possession of any camera or audio/video recording device the bystander may possess based solely on the discovery of his/her presence.
 3. **SHALL NOT** demand to review, manipulate, or erase any images or audio/video recording captured by the bystander based solely on the discovery of his/her presence,
 4. And, for investigative purposes, shall be mindful of the potential the bystander may witness, or capture images/audio/video of events considered at some later time to be material evidence. Record such facts and the identity of the person making such a recording within the ARS report.
- H. If the deputy reasonably believes that it is immediately necessary to effect the arrest of a bystander who is or has been observing, photographing, or audio/video recording police activity the deputy shall:



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1. Ensure the arrest is for an unlawful activity constituting a criminal offense (e.g., disorderly conduct, hindering, assault in any degree, etc.).
2. Notify his/her immediate supervisor, prior to the arrest and seizure if possible, of all the facts and circumstances that lead you to the decision to effect an arrest of the person and/or seizure of the recording device. If it is not possible to advise a supervisor prior to the arrest and seizure do so IMMEDIATELY thereafter
3. Clearly articulate the facts and circumstances that led to the arrest in all subsequent reporting and charging documents.

NOTE: All field reports and charging documents should clearly establish that the arrest was based on probable cause to believe the bystander had committed, was committing, or was about to commit a criminal offense, and exigent circumstances existed to warrant an immediate seizure of the recording device.

When an HCSO deputy suspects or determines (s)he is being photographed or subjected to audio or video recorded, consider the following points:

4. Do not compromise the integrity of any established crime scene or other secured/restricted area so a bystander may observe, photograph, or audio/video record police activity.
5. A bystander's desire or intent to observe, photograph, or audio/video record police activity does not entitle him/her to:
 - a. Trespass on private property.
 - b. Place him- or herself in physical danger (e.g., within an area defined by members of the HROU as an "outer or inner perimeter").



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- c. Enter another person's private dwelling, storehouse, etc
- d. Enter into or upon any established, marked crime scene.
- e. Enter into or upon any area not accessible to the general public.
- 6. In public areas, any form of identification referred to as "media credentials" does not extend any special privileges or access to any individual beyond that enjoyed by any other private citizen.
- 7. Conversely, no individual is required to display "media credentials" in order to exercise his/her right to observe, photograph, or video record police activity taking place in an area accessible to, or within view of, the general public.

I. Supervisor:

In the event the actions of a bystander who is observing, photographing, and/or audio/video recording police activity are approaching the level of a criminal offense, the deputy shall make every reasonable effort to notify his supervisor:

- 1. Once notified, the supervisor shall respond to the scene and ensure:
 - a. Adequate police attention remains focused on the call for service.
 - b. If tactically feasible, inform the bystander his/her actions may, if continued, rise to the level of a criminal offense which could subject him/her to arrest.
 - c. If possible, recommend a less-intrusive location to the bystander from which he/she may continue to



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observe, photograph, or audio/video record the police activity.

2. Coordinate with the appropriate Primary Investigators when establishing the limits of any crime scene.

NOTE: Deputies should bear in mind that, on rare occasions, they may encounter a person or group of persons who deliberately create hazardous conditions with the intent of provoking an inappropriate police response.

Supervisors shall not allow subordinates under their supervision to become distracted from their professional duties if it is suspected this type of deliberate provocation is occurring.

- J. If a bystander is reasonably believed to possess any material that is, or could reasonably be considered, evidence related to a crime and/or the identification of a person involved in a crime, the deputy may request the bystander voluntarily surrender his/her camera, audio/video recording device, etc., into HCSO custody.
 1. If the individual **CONSENTS** to the request, and further **CONSENTS** to display the recording, first determine if the displayed data is really evidence of a crime.
 2. If the displayed data is evidence of a crime:
 - a. Exercise due care and caution with any of the individual's property or electronic device(s).
 - b. Complete a, "property receipt," including a detailed description of the property being taken into HCSO custody, and provide a copy to the individual.
 - c. Provide the individual with the name and contact information of the deputy who took custody of the individual's property.
 - d. Secure the evidence in the property room as with any other item of evidence.



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- e. Document the request, and the individual's response, in the narrative of applicable ARS report.
 - f. **DO NOT** make any attempt to view, download, or otherwise access any material contained on the device, unless consent to do so was obtained and such viewing/display is necessary for the furtherance of the current investigation.
3. If the individual **REFUSES** the request:
- a. In the absence of exigent circumstances, develop the necessary probable cause to support an application for a Search Warrant.
 - b. Meet with either the Special Crimes Division of the Harris County District Attorney's Office or the Intake Division of the Harris County District Attorney's Office to assist in the drafting of a search warrant.
 - c. If there is **PROBABLE CAUSE** to believe evidence of a crime exists on an individual's device, AND exigent circumstances, circumstances that you must articulate, exist to warrant a reasonable belief the evidence is in immediate jeopardy of being tampered with, altered, deleted or destroyed, you may **TEMPORARILY** seize the device for safekeeping/preservation of the evidence while the appropriate application(s) for Search and Seizure Warrant(s) are made.
 - i. Due to the highly mobile nature of an audio/video recording device, the device may be seized for safekeeping to avoid deletion and/or tampering, pending the issue of a warrant.
 - d. Any deputy temporarily seizing a device as set forth in Paragraph J (3) (c) above, will contact a supervisor immediately, or as soon as practical, and advise the



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supervisor of the seizure and the circumstances compelling said seizure.

- e. **DO NOT** make any attempt to view, download, or otherwise access any material contained on the device.
- f. Protection of any potential evidence is paramount. Only qualified technicians may make efforts to access material contained on the device and only **after** a search warrant is obtained.
- g. Apply for, execute, and return Search and Seizure Warrant(s) in accordance with HCSO Policy #507.
- h. Submit the recovered camera, audio/video recording device, etc., in accordance with HCSO policies and rules of the HCSO Property Room."
- i. Complete all appropriate offense reports.

NOTE: Upon taking custody/temporary custody of the device for the purpose of safekeeping/preservation, deputies shall either remove the device's battery or switch it to a "Power Off" condition. This will aid in preventing any remote access to or deletion of the data or other material stored within it.

- K. The supervisor shall ensure any camera or audio/video recording device used to photograph and/or audio/video record police activity was lawfully seized and within HCSO policy guidelines, whether:
 - a. Through the voluntary consent of the individual in possession of the item.
 - b. Through execution of a Search and Seizure Warrant.
 - c. Through some valid exception to the warrant requirement.



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Revision:

This policy has been revised on the below listed dates:

September 19, 2014



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| SUBJECT: TRAINING AND COMMISSIONING OF HARRIS COUNTY SHERIFF'S DEPUTIES | POLICY #: 701 |
| CALEA STANDARDS REFERENCE(S): 33.4.1 | NO. OF PAGES: 7 |

I. Purpose:

The Harris County Sheriff's Office, in compliance with all mandates imposed by the Texas Commission on Law Enforcement Standards and Training (TCOLE), places a great emphasis on providing the highest standards of training for deputy trainees. The Sheriff's Office recognizes that quality training creates professional, competent deputies.

II. Policy:

A. Training [CALEA Standard 33.4.1]:

Any Detention Officer employed by the Harris County Sheriff's Office, on or after April 1, 1999, who by Sheriff's Office policy is not eligible for commission as a Peace Officer, will be required to undertake his/her Basic Peace Officer training only through the Harris County Sheriff's Academy.

Any Detention Officer who at the time of employment does not possess a Peace Officer license will be required to undertake his/her Basic Peace Officer training only through the Harris County Sheriff's Academy.

B. An individual employed by the Sheriff's Office after April 1, 1999, who wishes to be commissioned as a Deputy Sheriff by the Sheriff's Office must fulfill all of the following standards:

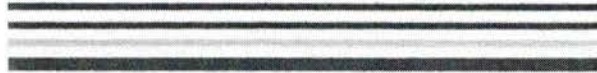
1. Minimum qualifications:

- a. Must be at least twenty-one (21) years of age;
- b. Must have a high school diploma or G.E.D., and have completed thirty (30) semester hours of college credit (with a passing grade of "C" or above for each credit) from an accredited college or university; or,
- c. Two or more years of active military service with an honorable discharge.

2. Successful completion of a TCOLE Basic Peace Officer Course, must have passed the TCOLE Peace Officer Certification Examination, and must be in possession of a



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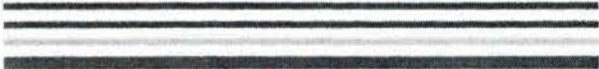
TCOLE Peace Officer License, and must have 12 months continuous service as a Detention Officer with the Sheriff's Office.

In addition to the above required licensure, the candidate for commissioning must:

3. Have received rating of at least 20 on the last two employee performance evaluations, and;
 4. Have passed the processing and background investigation for the position of Deputy, including any required testing, and;
 5. Have passed the standard physical fitness test required of Harris County Sheriff's Academy graduates, and;
 6. Have qualified with an appropriate duty weapon in accordance with Sheriff's Office standards, and;
 7. Have a current "L-3" approving the candidate for Police Officer (the form required by TCOLE, indicating that a person has passed the psychological screening as required by that agency), and;
 8. Must not be on disciplinary probation, and;
 9. Must not have received an "Unsatisfactory" rating on their Employee Evaluation during the previous twelve months, and;
 10. Have Administrative Review Board approval for commissioning as a Deputy.
- C. When an individual who is not in possession of the Basic Peace Officer License is first employed in a Detention Officer position, his/her name shall be placed on a Basic Peace Officer Training eligibility list which shall be maintained concurrently at the Harris County Sheriff's Academy and in the Detention Bureau. As Basic Peace Officer Courses are offered by the Harris County Sheriff's Academy, the personnel whose names appear at the top of the list



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will be notified in writing of the date and time to appear at the Academy for a physical ability test in order to determine enrollment eligibility.

The Sheriff and/or his designee reserve the right to move any name on the eligibility list to the top of that list.

D. Upon notification, each individual employee who is to be tested for possible enrollment in the next Basic Peace Officer Training course has the option to accept or reject the training assignment.

1. If the employee chooses to accept the assignment, he/she will report to the Academy at the appropriate date and time scheduled for the required physical tests and Peace Officer Selection Test (POST) examinations. The Academy candidate must:
 - a. Minimum qualifications:
 - (1) Must be at least twenty-one (21) years of age prior to graduation from the Sheriff's Academy;
 - (2) Must have a high school diploma or G.E.D., and have completed thirty (30) semester hours of college credit (with a passing grade of "C" or above for each credit) from an accredited college or university; or,
 - (3) Two or more years of active military service with an honorable discharge.
 - b. Have not received, nor have pending, any disciplinary action within 12 months prior to the date of the enrollment. Eligibility date will be based upon the date of the disciplinary letter and the date that the Academy class begins.
 - c. Have not received below a grade of 20 on the employee's last evaluation.



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- d. Have passed the background investigation, POST tests, and processing for commissioning as a Deputy, including obtaining a positive "L-3" (as described in Sec. B (7) above).
- e. Not be the subject of an internal investigation.

If a person is currently under investigation by the Internal Affairs Division or formal investigation by a supervisor, and said action is subsequently cleared with no resulting disciplinary action, the individual will be placed at the top of the enrollment eligibility list for the next available Academy class.
- f. Pass the Academy's required physical tests before commencement of class.
- g. Utilizing the *Medical Release* form provided by the Sheriff's Office, the employee must submit a medical release from his/her personal physician.

The medical release form attached to the *Notification of Test Date* describes the physical tests required of the employee. The physician, based on the physical tests required of the employee, must decide if the employee is capable of performing the described exercises.

- (1) Should an illness or injury occur prior to or during the required physical tests that would prevent successful completion of the required physical tests or attending the Basic Peace Officer training course, the employee must submit a medical affidavit explaining in detail the injury/illness and the prognosis. When the illness/injury no longer impedes the employee's enrollment, as verified by a physician's statement, the employee's name will be placed at the top of the eligibility list for the next available Academy class. The employee will



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be expected to complete the required physical tests prior to Academy enrollment.

- (2) Failure to successfully complete the physical ability test will result in the employee's name being put at the bottom of the eligibility list as it exists on the date of the failure. The only exception will be as described above in subparagraph (1). Two such failures will result in the employee's name being removed from the Academy eligibility list. Thereafter, an employee may petition to have his/her name placed back on the Academy eligibility with the approval of the Academy Director.
- 2. If an employee chooses to reject the training assignment he/she must, within three (3) working days of notification, provide written notice to both the Academy Director and the appropriate Detention Bureau Major that he/she elects not to accept this training assignment.
- 3. If an employee rejects the training assignment, his/her name will be removed from the eligibility list as it exists at that time. Thereafter, reinstatement to the list may only be accomplished with the approval of the Academy Director.
- E. Each employee enrolled in a Basic Peace Officer Training Course at the Harris County Sheriff's Academy is expected to successfully complete all training requirements of that course.
 - 1. If a cadet fails to meet any requirement for successful completion of the Basic Peace Officer Training Course, or withdraws voluntarily, or drops out due to a medical reason, one of the following actions will result:
 - a. The employee will be terminated.
 - b. The employee will be permitted to resign.



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- c. The employee will be reassigned to a position not requiring possession of a Basic Peace Officer License.
- 2. If an employee withdraws due to medical reasons, the employee may petition to attend another academy class by petitioning the Academy Director. The Academy Director's decision for admission will be based on the former cadet's overall performance in the previous class and class standing at the time of withdrawal. The Academy Director's decision is final and is not subject to grievance.
- 3. If an employee is offered a position as a Detention Officer, (in accordance with E1 above), his/her name will be placed on the bottom of the peace officer eligibility list.
- 4. If the employee fails, withdraws, or drops after the second attempt at completing the Basic Peace Officer Course, the employee's name will be permanently removed from the eligibility list. Thereafter, reinstatement to the list may only be authorized by the Sheriff or his designee.
- 5. If the employee successfully completes the Basic Peace Officer Training Course he/she will be required to complete a minimum of four weeks of field training in the Patrol Bureau to provide the trainee with "on street" experience in those curricular areas just covered in the classroom. **(CALEA Standard 33.4.3)**
- F. If an employee receives a waiver of the required physical tests for any reason, such waiver does not entitle the employee to be commissioned as a Deputy.
- G. It is recognized that no rule may address every possible situation. The Academy Director will address exceptions to this policy on a case by case basis.

Revision:

This policy has been revised on the below listed dates:



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| SUBJECT: TRAINING AND COMMISSIONING OF HARRIS COUNTY SHERIFF'S DEPUTIES | POLICY #: 701 |
| CALEA STANDARDS REFERENCE(S): 33.4.1 | NO. OF PAGES: 7 |

April 21, 2009



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| SUBJECT: CODE OF ETHICS | POLICY #: 102 |
| CALEA STANDARDS REFERENCE(S): 1.1.2, 26.1.1 | NO. OF PAGES: 1 |

All employees of the Harris County Sheriff's Office will adhere to the Code of Ethics, as adopted from the Texas Commission on Law Enforcement Standards and Education. The Canon of Law Enforcement Ethics is a document describing the underlying principles involving standards of conduct for peace officers. Employee conduct shall be professional at all times and exemplify the standards set forth within this policy.

Law Enforcement Code of Ethics [CALEA Standard 1.1.2]

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all, maintain courageous calm in the face of danger, scorn or ridicule, develop self-restraint and be constantly mindful of the welfare of others. Honest in thought and deed, in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or malice or ill-will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals dedicating myself before God to my chosen profession... law enforcement.

Revision:

This policy has been revised on the below listed dates:

April 21, 2009



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| MISSION STATEMENT/CORE VALUES | POLICY #: 101 |
| CALEA STANDARDS REFERENCE(S): 12.2.1(a) | NO. OF PAGES: 1 |

I. POLICY:

The foundation of any organization is defined by its employees' honesty, moral standards, compassion, sincerity, and caring attitude. It shall be the policy of the Harris County Sheriff's Office that all our employees shall work together towards a common goal - the achievement of our Mission Statement, and the realization of our Core Values as a standard of conduct that all law enforcement practitioners should recognize and strive to achieve.

II. MISSION STATEMENT:

The Mission of the Harris County Sheriff's Office is to enhance the safety and protect the trust of the citizens of Harris County by enforcing the law with integrity and professionalism.

II. CORE VALUES:

- Merit and maintain the public's trust.
- Embrace and deliver professional service.
- Protect our citizens with honor and courage.
- Exemplify ethical conduct at all times.
- Develop, encourage and care for our Sheriff's Office Family.

IV. Motto:

21st century leading law enforcement agency

Revision:

This policy has been revised on the below listed dates:

December 10, 2009

January 14, 2014



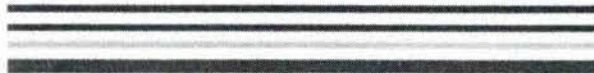
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| SUBJECT: CORRECTIVE ACTIONS AND DISCIPLINARY PROCEDURES | POLICY #: 301 |
| CALEA STANDARDS REFERENCE(S): 26.1.1, 26.134, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 52.2.7 | NO. OF PAGES: 13 |

I. **Policy:**

To establish the principles, policies, and procedures supervisors must follow to lead employees to their highest level of performance on behalf of the Harris County Sheriff's Office ("HCSO"). This policy includes procedures for handling employee training and development opportunities short of disciplinary action as well as procedures for those occasions when disciplinary action is necessary.

II. **Definitions:**

- A. **Administrative Disciplinary Committee (ADC)** – a committee comprised of the Bureau Commanders or designee(s) appointed by the Sheriff to review administrative investigations and make recommendations.
- B. **Blue Team** - a module in the IAPro software for recording notes on employee performance and behavior including corrective and disciplinary actions.
- C. **Corrective Actions** – any action by a supervisor *short of disciplinary action*, which may include, but is not limited to, a frank conversation, a referral for training or the employee assistance program, a documented counseling (oral or written), or a written reprimand. Corrective Actions may not be appealed or grieved through Civil Service.
- D. **Disciplinary Actions** – a personnel order imposing disciplinary sanctions in response to substantiated allegations of employee misconduct that results in loss of monetary benefits or direct compensation. *See Harris County Civil Service Regulations, Rule 12.*
- E. **Finding** – The recommended disposition of an investigation presented to the ADC for review.
- F. **Suspension** – A form of Disciplinary Action placing an employee on relief of duty without pay for a stated period of time. A one day suspension is equal to eight hours of pay.



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III. Purpose:

Mistakes and good-faith errors in judgment should not be confused with willful acts or omissions that violate HCSO policy and rules. Unprofessional conduct resulting from a mistake or a good-faith error in judgment may be an opportunity for training and employee development rather than the basis for disciplinary action depending on the severity of the mistake or the degree of error in judgment. Each supervisor must determine the point at which repetitive mistakes cease to be an opportunity for training and employee development and become a problem to be resolved through disciplinary action.

A. Establishment of Corrective Action and Disciplinary Procedures.

The following procedures have been established in order that:

1. Every employee of the Harris County Sheriff's Office may have confidence that, while proper performance of duty will be insisted upon, due recognition of rights will be assured.
2. Complaints, grievances, or alleged abuse of authority involving any employee will be fully and fairly considered.
3. Supervisors can take proper steps to enforce HCSO rules and regulations affecting the proper performance of employees under his/her command, and by which he/she may effectively correct conduct, encourage improved performance in the future, and accomplish suitable training.

B. It is the Sheriff's intent for all disciplinary actions to be administered in an equitable, consistent, and compassionate manner. Disciplinary action may not be initiated except for just cause.

C. Corrective and disciplinary actions have multiple objectives. The underlying purpose of corrective and disciplinary actions are to modify the employee's conduct or behavior so that it complies with HCSO's policies and procedures and to ensure:



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1. The work of the HCSO Office is handled professionally.
2. Unprofessional conduct will not be tolerated.
3. Employees who perform their assignments in a professional manner will not be adversely affected by the few who do not.
4. There exists a mechanism, through termination, to protect the operational integrity and high ideals of the HCSO from those few individuals whose actions or omissions show that they should no longer be associated with the HCSO.
5. The HCSO has an avenue for the exercise of accountability.

IV. Corrective Actions:

- A. Whenever a supervisor observes or hears about an employee who has engaged in relatively minor behavior that is inconsistent with an HCSO policy or that is not in the best interest of the HCSO or the employee's career development, the supervisor should take action. What that specific action will be is determined based on all of the facts and circumstances surrounding the situation.
 1. Supervisors must refer any of the following allegations of misconduct to Internal Affairs ("IAD") for its consideration before taking any form of corrective or disciplinary action:
 - a. Any use of force;
 - b. Harassment based on race, color, sex, sexual orientation, national origin, age, religion, or disability (including claims of a hostile work environment based on any of those protected categories);
 - c. Any violation of the Texas Penal Code;
 - d. Any other matter the supervisor believes may warrant consideration by Internal Affairs



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2. IAD will decide whether it will take on the investigation or refer it back to the Bureau for handling.
- B. Corrective actions can be as simple as a **conversation** with the employee to note the deficient performance or behavior and remind the employee what the expected performance or behavior is. These conversations should include two-way communication between the supervisor and the employee to ensure the employee understands clearly what the expectation is, giving the employee a chance to ask questions, if necessary. Supervisors may choose to record the conversation in Blue Team as a way to remember it.
 - C. If a supervisor has had more than one conversation with an employee on the same performance or behavior issue, the conversation will be documented in Blue Team as an **oral counseling**. Oral counseling is an excellent tool to remind an employee of the HCSO's expectations and to encourage future behavior that meets those expectations.
 - D. When an employee's behavior or performance has not improved in response to a lower level of corrective action or when an employee's initial mistake is serious enough, the supervisor may initiate a **documented counseling**.
 1. Supervisors use the **documented counseling** form attached to this policy and record the event in Blue Team.
 2. Documented Counseling Process [**CALEA Standard 26.1.4 a, b**]:
 - a. Prepare the documented counseling letter prior to the documented counseling session with the employee. Use the correct gender and the appropriate wording from the options provided or other wording appropriate for the situation.
 - b. Do not use the section listed as "optional ending" unless one or more counseling sessions have proved ineffective.



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- c. Meet with the employee and be prepared to discuss in detail the problem(s) you have identified and a plan of action for correcting the performance or behavior at issue.
 - i. Explain that this is not discipline, but a way to make sure that there is no misunderstanding about what is expected of the employee. Also explain that this is another effort to enhance communication and eliminate potential problems.
 - ii. Explain that if the employee feels that the suggestions are completely unacceptable, he/she can suggest alternate solutions to the problems. Record any changes agreed upon into the document. This is an effective way to get commitment on both parts if the original suggestions are not workable.
 - iii. Schedule a follow-up meeting for a date and time that gives the employee reasonable opportunity to improve performance or the behavior at issue. Tell the employee that improvement and/or deterioration of the performance or behavior will be documented at the follow-up meeting and attached to the original counseling documentation.
 - iv. Explain that the issue will be closed if the expected improvements or changes are made.
 - v. Explain that while he/she may make marked improvements in some of the areas, any areas which are still identified as needing additional improvement will be documented further. Additional suggestions or agreements will be made for correcting any remaining problems, and a second follow-up meeting scheduled. All



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follow-up meetings will be documented and attached to the original documentation.

vi. Signatures required:

- a) If all parties concur with the deficiencies identified and the plan of action for improvement, each should sign and date the documented counseling letter.
- b) If changes or additions were made to the original documented counseling letter, those should be initialed along with the letter being signed by the supervisor and the employee.
- c) If the employee agrees with the recommendations or outcome of the meeting, however, refuses to sign the letter, make that notation under the place for the employee's signature and tell the employee that you will still have the scheduled follow-up meeting on the date and time stipulated in the letter.
- d) Give the employee a copy of the original with the signatures obtained and place the original signed document in his/her divisional file. Record it in Blue Team.
- e) If, after all the above explanations, the employee does not agree there is a problem or indicates that he/she does not feel any need for change, it may be necessary to discontinue the documented counseling and move into the disciplinary process [CALEA Standard 26.1.4 a, b & 26.1.5].



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- a. The written reprimand must have been on file for a period of not less than one (1) year from the date received and signed for by the employee; and,
- b. The employee has not received other corrective action during the previous twelve (12) months from the date of the request for removal; and,
- c. The employee is not currently under any investigation; and,
- d. The employee has not received an "Unsatisfactory" rating in any category of the Performance Evaluation for the previous twelve (12) months from the date of request for removal.

V. Disciplinary Actions:

- A. Disciplinary action may be necessary in response to sustained employee misconduct after reasonable attempts to improve an employee's work performance and/or inappropriate behavior when the application of corrective action(s) fails to achieve the desired results. Disciplinary action in response to a serious infraction of HCSO policy or procedure may be imposed without prior attempts at corrective action(s).
 - 1. Disciplinary actions include: suspensions, demotions, reductions-in-rank, terminations, and refusals to rehire at the end of the employee's contractual period.
 - 2. In addition to a loss of monetary benefits or direct compensation, a disciplinary action may include other action such as, but not limited to, job transfer, shift change, schedule change, or removal of take home car privileges.
- B. Preliminary Incident Reports:
 - 1. Serious violations of any of the rules or regulations set out in the Civil Service Regulations, the HCSO Department Manual, any Bureau Procedural Manual or Standard



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Operating Procedures, or in any applicable HCSO or bureau memorandum, as well as any violation of a federal, state, county, or municipal statute, regulation, ordinance, or a court order, may be the basis for a **preliminary incident report**.

A **preliminary incident report** may be initiated by any ranking supervisor who deems it necessary in order to address any violation of Sheriff's Office Policy [CALEA Standard 26.1.5].

2. Additionally, any of the allegations described in section IV. A. 1 herein (list of allegations that must be referred to IAD) will be the basis for a preliminary incident report.
3. Procedures to follow in completing a preliminary incident report will be as follows:
 - a. Preliminary incident reports arising from alleged censurable conduct shall be originated and prepared in triplicate immediately by the employee's supervisor who bears witness to the alleged violation or who is advised of the alleged violation by another employee or a source outside the Sheriff's Office. The report is to be entered in Blue Team and forwarded to the bureau commander (or ranking supervisor in his/her absence).
 - b. The division commander (or ranking supervisor in his/her absence) shall confer with the bureau commander promptly to determine whether immediate action is needed regarding the employee. The bureau commander (or ranking supervisor in his/her absence) may relieve an employee from duty promptly for any act or omission that would justify the preparation of a preliminary incident report.
 - c. A written order relieving the employee from duty shall be issued to the employee with a signed copy to the



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Sheriff or his designee. An employee relieved from duty shall surrender his/her badge and identification card to the relieving supervisor, who shall forward it immediately to the division commander [**CALEA Standard 52.2.7**].

- d. With the exception in § V. B. 2. (allegations that must be referred to IAD) the bureau commander shall determine whether the incident(s) described in the preliminary incident report should require disciplinary action. If so, the incident will be forwarded to the Office of Inspector General Bureau (OIG) Major. The OIG Bureau Major will determine if the incident will be investigated by the bureau or the Internal Affairs Division.
 - e. If the bureau conducts the investigation into the preliminary incident, the supervisor conducting the investigation will present the completed investigation to the Administrative Disciplinary Committee (ADC) for disciplinary action. The final disciplinary decision will rest with the Sheriff or his designee.
- C. The Administrative Disciplinary Committee (ADC) reviews all completed investigations not resolved at the Bureau level.
- 1. The ADC shall be comprised of a quorum of at least four Bureau Commanders appointed by the Sheriff. A Division Commander may represent a Bureau Major at the ADC Chair's discretion.
 - 2. In most instances, the investigator will present the case for review. The OIG shall authorize any alternative investigative representative. Bureau Commanders may attend the "investigator presentation" portion of the ADC.
 - 3. All investigation violations will be identified separately with individual findings using the dispositions described below.



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a. ADC Dispositions:

- i. UNFOUNDED – allegation is false or not factual.
 - ii. EXONERATED – incident occurred but was lawful and proper.
 - iii. NOT SUSTAINED – insufficient evidence to prove or disprove the allegation.
 - iv. SUSTAINED – evidence is sufficient to prove the allegation.
 - v. WITHDRAWN - complainant withdraws the complaint before the investigation is complete.
 - vi. REFERRED – the investigation of the complaint is forwarded to an external entity or law enforcement agency.
 - vii. REVIEWED –
 - a) No action required
 - b) Policy violation
 - viii. ADMINISTRATIVELY CLOSED – when it is determined by an OIG Commander the investigation may be closed for administrative reasons.
4. If a violation is sustained, the ADC will recommend appropriate disciplinary action. The ADC may recommend other appropriate measures, such as, but not limited to, employee corrective action, EAP referrals, fitness for duty evaluation, and additional training. Such referrals or corrective action shall be referred to the Bureau level with the authority to administer it.



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5. An employee has the right to appeal a disciplinary action; refer to the *Harris County Sheriff's Office Civil Service Regulations, Rule 12.04*. **[CALEA Standard 26.1.6]**

VI. Additional Considerations:

- A. Supervisors shall avoid censuring an employee in the presence of others as far as circumstances permit.
- B. Employees will not be subject to disciplinary action except for just cause.
 1. The cause for disciplinary action shall be in writing and shall particularly state the reason or reasons for which the Sheriff has determined that disciplinary action is necessary **[CALEA Standard 26.1.7a]**.
 2. Every employee receiving disciplinary action shall have presented to him/her a copy of just cause, which shall include the effective date of the disciplinary action **[CALEA Standard 26.1.7b]**.
 3. Every employee receiving disciplinary action that results in termination of employment shall receive notice of the cessation of benefits, and be referred to the Harris County Personnel Regulations and/or contact the Harris County Office of Human Resources & Risk Management to determine the status of fringe or retirement benefits **[CALEA Standard 26.1.7c]**.
- C. At the completion of the disciplinary action process, whether completed at the bureau level or by the ADC, a copy of all reports and investigations shall become a part of the employee's personnel file **[CALEA Standard 26.1.8]**.

Note: The Harris County Sheriff's Office retention policy for corrective action shall be in compliance with state law.



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- D. The employee being disciplined is entitled to representation at any meeting between the employee and supervisor(s), but only after a determination has been made to impose disciplinary action. This policy does not interfere with the employee's right to legal counsel.

- E. Lateral and upward movement within the HCSO may be affected by disciplinary histories.

Revision:

This policy has been revised on the below listed dates:

April 21, 2009

April 23, 2013

April 21, 2014

October 16, 2015

October 28, 2015

March 28, 2016