

# **Basic Internal Affairs**

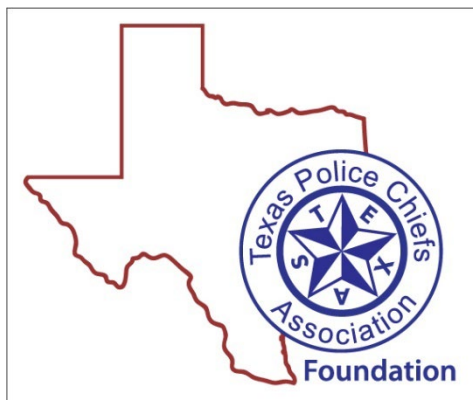
*16 Hours – TCOLE Course #37007*



*Presented by:*

***Texas Police Chiefs Association  
Foundation***

***P.O. Box 819, Elgin, Texas 78621***



Welcome to a Texas Police Chiefs Association Foundation (TPCAF) training session. Thank you for participating in some of the best leadership focused training in Texas. Whether you are seeking the coveted Law Enforcement Command Officer Professional (LECOP) status or taking an individual class to sharpen your skill set, we hope you find this class personally and professionally rewarding.

Proceeds from training sessions like this support the TPCA Foundation's work, including the Fallen Officer Fund. The Fallen Officer Fund provides a \$10,000 check to the family of any peace officer killed in the line of duty in Texas. This includes Federal, State, county, local, and other peace officers working in Texas. The goal of the Fallen Officer Fund is to assist the family with any immediate needs by providing funds within 24-48 hours after the line of duty death. The family of a fallen officer should not have to worry about having money to pay a bill, flying in family from out of town, buying groceries, or any other need. Your attendance at this training session directly supports these families.

We encourage you to consider becoming a member of the Texas Police Chiefs Association (TPCA). TPCA is the largest association of police leaders in Texas and one of the largest state police chiefs associations in the nation. TPCA provides members with professional networking opportunities, a voice on legislative matters, resources, training opportunities, and access to model policies through the Texas Law Enforcement Accreditation Program. Please visit [www.texaspolicechiefs.org](http://www.texaspolicechiefs.org) for more information.

We hope you will check out our course catalog at [Texas Police Chiefs Association Conference & Training Site](#) to learn more about other training opportunities available.

Please consider donating to the Fallen Officer Fund

## TEXAS POLICE CHIEFS ASSOCIATION FOUNDATION

To make a difference, please scan below



TEXAS POLICE CHIEFS ASSOCIATION FOUNDATION

# TRUCK RAFFLE

2025 Chevrolet Trail Boss Valued at \$60,000  
Approximate Value

 100% of Proceeds Benefit the TPCAF Fallen Officer Fund

**Tickets**  
**\$100 each**

[Click Here To Purchase](#)

Drawing to be held:  
April 17, 2025

Winner need not be present to win

[SCAN ME](#)



Winner assumes responsibility for all taxes and registration fees.

TPCA Foundation | PO Box 1030 | Elgin, TX 78621 | [www.texaspolicechiefs.org](http://www.texaspolicechiefs.org)



Actual Truck Not Pictured



# TPCA Training



## Open To All Texas Law Enforcement Agencies

-  Classes offered throughout different regions of Texas
-  Aims to provide the very best of executive and command level training for chiefs, commanders and supervisors to lead and manage throughout their organizations
-  Classes are focused on leadership with common themes of fairness, dignity, respect, trust and non-biased practices that create healthy organization and community confidence.

Details &  
Registration  
Here



## TRAINING TOMORROW'S LEADERS TODAY!



# LECOP

## Law Enforcement Command Officer Program

Earn acknowledgment as a trained Law Enforcement Command Officer by completing a series of 10 training courses. Classes are open to all Texas Law Enforcement Agencies and designed to develop leadership skills and apply those skills to specific assignments.

### TRACK A

Focuses on Individual Leadership Skills

### TRACK B

Focuses On Leadership In An Organization & Influencing Culture



# TEXAS POLICE CHIEFS ASSOCIATION

## 66th Annual Conference

APRIL 14-17, 2025  
Galveston Convention Center



Training Opportunities

200+ Vendor Booths

Speakers

Golf Tournament

Run 2 Remember

Networking



Plan on attending the annual TPCA Conference.

Register at [Texas Police Chiefs Association Conference & Training Site](#)

# Texas Law Enforcement Accreditation Program



*The Texas Police Chiefs Accreditation Program allows Law Enforcement Agencies to voluntarily demonstrate compliance with over 170 best practices, developed by professionals, to ensure efficient service delivery and protection of individual rights.*



External Review of policies & operations



Enhances knowledge of policing & procedures



Decreased exposure to liability risk & cost



Demonstrates to the community the police department meets or exceeds the highest standards of Law Enforcement excellence





## WHAT YOU NEED TO KNOW:

- Open to all Law Enforcement Agencies
- Financial obligations: new application fee, annual program fee, travel costs for review team
- Program manager is required to complete 8 hours of program training - Agency heads are highly encouraged to attend
- Agency has two years to complete the process
- Accredited status is granted for four years. During this period, agencies are required to submit annual reports to demonstrate ongoing compliance with relevant standards
- Participating entities may qualify for scholarship to cover initial fee



[www.texaspolicechiefs.org](http://www.texaspolicechiefs.org)

# PROFESSIONAL SERVICES



The Texas Police Chiefs Association (TPCA) is the largest association of police executives in Texas and one of the largest state police chiefs associations in the country. With a diverse group of experts in all areas of policing, TPCA provides a wide range of professional services to Texas governmental entities.

## Police Chief Search and Selection

Staffing Studies

Executive Level Training

## Comprehensive Organizational Studies

Strategic Planning

Accreditation Program

### POLICE CHIEF SEARCH AND SELECTION

The Texas Police Chiefs Association offers valuable technical assistance in evaluating resumes and pinpointing credible candidates. Utilizing these resources can enhance your ability to choose the most suitable candidate for your department. Additionally, the Association can deliver a comprehensive selection process, typically at a significantly lower cost than many consulting firms.

### STAFFING STUDIES

We provide Staffing Studies that use the IACP and ICMA recommended workload models to determine the staffing options for various policing strategies.

### COMPREHENSIVE ORGANIZATIONAL STUDIES

A comprehensive Organizational Audit is beneficial, as it examines all departmental operations to ensure adherence to legal standards and best practices. This evaluation provides an analysis of crime control strategies, necessary staffing levels, and may include an anonymous employee survey.

### STRATEGIC PLANNING

A roadmap providing organizational direction can be an effective management and budget tool. TPCA can assist law enforcement agencies in developing a strategic plan and can facilitate the strategic planning process for other city departments.

### EXECUTIVE LEVEL TRAINING

TPCA provides quality training around the state. The Law Enforcement Command Officers Program (LECOP) offers a series of 10 courses to command level officers and supervisors covering the full range of law enforcement operations including Developing Leaders, Managing Administrative Operations, Patrol, Traffic, Special Operations and Criminal Investigations. Upon completing the full course series, they receive a LECOP Certificate and special recognition. All TPCA classes emphasize the importance of Leadership.

### ACCREDITATION PROGRAM

A nationally recognized program with over 170 standards outlining best practices for law enforcement agencies in Texas. This program includes independent review of policies and operations of an agency, ensures efficient service delivery to the public, protection of individual rights, and decreased exposure for liability and risk.

FOR MORE INFORMATION PLEASE EMAIL  
GELLIS@TEXASPOLICECHIEFS.ORG  
OR CALL 512-281-5400





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## Texas Police Chiefs Association Foundation

*Overview and Macro Curriculum*

### Basic Internal Affairs Investigations

#### **Rationale:**

The process of conducting internal affairs investigations can be complex and daunting but it is occasionally necessary. The goal of these investigations is fact finding for the purpose of supporting and protecting personnel involved in approved conducts while holding accountable those involved in unapproved conducts. Fair and unbiased internal investigations contribute to the health of police organizations and are essential to establishing and maintaining community confidence. This course focuses on the basics of establishing protocols, gathering evidence and protecting the rights of all involved while protecting the agency's ability to take appropriate follow up actions.

#### **Overview:**

This 16 hour course is presented in 2 days. It uses lectures, examples and discussions to provide the means to perform and document internal affairs investigations by examining processes, interview techniques and documentation methods providing for thorough and defensible conclusions. It is intended for those who will perform investigations, or develop internal affairs processes in an organization.

#### **Course Goals:**

At the conclusion of this course, the participant will:

1. Define the philosophy of professional standards and the IA function.
2. Describe the common causes of disciplinary problems.
3. Describe the process for conducting IA investigations and protecting the rights of those under investigation.
4. List the special issues associated with use of force investigations and officer involved shootings.
5. Identify basic methods for dealing with news media issues.
6. Articulate the points of proper records keeping and reporting.

#### **Schedule of Topics:**

1. Philosophy of Professional Standards and the IA Function.
2. Causes for Disciplinary Problems.
3. Conducting IA Investigations and Reporting.
4. Miranda and Garrity Warnings
5. Basis for Discipline.
6. Use of Force Investigations Including Police Shootings.
7. News Media Relations.
8. Record Keeping, Subpoenas, Open Records Requests and TXOAG Reporting.
9. Citizen Review Committees.

#### **Instructor:**

Doug Kowalski, Chief of Police  
Assistant Chief, Dallas Police Department (ret.)



# Instructor Bio

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## Chief Doug Kowalski

Chief Doug Kowalski began his law enforcement career in 1975 when he joined the New York City Police Department as an Auxiliary Police Officer. In 1977, he moved to Texas and joined the Dallas Police Department, where he advanced through the ranks of Officer, Corporal, Sergeant, Lieutenant, Captain, and Deputy Chief. During his career in Dallas he worked in Patrol, Internal Affairs, Training, Property Crimes, Narcotics, Communications, S.W.A.T. and Special Operations (Tactical and Traffic Divisions).

Chief Kowalski retired from the Dallas Police Department in July 2000 and joined the McKinney Police Department as Assistant Chief. He promoted to Chief of Police, serving in that role from January 2001 until October 2012. During this time McKinney was listed as one of the fastest growing cities in America, as the city grew from a population of 54,000 to over 140,000 citizens. Commensurate with this growth, under his leadership, the Police Department grew from a strength of 67 officers and 25 civilians (92 employees) to a force of 164 sworn and 47 civilians (211 employees). Under his command the McKinney Police Department earned recognition status under the Texas Police Chiefs Association Recognition Program for following the best practices for Texas law enforcement. In January 2014, Chief Kowalski was appointed and is currently the Chief of Police in Prosper, Texas.

Chief Kowalski holds a Master of Science Degree in Leadership and Justice Administration from the University of Texas at Dallas and a Bachelor of Science Degree from Wagner College in New York. He also attended Fordham University School of Law. He is a graduate of the Institute for Law Enforcement Administration School of Police Supervision 23rd Command and Management College and the 10th Advanced Management College. He is a vice chair of their Advisory Board and a past president of their Alumni Association. Chief Kowalski also graduated from the 180th Session of the FBI National Academy. Additionally, he is a Certified Fraud Examiner (C.F.E.).

Chief Kowalski holds TCOLE Master Peace Officer and Instructor Certificates. He has lectured at the Dallas Police Academy, the Institute for Law Enforcement Administration, the University of Texas at Dallas, the University of North Texas, and at Collin College. He is currently a faculty member of the Caruth Police Institute at the University of North Texas. He has testified as an expert witness on Tactical Operations before a United States Congressional Sub-Committee. He is a member of the Collin College Law Enforcement Academy Training Advisory Board; a member of the IACP - Patrol and Tactical Operations Committee. He is a Past President of the North Texas Police Chiefs Association. He assisted the Police Executive Research Forum (PERF) in publishing a book, A Conflict of Rights, about Policing Protests, and a White Paper on Community Policing. In 2014 he was the recipient of the Dr. Gary Sykes Award for professional achievement in law enforcement presented by the Institute for Law Enforcement Administration.

# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski



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## Day 1 Agenda

8:00 Introduction and Opening Remarks	1:00 Conducting the Investigation and Reporting
8:30 Philosophy of Professional Standards and the IA Function - The Five C's	2:30 Break
10:00 Break	2:45 Miranda and Garrity Warnings
10:15 Causes of Disciplinary Problems	3:45 Basis for Discipline
11:45 Lunch	5:00 Adjourn

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

TPCAF Recognition Program

Recognition Program Training  
Recognition Newsletters  
Recognition - Sample Policies  
What is Recognition?

## TPCAF RECOGNITION PROGRAM

[Click here for recognition site with sample policies.](#)

### What is the Law Enforcement Agency Best Practices Recognition Program?

The Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 166 Texas Law Enforcement Best Practices. These Best Practices were carefully developed by Texas Law Enforcement professionals to assist agencies in the efficient and effective delivery of service, the reduction of risk and the protection of individual's rights.

While similar in nature to the national accreditation program, the Best Practices Recognition Program is easier to administer, lower in cost and is designed specifically for Texas Law Enforcement. The Texas Legislature demands a great deal of professional law enforcement in Texas and the Best Practices were specifically designed to aid Texas agencies in meeting those demands and providing the best quality of service to the people of our State.

Since its inception in 2006, over 100 Texas Law Enforcement Agencies have been Recognized and many

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## TPCAF RECOGNITION PROGRAM

[Click here for recognition site with sample policies. \(http://rp.tpcfaf.org/\)](http://rp.tpcfaf.org/)

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Since its inception in 2006, over 100 Texas Law Enforcement Agencies have been Recognized and many more are currently in the process to become Recognized Agencies. While members of the Texas Police Chiefs Association recognize and support the national accreditation program, The Texas Best Practices Recognition Program has clearly become the new Gold Standard for Texas Law Enforcement!

### How were these Best Practices developed?

A Committee of Chiefs of Police and Command level officers from across Texas assisted in the development of standards that were believed to be necessary for proper functioning of Texas Law Enforcement agencies. These revised Texas Law Enforcement

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

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**How were these Best Practices developed?**

A Committee of Chiefs of Police and Command level officers from across Texas assisted in the development of standards that were believed to be necessary for proper functioning of Texas law enforcement agencies. They reviewed Texas law and other State Accreditation Program standards to determine which were most appropriate.

An appointed Committee of professional Police Chiefs from across the state then reviewed these standards and approved them for testing. The standards were then tested by several Texas agencies and adjusted to be both appropriate and achievable.

That same Committee of nine Police Chiefs now conducts the final review of an agency's efforts and awards "Recognized" status in addition to conducting an annual review of the Best Practices for additions and modifications.

**What do the Standards look like?**


Below are some examples of the Texas Best Practices:


1.04 Written System of Agency Directives

The agency has a written directive system in place that includes all agency policies, procedures, and practices. The written directive system must:

1. Be numbered and organized in a manner that allows numerical reference.
2. Require a periodic review and updating of directives to include that all directives are in accordance with applicable Texas Law.
3. Require directives and updates be made available to, and reviewed by, all affected agency personnel in a manner designated by the Agency Director.
4. Require maintenance of documentation proving receipt of directives by agency personnel in a manner designated by the Agency Director.

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1.09 Sworn Personnel Basic License

The Agency has a written directive which requires that personnel hold a Texas Peace Officer license before performing law enforcement duties.

2.04 Internal Investigations

The Agency has a written directive on how to receive, investigate, and conclude complaints against employees. Sustained complaints must be based on facts determined during the investigation.

2.11 Sexual and Other Unlawful Harassment

The Agency has a written directive that prohibits sexual or other unlawful harassment. The written directive must provide for reporting procedures that include when it is appropriate to make a report outside the chain of command or outside the Agency. The agency must provide training to all personnel.


2.14 Truthful


The Agency has a written directive requiring all employees to be truthful in all official verbal and written communications and reports. Employees will be truthful in any court related testimony or agency investigations.

3.02 Use of Deadly Force Training

The agency has a written directive on training its sworn personnel at least annually in the proper use of deadly force and the use of any firearm used in the course of law enforcement duties.

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

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4.05 Off-Duty Employment

The Agency has a written directive that specifies the criteria for off duty employment. The Directive must:

1. Address who is authorized to work off duty employment.
2. State the types of employment prohibited by the agency.
3. Include the approval procedure for off-duty employment.

6.01 Authorization to Use Force

The Agency has a written directive that authorizes designated employees to use only the level of physical force that is necessary and reasonable to achieve the desired legal objective.

6.02 Authorization of Deadly Force

The Agency has a written directive that authorizes police officers to use deadly force when the officer reasonably believes that his/her life is in immediate danger of death or serious bodily injury or a third person is in immediate danger of death or serious bodily injury.


6.03 Use of Force Documentation and Review

The Agency has a written directive requiring completion of a specific administrative form for this purpose only to document the use of force by agency personnel, including a review process of each incident by supervisory personnel. The form may be electronic or paper and the format will be designated by the agency.

7.13 Vehicle Pursuits

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The Agency has a written directive for vehicle pursuits. The written directive includes:

1. The criteria for initiating a pursuit.
2. The method of conducting a pursuit.
3. The supervision of a pursuit.
4. The criteria for terminating vehicle pursuits.

The Department also trains appropriate personnel in the pursuit policy.

7.14 Pursuit Documentation

The Agency has a written directive that requires a pursuit report to be completed after each pursuit. The report is forwarded through the chain of command to the Agency Director or designee. The Pursuit report will document at a minimum:

1. The reasons for the pursuit.
2. The personnel involved.
3. The result of the pursuit.
4. Any injury or damage.
5. Any other significant events that occurred.


An annual report of agency pursuits is prepared for the Agency Director.

8.01 Barricaded Suspect and/or Hostage Incidents

The Agency has a written directive instructing personnel how to respond to a barricaded suspect or hostage incident which includes:

1. Responding to the scene.
2. Determining the nature of the event and securing the scene.

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2. Determining the nature of the event and securing the scene.  
3. Calling appropriate assistance and/or supervision.  
4. Evacuating or protecting bystanders.

10.01 Searching and Transport (E)

The Agency has a written directive addressing searching and transporting adult prisoners. The written directive includes at a minimum:

1. That all adult arrested persons be searched before any transport.
2. The approved methods of how to safely transport arrested persons.
3. Methods or actions for transporting sick, injured, or disabled arrested persons.
4. Search of the transporting vehicle before and after the transport.
5. The proper use of any restraining devices.
6. Monitoring of the prisoner to avoid medical difficulties.



Training of agency personnel in searching and transportation of prisoners is also required.

12.08 Inventory of Property/Evidence

The Agency has a written directive requiring a sampling of individual items stored in the property and evidence area at least annually, and when a new person is assigned who is in direct control of the property/evidence function. Any sample should include an adequate number of items to determine the overall accountability and integrity of the inventory system.

**How do you get to be "Recognized?"**

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An agency that has been awarded "Recognized" status has undertaken a careful internal review of its policies, procedures, equipment, facilities, and operations. Most agencies find that some adjustment and revisions of their policies and procedures may be necessary. The agency then submits proof of their compliance with the standards (usually electronically) to independent assessors. After an independent review of their written documents and proofs, a team of assessors is sent to the agency to review their operations and facilities, and to interview the Department's staff. A Final Report outlining the findings is sent to the Recognition Committee. The Committee reviews the findings and votes whether or not to award "Recognized" status.

**How long are you "Recognized?"**

The "Recognized" status is awarded for a four year period. During the four year period the agency must submit an annual report and show continuing compliance with several performance related standards. These are reviewed as they are received and compliance verified. During the last year of the period the agency must prepare updated documentation on all Best Practices and another on site review is conducted. The Recognition Committee must then vote again to approve "Recognized" status for the next four years. If the agency does not submit the required annual proofs, or if there is indication received by the Committee that the agency is not in compliance during the period, the Committee may vote to remove "Recognized" status. The Texas Police Chiefs Association Foundation has contracted with an outside group to manage the recognition process and ensure integrity and accountability.

All Best practices are provided to any agency Free of Charge. They are available for download at the Program Website: <http://tpcaf.org> (<http://tpcaf.org>) You do not "Register" to obtain any downloads. Just click on "Downloads," then click on "Getting

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

download at the Program Website: <http://www.texaspolicechiefs.org>. You do not "Register" to obtain any downloads. Just click on "Downloads," then click on "Getting Started," then select the current version of the Standards Manual. Download the manual to your computer and print a copy or review the standards on your computer.

Unlike other programs, The Texas Police Chiefs Association does not charge for copies of any program materials. If your agency is unable to participate due to funding, you are encouraged to use the standards without joining the Program in order to make your department better.

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For Financial, Contract or Billing issues:  
Judy Davis  
TPCA Office: 512-281-5400

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## Day 1 Agenda

8:00 Introduction and Opening Remarks	1:00 Conducting the Investigation and Reporting
8:30 Philosophy of Professional Standards and the IA Function - The Five C's	2:30 Break
10:00 Break	2:45 Miranda and Garrity Warnings
10:15 Causes of Disciplinary Problems	3:45 Basis for Discipline
11:45 Lunch	5:00 Adjourn



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# Internal Affairs and Policing in a Democratic Society - The Five "Cs" of Leadership

Presented by:  
Doug Kowalski  
Chief of Police  
Prosper, Texas



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## Background: Policing in a Democratic Society

Our Police Leadership Principles are rooted within our System of Government.

In short, we **Police** in a **Democratic Society**.

Our **external customers**, the **citizens and community** expect and demand our adherence to these **democratic principles**.

Our **internal customers**, the **people and organizations we LEAD** have these same Democratic principles at their basic level of expectation.

Our Police Powers are derived from Law:  
**The United States Constitution**  
The Supreme Law of the Land




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## The United States Constitution

Preamble:

**We the People** of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.



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## U.S. Constitution (continued)

Government derives its power from the consent of the governed.

**We the people...**

Provides for a Separation of Powers (three Branches of Government).

Legislature – enacts the Law

**Executive** – executes or enforces the Law

Judicial – interprets the Law

Provides for checks and balances between the three branches.



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## The Bill of Rights

**First Amendment** – Establishment Clause, Free Exercise Clause (Religious Freedom), freedom of speech, of the press, and of assembly; right to petition the government.

**Second Amendment** – Right to keep and bear arms. Well regulated militia.

Third Amendment – Protection from quartering of troops.

**Fourth Amendment** – Protection from unreasonable search and seizure.



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**Fifth Amendment** – due process, double jeopardy, self-incrimination, eminent domain.

**Sixth Amendment** – Trial by jury and rights of the accused; Confrontation Clause, speedy trial, public trial, right to counsel.

**Seventh Amendment** – Civil trial by jury.

**Eighth Amendment** – Prohibition of excessive bail and cruel and unusual punishment.



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Presented by: Chief Doug Kowalski

Ninth Amendment – Protection of rights not specifically enumerated in the Bill of Rights.

Tenth Amendment – Powers of states and people.

**Post Civil War:**

**Fourteenth Amendment** – equal protection clause; privileges and immunities clause

**"Under The Color Of Law."**

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**Police Oath of Office**

Solemnly Swear to **Preserve, Protect, and Defend** the Constitution and Laws of the United States and the State of Texas.

**Honor bound** to Police and Lead by these **Democratic Principles** established in Law.

**Nation of Laws, not of Men.**

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## IACP LAW ENFORCEMENT OATH OF HONOR

The Law Enforcement Oath of Honor is a public affirmation and commitment to the department's policy and procedures regarding Integrity and Ethics.

On my honor I will never betray my badge, my integrity, my **CHARACTER**, or the public trust. I will always have the **COURAGE** to hold myself and others accountable for our actions.

I will always uphold the constitution and community I serve.



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## Internal Investigation Leadership Principles

**What are the essential elements** of the leadership role in Policing and in Policing the Police?

There is no definition in the text and... the experts cannot even agree on a definition of leadership.

Now I'm not an expert but a student... and if the experts can't agree then my opinion is just as valid as theirs,

It is my opinion that **the essential elements of Leadership** can be summed up in **Five C's**:

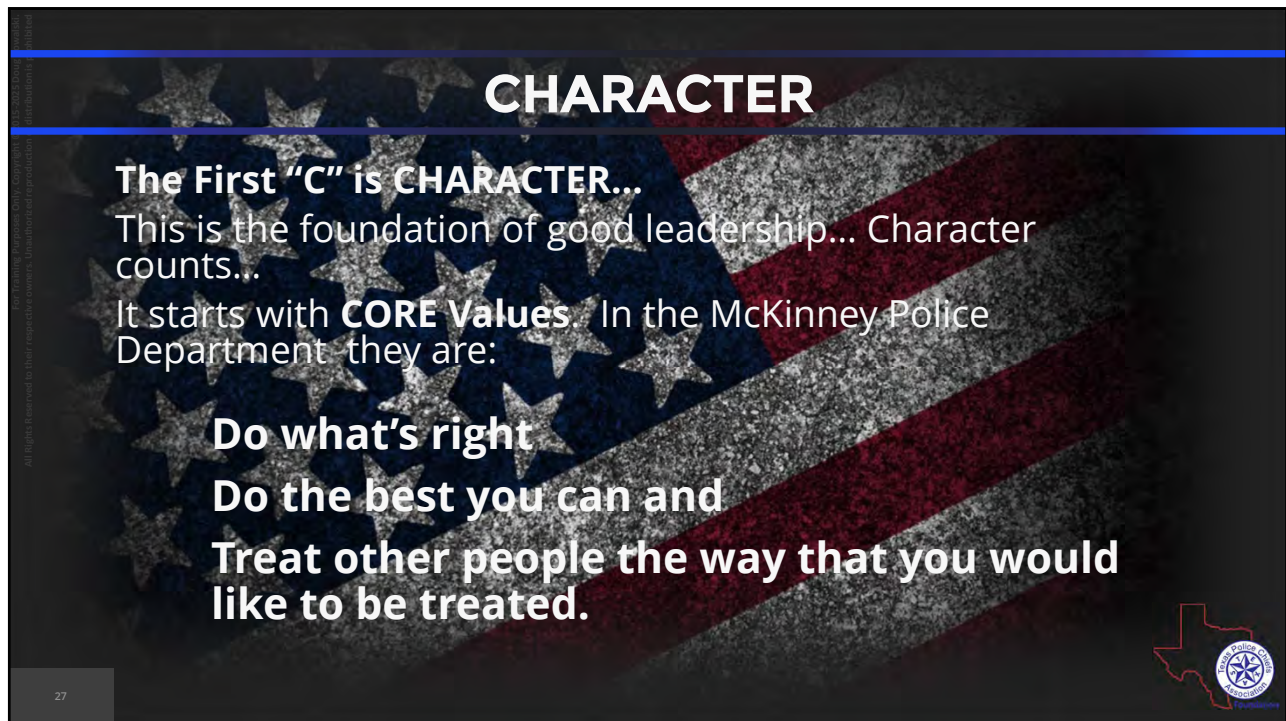


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Presented by: Chief Doug Kowalski

As **Dr. Martin Luther King, Jr.**, a Civil Rights Leader, stated:  
*The ultimate measure of a man is not where he stands in moments of comfort, but where he stands at times of challenge and controversy.*

**Character** is not formed during a times of challenge...it is merely tested.

**GEN H. Norman Schwarzkopf:**  
*By far the single most important ingredient of leadership is your character... You will find that 99% of all the leadership failures in this country in the past 100 years were not failures in competence; they were failures in character... Leadership involves morality, and indeed, leadership involves integrity, and that is why character counts in leadership.*



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## CHARACTER (compare & contrast)

I will add however, what Character is not. It is not **COMPROMISE** or **CORRUPTION**.

While leaders must frequently negotiate,

When it comes to matters of SAFETY, PRINCIPLE, or ETHICS **COMPROMISE** is NOT an option.

**Compromise** on these issues will certainly lead to a descent into ...**CORRUPTION**...we all know how scandals have rocked the core of our profession.



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**CORRUPTION** has destroyed departments.


**CORRUPTION** is a watchword in our profession.

**Compromised or Corrupt** law enforcement is an abomination. Yet it exists. Why?

**President Abraham Lincoln:**

*Nearly all men can stand adversity, but if you want to test a man's character, give him power.*

**To be a Leader , you must have followers:  
If you Lead with CHARACTER, you will win their respect.**



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## COMPETENCE

**The Second "C" is COMPETENCE...**

This generally entails the continual honing of your **Knowledge, Skills, and Abilities.**

This means training and education...Being all that you can be. It requires attending sessions like this - Career Development.

**It requires being a perpetual, dedicated, and serious student.**



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**COMPETENCE (compare and contrast)**

The opposite of Competent personnel is the Charismatic Charlatan.

The worst among them is the unconsciously incompetent...who does not know the level of his or her incompetence.

Their benchmark is **Continual Crisis and Controversy**.

A chronic level of incompetence causes crisis after crisis.

IA or Performance Improvement Plan?



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**COMPETENCE**

To be a leader you must have followers.

If you Lead with COMPETENCE, you will win their "MINDS."



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**COMPASSION**

The third "C" is **COMPASSION**

We are in the **people business**.

Law enforcement personnel must be ever mindful of the two groups of people who must be served: The **external customers** and the **internal customers**.

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Regarding the external customers...simply apply the **golden rule**:

**Treat other people the way that you would like to be treated.**

We are first responders...rescuers by nature and vocation...and compassion is what brought many of us to this profession. The manner in which Police service is delivered is a direct reflection of how the leadership regards the needy and treats their subordinates.

The key is treating all people with **dignity and respect**.

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Presented by: Chief Doug Kowalski

Leadership requires that we never lose contact with that **compassion** in ourselves...

And moreover, that we **cultivate** it in our troops.

We do that by treating our internal customers, with that same **Compassion and Caring**.

Never forget that these are the people who **throw themselves into the breach** on a daily basis...risking far more than their reputations. They are engaged in Emotional Labor.



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## COMPASSION (compare and contrast)

The alternative all too often in our profession is **Callous and Calculated behavior** in external and internal interactions.

Citizens and Employees are regarded as **expendable**.

This negative attitude will permeate an organization and **alienate it from the citizenry** that it is sworn to serve...and destroy any community policing efforts.

It will be externally regarded as **Cold and Cruel** or Uncaring.



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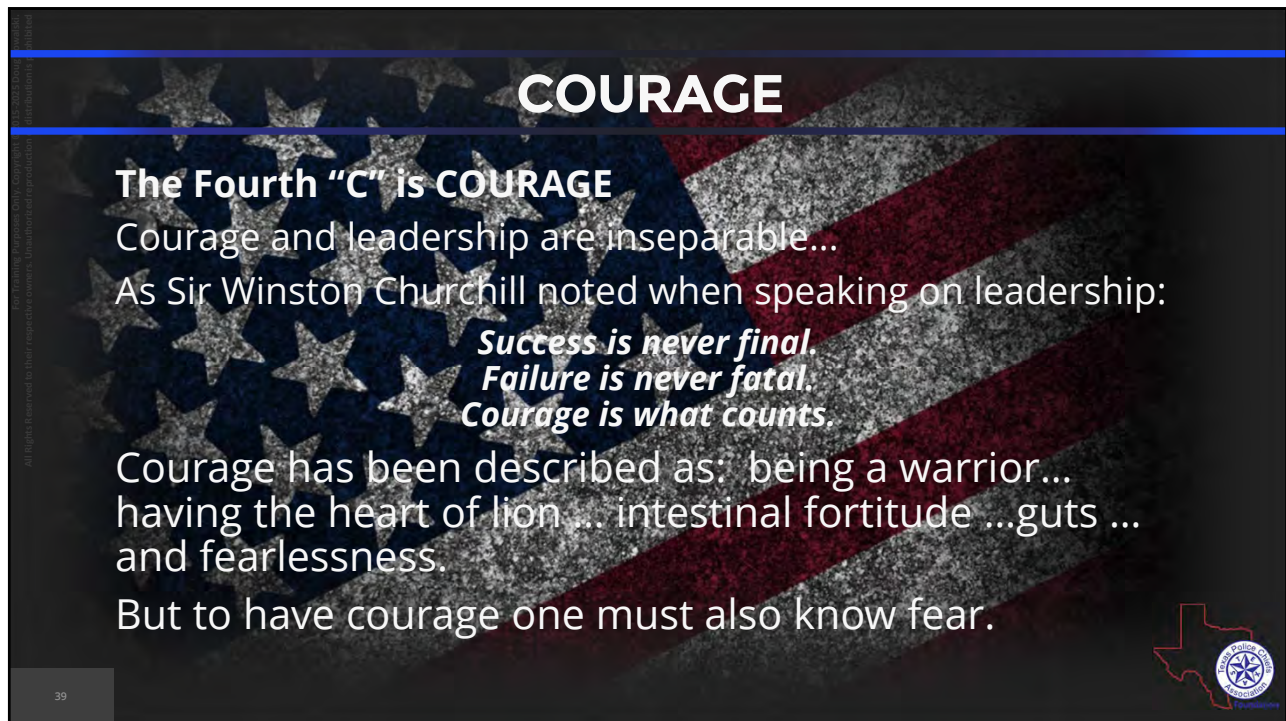
There is no room for that in our profession...  
We can't abide by that...so we need not dwell on it.

**To be a leader you must have followers:  
If you lead with COMPASSION, you will win their  
"HEARTS."**

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## COURAGE


**The Fourth "C" is COURAGE**  
Courage and leadership are inseparable...  
As Sir Winston Churchill noted when speaking on leadership:

*Success is never final.  
Failure is never fatal.  
Courage is what counts.*

Courage has been described as: being a warrior...  
having the heart of lion ... intestinal fortitude ...guts ...  
and fearlessness.

But to have courage one must also know fear.

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**COURAGE** (compare and contrast)

The opposite of the Courage is another "C"...Cowardice.


This is displayed if you are completely hidden during a crisis or unable to make decisions...

**Indecision**... including **paralysis by analysis... is fatal**. The clock is ticking and time is not always on your side.

The reputation of your Department and the safety of your community may hang in the balance.

Ferguson, MO or Baltimore, MD?

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Indecisive or Cowardly Leaders stifle any organization.

In short, these **Cowards become "Crippled"** and "Cripple" the organization.

Do not wait for perfect conditions or optimum resources...they will **NEVER** arrive. Heed this advice...

**General George S. Patton**  
***A good plan implemented today is better than a perfect plan implemented tomorrow.***

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While we are on the subject of Courageous Decisiveness...let me warn you about another group...**Critics**.

With the **luxury of time and hindsight**, they love to negatively criticize every decision that was made by the leadership in the field under extraordinary conditions.

**Critics are not to be confused with a "Critique"** or After Action Report. Where lessons learned can be applied to modify and improve your overall response.




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## **COURAGE** (compare and contrast)

**Critics** are **vultures**...who exist for political gain...or profit...or are enamored with the sound of their own voice and exaggerated sense of self importance.

**Critics** will abound after any event but do not let their antics dissuade you from making **difficult...yet necessary decisions**.



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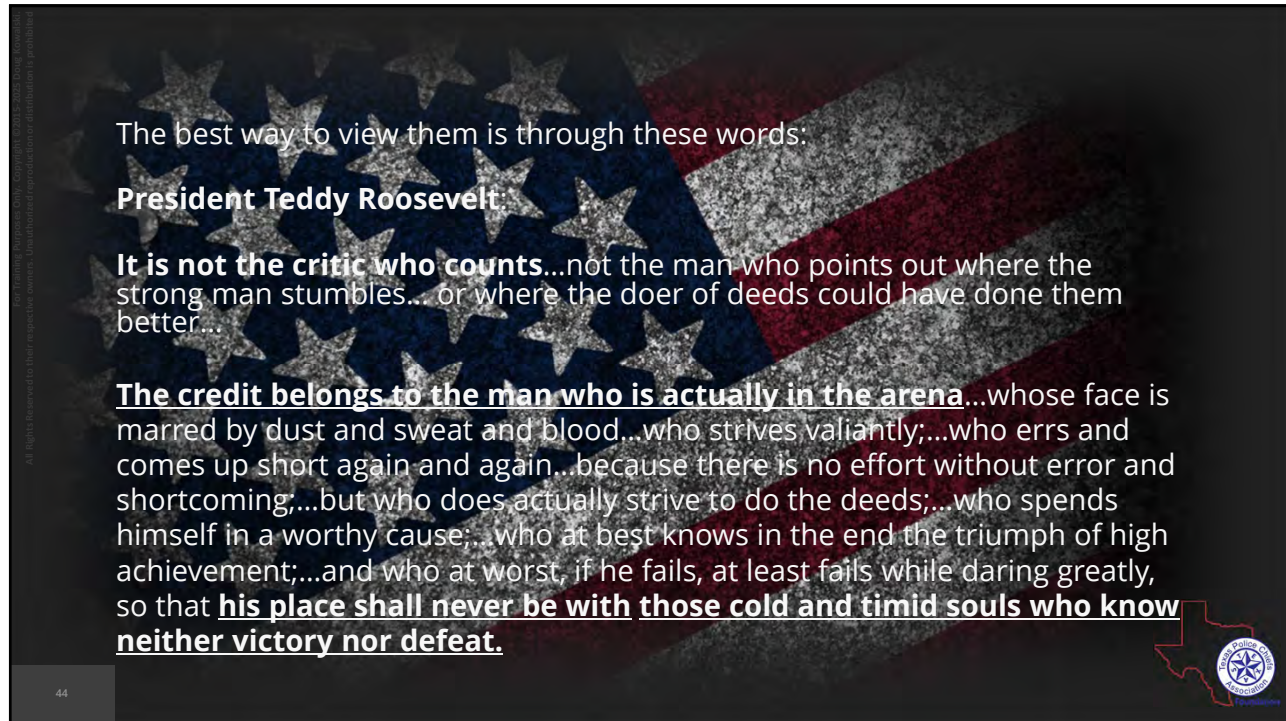
Presented by: Chief Doug Kowalski

The best way to view them is through these words:

**President Teddy Roosevelt:**

**It is not the critic who counts...**not the man who points out where the strong man stumbles... or where the doer of deeds could have done them better...

**The credit belongs to the man who is actually in the arena...**whose face is marred by dust and sweat and blood...who strives valiantly;...who errs and comes up short again and again...because there is no effort without error and shortcoming;...but who does actually strive to do the deeds;...who spends himself in a worthy cause;...who at best knows in the end the triumph of high achievement;...and who at worst, if he fails, at least fails while daring greatly, so that **his place shall never be with those cold and timid souls who know neither victory nor defeat.**



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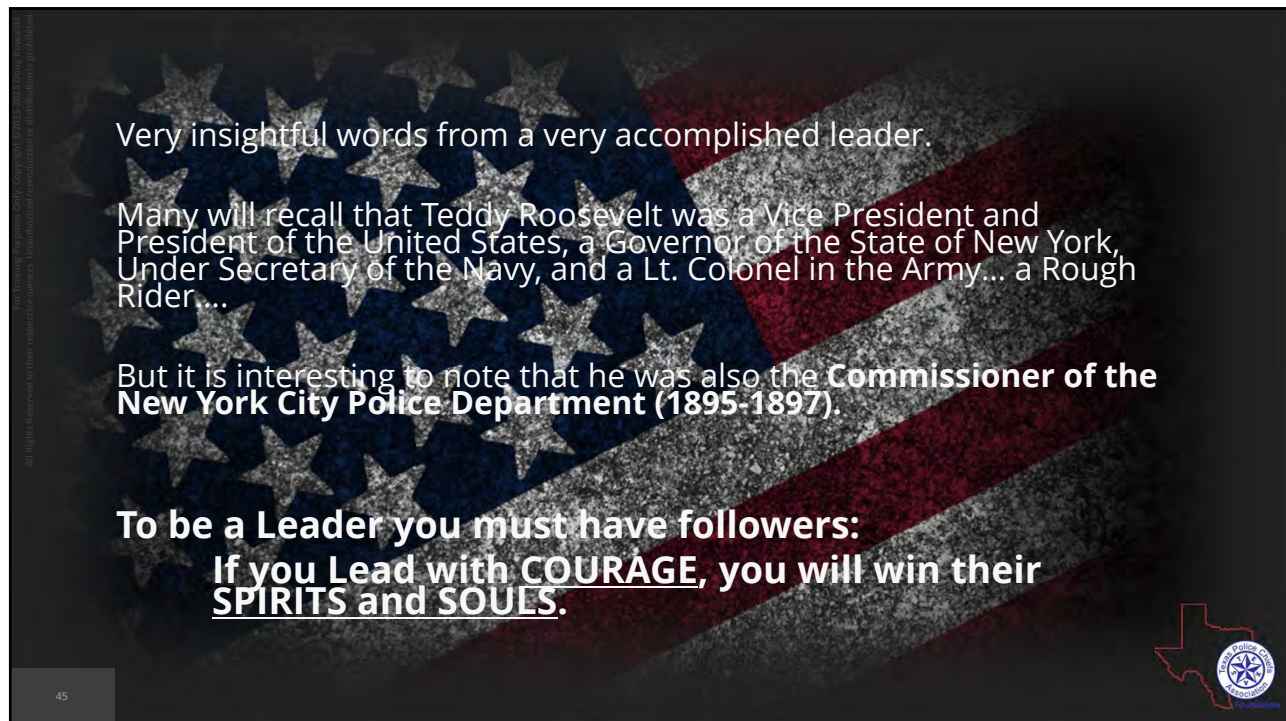
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Very insightful words from a very accomplished leader.

Many will recall that Teddy Roosevelt was a Vice President and President of the United States, a Governor of the State of New York, Under Secretary of the Navy, and a Lt. Colonel in the Army... a Rough Rider ...

But it is interesting to note that he was also the **Commissioner of the New York City Police Department (1895-1897).**

**To be a Leader you must have followers:**  
**If you Lead with COURAGE, you will win their SPIRITS and SOULS.**



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**COMMITMENT**


**The Fifth "C" is COMMITMENT**

If you have Character, Competence, Compassion, and Courage,

Then they are surely on the right path -

they need only now Commitment to this, their profession.

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**Conviction...persistence...perseverance...determination...will...**  
call it what you like but it equates to the last "C" **Commitment**.

The importance of this element cannot be overestimated:


As **President Calvin Coolidge** noted:

*Nothing in the world can take the place of persistence. Talent will not; nothing is more common than unsuccessful men with talent. Genius will not; unrewarded genius is almost a proverb. Education will not; the world is full of educated derelicts. Persistence and determination are omnipotent. The slogan press on has solved and always will solve the problems of the human race.*

**Vince Lombardi**

*"Perfection is not attainable but if we chase perfection, along the way we can catch excellence."*

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**COMMITMENT (compare and contrast)**

The inverse of Commitment is **Complacency**...this will begin a process of **lowering professional standards**.

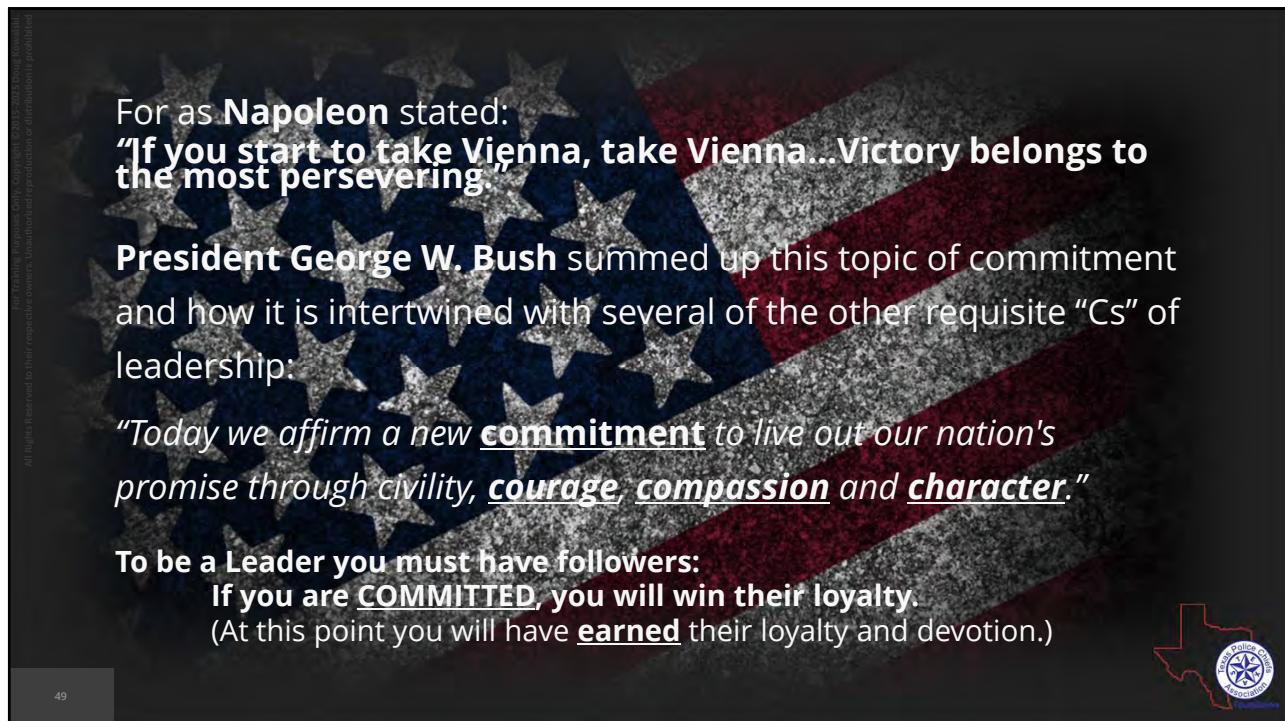
Complacency toward the ethics and integrity of the profession and the Department results in mediocrity for all. **"It's just a job."**

Could be based upon the fear of becoming unpopular and viewed as a **"Headhunter."**

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For as **Napoleon** stated:  
**"If you start to take Vienna, take Vienna...Victory belongs to the most persevering."**

**President George W. Bush** summed up this topic of commitment and how it is intertwined with several of the other requisite "Cs" of leadership:

*"Today we affirm a new **commitment** to live out our nation's promise through civility, **courage, compassion and character.**"*

**To be a Leader you must have followers:**  
**If you are COMMITTED, you will win their loyalty.**  
(At this point you will have **earned** their loyalty and devotion.)

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**Conclusion**

My **thesis** is that there are five critical elements, the Five "C"s, comprising successful Leadership and Policing the Police:

- Character**
- Competence**
- Compassion**
- Courage**
- Commitment**

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Those elements were **compared and contrasted** with their corresponding **antithesis**...

- Corruption**
- Charismatic Charlatans**
- Callousness**
- Cowardice**
- Complacency**

These are the bane of our profession and the appearance of any one of these will result in **failed leadership...an organizational failure...and failing our citizens.**

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1


Presented by: Chief Doug Kowalski

The **synthesis** of these concepts is finally within you. You can **earn their Respect, their Minds, their Hearts, their Souls and their Loyalty.**

**That is a win-win scenario for you, your personnel, the organization, and your community.**

One last note on Leadership,  
The work is hard. The hours are long. The pay is insufficient. Expect to be second guessed and **criticized.**


**Your reward...**  
Regardless of the outcome...win...lose or draw...I can promise you one thing:  
**Your place will never be with those cold and timid souls who know neither victory nor defeat.**



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## Questions?



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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

**Day 1 Agenda**

8:00 Introduction and Opening Remarks	1:00 Conducting the Investigation and Reporting
8:30 Philosophy of Professional Standards and the IA Function - The Five C's	2:30 Break
10:00 Break	2:45 Miranda and Garrity Warnings
10:15 Causes of Disciplinary Problems	3:45 Basis for Discipline
11:45 Lunch	5:00 Adjourn

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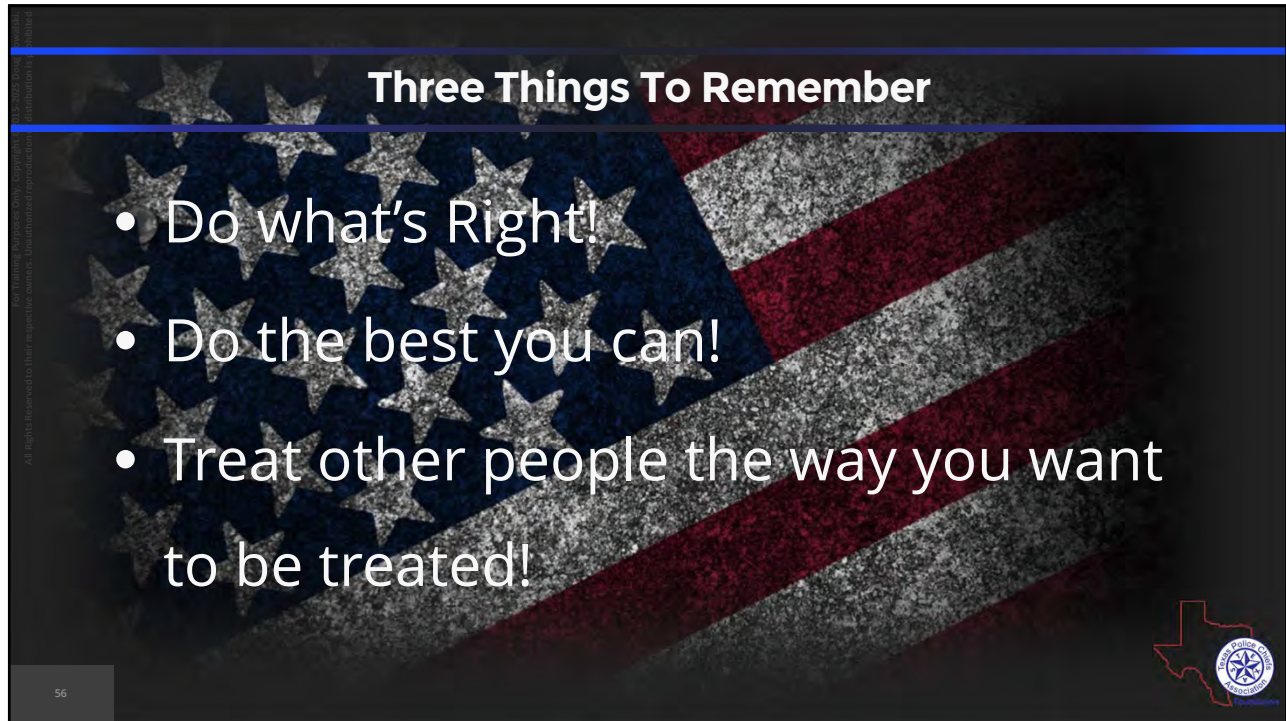
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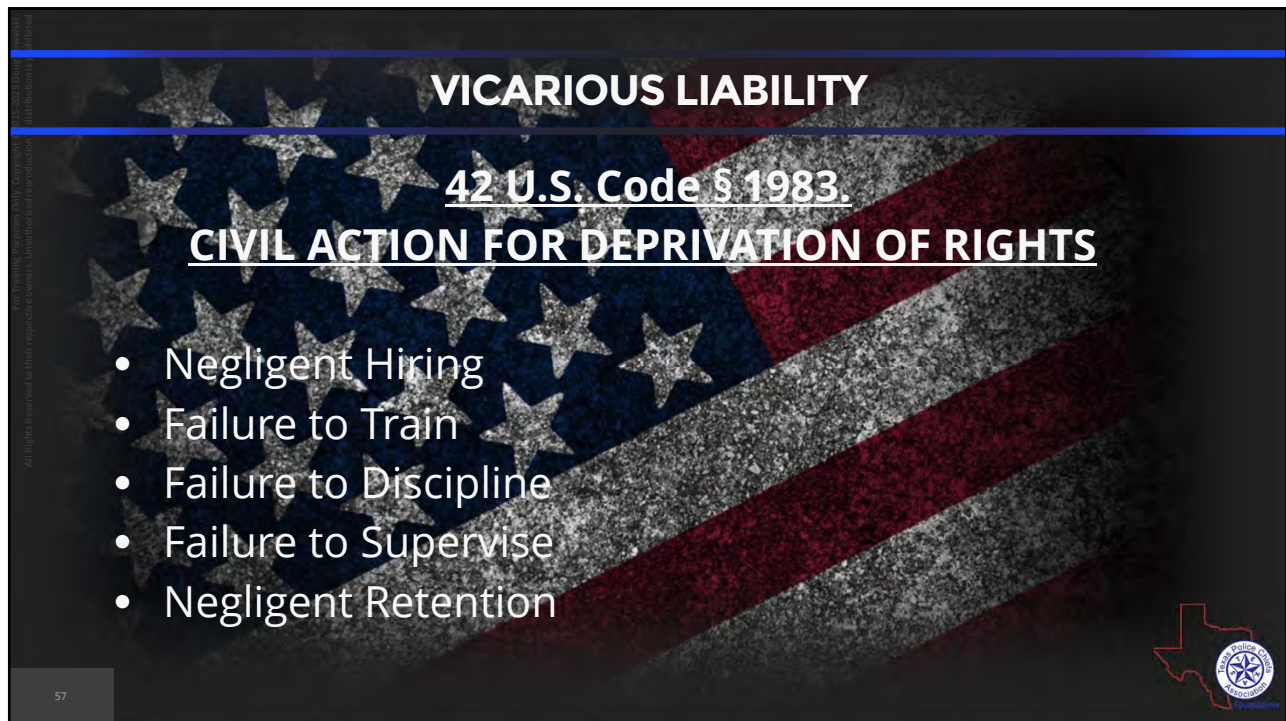
## Three Things To Remember

- Do what's Right!
- Do the best you can!
- Treat other people the way you want to be treated!

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## VICARIOUS LIABILITY

42 U.S. Code § 1983.

### CIVIL ACTION FOR DEPRIVATION OF RIGHTS

- Negligent Hiring
- Failure to Train
- Failure to Discipline
- Failure to Supervise
- Negligent Retention

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski



**Government Code**

TITLE 6. PUBLIC OFFICERS AND EMPLOYEES  
SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC OFFICERS AND EMPLOYEES  
CHAPTER 614. PEACE OFFICERS AND FIRE FIGHTERS

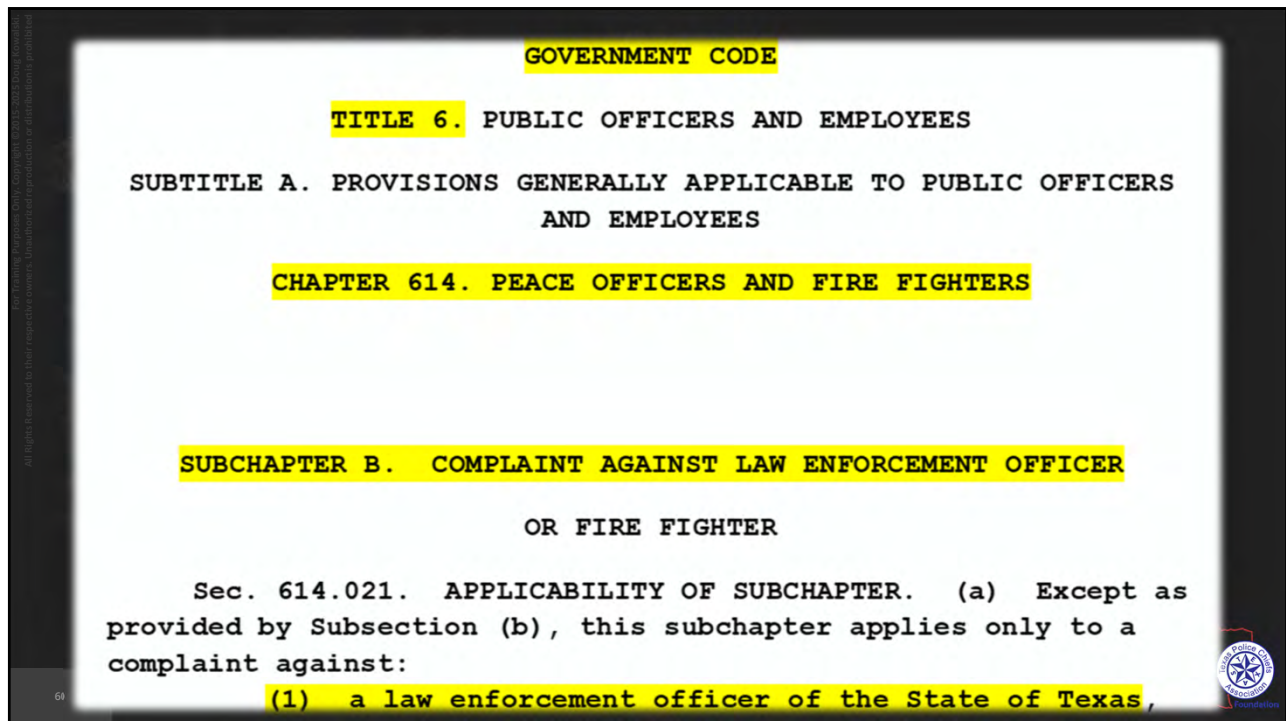
SUBCHAPTER B.      Sec. 614.022-614.023      SUBCHAPTER E.      Sec. 614.062-614.063

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**GOVERNMENT CODE**

**TITLE 6. PUBLIC OFFICERS AND EMPLOYEES**

**SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC OFFICERS AND EMPLOYEES**

**CHAPTER 614. PEACE OFFICERS AND FIRE FIGHTERS**


**SUBCHAPTER B. COMPLAINT AGAINST LAW ENFORCEMENT OFFICER OR FIRE FIGHTER**

Sec. 614.021. **APPLICABILITY OF SUBCHAPTER.** (a) Except as provided by Subsection (b), this subchapter applies only to a complaint against:

**(1) a law enforcement officer of the State of Texas,**

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complaint against:

- (1) a law enforcement officer of the State of Texas, including an officer of the Department of Public Safety or of the Texas Alcoholic Beverage Commission;
- (2) a fire fighter who is employed by this state or a political subdivision of this state;
- (3) a peace officer under Article 2.12, Code of Criminal Procedure, or other law who is appointed or employed by a political subdivision of this state; or
- (4) a detention officer or county jailer who is appointed or employed by a political subdivision of this state.

(b) This subchapter does not apply to a peace officer or fire fighter appointed or employed by a political subdivision that is covered by a meet and confer or collective bargaining agreement under Chapter 143 or 174, Local Government Code, if that agreement includes provisions relating to the investigation of, and disciplinary action resulting from, a complaint against a peace officer or fire fighter, as applicable.



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Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 507 (H.B. 639), Sec. 1, eff. September 1, 2005.


**Sec. 614.022. COMPLAINT TO BE IN WRITING AND SIGNED BY COMPLAINANT.** To be considered by the head of a state agency or by the head of a fire department or local law enforcement agency, the complaint must be:

- (1) in writing; and
- (2) signed by the person making the complaint.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 507 (H.B. 639), Sec. 1, eff. September 1, 2005.



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**Sec. 614.023. COPY OF COMPLAINT TO BE GIVEN TO OFFICER OR EMPLOYEE.** (a) A copy of a signed complaint against a law enforcement officer of this state or a fire fighter, detention officer, county jailer, or peace officer appointed or employed by a political subdivision of this state shall be given to the officer or employee within a reasonable time after the complaint is filed.

(b) Disciplinary action may not be taken against the officer or employee unless a copy of the signed complaint is given to the officer or employee.

(c) In addition to the requirement of Subsection (b), the officer or employee may not be indefinitely suspended or terminated from employment based on the subject matter of the complaint unless:

- (1) the complaint is investigated; and
- (2) there is evidence to prove the allegation of misconduct.



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**SUBCHAPTER E. POLYGRAPH EXAMINATIONS**


**Sec. 614.061. DEFINITION.** In this subchapter, "peace officer" means a person who:

- (1) is elected, appointed, or employed by a governmental entity; and
- (2) is a peace officer under Article [2.12](#), Code of Criminal Procedure, or other law.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.

**Sec. 614.062. APPLICABILITY OF SUBCHAPTER.** This subchapter does not apply to a peace officer to whom Section [411.007](#) applies.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20,



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(1) is elected, appointed, or employed by a governmental entity; and


(2) is a peace officer under Article [2.12](#), Code of Criminal Procedure, or other law.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.

Sec. 614.062. **APPLICABILITY OF SUBCHAPTER.** This subchapter does not apply to a peace officer to whom Section [411.007](#) applies.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.

Sec. 614.063. **POLYGRAPH EXAMINATION.** (a) A peace officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses



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Sec. 614.063. **POLYGRAPH EXAMINATION.** (a) A peace officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer unless:


(1) the complainant submits to and passes a polygraph examination; or

(2) the peace officer is ordered to take an examination under Subsection (d) or (e).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace



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polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if:

(1) the subject matter of the complaint is confined to the internal operations of the organization employing or appointing the peace officer;

(2) the complainant is an employee or appointee of the organization employing or appointing the peace officer; and

(3) the complaint does not appear to be invalid based on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of



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on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of the law enforcement organization believes that the integrity of a peace officer or the law enforcement organization is in question. The head of the law enforcement organization shall provide the peace officer with a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.

Added by Acts 1997, 75th Leg., ch. 1303, Sec. 1, eff. June 20, 1997.



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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

**Day 1  
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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

**Drunk Driver**

Source:  
Mlive Media Group  
Published on Dec 22, 2016  
<https://www.youtube.com/watch?v=v6HvPG2hL0&t=6s>

MCSD6022 11/13/2016 14:32:13

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**Policy 2.4 Internal Investigation Process**

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	<b>PROSPER POLICE DEPARTMENT</b>	
	Policy 2.4 Internal Investigation Process	
	Effective Date:	Replaces:
	Approved: _____ Chief of Police	
Reference: TBP 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, and 2.10.		

**POLICY**

The department's image and reputation depend on the personal integrity and discipline of all departmental employees. To a large degree, the public image of the department is determined by a professional response to allegations of misconduct against its employees. The department must competently and impartially investigate all allegations of misconduct by employees and complaints bearing on the department's response to community needs. The department recognizes that its personnel are often subject to intense pressures in the discharge of their duties. The employee must remain neutral under circumstances that are likely to generate tension, excitement, and emotion. In these situations, actions and events frequently result in misunderstanding and confusion. It is to the advantage of all employees to have a procedure for

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misunderstanding and confusion. It is to the advantage of all employees to have a procedure for the investigation of the more serious allegations and underlying circumstances so that complaints can be resolved in light of the complicated pressures of law enforcement work.

**I. PURPOSE**

To describe procedures for making complaints against department personnel, for investigating complaints, and to list and define the dispositions of complaints.

**II. PROCEDURES – GENERAL (TBP: 2.04)**

**A. Receipt of complaints**

The department encourages any person to bring forward grievances regarding misconduct by employees. Department members shall receive all complaints courteously and shall handle them efficiently. All officers are obligated to explain complaint procedures to anyone who inquires.

**B. Responsibilities of supervisors**

1. First-line supervisors are primarily responsible for enforcing conformance with departmental standards and orders.
2. First-line supervisors shall know the officers in their charge by closely observing their conduct and appearance.

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3. First-line supervisors shall be alert to behavioral changes or problems in their subordinates and, if necessary, document these changes and confer with higher authorities. The first-line supervisor shall assess the behavior, and take or recommend appropriate action.

4. The supervisor shall recommend and, if appropriate, help conduct extra training for officers not performing according to established standards.

5. The first-line supervisor shall employ counseling techniques sanctioned by the department. Counseling is used to adjust and correct minor, infrequent errors or instances of poor performance and to ascertain the nature of any professional or personal problems that bear on performance.


a. The supervisor shall document all instances of counseling.

**C. How to make a complaint**

A copy of "How to Make A Complaint" will be posted in the public area of the department, provided to media representatives, and may be given to any person requesting information on how to make a complaint.

**D. Responsibility for handling complaints**

All complaints alleging a violation of the law or policy will be investigated. Complaints regarding law-enforcement operations will usually be handled through the chain of command beginning with the first-line supervisor. Complaints



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**D. Responsibility for handling complaints**

All complaints alleging a violation of the law or policy will be investigated. Complaints regarding law-enforcement operations will usually be handled through the chain of command, beginning with the first-line supervisor. Complaints involving how law-enforcement service is provided or a failure to provide service or improper attitudes or behavior may be investigated by an assigned supervisor or by the Chief of Police. Depending on the nature of the complaint, the Chief of Police may request another agency or DPS to undertake the investigation. (TBP: 2.06)

**E. Complaint-handling procedures**

1. All complaints, regardless of nature, can be filed in person, by mail, or by phone at any time. As part of the follow-up investigation, persons making complaints by mail or phone normally shall be interviewed and a written, signed complaint prepared. A signed letter of complaint will be accepted as a signed complaint without requiring any specific form. Anonymous complaints shall be followed up to the extent possible. In case of an anonymous complaint, the officer or other person who receives the anonymous complaint shall reduce the complaint to writing in a memorandum with as much information as possible and forward the report to the Chief of Police.

2. Every effort shall be made to facilitate the convenient, courteous, and prompt receipt and processing of any person's complaint. An employee of the



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department, who interferes with, discourages, or delays the making of complaints shall be subject to disciplinary action.

3. Normally, a person with a complaint shall be referred to a supervisor or the Chief of Police who shall assist the individual in recording pertinent information. If initially reported to a supervisor, the first-line supervisor shall conduct a preliminary investigation. The Chief of Police may, if appropriate, conduct a preliminary investigation. The preliminary investigation consists of questioning the officer, complainants, or witnesses, and securing evidence.

Upon completion of the preliminary investigation, the following documents shall be prepared and forwarded through the chain of command:

- a report of the alleged violation;
- any documents and evidence pertinent to the investigation;
- recommendations for further investigation or other disposition.

4. If the first-line supervisor or other investigators determine that the complainant is apparently under the influence of an intoxicant or drug, or appears to have a mental disorder, or displays any other trait or condition bearing on his or her credibility, the supervisor or investigator shall note these conditions. Any visible marks or injuries relative to the allegation shall be noted and photographed.



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be noted and photographed.


5. Prisoners or arrestees also may make complaints. Circumstances may require a department representative meet the complainant at a jail or prison for an interview. If appropriate, the representative will have photographs taken of prisoners' injuries.

6. An employee who receives a complaint through U.S. mail shall place the correspondence and envelope in a sealed envelope and forward it to the Chief of Police, who shall determine investigative responsibility.

7. Complaints received by telephone by dispatchers or other employees shall be courteously and promptly referred to a supervisor, Assistant Chief of Police or the Chief of Police. The dispatcher or employee shall record the name and telephone number of the complainant and state that the Chief of Police or, if unavailable, Assistant Chief of Police or the supervisor will call back as soon as practical.

8. The above procedure may also be used when department employees desire to enter a complaint against any other employee governed by this order.

9. In every case, the Chief of Police will be notified of any complaint as soon as possible by the supervisor receiving the complaint. Complaints received overnight will be brought to the Chief's attention the next workday. Complaints alleging a violation of the law or any serious violation should be reported immediately regardless of the time of day. (TBP: 2.07)



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**F. Disposition of complaints generally**

**The Chief of Police or his designee shall:**

1. Notify the complainant, in writing, as soon as practical, that the department acknowledges receipt of the complaint, that it is under investigation and that the complainant will be advised of the outcome.
2. Enter the complaint into the complaint log, assign a complaint number, and have the complaint investigated. Minor complaints alleging rudeness, minor policy violations and performance issues may be assigned to a supervisor for investigation and resolution. Allegations of a violation of the law or serious policy violations will be investigated by the Chief of Police, an investigator assigned by the Chief of Police, or an outside agency as determined by the Chief.
3. Maintain complaint files separate from personnel files.
4. Take disciplinary action following the investigation, if appropriate.

**G. Disposition of a serious complaint**

1. Allegations of misconduct that might result in discharge, suspension, or demotion, or criminal charges being sought are serious complaints. The




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**G. Disposition of a serious complaint**

1. Allegations of misconduct that might result in discharge, suspension, or demotion, or criminal charges being sought are serious complaints. The term "serious complaint," in this manual, is synonymous with "internal investigation." Internal investigations examine alleged brutality, gross excesses of legal authority, or allegations involving supervisory or multiple personnel.
2. If a criminal offense is alleged, two separate investigations shall be conducted, a criminal investigation as well as an administrative or Internal Investigation. The criminal investigation examines compliance with the criminal law while the Internal Investigation determines compliance with policy and procedure. The Chief of Police will assign these investigations as required.
3. In cases of serious complaints the Chief of Police shall:
  - a. Determine if the officer complained of should remain on-duty, be assigned to non-contact assignments, or put on administrative leave until completion of the investigations.
  - b. Determine and assign responsibility for the investigations.
  - c. Cause the complaint to be registered and assigned an investigation number in the complaint log.



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d. Maintain close liaison with the district attorney in investigating alleged criminal conduct. Where liability is at issue, the Chief shall similarly maintain contact with the Town attorney or legal counsel.

4. All investigations will be completed within 45 days to include the taking of disciplinary action when necessary. If additional time is necessary to conclude the investigation, a request for extension will be presented to the Chief in writing providing justification for the extension. If approved by the Chief, a specific number of days will be approved and a copy will be provided to the involved officer and the original placed in the case file. (TBP 2.05)


5. Upon completion of any investigation, The Chief of Police will notify the complainant in writing, of the results of the investigation and any action taken. (TBP: 2.10)

### III. INVESTIGATIVE PROCEDURES

A. Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.

B. Assistance of legal counsel

1. Employees are permitted to have an attorney, supervisor, or other



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B. Assistance of legal counsel

1. Employees are permitted to have an attorney, supervisor, or other representative with them in the room during any interview regarding allegations of misconduct.

2. The employee's representative is limited to acting as an observer at the interview, except that where the interview focuses on, or leads to, evidence of criminality, the attorney may advise and confer with the employee during the interview.


C. All Interviews

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint and provided a copy of the complaint.

2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.

3. During interviews conducted by the department, there will be one employee designated as the primary interviewer.

4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.



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5. The employee shall be provided with the name, rank and command of all persons present during the questioning.


**D. Interviews for criminal investigative purposes**

1. If the Chief of Police believes that criminal prosecutions are possible and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, he or another interviewer shall:

- Give the employee the rights as specified in Texas Code of Criminal Procedure Article 38.22.
- In addition to the rights set forth in state law, the Chief, or his designee shall advise the employee that if he asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
- If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceeding.

**E. Interview for administrative purposes**

1. If the Chief of Police wishes to compel an employee to answer questions directly related to his or her official duties, the Chief of Police or another interviewer shall advise the employee that:



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**E. Interview for administrative purposes**

1. If the Chief of Police wishes to compel an employee to answer questions directly related to his or her official duties, the Chief of Police or another interviewer shall advise the employee that:

- You are advised that this is an internal administrative investigation only.
- You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.
- All questions specifically related to employment must be fully and truthfully answered.
- If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office.
- I want to reassure you that any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.
- The purpose of the interview is to obtain information to determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.

2. In an interview for administrative purpose, no Miranda rights are required.



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A. In addition to interviews of the employee and witnesses, the Chief of Police may require other activities in support of a complaint investigation or internal investigation, including:

1. Medical and laboratory examination
2. The Chief of Police, Assistant Chief of Police or officer in authority may, based on reasonable suspicion or his observation, require a department employee to submit to a test for alcohol or drug use while on duty. The results may be used in a disciplinary hearing. Refusal to submit to the examination will be grounds for disciplinary action and may result in the employee's dismissal.
  - a. If the employee is believed to be under the influence of alcohol, a licensed breathalyzer operator shall administer the test. The Chief of Police, Assistant Chief of Police or officer in authority shall witness the test and sign the report.
3. If the employee has a reading of .02 or higher, or there is other competent evidence of impaired abilities to perform duties, the officer shall be relieved of duty by the Chief of Police, Assistant Chief of Police or officer in authority.



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4. If the employee is believed to be under the influence of self-administered drugs, he may be compelled to submit to a blood or urine test. The test shall be administered under medical supervision where hygienic safeguards are met. The sample shall be handled using the same safeguards as evidence in a criminal process.
5. If the test shows positive results, or there is other competent evidence of impaired abilities to perform duties, the employee shall be relieved of duty as soon as possible by the Chief of Police, Assistant Chief of Police or other officers in authority.
6. If an employee refuses to submit to a test, (alcohol or drugs) then the Chief of Police, Assistant Chief of Police or other officer in authority shall immediately relieve the employee from duty (on paid leave) for failure to cooperate in an administrative investigation.
7. Property assigned to the employee but belonging to the department is subject to inspection where the department has a reasonable suspicion that evidence of work-related misconduct may be found therein. Department property includes files, storage lockers, desks, and vehicles.

B. Photograph and lineup identification procedures

1. Officers may be required to stand in a lineup for viewing for the purpose of identifying an employee accused of misconduct. Refusal to stand in a

Computers



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properly conducted lineup is grounds for disciplinary action and may result in dismissal if the criminal prosecution is not anticipated.


A book of photos of department employees may be maintained for the purpose of identification of an employee accused of misconduct.

**C. Financial disclosure statements**

An employee may be compelled to make financial disclosure statements when directly and narrowly related to allegations of misconduct involving any unlawful financial gain.

**D. Polygraph**

1. All personnel shall be required to submit to a polygraph if ordered to do so by the Chief of Police.
2. The Police Chief may order employees to take a polygraph when:
  - a. The complainant has taken and passed a polygraph concerning the incident. (Unless the complainant is willing to submit to testing but the polygraph operator determines the complainant is not a fit subject due to mental condition, age, or medication).



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but the complaint is of such a nature to bring severe discredit and suspicion on the department and cannot be satisfactorily resolved in any other manner.


3. The results of the polygraph examination shall not be used as the sole basis for disciplinary action against any employee.
4. Any polygraph examination given under the provisions of this order shall be administered by a private contractor licensed to administer polygraph examinations in the State of Texas or must be a licensed examiner from another law-enforcement agency. No employee shall administer an examination to another employee.
5. Refusal to submit to a polygraph examination or to answer all questions pertaining to the charges in the polygraph examination, or deliberately impede the administration of the polygraph shall be grounds for disciplinary action and may result in dismissal from the department.

**V. ADJUDICATION OF COMPLAINTS**

**A. The Chief of Police will classify completed internal affairs investigations as:**

1. **Unfounded** - no truth to allegations.

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

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2. **Exonerated** - allegations true, but are the result of adherence to departmental policy or procedure. Exonerated complaints will be reviewed by the Chief of Police for policy issues.

3. **Not sustained** - unable to verify the truth of the matters under investigation.

4. **Sustained** - allegations are true. Complaints will not be classified as sustained unless based on a finding of facts determined during the investigation. (TBP: 2.04)


**B. Completed investigations classified as unfounded, exonerated, not sustained, or policy failure** will be maintained in internal affairs files in the Chief's office. Sustained complaints shall be filed in the individual employee's department personnel file with a copy in the internal affairs files.

**C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim, and the officer's prior disciplinary history.** It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.

**D. Disciplinary records (TBP: 2.09)**

1. The department shall maintain a log of all complaints.

Inconclusive



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**C. Disciplinary action taken shall be determined by the seriousness of the violation or the extent of injury to the victim, and the officer's prior disciplinary history.** It shall be commensurate with the circumstances surrounding the incident and in consideration of the employee's service record and prior sustained complaints.


**D. Disciplinary records (TBP: 2.09)**

1. The department shall maintain a log of all complaints.

2. The complaints and internal investigative files shall be kept in a secure area and shall be maintained in accordance with state law and Town policy.

3. The Chief shall direct a periodic audit of complaints to ascertain a need for training or a revision of policy.

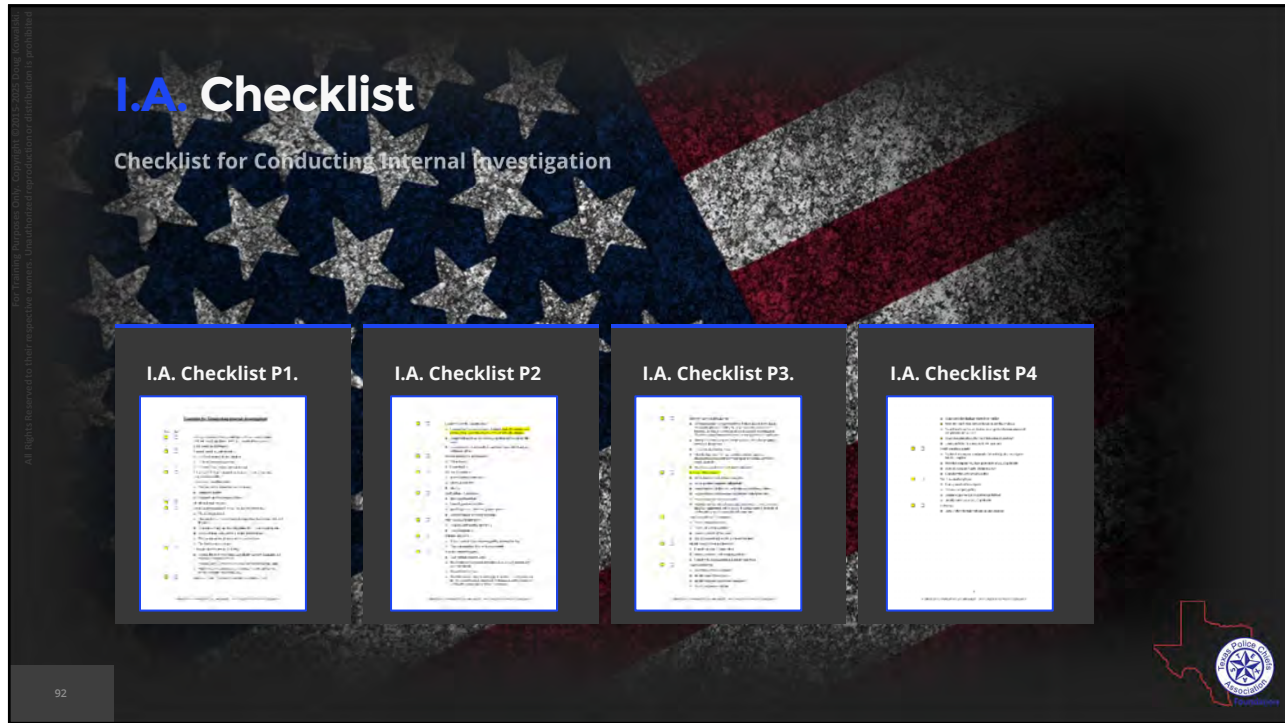
4. The Chief shall publish an annual or other periodic summary of complaints that shall be made available to the public.



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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1


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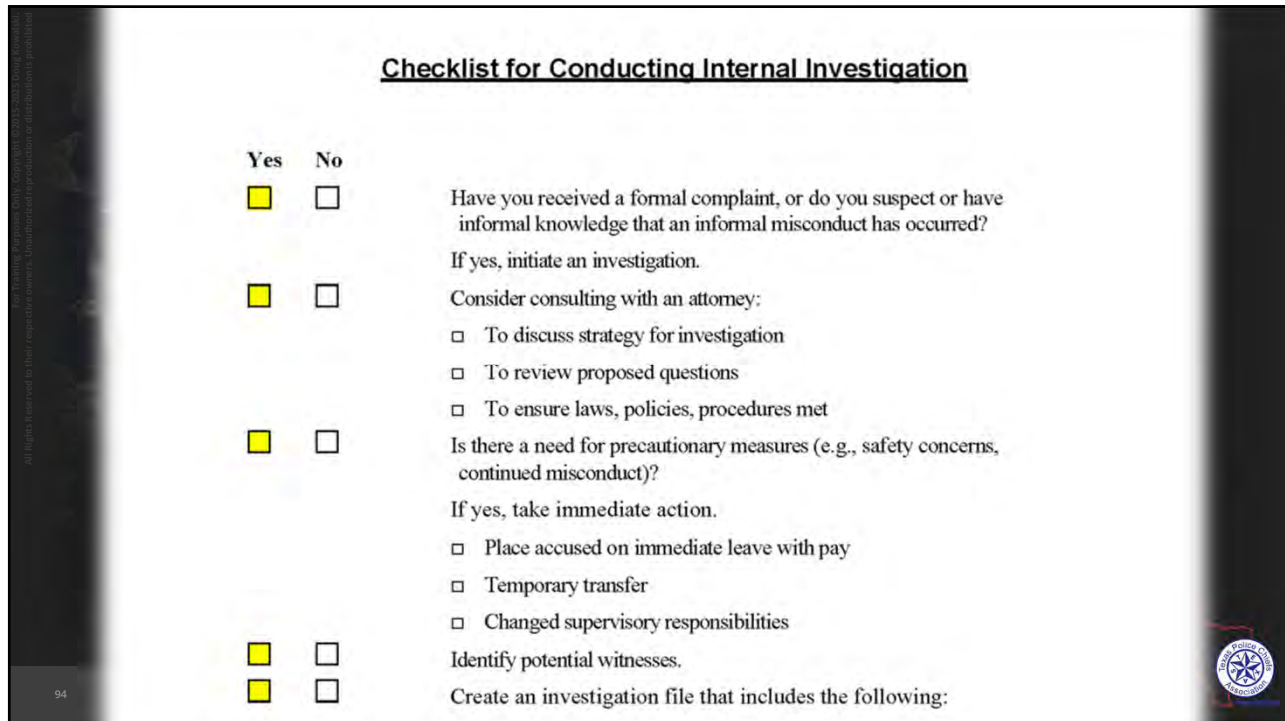
**I.A. Checklist**  
Checklist for Conducting Internal Investigation

I.A. Checklist P1. I.A. Checklist P2. I.A. Checklist P3. I.A. Checklist P4.

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**Checklist for Conducting Internal Investigation**

Yes	No	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Have you received a formal complaint, or do you suspect or have informal knowledge that an informal misconduct has occurred?
		If yes, initiate an investigation.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Consider consulting with an attorney:
		<input type="checkbox"/> To discuss strategy for investigation
		<input type="checkbox"/> To review proposed questions
		<input type="checkbox"/> To ensure laws, policies, procedures met
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is there a need for precautionary measures (e.g., safety concerns, continued misconduct)?
		If yes, take immediate action.
		<input type="checkbox"/> Place accused on immediate leave with pay
		<input type="checkbox"/> Temporary transfer
		<input type="checkbox"/> Changed supervisory responsibilities
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Identify potential witnesses.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Create an investigation file that includes the following:

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- Temporary transfer
- Changed supervisory responsibilities

Identify potential witnesses.

Create an investigation file that includes the following:

- The investigation plan
- Documentation of what investigative steps have been taken, when and by whom
- Explanation of any significant departures from the investigation plan
- Copies of documents, photos and other hard evidence
- Witness statements and notes of witness interviews
- The final investigative report


Gather pertinent documents, including:

- Personal file of accused, which may identify any past complaints and outcomes or possible motives
- Company policies, directives or contract provisions that may apply
- Other relevant documents (e.g., attendance records, production records, customer order forms, etc.)

Retrieve e-mail, if permissible (including deleted e-mail).

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Conduct a search, if permissible:

- Company premises and property, including desk, file cabinets, and parking lot are generally subject to inspection by the company
- If suspect illegal drugs or a weapon, call the police to conduct the search
- Exercise caution when searching employee's personal belongings, clothing or person

Prepare strategy for investigation:

- Define issues
- Create timeline


Select an investigator:

- Internal (unbiased/uninvolved)
- Outside investigator
- Attorney

Draft outline of questions:

- Open-ended questions
- General questions asked first
- Specific questions follow the general questions
- Avoid leading or accusatory questions

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- Specific questions follow the general questions
- Avoid leading or accusatory questions

Select location for interviews:

- Maintain confidentiality and privacy
- Limited distractions

Schedule interviews:


- Review contract for provisions regarding advanced notice
- If no such provision, short notice is preferable

Interview complaining party:

- Take contemporaneous notes
- Stick to the facts; avoid making written notes of your opinions and recommendations
- Sign and date the notes
- After the interview, have the notes typed and have the witness review them for completeness and accuracy. If changes need to be made, do so. Have the witness sign and date the statement

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WORK PRODUCT OF BULLIVANT HOUSER BAILEY – DO NOT REPRODUCE WITHOUT PERMISSION



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Interview the accused employee:

- It is preferable for two representatives of the employer to be present. It is usually advisable to allow the employee to have a witness, if requested, as long as the witness does not impede the investigation. (The witness may listen and observe, but not speak for the employee.)
- Employee's attorney may not attend interview unless the company's attorney is also present
- Take contemporaneous notes
- After the interview, both representatives should prepare a memorandum of the interview which includes verbatim answers to critical questions
- Have the accused review and sign the statement

**Interview other witnesses:**

- Do not interview two witnesses together
- Do not promise complete confidentiality
- Assure witness that there will be no reprisals for telling the truth
- Tell the witness not to disclose the interview with anyone else
- Face-to-face interview is preferable
- After the interview, have the notes typed and have the witness review them for completeness and accuracy. If changes need to be made, do so. Have the witness sign and date the statement.



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- For the witness not to disclose the interview with anyone else
- Face-to-face interview is preferable
- After the interview, have the notes typed and have the witness review them for completeness and accuracy. If changes need to be made, do so. Have the witness sign and date the statement.

Analyze results of investigation:

- Review witness interviews
- Review all evidence gathered
- Assess credibility of witnesses
- Ask complainant/accused for any more evidence

Identify corrective action if necessary:


- Consider severity of misconduct
- Ensure consistency with company policies
- Comply with labor agreement and policy handbook

Prepare final report:

- Describe question investigated
- Identify scope of investigation
- Identify witnesses and evidence examined
- Describe information elicited

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- Make credibility findings where facts conflict
- State any conclusions that are based on credible evidence
- Even if can't reach a conclusion, do a report and communicate with complainant and accused
- Make recommendation for correction action if necessary
- Limit distribution to a need-to-know basis only

Notify complaining party:


- Explain that company conducted a fair and objective investigation into the complaint
- State that company will take appropriate action, if applicable
- Reiterate company's anti-retaliation policy
- Consider whether to avoid specifics

Notify accused employee:

- Convey results of investigation
- Reiterate company policy
- Remind employee that retaliation is prohibited
- Identify correction action, if applicable

Follow up:

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski



**Day 1 Agenda**

8:00 Introduction and Opening Remarks	1:00 Conducting the Investigation and Reporting
8:30 Philosophy of Professional Standards and the IA Function - The Five C's	2:30 Break
10:00 Break	2:45 Miranda and Garrity Warnings
10:15 Causes of Disciplinary Problems	3:45 Basis for Discipline
11:45 Lunch	5:00 Adjourn

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**Day 1 Agenda**

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**Prosper Police Department**  
**Garrity Warning**

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1. I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty. This investigation concerns
2. I have invoked my Miranda rights on the grounds that I might incriminate myself in a criminal matter.
3. I have been granted use immunity. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, except for perjury or false swearing.
4. I understand that I must now answer questions specifically, directly and narrowly related to the performance of my official duties or my fitness for office.




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5. If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency.
6. Anything I say may be used against me in any subsequent department charges.
7. I have the right to consult with a representative of my collective bargaining unit, or another representative of my choice, and have him or her present during the interview.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Location: \_\_\_\_\_

Witnessed by: \_\_\_\_\_  
\_\_\_\_\_



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**NOTICE OF ADMINISTRATIVE LEAVE WITH PAY**  
*Town of Prosper Personnel Policies and Procedures Manual, Reference No. 7.01F-3*

---


Date: 1/13/2014  
Name: Officer G  
Department: Police  
Position/Title: Patrol Officer

**ALLEGATION(S):**

Violation of Town of Prosper Personnel Policies and Procedures, 7.01 VI, C (31), 7.01(VI) (C)(33)—unbecoming conduct and (C)(40) and 916.2 of the Town of Prosper Police Policy Manual.

**FACTS OF INCIDENT/BASIS FOR ADMINISTRATIVE LEAVE:**

On Friday, 01/03/14, at approximately 6:15 p.m., you were notified by Human Resources Director, Asst. Chief M, and Sgt. N that you were being sent home for the remainder of your shift due to administration's concern regarding your health and ability to perform the essential job functions of a Police Officer in a safe manner. This decision was based on information reported by your supervisor, Sgt. N that included you sleeping on the job, causing damage to your patrol vehicle, noticed slurred speech, etc. During this discussion, you showed difficulty standing up straight and were seen leaning on a chair for support which caused additional concern. You were informed to report to Human Resources on Monday, 01/06/14 at 8:00 a.m. for a fitness for duty exam and drug/alcohol screen. The results of that drug/alcohol screen showed "positive" for the presence of



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were seen leaning on a chair for support which caused additional concern. You were informed to report to Human Resources on Monday, 01/06/14 at 8:00 a.m. for a fitness for duty exam and drug/alcohol screen. The results of that drug/alcohol screen showed "positive" for the presence of alcohol in your blood which is a violation of Town of Prosper Personnel Policies and Procedures, 7.01 VI, C (31), and 916.2 of the Town of Prosper Police Department Policy Manual. Furthermore, there is a violation of 7.01(VI) (C) (33) due to unbecoming conduct and (C) (40) due to the adverse impact this could have on the organization's reputation.

As a result, a Police administrative investigation will occur which will focus on the above policy violation(s) listed herein.

**ADMINISTRATIVE LEAVE:**

You are hereby placed on **administrative leave with pay**, which is effective immediately. Also effective immediately, you are relieved of all responsibilities for the duration of such leave. You are hereby ordered to transfer custody of your credentials, department issued badge, and department issued duty weapon to the Interim Chief of Police. During this time you are encouraged to take advantage of any available benefits that you have through the Town. Please contact Human Resources for additional information regarding your benefits.

This action is being taken in accordance with Reference No. 7.01 of the Town of Prosper Personnel Policies and Procedures Manual. This Notice of Administrative Leave With Pay, in accordance with Reference No. 7.01, shall be placed in the central personnel file of the employee named above.



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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski

**AUTHORIZATION:**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Supervisor**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Interim Chief of Police**


Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Human Resources Department**

**ACKNOWLEDGMENT BY EMPLOYEE:**  
By my signature below, I acknowledge receipt of a copy of this Notice of Administrative Leave With.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_



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## Day 1 Agenda

8:00 Introduction and Opening Remarks	1:00 Conducting the Investigation and Reporting
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11:45 Lunch	5:00 Adjourn

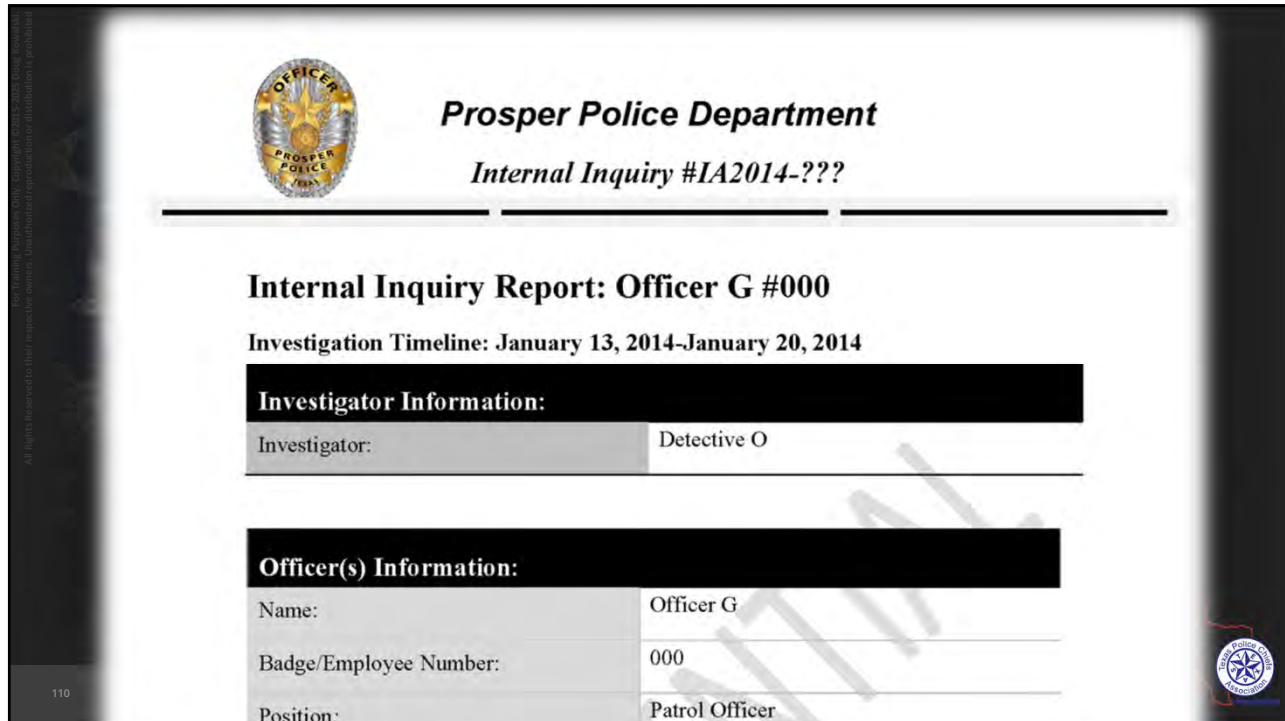


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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski



**Prosper Police Department**  
*Internal Inquiry #IA2014-???*

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**Internal Inquiry Report: Officer G #000**  
Investigation Timeline: January 13, 2014-January 20, 2014

**Investigator Information:**

Investigator:	Detective O
---------------	-------------

**Officer(s) Information:**

Name:	Officer G
Badge/Employee Number:	000
Position:	Patrol Officer

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**Day 1 Agenda**

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 1

Presented by: Chief Doug Kowalski



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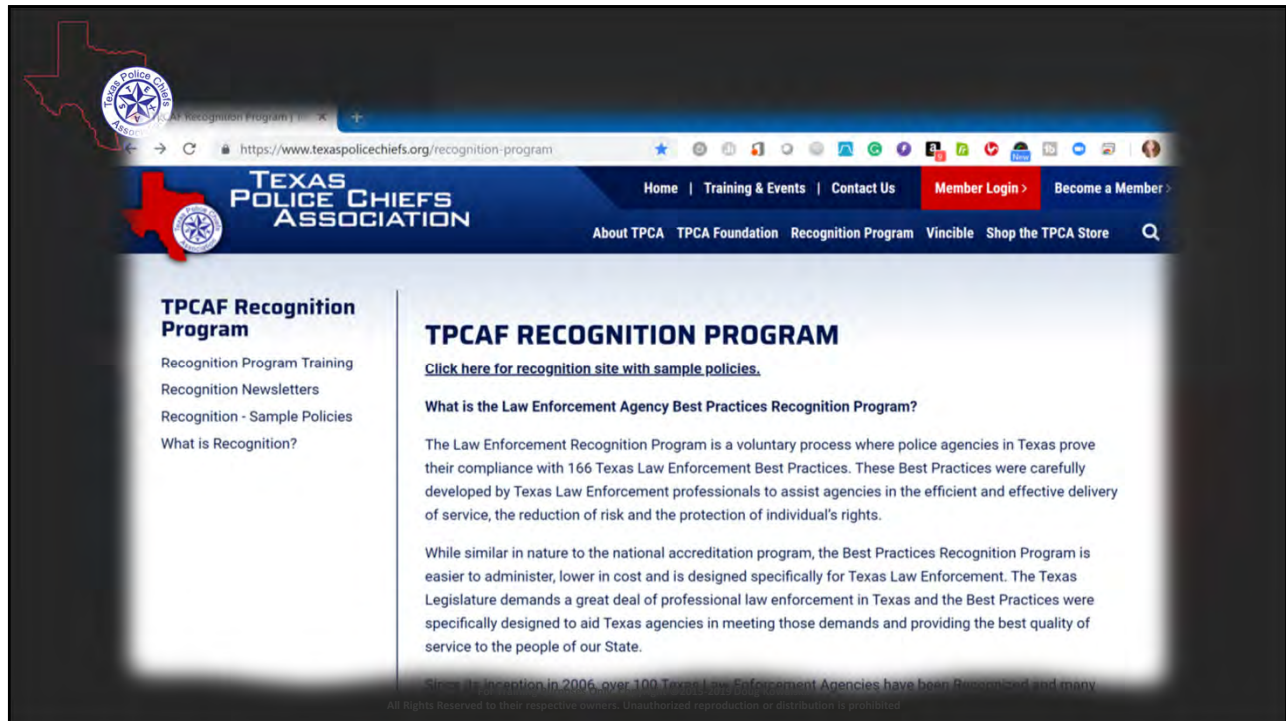


# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2


Presented by: Chief Doug Kowalski



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### TPCAF RECOGNITION PROGRAM

[Click here for recognition site with sample policies. \(http://rp.tpcf.org/\)](http://rp.tpcf.org/)

**What is the Law Enforcement Agency Best Practices Recognition Program?**

The Law Enforcement Recognition Program is a voluntary process where police agencies in Texas prove their compliance with 166 Texas Law Enforcement Best Practices. These Best Practices were carefully developed by Texas Law Enforcement professionals to assist agencies in the efficient and effective delivery of service, the reduction of risk and the protection of individual's rights.

While similar in nature to the national accreditation program, the Best Practices Recognition Program is easier to administer, lower in cost and is designed specifically for Texas Law Enforcement. The Texas Legislature demands a great deal of professional law enforcement in Texas and the Best Practices were specifically designed to aid Texas agencies in meeting those demands and providing the best quality of service to the people of our State.


Since its inception in 2006, over 100 Texas Law Enforcement Agencies have been Recognized and many more are currently in the process to become Recognized Agencies. While members of the Texas Police Chiefs Association recognize and support the national accreditation program, The Texas Best Practices Recognition Program has clearly become the new Gold Standard for Texas Law Enforcement!

**How were these Best Practices developed?**

A Committee of Chiefs of Police and Command level officers from across Texas assisted in the development of standards that were believed to be necessary for proper functioning of Texas law enforcement agencies. They reviewed Texas law and other State Accreditation Program standards to determine which were most appropriate.

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### How were these Best Practices developed?

A Committee of Chiefs of Police and Command level officers from across Texas assisted in the development of standards that were believed to be necessary for proper functioning of Texas law enforcement agencies. They reviewed Texas law and other State Accreditation Program standards to determine which were most appropriate.

An appointed Committee of professional Police Chiefs from across the state then reviewed these standards and approved them for testing. The standards were then tested by several Texas agencies and adjusted to be both appropriate and achievable. That same Committee of nine Police Chiefs now conducts the final review of an agency's efforts and awards "Recognized" status in addition to conducting an annual review of the Best Practices for additions and modifications.

**What do the Standards look like?**

Below are some examples of the Texas Best Practices:

1.04 Written System of Agency Directives


The agency has a written directive system in place that includes all agency policies, procedures, and practices. The written directive system must:

1. Be numbered and organized in a manner that allows numerical reference.
2. Require a periodic review and updating of directives to include that all directives are in accordance with applicable Texas Law.
3. Require directives and updates be made available to, and reviewed by, all affected agency personnel in a manner designated by the Agency Director.
4. Require maintenance of documentation proving receipt of directives by agency personnel in a manner designated by the Agency Director.

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3/9/2019 TPCAF Recognition Program | Texas Police Chiefs Association



1.09 Sworn Personnel Basic License

The Agency has a written directive which requires that personnel hold a Texas Peace Officer license before performing law enforcement duties.

2.04 Internal Investigations

The Agency has a written directive on how to receive, investigate, and conclude complaints against employees. Sustained complaints must be based on facts determined during the investigation.

2.11 Sexual and Other Unlawful Harassment

The Agency has a written directive that prohibits sexual or other unlawful harassment. The written directive must provide for reporting procedures that include when it is appropriate to make a report outside the chain of command or outside the Agency. The agency must provide training to all personnel.

2.14 Truthful

The Agency has a written directive requiring all employees to be truthful in all official verbal and written communications and reports. Employees will be truthful in any court related testimony or agency investigations.

3.02 Use of Deadly Force Training

The agency has a written directive on training its sworn personnel at least annually in the proper use of deadly force and the use of any firearm used in the course of law enforcement duties.

4.05 Off-Duty Employment

The Agency has a written directive that specifies the criteria for off duty employment. The Directive must:

1. Address who is authorized to work off duty employment.
2. State the types of employment prohibited by the agency.
3. Include the approval procedure for off-duty employment.

6.01 Authorization to Use Force

The Agency has a written directive that authorizes designated employees to use only the level of physical force that is necessary and reasonable to achieve the desired legal objective.

6.02 Authorization of Deadly Force

The Agency has a written directive that authorizes police officers to use deadly force when the officer reasonably believes that his/her life is in immediate danger of death or serious bodily injury or a third person is in immediate danger of death or serious bodily injury.


6.03 Use of Force Documentation and Review

The Agency has a written directive requiring completion of a specific administrative form for this purpose only to document the use of force by agency personnel, including a review process of each incident by supervisory personnel. The form may be electronic or paper and the format will be designated by the agency.

7.13 Vehicle Pursuits

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7.13 Vehicle Pursuits

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3/9/2019 TPCAF Recognition Program | Texas Police Chiefs Association

The Agency has a written directive for vehicle pursuits. The written directive includes:

1. The criteria for initiating a pursuit.
2. The method of conducting a pursuit.
3. The supervision of a pursuit.
4. The criteria for terminating vehicle pursuits.

The Department also trains appropriate personnel in the pursuit policy.

7.14 Pursuit Documentation

The Agency has a written directive that requires a pursuit report to be completed after each pursuit. The report is forwarded through the chain of command to the Agency Director or designee. The Pursuit report will document at a minimum:

1. The reasons for the pursuit.
2. The personnel involved.
3. The result of the pursuit.
4. Any injury or damage.
5. Any other significant events that occurred.

An annual report of agency pursuits is prepared for the Agency Director.

8.01 Barricaded Suspect and/or Hostage Incidents

The Agency has a written directive instructing personnel how to respond to a barricaded suspect or hostage incident which includes:

1. Responding to the scene.
2. Determining the nature of the event and securing the scene.

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2. Determining the nature of the event and securing the scene.
3. Calling appropriate assistance and/or supervision.
4. Evacuating or protecting bystanders.

10.01 Searching and Transport (E)

The Agency has a written directive addressing searching and transporting adult prisoners. The written directive includes at a minimum:

1. That all adult arrested persons be searched before any transport.
2. The approved methods of how to safely transport arrested persons.
3. Methods or actions for transporting sick, injured, or disabled arrested persons.
4. Search of the transporting vehicle before and after the transport.
5. The proper use of any restraining devices.
6. Monitoring of the prisoner to avoid medical difficulties.

Training of agency personnel in searching and transportation of prisoners is also required.

12.08 Inventory of Property/Evidence

The Agency has a written directive requiring a sampling of individual items stored in the property and evidence area at least annually, and when a new person is assigned who is in direct control of the property/evidence function. Any sample should include an adequate number of items to determine the overall accountability and integrity of the inventory system.

How do you get to be "Recognized?"

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3/9/2019 TPCAF Recognition Program | Texas Police Chiefs Association

An agency that has been awarded "Recognized" status has undertaken a careful internal review of its policies, procedures, equipment, facilities, and operations. Most agencies find that some adjustment and revisions of their policies and procedures may be necessary. The agency then submits proof of their compliance with the standards (usually electronically) to independent assessors. After an independent review of their written documents and proofs, a team of assessors is sent to the agency to review their operations and facilities, and to interview the Department's staff. A Final Report outlining the findings is sent to the Recognition Committee. The Committee reviews the findings and votes whether or not to award "Recognized" status.

**How long are you "Recognized?"**

The "Recognized" status is awarded for a four year period. During the four year period the agency must submit an annual report and show continuing compliance with several performance related standards. These are reviewed as they are received and compliance verified. During the last year of the period the agency must prepare updated documentation on all Best Practices and another on site review is conducted. The Recognition Committee must then vote again to approve "Recognized" status for the next four years. If the agency does not submit the required annual proofs, or if there is indication received by the Committee that the agency is not in compliance during the period, the Committee may vote to remove "Recognized" status. The Texas Police Chiefs Association Foundation has contracted with an outside group to manage the recognition process and ensure integrity and accountability.

All Best practices are provided to any agency Free of Charge. They are available for download at the Program Website: <http://rp.tpcf.org> (<http://rp.tpcf.org>). You do not "Register" to obtain any downloads. Just click on "Downloads," then click on "Getting

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download at the Program Website: <http://rp.tpcf.org> (<http://rp.tpcf.org>). You do not "Register" to obtain any downloads. Just click on "Downloads," then click on "Getting Started," then select the current version of the Standards Manual. Download the manual to your computer and print a copy or review the standards on your computer.

Unlike other programs, The Texas Police Chiefs Association does not charge for copies of any program materials. If your agency is unable to participate due to funding, you are encouraged to use the standards without joining the Program in order to make your department better.

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



## DAY 2 AGENDA

8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn
1:00 Police Shootings (Continued)	Thank you!

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## D.C.S.O Jailer


Source:  
FindLaw  
Published on Jun 6, 2013

**EXCESSIVE FORCE COMPLAINT**

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# POLICY 6.1 USE OF FORCE

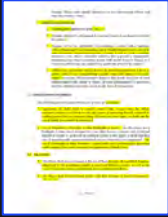
POLICY



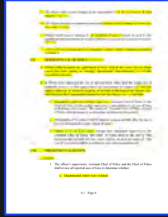
POLICY - PROCEDURES




LIMITATIONS



REPORTING




ANNUAL ANALYSIS



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<b>PROSPER POLICE DEPARTMENT</b>	
<b>Policy 6.1 Use of Force</b>	
Effective Date: _____	Replaces: _____
Approved: _____ <span style="font-size: small; text-align: center;">Chief of Police</span>	
<b>Reference:</b> 3.01, 3.02, 3.04, 6.01, 6.02, 6.03, 6.06, 6.07, 6.08, 6.09, and 6.10.	

**I. POLICY**

This department values the protection and sanctity of human life. It is therefore the policy of this department that officers use only the force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and others. The use of force must be objectively reasonable. The officer must only use that force which a reasonably prudent officer could use under the same or similar circumstances. The officer's actions will be reviewed based upon the information known to the officer at the time the force was used. Information discovered after the fact will not be considered when assessing the reasonableness of the use of force.

Officers are prohibited from using any force as a means of punishment or interrogation.

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Officers are prohibited from using any force as a means of punishment or interrogation.

**II. PURPOSE**

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. This policy does not set forth a higher standard of care with respect to third party claims.

**III. DEFINITIONS**

**A. Deadly force**

Deadly Force: Any use of force that creates a substantial risk of causing death or serious bodily injury.

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**B. Non-deadly force**

Non-deadly Force: Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.

**C. Objectively Reasonable**

1. **Objectively Reasonable:** This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to themselves and the community.
2. In evaluating the reasonable application of force, officers may consider their own age, size, strength, and skill level with department weapons, state of health, and the number of officers opposing the number of suspects.

**IV. PROCEDURES**

**A. Use of Non-deadly Force**

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### IV. PROCEDURES

#### A. Use of Non-deadly Force

1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable and necessary to bring an incident under control. (TBP: 6.01)
2. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment when one or more of the following apply:
  - a. To protect the officer or others from physical harm.
  - b. To lawfully restrain or subdue a resistant individual.
  - c. To bring an unlawful situation safely and effectively under control.

#### B. Use of Deadly Force

Law enforcement officers are authorized to use deadly force when one or both of the following apply:

1. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm. (TBP: 6.02)
2. To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others. Where practicable prior to discharge of the

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firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

#### C. Deadly Force Restrictions

1. Warning shots shall not be fired. (TBP: 6.09)
2. Firearms shall not be discharged at a moving vehicle in an attempt to disable the vehicle.
3. Because of the low probability of penetrating a vehicle with a handgun, officers threatened by an oncoming vehicle should attempt to move out of its path, if possible, instead of discharging a firearm at it or any of its occupants. However, if an officer reasonably believes that a person is immediately threatening the officer or another person with deadly force by means of a vehicle, an officer may use deadly force against the driver of the vehicle.
4. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure where the animal is seriously injured, when the officer reasonably believes that deadly force can be used without harm to the officer or others. In these circumstances, a supervisor shall be contacted prior to the use of deadly force if time permits.

### V. LIMITATIONS ON FORCE

The following acts associated with the use of force are prohibited.

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### V. LIMITATIONS ON FORCE

The following acts associated with the use of force are prohibited.

- A. Application of choke hold or carotid control holds, except when the officer reasonably believes such holds are the only means of protecting himself or herself or another person from an imminent threat of serious physical injury or death and the use of deadly force would be authorized.
- B. Use of Streamlites or Kel-lites or other flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend himself or herself or another from imminent serious bodily injury or death and then only if departmentally sanctioned methods are not available or are impractical. The use of a flashlight or other alternative weapon under such circumstances, depending on the manner of use, may be deemed an application of deadly force.

### VI. TRAINING

- A. All officers shall receive training in the use of their firearms, all non-lethal weapons, authorized by the department, hands-on arrest and defensive tactics, as well as the Use of Force policy prior to performing any law enforcement duties.
- B. All officers shall be trained and qualify with their firearms at least semi-annually. (TBP: 3.01, 3.02)


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- C. All officers shall receive training in the department's Use of Force policy at least annually. (TBP: 3.02)
- D. All officers shall receive hands-on arrest and defensive tactics training at least every two years. (TBP: 3.06)
- E. Officers shall receive training in all non-lethal weapons issued or used by the department and demonstrate proficiency with those weapons at least every two years. (TBP: 3.04)
- F. All Use of Force training shall, at a minimum, comply with the standards established by TCOLE.

### VII. REPORTING USE OF FORCE (TBP: 6.03, 6.06)

- A. Officers shall document any application of force while in the course of your duties except for those arising in training, departmental demonstrations, or off-duty recreational activities.
- B. If officers have employed any use of physical force (other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject) or used any impact, electrical, or chemical weapons, or pointed or discharged any firearm, they shall first provide for appropriate medical aid for the subject (TBP: 6.07) and then:
  - 1. Immediately notify the on-duty supervisor, Assistant Chief of Police or the

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**B.** If officers have employed any use of physical force (other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject) or used any impact, electrical, or chemical weapons, or pointed or discharged any firearm, they shall first provide for appropriate medical aid for the subject (TBP: 6.07) and then:


1. Immediately notify the on-duty supervisor, Assistant Chief of Police or the Chief of Police (if the on-duty supervisor is unavailable) of any use of force or discharge of a weapon. The supervisor, Assistant Chief of Police or Chief of Police shall determine if an immediate investigation is required.
2. Photographs of the subject will be taken as soon as possible after the use of force to document any injury or lack of injury.
3. Submit a Use of Force form, through their immediate supervisor to the Assistant Chief of Police and Chief of Police prior to the end of shift describing the incident, the force used, and any medical aid rendered. The Use of Force form shall be in addition to any other required reports.

**VIII. DEPARTMENTAL REVIEW**

**A. Review**

1. The officer's supervisors, Assistant Chief of Police and the Chief of Police shall review all reported uses of force to determine whether:
  - a. Departmental orders were violated.

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- b. Relevant departmental policy was clearly understandable and effective to cover the situation.
    - c. Departmental training was adequate.
    - d. Departmental equipment operated properly.
  2. At least annually, the Assistant Chief of Police and the Chief of Police shall conduct an analysis of use-of force incidents to be made available to the public and to determine if additional training, equipment, or policy modifications may be necessary. (TBP: 6.10.)

**B. Internal investigations**

1. An internal investigation will be conducted on any firearms discharge (other than training), and any other use of deadly force by members of the department. An internal investigation may be conducted on other uses of force incidents if a violation of law or department policy is suspected. In addition to the internal investigation, a criminal investigation shall also be conducted in any firearms discharge or other use of force incident where an officer or other person is injured or killed and in any other circumstances where a violation of law is suspected. The criminal investigation may be conducted by another law enforcement agency with concurrent jurisdiction and the results may be presented to the grand jury for review.

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conducted in any firearms discharge or other use of force incident where an officer or other person is injured or killed and in any other circumstances where a violation of law is suspected. The criminal investigation may be conducted by another law enforcement agency with concurrent jurisdiction and the results may be presented to the grand jury for review.

2. Procedures for Officer Involved Shooting Investigations are covered in Policy 6.6.


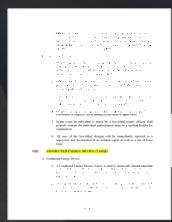
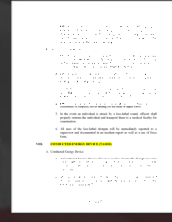
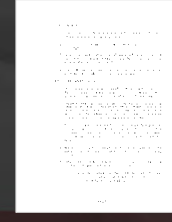

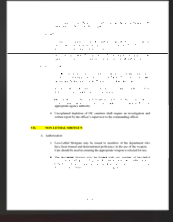
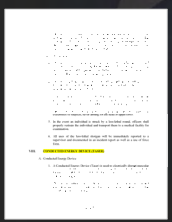
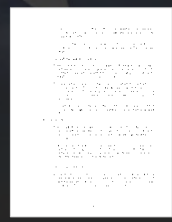
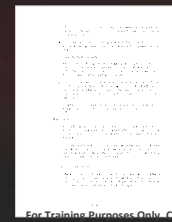
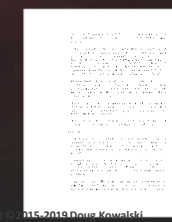
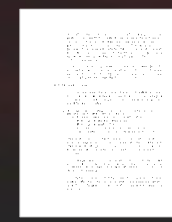
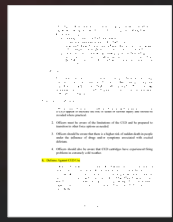
C. Assignment

Pending administrative review, any officer whose actions have resulted in the death or serious bodily injury of another person, either through the intentional use of force or by accident involving a use of force or vehicle accident, shall be removed from line-duty assignment. This action protects both the officer's and the community's interest until the situation is resolved. This re-assignment is not considered punitive in nature. (TBP: 6.08)

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### POLICY 6.3 NON-LETHAL AND LESS LETHAL WEAPONS

 <p>Policy 6.3 Pg 1</p>	 <p>Policy 6.3 Pg 2</p>	 <p>Policy 6.3 Pg 3</p>	 <p>Policy 6.3 Pg 4</p>	 <p>Policy 6.3 Pg 5</p>	 <p>Policy 6.3 Pg 6</p>
 <p>Policy 6.3 Pg 7</p>	 <p>Policy 6.3 Pg 8</p>	 <p>Policy 6.3 Pg 9</p>	 <p>Policy 6.3 Pg 10</p>	 <p>Policy 6.3 Pg 11</p>	 <p>Policy 6.3 Pg 12</p>

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	<b>PROSPER POLICE DEPARTMENT</b>	
	Policy 6.3 Non-Lethal and Less Lethal Weapons	
	Effective Date:	Replaces:
	Approved: _____ Chief of Police	
Reference: 3.04		

**I. POLICY**

In the interest of public safety, the department provides officers with a range of non-lethal and less than lethal options. The department's policy ensures that members are properly trained in the use of non-lethal and less-than-lethal weapons and that members will adhere to the department's policy for the circumstances of their use. Supervisors shall rigorously enforce departmental weapons standards.

All sworn personnel shall qualify at least annually with departmental non-lethal and less-than-lethal weapons. Officers shall not carry or use any non-lethal or less than lethal weapon where they have not received training and been qualified. Officers will only carry non-lethal and less-than-lethal weapons that have been approved by the department. (TBP-3.04)

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than-lethal weapons that have been approved by the department. (TBP-3.04)

**II. PURPOSE**

To establish policy and procedures governing the issuance, training, care, maintenance, qualification, and proper use of non-lethal and less-lethal weapons.

**III. GENERAL PROCEDURES**


**A. Approved Weapons**

I. Non-lethal and less than lethal weapons currently approved by the department include:

- a. ASP Baton (personal issue)
- b. Pepper Spray (personal issue)
- c. Less than Lethal Shotgun (with bean bag rounds) (Duty Issue)
- d. CED (TASER) (Duty Issue)

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2. Department non-lethal or less than lethal weapons are determined by the Chief of Police based on the needs of the agency. Officers will not carry or use any weapon for which they are not approved or for which they are not qualified by the department to use.


**B. Security of weapons**

1. Officers are responsible for the care and security of departmental weapons issued to them.
2. Officers shall make a written report any weapon loss or malfunction to the Chief of Police via the armorer or supervisor.
3. Officers shall not use a weapon after it has malfunctioned until it has been repaired and approved for use by the armorer or supervisor.

**C. Modification and maintenance of weapons**

1. Departmental weapons shall not be modified or altered without written approval of the Chief of Police. Any modification or alteration shall be in accordance with the manufacturer's recommendation by a certified armorer.
2. Officers are responsible for cleaning and maintenance of non-lethal or less

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2. Officers are responsible for cleaning and maintenance of non-lethal or less lethal weapons that are issued to them.
3. All non-lethal or less-than-lethal weapons shall be plainly distinguishable from lethal weapons.

**D. Weapon inspections**

1. Officers shall inspect issued weapons at the beginning of each duty assignment to ensure they are in proper working order.
2. Supervisors shall inspect issued weapons at least monthly and shall document the inspections in a memorandum to the Chief of Police indicating the officers inspected and the results of the inspection.
3. Weapons that fail inspection shall be returned to the armorer and not reissued to the officer until repairs are made.

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4.

#### **IV. QUALIFICATION REQUIREMENTS**

##### **A. Required instruction and qualification**

1. All department personnel shall receive training with any non-lethal and less lethal weapons that they will carry. Training shall cover the mechanics of the weapon, sound safety practices, and departmental policy governing the use of the weapon and the use of force. Tactical considerations shall be a part of this training.
2. Officers will receive training and demonstrate proficiency (qualify) at least annually on all departmental non-lethal or less lethal weapons systems. Failure to qualify with a non-lethal or less-than-lethal weapons will be cause for remedial training and qualification. The officer will not carry or utilize the non-qualifying weapon until properly trained and qualified. (TBP: 3.04)
3. Instructors for any non-lethal or less lethal weapon where the manufacturer recommends the instructors be certified before providing initial or refresher training shall be certified before providing the said training. (TBP: 3.04)

##### **B. Qualification rules**

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recommends the instructors be certified before providing initial or refresher training shall be certified before providing the said training. (TBP: 3.04)

##### **B. Qualification rules**

1. The firearms instructor or armorer shall be in charge at all times when officers are qualifying with non-lethal or less than lethal weapons.
2. The armorer will maintain records of each officer's qualifications with non-lethal and less lethal weapons including:
  - a. The officer's name and Identification Number
  - b. The date of qualification and weapon system qualified.

#### **V. ASP BATON**

- A. The department authorizes the carrying and use of the ASP baton as the only striking weapon for officers. All other forms of striking or punching weapons are prohibited, including but not limited to saps, blackjacks, brass knuckles slapjacks, nunchaku and similar sticks, shall not be carried. Flashlights carried by officers are not to be used as striking instruments, unless and to the degree that the officer reasonably believes its use is immediately necessary to protect the officer from injury.

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- B. Officers who carry the ASP shall be trained and demonstrate proficiency in its use. The weapon may be used in quelling confrontations involving physical violence where higher levels of force are unnecessary or inappropriate and lesser levels are inappropriate or ineffective.
  - 1. The ASP should not be used to strike handcuffed individuals or to threaten or intimidate people.
  - 2. Officers shall not raise the ASP above the head to strike a blow to a person's head.
- C. All uses of the ASP Baton will be immediately reported to a supervisor and documented in an incident report as well as a use of force report.

### **VI. OC PEPPER SPRAY**

- A. Authorization
  - 1. Only officers who have completed the prescribed course of instruction on the use of OC are authorized to carry the device.
  - 2. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required to carry departmentally authorized OC while on duty.

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- 2. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees shall be required to carry departmentally authorized OC while on duty.
- B. Uniformed officers shall carry only departmentally authorized OC canisters in the prescribed manner on the duty belt. Non-uniformed officers may carry OC in alternative devices as authorized by the agency.
- C. Usage Criteria
  - 1. OC spray is considered a use of force and shall be employed in a manner consistent with this agency's use-of-force policy.
  - 2. OC may be used when:
    - a. verbal dialogue has failed to bring about the subject's compliance, and
    - b. the subject is actively resisting or has signaled his intention to actively resist the officer's efforts to make the arrest.
  - 3. Whenever practical and reasonable, officers should issue a verbal warning prior to using OC against a suspect.
  - 4. Once a suspect is incapacitated or restrained, use of OC is no longer justified.

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### D. Usage Procedures

1. Whenever possible, officers should be upwind from the suspect before using OC and should avoid entering the spray area.
2. An officer should maintain a safe distance from the suspect of between two and 10 feet.
3. A single spray burst of between one and three seconds should be directed at the suspect's eyes, nose and mouth. Additional burst(s) may be used if the initial or subsequent burst proves ineffective.
4. Use of OC should be avoided, if possible, under conditions where it may affect innocent bystanders or contaminate a public facility.

### E. Effects of OC and Officer Response


1. Within several seconds of being sprayed by OC, a suspect will normally display symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.
2. The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to employ other means to control the suspect—to include, if necessary, other force options consistent with agency policy—if he does not respond sufficiently to the spray and cannot otherwise be subdued.

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sensation in the throat, nausea, lung pain and/or impaired thought processes.

2. The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to employ other means to control the suspect—to include, if necessary, other force options consistent with agency policy—if he does not respond sufficiently to the spray and cannot otherwise be subdued.
3. Medical Monitoring. Emergency Medical Services shall be requested to respond to all instances where OC has been deployed. The requesting officer shall monitor the subject until EMS personnel have arrived. In situations where OC use is a possibility, officers should consider requesting EMS before use.
4. Suspects that have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.
5. Officers should provide assurance to suspects who have been sprayed that the effects are temporary and encourage them to relax.
6. Air will normally begin reducing the effects of OC spray within 15 minutes of exposure. However, once the suspect has been restrained, officers shall assist him by rinsing and drying the exposed area.

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7. Assistance shall be offered to any individuals accidentally exposed to OC spray who feel the effects of the agent.


F. Reporting Procedures

1. Accidental discharges as well as intentional uses of OC spray against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible.
2. A use-of-force report shall be completed following all discharges of OC spray except during testing, training, malfunction or accidental discharge.

G. Replacement

1. All OC spray devices shall be maintained in an operational and charged state by assigned personnel. Replacements for damaged, inoperable or empty devices are the responsibility of officers to whom they are issued.
2. Replacements of OC spray canisters shall occur when the unit is less than half full, as determined by weighing the canister.
3. OC canisters shall be inspected and weighed at the firing range during firearms qualification. A record of this fact shall be maintained by the appropriate agency authority.

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3. OC canisters shall be inspected and weighed at the firing range during firearms qualification. A record of this fact shall be maintained by the appropriate agency authority.
4. Unexplained depletion of OC canisters shall require an investigation and written report by the officer's supervisor to the commanding officer.

**VII. NON-LETHAL SHOTGUN**

A. Authorization

1. Less-Lethal Shotguns may be issued to members of the department who have been trained and demonstrated proficiency in the use of the weapon. Care should be used in ensuring the appropriate weapon is selected for use.
2. The less-lethal shotgun may be loaded with any number of less-lethal munitions including bean bag rounds, rubber batons and rubber pellets. Officers must be qualified in the use of all munitions approved by the department in order to be qualified with the weapon.

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3. Officers will not handle lethal shotgun ammunition around a less-lethal shotgun. Officers will load only less-lethal munitions into the less-lethal shotgun at the time of need to ensure the use of proper munitions. Departmentally approved less-lethal munitions will be carried in the munitions carrier on the stock of the weapon.

B. Less-Lethal Shotgun Use

1. Officers may utilize the less-lethal shotgun when reasonably necessary and in a manner consistent with the department's use of force policy. It is a use of force option that has potential risks but may be used as an alternative to the use of deadly force when time and opportunity permit.
2. Officers should be aware of their surroundings and have a backup officer present and prepared to transition to other force methods if the less-lethal shotgun fails to subdue a subject.
3. Where possible, officers should inform other police personnel in the immediate vicinity that impact rounds will be deployed in order that the shot will not precipitate the use of firearms by other officers.
4. Officers shall deploy the less-lethal shotgun at the mid-section and lower extremities of suspects, never aiming for the head or upper torso.
5. In the event an individual is struck by a less-lethal round, officers shall properly restrain the individual and transport them to a medical facility for

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- shot will not precipitate the use of firearms by other officers.
4. Officers shall deploy the less-lethal shotgun at the mid-section and lower extremities of suspects, never aiming for the head or upper torso.
5. In the event an individual is struck by a less-lethal round, officers shall properly restrain the individual and transport them to a medical facility for examination.
6. All uses of the less-lethal shotgun will be immediately reported to a supervisor and documented in an incident report as well as a use of force form.

**VIII. CONDUCTED ENERGY DEVICE (TASER)**

A. Conducted Energy Device

1. A Conducted Energy Device (Taser) is used to electrically disrupt muscular control and allow officers to quickly subdue a resisting subject without having to resort to the use of deadly force. The CED is considered a less than lethal weapon.
2. There are precautions that must be observed as in the use of any weapon and it is our responsibility to monitor subject who have been controlled with the CED for any medical problems.

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3. The use of the CED affords officers the opportunity of controlling individuals who are actively resisting without endangering themselves, the suspect, or the public.
4. It shall be the responsibility of supervisors of officers issued the CED to ensure proper supervision, managerial controls, and compliance with this order.

### B. Training and Qualification Procedures

1. Only personnel, who successfully complete the department's training course and demonstrate the required proficiency in the use of the CED, shall be certified and allowed to carry the CED. All training and qualification for the CED shall be conducted by certified instructors.
2. It shall be the responsibility of the Firearms Instructor to train and certify all eligible officers on the proper techniques and use of the CED. Additionally, the Firearms Instructor shall be responsible for compiling and analyzing data from incidents involving the use of the CED to identify training related needs and issues.
3. In order to maintain proficiency in the use of the CED, all officers certified to carry the weapon shall receive mandatory in-service training at least annually.

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3. In order to maintain proficiency in the use of the CED, all officers certified to carry the weapon shall receive mandatory in-service training at least annually.

### C. Carrying the CED

1. Certified officers shall carry the CED on their duty belts. The CED shall never be left unsecured. Only holsters approved by the Training Unit will be utilized. The CED shall always be carried on the side opposite of the duty handgun.
2. Personnel issued the CED shall be responsible for the proper maintenance and care of the weapon. This shall include periodically checking battery life and expiration date of air cartridges, wiping away dirt and dust, and insuring the rubber stopper is secured on the data port.

### D. Authorized Use of the CED

1. The CED may be utilized in situations when necessary to subdue a noncompliant subject when lesser means of control have not been successful and the suspect is physically resisting officers. The act of verbal non-compliance shall not justify the use of the CED weapon.

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2. The CED may be utilized to debilitate a subject who poses an immediate threat of serious bodily injury or death to himself/herself, the officer, or others.

### E. Prohibited Use

1. Use of the CED is strictly **prohibited** under the following circumstances:

- a. When flammable gases or liquids are known to be in close proximity to the subject.
- b. Where the suspect is at an elevated location and there exists risk of serious injury or death from a fall. This includes proximity to deep water or other similar locations.
- c. On Higher Risk Populations: Higher Risk Populations refer to visibly pregnant females, young children, or obvious juveniles, the visibly frail, elderly or infirm, persons over 65, or who appear to weigh less than 100 pounds, unless the situation would justify a higher level of force, including deadly force, and the CED is used as an attempt to avoid the use of the higher level of force, including deadly force. This requirement is promulgated out of an abundance of caution as there is no scientific evidence to suggest that Higher Risk populations have been clinically established to be at greater risk of CED deployment.
- d. Handcuffed prisoners, without the expressed authority of a supervisor. Exigent circumstances must exist (such as to prevent the subject from injuring himself or others and other means of control

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Risk populations have been clinically established to be at greater risk of CED deployment.

- d. Handcuffed prisoners, without the expressed authority of a supervisor. Exigent circumstances must exist (such as to prevent the subject from injuring himself or others and other means of control are ineffective or unavailable).
- e. On a subject who is visibly confined to a wheelchair unless it is objectively clear to prevent serious injury to himself/herself and/or if deadly force is justified.
- f. On a subject in control of a vehicle.
- g. On individuals with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy or epilepsy; or persons known to be wearing pacemakers or other biomedical devices sensitive to electrical current, or known to have heart conditions.

2. No more than one officer should activate a CED against a person at a time.

### F. CED Deployment

1. Prior to deploying the CED, whenever reasonable and practical, verbal warnings shall be issued to the subject, to allow the subject the opportunity to comply with the officer's commands.
2. Prior to deploying the CED, the deploying officer should announce the word "Taser" to alert others of the impending use of the weapon.

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3. "Clear" shall be announced by the deploying officer subsequent to the use of the CED and prior to affecting the arrest, so as to alert others that the weapon is no longer being deployed.
4. When activating a CED, the officers should use it for one standard cycle and stop to evaluate the situation (a standard cycle is five seconds). If subsequent cycles are necessary, only the number and duration of cycles necessary to place the subject in custody will be used. Officers should consider that CED exposure lasting longer than 15 seconds (whether due to continuous or multiple cycles) may increase risk of death or serious bodily injury. Applications of more than 15 seconds should be weighed against other force options. Officers will be particularly alert for medical distress of the subject.
5. Officers should make every effort to avoid firing darts or directing the contact stun method at a subject's head, neck, front chest area or genitalia. Preferred targeting is the center mass of the subject's back. Where back targeting is not possible, officers should avoid chest shots unless deadly force would otherwise be justified.
6. The CED direct contact stun method may be utilized as an alternative deployment method, when both probes fail to make contact with the subject and its effectiveness is reduced or the regular deployment method is either not possible or likely to be effective.
7. The CED shall not be used in any manner to torture, torment, elicit

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6. The CED direct contact stun method may be utilized as an alternative deployment method, when both probes fail to make contact with the subject and its effectiveness is reduced or the regular deployment method is either not possible or likely to be effective.
7. The CED shall not be used in any manner to torture, torment, elicit statements, awaken an intoxicated subject or punish any individual.

#### G. Post Deployment

1. Immediate Restraint. The subject will be restrained immediately to prevent additional resistance or injury. The subject will not be restrained in a manner that impairs respiration. If other restraints are unavailable, the subject may be handcuffed in front using a belt or strap to secure the cuffs to the body.
2. Medical Monitoring. Emergency Medical Services shall be requested to respond to all instances where the CED has been deployed. The requesting officer shall monitor the subject until EMS personnel have arrived. In situations where CED use is a possibility, officers should consider requesting EMS before use.
3. Supervisor Response. The on-duty supervisor or Command Officer will immediately respond to the scene of any CED use. The supervisor will review the circumstances of the use and conduct a preliminary investigation.

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4. Removal of Probes. CED probes shall be removed as soon as possible. CED probes that are imbedded in a subject's skin (as opposed to just clothing) shall only be removed by EMS personnel, other medical personnel, and police personnel who are trained in the removal of the probes. Police personnel shall not remove CED probes that have struck a subject's head, throat, groin or any other sensitive area. CED probes that have penetrated a person's skin shall be considered a biological hazard and shall be handled with the appropriate care.
5. All persons who have been subjected to a CED activation should be monitored regularly while in police custody even if they received medical care. Anyone subject to CED deployment showing any signs of physical distress shall be transported immediately to a medical facility.

#### H. Reporting and Investigation

1. A Use of Force Report shall be completed on all CED incidents. Personnel must clearly articulate the reasons for the initial use and all subsequent cycle(s) in the Use of Force Report. This includes the actual or threatened use of the CED by an officer.
2. The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:
  - a. Location and interview of witnesses (including other officers);
  - b. Photographs of subject and officer injuries;
  - c. Photographs of cartridges/darts;

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use of the CED by an officer.

2. The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:
  - a. Location and interview of witnesses (including other officers);
  - b. Photographs of subject and officer injuries;
  - c. Photographs of cartridges/darts;
  - d. Collection of CED cartridges, darts/prongs, data downloads, car video, confetti ID tags; and copies of the device data download.
3. Photographs of the subject shall be taken in all instances wherein a subject is injured or complains of being of injured as a result of the use of the CED. Photographs should depict overall condition of the suspect, any injuries and the locations where the probes made contact. If there is no injury, it is discretionary.
4. All CED deployments or discharges, including test firings, shall be recorded in a CED log. A supervisor must sign the CED log verifying that the information contained therein is accurate. The presence of a supervisor during testing is not required.
5. Expended CED cartridges shall be submitted to the Property Unit as evidence. The officer shall then be provided with a replacement cartridge after showing the property clerk a completed CED Report signed by a supervisor.

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6. The Chief of Police may request an outside investigation by the Sheriff's Department or Department of Public Safety when any of the following factors are involved:
  - a. A subject experiences death or serious injury;
  - b. A person experiences prolonged CED activation;
  - c. The CED appears to have been used in a punitive or abusive manner;
  - d. There appears to be a substantial deviation from training; and
  - e. A person in an High Risk Population category has been subjected to activation (e.g., young children; persons who are elderly/frail, pregnant women, and any other activation as determined by a supervisor).

### I. Inspection

Supervisors shall, on a monthly basis, inspect their officer's CED log and dataport to determine if there have been any discharges since the previous inspection. Any undocumented discharges shall require the officer to prepare a memorandum to the chief of police explaining the circumstances surrounding the discharge.

### J. General Consideration

1. Officers should be aware that multiple activations and continuous cycling of a CED appear to increase the risk of death or serious injury and should be avoided where practical.

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### J. General Consideration

1. Officers should be aware that multiple activations and continuous cycling of a CED appear to increase the risk of death or serious injury and should be avoided where practical.
2. Officers must be aware of the limitations of the CED and be prepared to transition to other force options as needed.
3. Officers should be aware that there is a higher risk of sudden death in people under the influence of drugs and/or symptoms associated with excited delirium.
4. Officers should also be aware that CED cartridges have experienced firing problems in extremely cold weather.

### K. Defense Against CED Use

1. When a subject is armed with a CED and attacks or threatens to attack a police officer, the officer may defend himself when he reasonably believes it is immediately necessary to avoid becoming incapacitated and risking the possibility that the subject could gain control of the officer's firearm. When possible, officers should attempt to move outside the device's range (approximately 21 feet) and seek cover, as well as request back-up officers to mitigate the danger.

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## Walter Scott Shooting: Video Shows Fatal North Charleston Police Shooting



Video made available to The New York Times captured the shooting and aftermath. It contains graphic violence and language.



**Source:**  
The New York Times  
Published on Apr 7, 2015  
<https://www.youtube.com/watch?v=XKQggVlk0NQ>

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## Walter Scott Shooting: What If There Were No Video



**Source:**  
NBC News – Meet The Press  
Published on Apr 13, 2015  
<https://www.youtube.com/watch?v=kLJjmFQ3dA>

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**Walter Scott Shooting: Ex-Cop Pleads Guilty In Federal Case**

Source:  
NBC News  
Published on May 2, 2017  
<https://www.youtube.com/watch?v=5YBWjzAz83c>

**OFFICER TAKES PLEA DEAL FOR SHOOTING UNARMED MAN**

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### 6.4 OFFICER INVOLVED SHOOTING INVESTIGATIONS

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Page 5      Page 6      Page 7      Page 8

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	<b>PROSPER POLICE DEPARTMENT</b>	
	<b>Policy 6.4 Officer Involved Shooting Investigations</b>	
	<b>Effective Date:</b>	<b>Replaces:</b>
	<b>Approved:</b> _____ Chief of Police	
	<b>Reference:</b>	

**I. POLICY**

It is the policy of this agency that officer-involved shooting incidents be investigated with the utmost thoroughness, professionalism and impartiality to determine if officer actions conform to the law and this agency's policy on use of force.

**II. PURPOSE**

It is the purpose of this policy to provide guidelines for the investigation of officer-involved shooting incidents and to provide guidelines to minimize the chances that involved personnel will develop or suffer from post-traumatic stress disorder.

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will develop or suffer from post-traumatic stress disorder.

**III. DEFINITIONS**


- A.** Post-Traumatic Stress Disorder: An anxiety disorder that can result from exposure to short-term severe stress, or the long-term buildup of repetitive and prolonged milder stress.
- B.** Officer-Involved Shooting Incident: A line-of-duty incident where shooting causes death or serious bodily injury to an officer or other person.

**IV. PROCEDURES**

- A.** Officer's Responsibility when involved in a Shooting Incident
  - 1.** Officers involved at the scene of a shooting incident shall take those measures that are reasonably possible and appropriate to protect their safety and others, and to preserve evidence essential to the investigation. This includes the following actions, undertaken in the order deemed appropriate.
    - a.** Ensure that the threats to officer safety and the safety of others are over.

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- b. Notify Communications of the shooting incident and request immediate assistance.
- c. Secure and separate any suspects.
- d. Relay information on any fleeing suspects to communications and other field units and work with them to establish a containment area.
- e. Request a supervisor and emergency medical services, if necessary, and any other assistance required immediately.
- f. If injured, administer emergency first aid to oneself first. Then, administer basic first aid to suspects and others, as necessary, pending arrival of emergency medical assistance.
- g. Holster any involved handguns or secure them in place as evidence. Secure long guns in the prescribed manner or in place as evidence. Do not open, reload, remove shell casings or in any other manner tamper with involved firearms. Take note of the time, survey the entire area for relevant facts, individuals who are present and who departed the scene, witnesses, potential suspects and suspect vehicles.

2. As time and capabilities permit before supervisory and other assistance arrives:

- a. Secure the area, establish a perimeter with crime scene tape and limit access to authorized persons necessary to investigate the shooting and assist the injured. Protect evidence from loss, destruction or damage that is likely to occur before backup can arrive. Ensure that evidentiary items are not moved or, if moved

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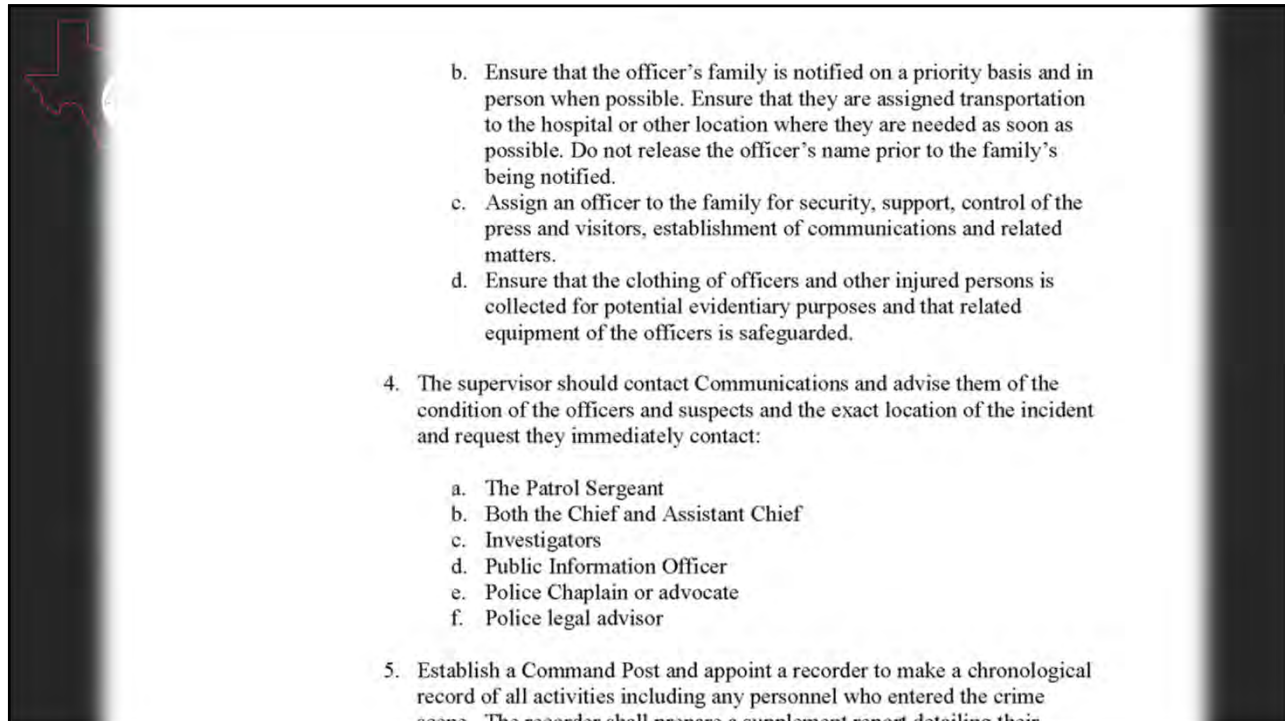


- b. Record the names, addresses and phone numbers of all witnesses and other persons present at the shooting scene and request that they remain on hand in order to make a brief statement whether or not they say they saw the incident.

B. Supervisor Responsibilities

1. A supervisor shall be dispatched to the scene of the incident, and shall assume primary responsibility for protecting the scene and caring for involved personnel.
2. Ensure the safety and determine the condition of the officer(s), suspect(s) and third parties. Summon emergency medical service providers if not yet summoned for officers, suspects and third parties.
3. If the officer has been shot or otherwise injured in the shooting:
  - a. Ensure that an officer accompanies and remains with the officer at the hospital.

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b. Ensure that the officer's family is notified on a priority basis and in person when possible. Ensure that they are assigned transportation to the hospital or other location where they are needed as soon as possible. Do not release the officer's name prior to the family's being notified.

c. Assign an officer to the family for security, support, control of the press and visitors, establishment of communications and related matters.

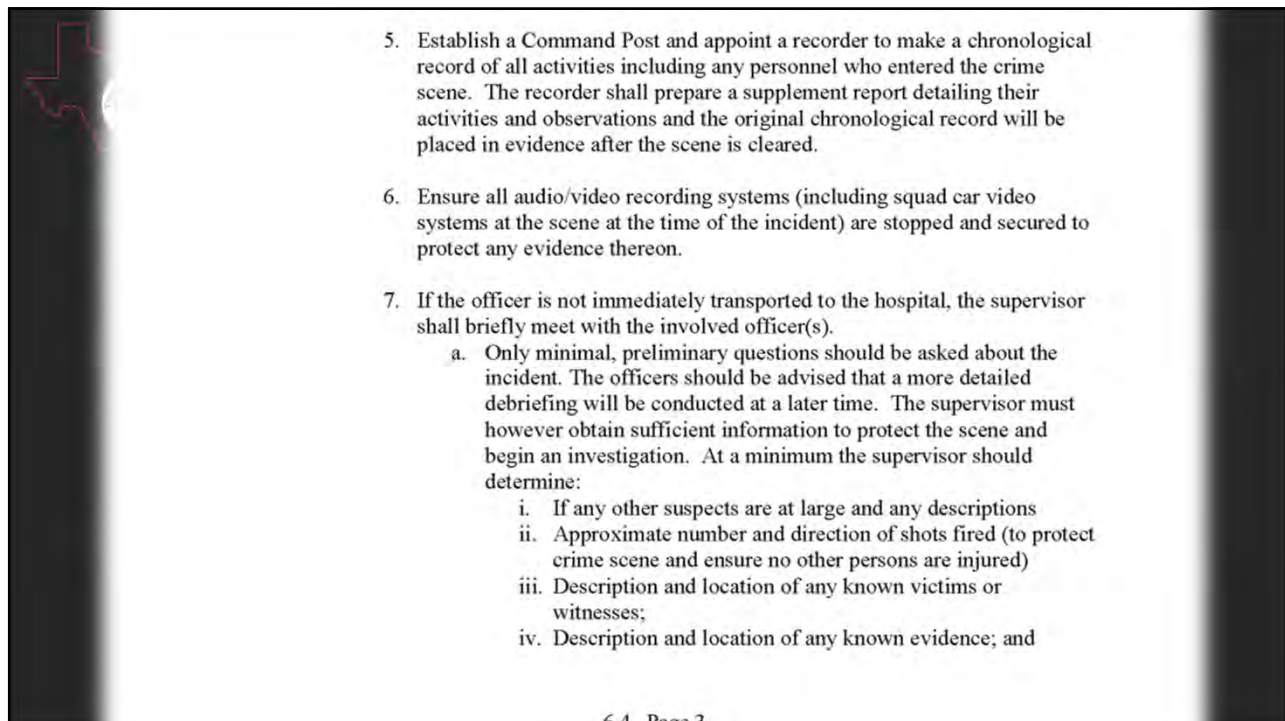
d. Ensure that the clothing of officers and other injured persons is collected for potential evidentiary purposes and that related equipment of the officers is safeguarded.

4. The supervisor should contact Communications and advise them of the condition of the officers and suspects and the exact location of the incident and request they immediately contact:

- a. The Patrol Sergeant
- b. Both the Chief and Assistant Chief
- c. Investigators
- d. Public Information Officer
- e. Police Chaplain or advocate
- f. Police legal advisor

5. Establish a Command Post and appoint a recorder to make a chronological record of all activities including any personnel who entered the crime scene. The recorder shall prepare a supplement report detailing their

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5. Establish a Command Post and appoint a recorder to make a chronological record of all activities including any personnel who entered the crime scene. The recorder shall prepare a supplement report detailing their activities and observations and the original chronological record will be placed in evidence after the scene is cleared.


6. Ensure all audio/video recording systems (including squad car video systems at the scene at the time of the incident) are stopped and secured to protect any evidence thereon.

7. If the officer is not immediately transported to the hospital, the supervisor shall briefly meet with the involved officer(s).

- a. Only minimal, preliminary questions should be asked about the incident. The officers should be advised that a more detailed debriefing will be conducted at a later time. The supervisor must however obtain sufficient information to protect the scene and begin an investigation. At a minimum the supervisor should determine:
  - i. If any other suspects are at large and any descriptions
  - ii. Approximate number and direction of shots fired (to protect crime scene and ensure no other persons are injured)
  - iii. Description and location of any known victims or witnesses;
  - iv. Description and location of any known evidence; and


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- v. Any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
8. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer should be taken to a quiet area away from the scene of the incident. If available, a peer counselor or other supportive friend or officer should remain with the officers, but should be advised not to discuss details of the incident.
9. The officers should be advised that they may seek legal counsel.
10. Any standard investigations that will occur concerning the incident should be discussed with the involved officers. The investigations shall include a criminal and internal investigation.
11. The officers should be advised not to discuss the incident with anyone except a personal or agency attorney, or departmental investigator, until the conclusion of the preliminary investigation.
12. The supervisor will ask all officers present at the time of the incident if they are carrying any firearms other than their primary duty weapon. If so, these weapons will need to be examined prior to leaving the scene by crime scene personnel.
13. The supervisor shall determine whether the circumstances of the incident


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13. The supervisor shall determine whether the circumstances of the incident require that the officer's duty weapon be taken for laboratory analysis. Where the duty weapon is taken, the supervisor shall:
  - a. Take custody of the officer's weapon in a discrete manner; and
  - b. Replace it with another weapon, or advise the officer that it will be returned or replaced at a later time, as appropriate.
14. Involved officers should notify their families about the incident as soon as possible. Where an officer is unable to do so, an agency official shall personally notify his family, and arrange for their transportation to the hospital if needed.
15. At all times, when at the scene of the incident, the supervisor should handle the officer and all involved personnel in a manner that acknowledges the stress caused by the incident.
16. Once the scene is secure, if investigators have not yet arrived, the supervisor shall begin doing the following:
  - a. Locate and secure in place the officer's weapon and shell casings.
  - b. Locate and secure suspects weapon and shell casings.

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- c. Collect information about the suspect including name, address, age, and DOB.
- d. Locate and secure any clothing that may have been removed from the suspect or officer by medical personnel.
- e. Attempt to determine the original shooting positions of the suspect and officer(s).

17. Upon arrival of investigators, the supervisor will brief the appropriate personnel on the details of the incident. The supervisor shall prepare the original basic offense report concerning the incident and prepare a detailed supplement report his or her activities after being notified. The supervisor shall also complete a departmental Use of Force Report on the incident.

C. Investigation

1. Two different investigations may be conducted after an officer involved shooting incident.
  - a. If the officer was shot at, injured, killed, or otherwise the victim of a criminal offense, a criminal investigation will be conducted to determine the identity of the suspect and for subsequent prosecution.
  - b. If an officer shot at a suspect, an administrative investigation shall be conducted to determine compliance with departmental policy.
  - c. If an officer shot at and hit a suspect, a criminal investigation shall be conducted to determine if the officer is criminally culpable for his or her actions.


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- c. If an officer shot at and hit a suspect, a criminal investigation shall be conducted to determine if the officer is criminally culpable for his or her actions.


2. These investigations, if both are required, may run simultaneously, with the criminal investigation taking precedence.
3. The Chief of Police may request another agency conduct either investigation if circumstances warrant.
4. Investigators will be well versed in the issues of Garrity v. NY to avoid improper contamination of the criminal investigation.
5. Upon arrival of investigators, they will first ensure the tasks itemized above have been completed. They shall then conduct their investigation to include:
  - a. Receive a general briefing and walk-through by the supervisory officer regarding the circumstances surrounding the shooting. The decision to conduct a walk through with the involved officer at this time must be made based on:
    - i. The type of investigation being conducted
    - ii. The physical and mental state of the officer

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- iii. The availability of the officer's attorney
- iv. The circumstances at the scene
- b. Ensure that the overall scene and evidentiary items are photographed and videotaped. Videotape all persons present at the scene. Color photographs of the officer as he/she appears at the scene shall be taken, to include any injuries sustained.
- c. Ensure thorough inspection of the scene and proper collection of all items and substances of evidentiary value.
- d. Obtain taped statements from the suspects. Ensure that notification is provided to next-of-kin of injured or deceased suspects.
- e. Locate and identify witnesses and conduct initial tape-recorded interviews.
- f. Tape record interviews with fire department personnel, emergency medical service providers and other first responders to the scene.
- g. Conduct separate tape recorded interviews with each officer involved. Involved officers will not be required to provide written or videotaped statements sooner than 48 hours after an incident.
- h. Conduct the interview in a private location away from sight and hearing of agency members and others who do not have a need and a right to the information. Advise the officers not to discuss the

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- involved. Involved officers will not be required to provide written or videotaped statements sooner than 48 hours after an incident.
- h. Conduct the interview in a private location away from sight and hearing of agency members and others who do not have a need and a right to the information. Advise the officers not to discuss the incident with anyone except a personal or agency attorney, union representative or departmental investigator until the conclusion of the preliminary investigation.
- i. Be cognizant of symptoms of post-traumatic stress, to include time and space distortions, confusion, hearing and visual distortion and emotional impairment, including shock. (Defer tape-recorded interviews if these symptoms are evident.) Take any weapon fired by the officer(s) into custody and handle it as evidence. Firearms shall be taken from officers in a discrete manner and the OIC shall ensure that arrangements are made to replace them with other firearms or advise the officers that they will be returned or replaced at a later time.
- j. Contact the coroner and obtain autopsy of officer and/or suspect if required. Determine entrance and exit wounds, estimates of the shooter's position, the presence of alcohol or controlled substances or other related evidence.

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6. The results of any criminal investigation conducted will be presented to the Grand Jury for independent review.

#### D. Post-Incident Procedures

1. Involved personnel shall be removed from line duties pending evaluation but shall remain available for any necessary investigations.
2. All officers directly involved in the shooting incident shall be required to contact an agency designated specialist for counseling and evaluation as soon as practical after the incident. Involved support personnel should also be encouraged to contact such specialists after a shooting incident. After the counseling sessions, the specialist shall advise the agency:
  - a. Whether it would be in the officers' best interest to be placed on administrative leave or light duty, and for how long;
  - b. Where the officers were relieved of their duty weapons after an incident, at what point they should be returned;
  - c. What will be the best continued course of counseling. The agency strongly encourages the families of the involved officers to take advantage of available counseling services.
  - d. If placed back on full duty, and another deadly force situation presented itself in the first work shift, would the officer be capable of defending themselves or another with the use of deadly force.
3. Any agency investigation of the incident shall be conducted as soon and as quickly as practical.

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of defending themselves or another with the use of deadly force.

3. Any agency investigation of the incident shall be conducted as soon and as quickly as practical.
4. The agency should a general briefing to other agency members concerning the incident so that rumors are kept to a minimum.
5. All personnel involved in a shooting incident should be advised that they are not permitted to speak with the media about the incident. Officers shall refer inquiries from the media to a designated agency spokesperson, unless otherwise authorized to release a statement pertaining to the incident.
6. In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public.
7. Officers directly involved in the shooting incident shall be required to re-qualify as soon as practical.

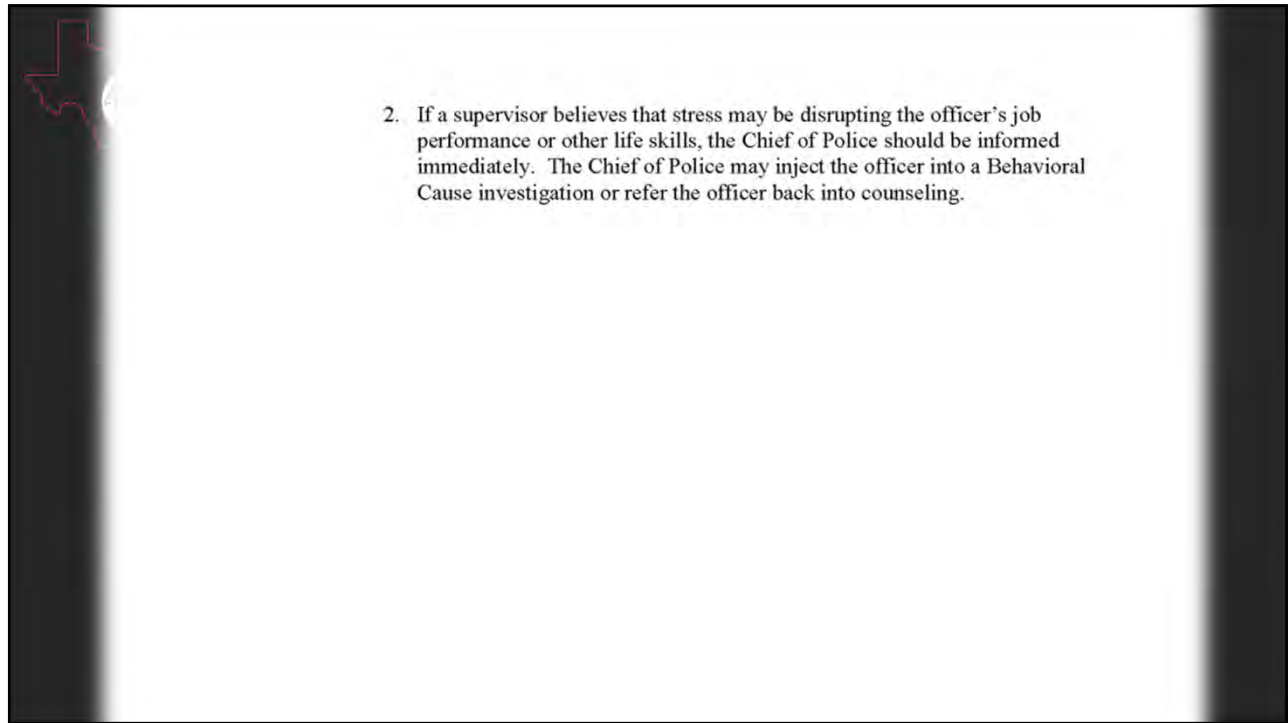
#### E. Daily Stress Recognition

1. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.

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Presented by: Chief Doug Kowalski



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## DAY 2 AGENDA

8:00 Use of Force Investigations Including Police Shootings

10:00 Break

10:15 Police Shootings (Continued)  
News Media Relations

11:45 Lunch

1:00 Police Shootings (Continued)

2:30 Break

2:45 Record Keeping, Subpoenas, and Open Records Requests

3:45 Citizen Review Committees

5:00 Adjourn


Thank you!

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



## DAY 2 AGENDA

8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn
1:00 Police Shootings (Continued)	Thank you!

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## Cop Murders Unarmed Black Ninth Grader

Source:  
The Young Turks  
Published on May 2, 2017



**JORDAN EDWARDS**  
*Mesquite Independent School District*

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**Balch Springs police fire Officer Roy Oliver, who fatally shot Jordan Edwards with rifle**

Source:  
The Dallas Morning News  
Published on May 2, 2017

**JONATHAN HABER**  
BALCH SPRINGS POLICE DEPARTMENT

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**Cop Who Shot 15-year-old Jordan Edwards Charged With Murder**

Source:  
The Young Turks  
Published on May 5, 2017

**TYT ANA KASPARIAN**  
CO-HOST, THE YOUNG TURKS | @ANAKASPARIANOFFICIAL

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**Family of Jordan Edwards, Texas teen killed by cop, shares grief**

Source:  
CBS This Morning  
Published on May 18, 2017

Former Balch Springs Police Officer  
**ROY OLIVER**

**CBS THIS MORNING** DEMANDING JUSTICE  
FAMILY OF TX TEEN KILLED BY POLICEMAN SHARES GRIEF

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**Fired Balch Spring Officer Roy Oliver's Personnel File**

Source:  
FOX 4 News -  
Dallas-Fort Worth  
Published on May 4, 2017

DEVELOPING STORY • DEVELOPING STORY DEADLY POLICE SHOOTING

**@FOX4**  
6:05 75°  
**FOX4 OBTAINS PERSONELL FILE OF FIRED BALCH SPRINGS OFFICER**

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



The screenshot shows a news broadcast from FOX 4. The main headline reads "Fired Balch Springs Officer Turns Himself In On Murder Charge". A sub-headline says "DEADLY SHOOTING INVESTIGATION". A photo of a police officer, identified as Roy Oliver, is shown. The news anchor's name is "ROY OLIVER". The broadcast is dated May 5, 2017, at 9:00 AM with a temperature of 71 degrees. The FOX 4 logo is visible in the bottom left corner of the news frame.

**Fired Balch Springs Officer Turns Himself In On Murder Charge**

**DEADLY SHOOTING INVESTIGATION**

**ROY OLIVER**

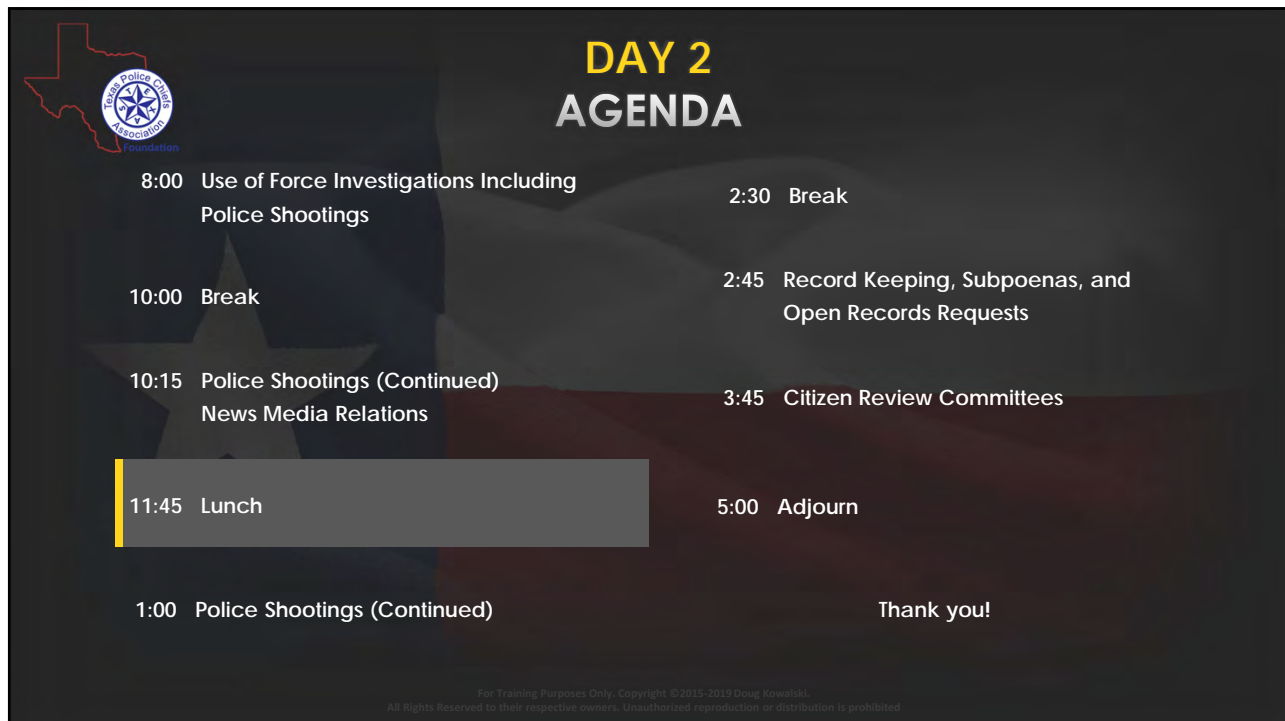
**DEADLY POLICE SHOOTING**

**FIED BALCH SPRINGS OFFICER WHO SHOT 15-YEAR-OLD TURNS HIMSELF IN AFTER MURDER WARRANT ISSUED**

Source:  
FOX 4 News -  
Dallas-Fort Worth  
Published on May 5 2017

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The slide is titled "DAY 2 AGENDA" and features the Dallas Police Officers Association logo in the top left corner. The agenda items are listed in two columns. The 11:45 Lunch item is highlighted with a yellow vertical bar. The slide concludes with "Thank you!" and a copyright notice at the bottom.

**DAY 2 AGENDA**

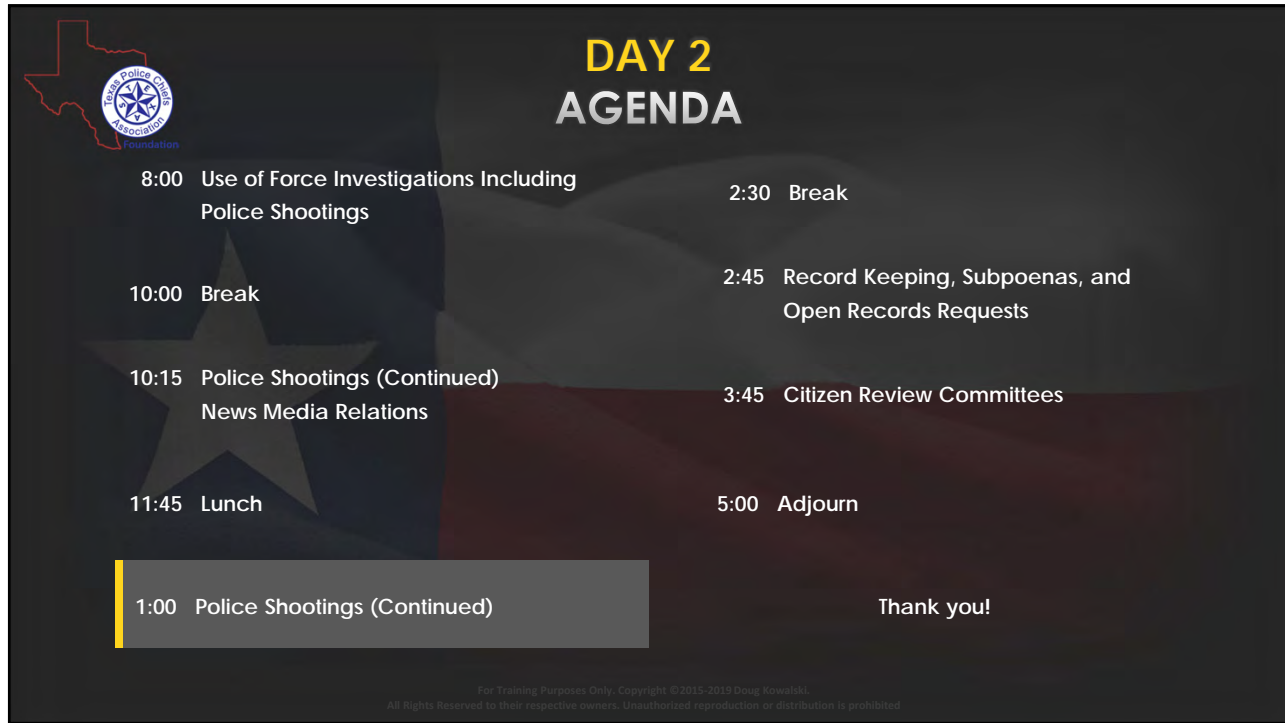
8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn
1:00 Police Shootings (Continued)	Thank you!

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



**DAY 2  
AGENDA**

8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn

1:00 Police Shootings (Continued)

Thank you!

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**SHOOTING INVESTIGATIONS**

- MODEL POLICIES AND PROCEDURES  
FOR OFFICER-INVOLVED SHOOTINGS

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### OFFICER-INVOLVED SHOOTINGS

- SPECIAL ISSUES
  - INDEPENDENT OBJECTIVE INVESTIGATION
  - RECOGNIZE COMPLICATIONS
  - MEDIA ATTENTION
    - FAILURE TO RESPOND
  - EXTRA SCRUTINY AND CRITICISM
    - AGENCY AND CJ SYSTEM
    - LOSS OF PUBLIC TRUST AND CONFIDENCE
    - EXPOSURE TO CIVIL LIABILITY

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### INTRODUCTION

- AN OFFICER INVOLVED SHOOTING IS A CRIMINAL INVESTIGATION
  - THE LEAD INVESTIGATOR SHOULD PROVIDE A COMPREHENSIVE REPORT OF THE FACTS
  - THE INVESTIGATION SHOULD BE DONE IN A TIMELY, METHODICAL, THOROUGH MANNER
  - AN UNBIASED REPORT, DOCUMENTING THE FACTS SHOULD BE PREPARED

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### INTRODUCTION

- ALL OF THE CIRCUMSTANCES AND THREATS, BOTH REAL AND PERCEIVED, PRESENT AT THE TIME OF THE SHOOTING ARE REPORTED
- THE FACTS GATHERED DURING THIS INVESTIGATION SHOULD BE PREPARED AND PRESENTED TO THE GRAND JURY FOR THEIR REVIEW
- EACH INVESTIGATION IS UNIQUE

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### POLICIES & PROCEDURES

- GENERAL
  - AN INVESTIGATIVE TEAM AND INTERNAL AFFAIRS SHOULD INVESTIGATE FIREARM DISCHARGES RESULTING IN INJURY OR DEATH
    - INCLUDES ACCIDENTAL DISCHARGES
  - THE INVESTIGATIVE TEAM CONDUCTS AND REPORTS THE CRIMINAL INVESTIGATION
  - INTERNAL AFFAIRS CONDUCTS AND REPORTS THE ADMINISTRATIVE INVESTIGATION

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### POLICIES & PROCEDURES

- RESPONSIBILITIES OF INVOLVED AND RESPONDING EMPLOYEES & SUPERVISORS
  - ENSURE THE SCENE IS STABILIZED AND POTENTIAL THREATS TO OFFICER SAFETY ARE RESOLVED
  - SUSPECT(S) DISARMED / IN-CUSTODY
  - HANDCUFFING AN INJURED SUSPECT MAY BE APPROPRIATE TO PREVENT AN ASSAULT
  - SECURE ALL WEAPONS
    - DON'T MOVE UNLESS NECESSARY

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### POLICIES & PROCEDURES

- AN OFFICER'S WEAPON MAY BE SECURED BY HOLSTERING IT OR PLACING IT WITHIN THE INTERIOR OF A VEHICLE
- SECURING OF A SUSPECT'S WEAPON (OR AN OFFICER'S WEAPON, IF NECESSARY) MAY INCLUDE ASSIGNING AN OFFICER TO GUARD A WEAPON TO ENSURE THE LOCATION AND THE ACTION OF THE WEAPON ARE NOT DISTURBED

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### POLICIES & PROCEDURES

- AN OFFICER'S WEAPON MAY BE NEEDED FOR EVIDENTIARY PURPOSES
  - NORMALLY NOT TAKEN UNTIL A REPLACEMENT CAN BE PROVIDED
  - DISCREET REMOVAL SHOULD BE DONE BY SUPERVISOR OR INVESTIGATOR
  - IF DONE AT THE SCENE, AND THE WEAPON CANNOT BE REPLACED, AN OFFICER SHOULD BE ASSIGNED TO THE INVOLVED OFFICER

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### POLICIES & PROCEDURES

- GENERAL
  - PROVIDE FIRST AID TO ALL PARTIES
  - REQUEST MEDICAL ATTENTION
  - ASSUME ICS RESPONSIBILITIES
  - GATHER INFORMATION FOR FOLLOW-UP AND APPREHENSION OF SUSPECTS / VEHICLES
  - BROADCAST INFORMATION
  - REQUEST ADDITIONAL PERSONNEL

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### POLICIES & PROCEDURES

- GENERAL
  - SCENE SECURITY / PROTECTION
  - ESTABLISH CRIME SCENE PERIMETER
    - CRIME SCENE TAPE, PATROL CARS, ETC.
    - SUFFICIENT SIZE TO PROVIDE
      - SAFETY
      - SECURITY
      - CONFIDENTIALITY

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### POLICIES & PROCEDURES

- GENERAL
  - IDENTIFY, PROTECT AND SECURE ALL EVIDENCE AT THE SCENE
  - DO NOT MOVE ANYTHING UNLESS ABSOLUTELY NECESSARY
    - PHOTOGRAPH IN PLACE BEFORE MOVING
  - ESTABLISH A PRELIMINARY COMMAND POST (OUTSIDE SCENE PERIMETER)

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### POLICIES & PROCEDURES

- GENERAL
  - KEEP ALL PERSONNEL OUTSIDE PERIMETER
  - INCLUDES LAW ENFORCEMENT AND RELATED AGENCIES NOT ASSIGNED DUTIES
  - ESTABLISH A LOG AND RECORD THE TIME OF ENTRY AND EXIT OF ANYONE ENTERING THE PERIMETER OF THE SCENE

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### POLICIES & PROCEDURES

- GENERAL
  - CANVASS THE AREA FOR WITNESSES
  - IDENTIFY INDIVIDUALS WHO MAY BE INVOLVED OR WITNESSED THE INCIDENT
    - EVEN IF THEY SAY THEY DID NOT SEE ANYTHING
  - ENSURE WITNESSES ARE CARED FOR AND KEPT SEPARATED

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### POLICIES & PROCEDURES

- GENERAL
  - RECORD LICENSE NUMBERS OF VEHICLES WITHIN CLOSE PROXIMITY OF THE INCIDENT
  - IF NECESSARY, IDENTIFY A MEDIA AREA TO MEET WITH DESIGNATED SPOKESPERSON
  - ENSURE MEDIA IS KEPT OUTSIDE PRELIMINARY COMMAND POST AND AWAY FROM INVOLVED EMPLOYEES

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### POLICIES & PROCEDURES

- GENERAL
  - DO NOT ALLOW EMPLOYEES INVOLVED IN THE INCIDENT TO SPEAK TO THE MEDIA
  - IF PIO HAS NOT ARRIVED AT THE SCENE, STATEMENTS TO THE MEDIA SHOULD BE AT THE DIRECTION OF SUPERVISORY PERSONNEL AND WHENEVER POSSIBLE, COORDINATED WITH THE INVESTIGATOR

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## POLICIES & PROCEDURES

- GENERAL
  - BE ALERT TO THE NEED TO DIMINISH OPEN RADIO AND CELLULAR COMMUNICATIONS REGARDING THE INCIDENT

**Stay off the cell phone!!!**

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## POLICIES & PROCEDURES

- CARE FOR INJURED EMPLOYEES
  - ASSIGN AN OFFICER TO ACCOMPANY INJURED EMPLOYEES TO THE HOSPITAL
  - SUPERVISORY PERSONNEL SHOULD ASSIGN APPROPRIATE PERSONS TO FACILITATE PERSONAL NOTIFICATION OF IMMEDIATE FAMILY AND MAKE ARRANGEMENTS TO TRANSPORT THE FAMILY TO THE HOSPITAL OR APPROPRIATE LOCATION

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### POLICIES & PROCEDURES

- IF SUSPECT IS TRANSPORTED TO THE HOSPITAL, ASSIGN AN OFFICER TO:
  - REMAIN WITH THE SUSPECT AND RECORD SPONTANEOUS STATEMENTS AND/OR DYING DECLARATIONS
  - RECEIVE, MAINTAIN, AND PRESERVE APPROPRIATE EVIDENTIARY ITEMS
    - SUSPECT'S CLOTHING, ETC.

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### POLICIES & PROCEDURES

- GENERAL
  - IN COORDINATION WITH THE LEAD INVESTIGATOR, SUPERVISORY PERSONNEL SHOULD MAKE ARRANGEMENTS FOR THE EMPLOYEES INVOLVED IN THE INCIDENT TO BE REMOVED FROM THE SCENE AS SOON AS POSSIBLE
  - TAKEN TO A QUIET, SECURE SETTING

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### POLICIES & PROCEDURES

- DON'T PLACE INVOLVED EMPLOYEES IN THE BACK SEAT OF A UNIT PRIOR TO REMOVAL FROM THE SCENE
- IT IS NOT REQUIRED THAT INVOLVED EMPLOYEES BE SEPARATED
- TO MAINTAIN THE INVESTIGATION'S INTEGRITY AND THAT OF SUBSEQUENT INTERVIEWS AND STATEMENTS, EMPLOYEES SHOULD BE ADMONISHED NOT TO DISCUSS THE INCIDENT AMONG THEMSELVES

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### POLICIES & PROCEDURES

- GENERAL
  - ENSURE INVOLVED EMPLOYEES ARE NOT SUBJECTED TO INTERVIEWS AT THE SCENE
    - EXCEPT TO OBTAIN NECESSARY INFORMATION TO ASSIST IN LOCATING SUSPECTS, WITNESSES, ETC., UNTIL THE LEAD INVESTIGATOR ARRIVES

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### POLICIES & PROCEDURES

- GENERAL
  - WHENEVER POSSIBLE, INVOLVED EMPLOYEES SHOULD BE ALLOWED TO CONTACT A FAMILY MEMBER TO ADVISE THEM OF THEIR STATUS BEFORE THEY HEAR OF THE INCIDENT FROM OTHER SOURCES SUCH AS THE NEWS MEDIA REPORTS

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### POLICIES & PROCEDURES

- GENERAL
  - AN INTERVIEW WITH THE INVOLVED EMPLOYEE(S) AT THE SCENE SHOULD NORMALLY BE LIMITED TO A BRIEF ACCOUNT OF WHAT OCCURRED IN ORDER TO FACILITATE THE INVESTIGATION OF THE SCENE
  - ARRANGEMENTS SHOULD BE MADE FOR THE REMOVAL OF THE EMPLOYEE(S) TO A SECURE SETTING

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### POLICIES & PROCEDURES

- GENERAL
  - AFTER COMPLETION OF THE ON-SCENE INVESTIGATION, THE LEAD INVESTIGATOR SHALL ARRANGE FOR A DETAILED INTERVIEW AND STATEMENT WITH THE INVOLVED EMPLOYEE(S)
  - THE DETAILED INTERVIEW AND EMPLOYEE(S) STATEMENT SHOULD NOT TAKE PLACE UNTIL THE DAY FOLLOWING THE INCIDENT AND AFTER THE EMPLOYEE(S) HAS HAD A PERIOD OF REST

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### POLICIES & PROCEDURES

- GENERAL
  - IT SHOULD BE THE DEPARTMENT'S INTENT THAT ONLY ONE STATEMENT BE TAKEN FROM THE EMPLOYEE(S)
    - THIS SHOULD CONTAIN A DETAILED ACCOUNT OF THE INCIDENT
  - EMPLOYEE(S) WILL BE INTERVIEWED SEPARATELY
  - EMPLOYEE(S) SHOULD NOT BE REQUIRED TO UNNECESSARILY RECOUNT THE INCIDENT

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### VIEWING THE IN-CAR VIDEO

- THE INVOLVED OFFICER SHOULD BE ALLOWED TO REVIEW THE VIDEO PRIOR TO PROVIDING A FORMAL STATEMENT
  - LEAD INVESTIGATOR SHOULD REVIEW THE VIDEO EXTENSIVELY PRIOR TO THE INTERVIEW
- LEAD INVESTIGATOR WILL THEN TAKE A DETAILED STATEMENT, COVERING ALL ASPECTS OF THE INCIDENT

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### POLICIES & PROCEDURES

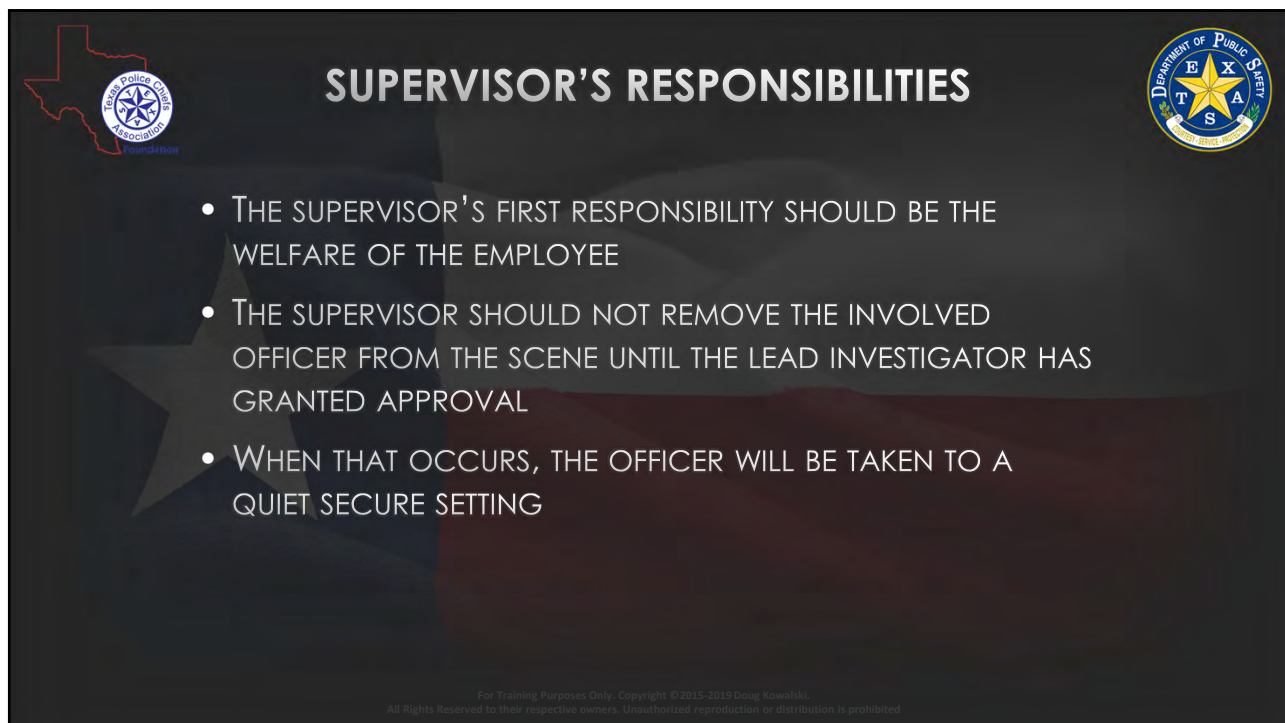
- GENERAL
  - ALL PERSONS REGARDLESS OF RANK, ENTERING THE PERIMETER OF THE SCENE SHOULD BE REQUIRED TO WRITE A REPORT DOCUMENTING THEIR ACTIONS
  - THE ORIGINAL OF THE REPORT WILL BE FORWARDED TO THE LEAD INVESTIGATOR FOR INCLUSION IN THE MASTER CASE FILE

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### SUPERVISOR'S RESPONSIBILITIES

- THE SUPERVISOR SHOULD ENSURE THAT THE AFFECTED EMPLOYEE DOES NOT SPEAK TO MEMBERS OF THE NEWS MEDIA
- THE SUPERVISOR SHOULD CONFER WITH THE LEAD INVESTIGATOR BEFORE ANY INFORMATION IS DISSEMINATED TO THE MEDIA OR OTHER AGENCIES

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### SUPERVISOR'S RESPONSIBILITIES

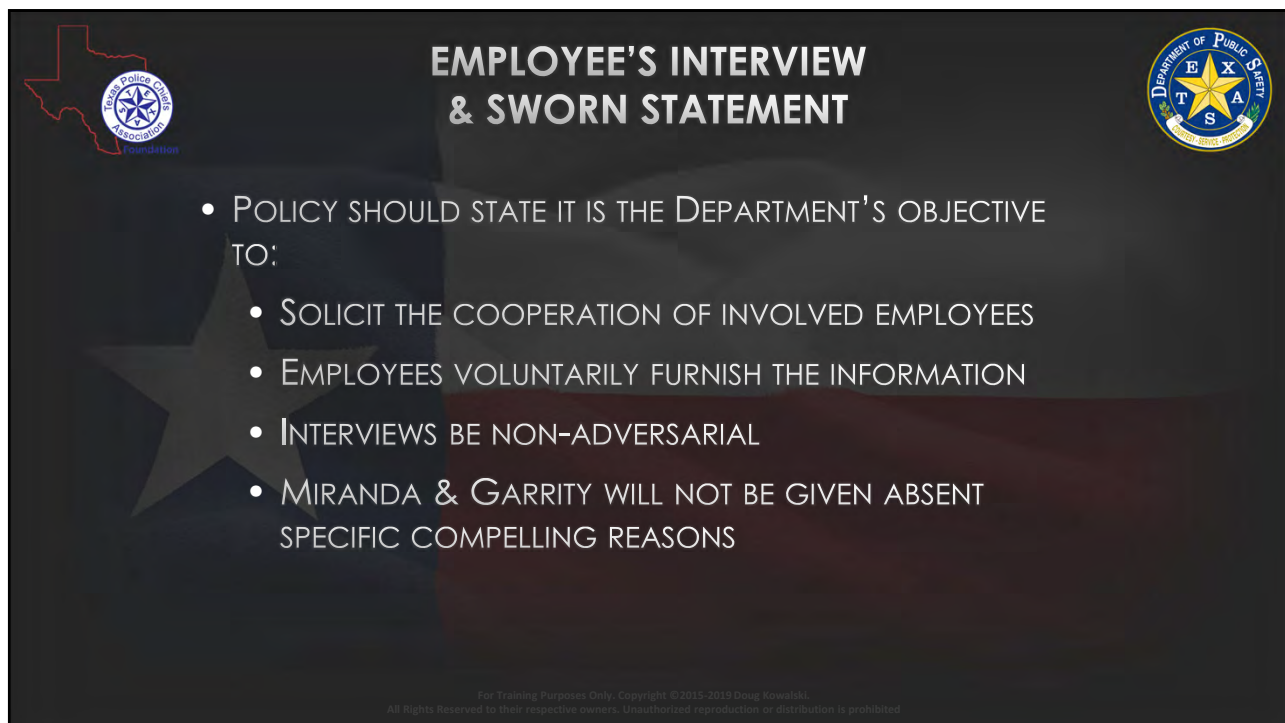
- THE SUPERVISOR SHOULD ARRANGE TO HAVE THE AFFECTED EMPLOYEE FOLLOW ANY MANDATORY DRUG TESTING PROCEDURES
  - COMPLETE A MANDATORY CRITICAL INCIDENT ALCOHOL/DRUG TESTING ORDER
  - IN THE CASE OF A URINE TEST, THE SUPERVISOR SHOULD ACCOMPANY THE EMPLOYEE TO THE TEST SITE AND CONFIRM THE SAMPLE COLLECTION

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## EMPLOYEE'S INTERVIEW & SWORN STATEMENT

- MIRANDA IS REQUIRED DURING A CRIMINAL INVESTIGATION WHEN A PERSON IS SUBJECTED TO CUSTODIAL INTERROGATION
- GARRITY APPLIES ONLY WHEN AN EMPLOYEE IS BEING QUESTIONED DURING AN ADMINISTRATIVE INVESTIGATION ABOUT ALLEGATIONS THAT COULD BE CRIMINAL IN NATURE

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## SITUATIONS NOT SPECIFICALLY MENTIONED

- APPLIES TO OFF DUTY AS WELL AS ON DUTY SITUATIONS
- APPLIES TO PERSONAL WEAPONS AS WELL AS DEPARTMENT OWNED WEAPONS

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### POLICY

- INVESTIGATORS
  - RESPONSIBLE FOR CRIMINAL INVESTIGATION AND REPORT
- INTERNAL AFFAIRS
  - RESPONSIBLE FOR ADMINISTRATIVE INVESTIGATION AND REPORT

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### CHAIN OF COMMAND REPORT

- SUPERVISOR'S DUTY TO COMPLETE REPORT
- EMPLOYEE'S DESCRIPTION OF INCIDENT:
  - STATEMENT FROM EMPLOYEE
    - IF A STATEMENT HAS ALREADY BEEN GIVEN REGARDING THE INCIDENT DO NOT MAKE AN ADDITIONAL STATEMENT
  - ATTACH A COPY OF THE STATEMENT ALREADY GIVEN

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### CRITICAL INCIDENT TESTING

- THE DEPARTMENT SHOULD REQUIRE DRUG AND ALCOHOL TESTING AFTER A FIREARM DISCHARGE WHICH OCCURRED:
  - ON DUTY
  - DURING ENFORCEMENT ACTION OR INVOLVING A DEPARTMENT WEAPON
  - WHICH RESULTS IN INJURY OR DEATH

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### ADMINISTRATIVE LEAVE AND RESTRICTED DUTY

- FIREARM DISCHARGE RESULTING IN DEATH OR SERIOUS BODILY INJURY, PENDING RESOLUTION
  - THE EMPLOYEE SHOULD:
    - BE REMOVED FROM ENFORCEMENT DUTY
    - BE PLACED IN A NONPUBLIC CONTACT STATUS, OR
    - BE PLACED ON ADMINISTRATIVE LEAVE WITH PAY

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## WHAT IF THE EMPLOYEE REFUSES TO COOPERATE?

- INTERNAL AFFAIRS MAY DELAY THEIR INTERVIEW UNTIL THE INVESTIGATORS HAVE HAD ADDITIONAL TIME TO INVESTIGATE
- INTERNAL AFFAIRS WILL EVENTUALLY INTERVIEW THE EMPLOYEE UNDER GARRITY
  - POLICY USUALLY DOESN'T PROHIBIT IT, JUST IS NOT GENERALLY GIVEN ABSENT SPECIFIC AND COMPELLING REASONS

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## WHAT IF THE EMPLOYEE REFUSES TO COOPERATE?

- INTERNAL AFFAIRS WILL NOT BE ABLE TO SHARE INFORMATION IF GARRITY IS USED:
  - IF FAVORABLE EVIDENCE/INFORMATION IS OBTAINED FROM THE EMPLOYEE
    - INTERNAL AFFAIRS SHOULD ENCOURAGE THE EMPLOYEE TO INFORM THE INVESTIGATORS OF THE INFORMATION

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### EMPLOYEE'S WEAPON

- INVESTIGATORS OR INTERNAL AFFAIRS MAY ORDER LABORATORY AND INVESTIGATIVE ANALYSIS OF THE FIREARM(S)
- AFTER ALL LAB TESTS ARE COMPLETE AND CRIMINAL PROCEEDINGS RESOLVED, THE FIREARM SHOULD BE FORWARDED TO THE FIREARM TRAINING OFFICER FOR INSPECTION

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### EMPLOYEE'S WEAPON

- FIREARMS TRAINING OFFICER SHOULD ISSUE A WRITTEN REPORT
- AFTER ALL CRIMINAL AND ADMINISTRATIVE PROCEEDINGS ARE RESOLVED, THE WEAPON MAY BE RETURNED TO THE EMPLOYEE

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### CLASSIFICATIONS

- INTERNAL AFFAIRS SHOULD HAVE TIME LIMIT TO COMPLETE AND REPORT INVESTIGATION
  - EXTENSIONS MAY BE OBTAINED FROM AGENCY ADMINISTRATOR
- INTERNAL AFFAIRS MAY CLASSIFY FIREARM DISCHARGE AS:
  - JUSTIFIED
  - NOT JUSTIFIED
  - ACCIDENTAL
  - OTHER

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### CLASSIFICATIONS



- GENERAL RULE
  - DID THE EMPLOYEE INTEND FOR THE GUN TO GO OFF?
    - IF NOT
      - ACCIDENTAL
    - IF NOT ACCIDENTAL, WAS IT THE USE OF DEADLY FORCE AGAINST A PERSON?
      - IF NOT
        - OTHER

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



## CLASSIFICATIONS

- DEADLY FORCE
  - JUSTIFIED OR NOT JUSTIFIED
  - DEADLY FORCE IN DEFENSE OF PERSON, DEFENSE OF THIRD PERSON

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## DAY 2 AGENDA

8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn
1:00 Police Shootings (Continued)	Thank you!

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



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## Police Misconduct Cases Costing Dallas Taxpayers Millions



Senior Corporal  
Amy Wilburn

Source:  
CBSDFW  
Published on Aug 14, 2017

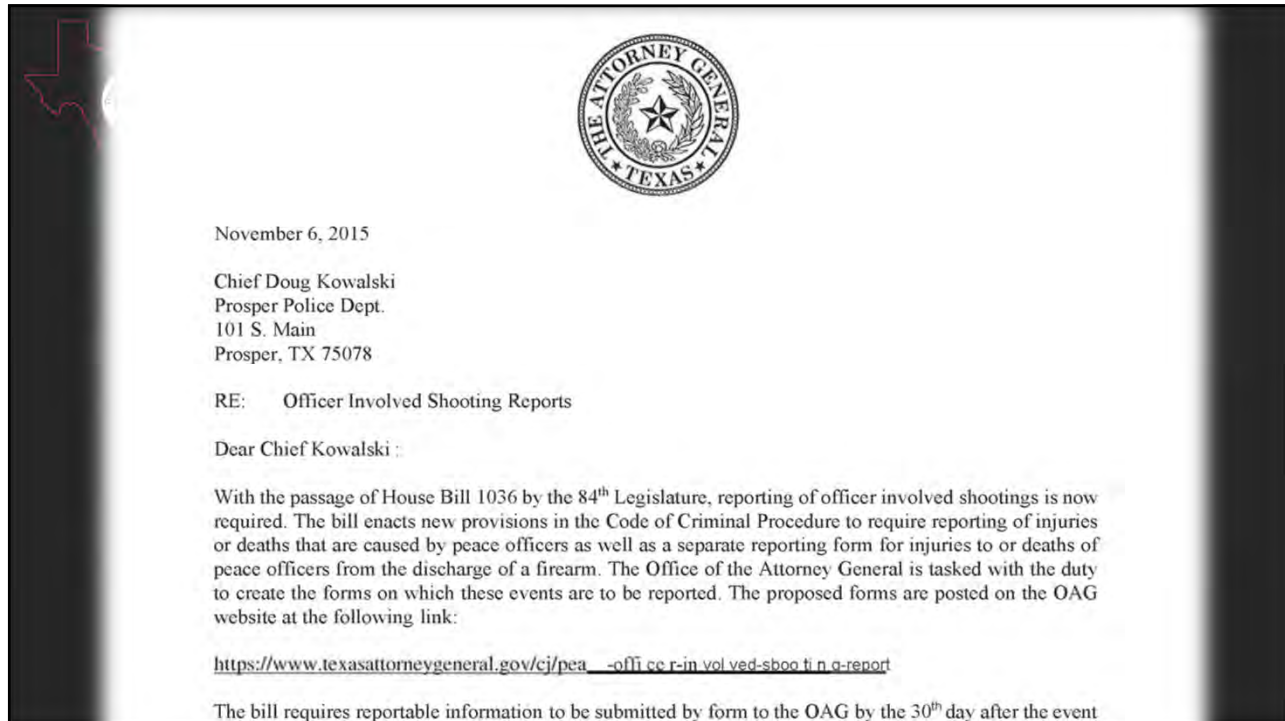
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CBSDFW

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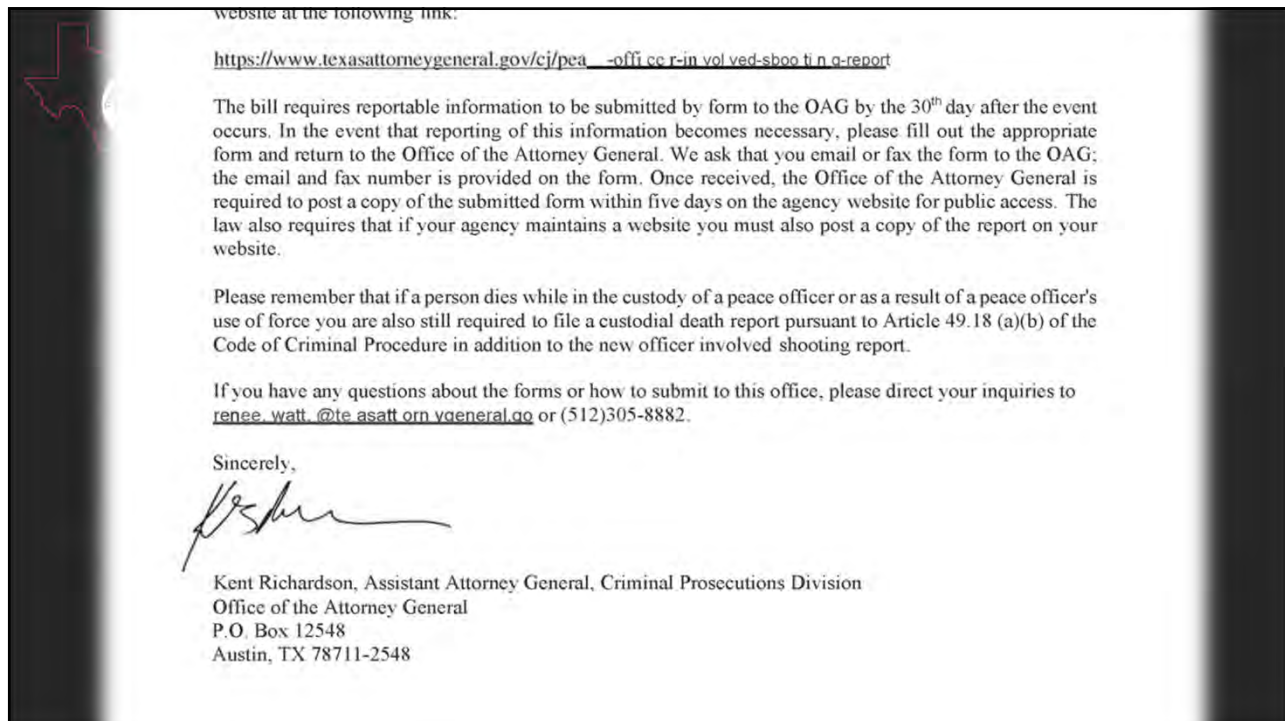
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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski




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Presented by: Chief Doug Kowalski




## DAY 2 AGENDA

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## Mistaken Identity

### Police Chief Apologizes for Wrongful Arrest

May 30, 2007 The Apologist [Leave a comment](#)

It is my impression that the government — be it local, state, or federal — is usually slow to admit wrongdoing or mistakes, much less apologize for it. Witness the hundred years or more it took responsible governments to even start apologizing for giving legal recognition and government sanction to slavery, as we were discussing a few entries back.


Law enforcement agencies seem especially stubborn about owning up to their mistakes. It often takes a public hue and cry, bad press, a lengthy investigation, lawsuits and political pressure before before a police department will admit that something like bursting into an 80-something-year-old grandmother's house and gunning her down in a botched drug raid was a bad thing to do.

This attitude is understandable. Cops have a tough job. They often have to deal with hostile, irrational, violent, drunk, drugged and/or bug-eyed crazy people, not to mentioned desperate, hardened criminals who will not hesitate to shoot, stab, bite, kick, punch or gouge law enforcement officers to avoid arrest. The public does not fully understand, nor fully appreciate the work police do or the demands and pressures they work under. And many people are ready to point fingers and criticize when something does go wrong — politicians, media and the public included.

So it is natural that a kind of "us against them" mentality can evolve in some departments. And

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Presented by: Chief Doug Kowalski



point fingers and criticize when something does go wrong — politicians, media and the public included.


So it is natural that a kind of “us against them” mentality can evolve in some departments. And “them” is not just the bad guys — it’s all of us who aren’t cops and don’t get it. When the bad shooting, false arrest or other unflattering incident occurs, we sometimes see that siege mentality on display. The police figure, often correctly, that no one is going to cut them a break whether they made an honest mistake or not.

Everything gets elevated by the fact that even well-intentioned police mistakes can lead to an innocent person being injured or killed or spending time behind bars. Which tends to stir up public outrage. Under those conditions — and counting on the inevitable investigations and lawsuits — there is rarely any incentive for individual officers or departments to admit or apologize for mistakes or wrongdoing until they absolutely have to.

This is unfortunate. Communities in which there is a high level of hostility and mistrust between the public and the police are ill-served by that state of affairs. The police cannot do their jobs well without the trust and support of the public. Likewise, the public does not receive the level of public safety and protection that they want, deserve and are paying for regardless unless there is a strong community bond with their local law enforcement.

All of that is preamble to this apology out of McKinney, Texas. This is a case where the police made a wrongful arrest, recognized the mistake, owned up to it and apologized.

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Here is what happened:

*“Christi Hernandez, 35, was thrown in jail and later fired from her job after she was wrongfully arrested for selling drugs.*

*A cafeteria manager at Lovejoy High School, Hernandez was arrested and handcuffed at the school. She also spent a night in jail and had to post \$2,500 bail to get out.” (“McKinney pays up in woman’s wrongful arrest,” WFAA.com)*

**The wrongful arrest was a case of mistaken identity:**


*“According to McKinney police records, Christy Marie Hernandez, 32, of Anna, attempted to purchase cocaine from an undercover McKinney police officer on Apr. 29, 2006.*

*Kowalski said the detective handling the case obtained a name from the woman during the drug deal then attempted to match a photograph of the woman taken by the Collin County Detention Center that turned out to be Christi Hernandez from an issuance of a bad check case filed against her back in 2001. The detective did not know the spelling of the woman’s name at the time and incorrectly matched Christi Hernandez’s identity to the case. A warrant was issued and she was later indicted and arrested.” (“Police chief makes apology to Hernandez,” McKinney Courier-Gazette)*

**One letter off from the real coke buver and she goes to jail:**

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## Presented by: Chief Doug Kowalski



*was issued and she was later indicted and arrested.” (“Police chief makes apology to Hernandez,” McKinney Courier-Gazette)*

**One letter off from the real coke buyer and she goes to jail:**

*“Police showed up to Christi’s job at Lovejoy High School, where she was having lunch with co-workers, pulled her aside and arrested her for dealing drugs.” (“Police issue apology for mistaken identity arrest,” CBS11tv.com)*


Christi-With-An-I was thrown in jail, fired from her job and suffered obvious damage to her reputation, among other harms. She was finally able to convince the McKinney police they had the wrong woman — several days after her arrest — by rolling up her sleeve and showing that she did not have a tattoo that the undercover officer had seen on the real suspects arm. She was released and the charges were dropped.

Now on to the apology. The below is a mash-up from the articles cited above:

*“On behalf of the City of McKinney, the McKinney Police Department, and our city manager Mr. Robinson, I offer our sincere apology to you for the events that occurred on January 25, 2007, the day you were arrested by mistake through the actions of a member of our department,” said Chief Doug Kowalski, McKinney Police Department.*

*“I want you to know that we mean this from the bottom of our hearts. The McKinney Police Department does not accomplish its mission by making mistakes,” Kowalski said. “The police department does not*

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*accomplish its mission by putting the wrong person in jail. We made a mistake that day. This young lady has suffered and we’ve done everything we can from that point forward to make it right ... We apologize to her and I apologize to her, also.”*

*“That was a series of events that led to what I call a great misfortune for this young lady right here,” Kowalski said. “Obviously, during the course of that investigation, she was arrested. Several terrible things resulted from that for her. She was deprived from her liberty. She was, for the want of a better term, she lost her job for a period of time. Additionally, she suffered damage to her reputation. The police department does not go out and try and put the wrong people in jail. That’s not what we’re about. The McKinney Police Department tries to do what’s right, do the best we can and treat other people the way you want to be treated and although there were probably a number of defenses the city could have raised under good faith, the city, the city manager (Larry Robinson) and the city council wanted to do the right thing and that was make this young lady whole again.”*

*Kowalski went on to say that the undercover officer who was responsible for arresting Christi Hernandez has been counseled and now realizes the consequences of his actions.*

*Kowalski said he could not discuss any possible disciplinary actions that might have been taken against the detective since it is a*

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of his actions.

Kowalski said he could not discuss any possible disciplinary actions that might have been taken against the detective since it is a personnel matter.


"While he did make a mistake on the one hand, the things he did afterward go to the level of this officer's integrity," Kowalski said. "He did admit that he made a mistake. He apologized for making a mistake. He went about trying to rectify his mistake to the best of his ability with the district attorney and the charges were dropped immediately. Additionally, he didn't try to cover up his mistake. He came back to the department and reported it."

This was a great apology. The chief stepped right up and said we made a mistake and we're doing all we can to make it right. No whining about what a tough job they have keeping drugs off the streets. No hiding behind sovereign immunity or any other legal defenses the department might have had. Chief Kowalski strikes me as a consummate professional. His officers too. As he notes in the last paragraph, the detective who screwed up owned up to his mistake and immediately set about to correct it. That speaks well of the professionalism and the culture of the McKinney police department.

From the [McKinney Police Department](#) website, Chief Kowalski writes:

*We are very proud of the relationship that the McKinney Police Department shares with the community. Our service delivery is described as community-problem-solving. This includes citizen participation in our planning and policy process and partnerships in accomplishing our*

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goals. Our longstanding goal is to make McKinney a safe city in which to live, work, and visit. McKinney is a police department that prides itself in delivering the highest level of quality service possible. If you're an individual with high standards, integrity, and determination to excel I encourage you to join our team today and I wish you the best in your endeavors.

You get the sense he really means it ... this isn't just mission statement happy talk. Also, they seem to be hiring.

Kudos also to the city manager and city council. The city paid Ms. Hernandez \$25,000 as compensation for her wrongful arrest. Now she could have won that much and probably more in a lawsuit. And many cities would have made her file the lawsuit and go through all the trouble, expense and aggravation of litigation before paying up. But the City of McKinney did the right thing. If I had some reason to move to Collin County, Texas, I would definitely consider residing in McKinney. It is also, apparently, a great place to visit


"I'm satisfied," Ms. Hernandez said Monday. "I feel like this at least gives me back the money that I'm out, and, you know, shows that they cared enough to offer me something."

Good for her. She is satisfied with the apology. Her attorney is working to have the arrest permanently removed from her record. The department is revamping their identification procedures. As for Christy-With-A-Y, she's been arrested on the drug charges.

**DATE OF APOLOGY:** May 29, 2007

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Presented by: Chief Doug Kowalski



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*"I'm satisfied,"*  
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Good for her. She is satisfied with the apology. Her attorney is working to have the arrest permanently removed from her record. The department is revamping their identification procedures. As for Christy-With-A-Y, she's been arrested on the drug charges.

**DATE OF APOLOGY:** May 29, 2007  
**APOLOGIZER:** McKinney, Texas Chief of Police Doug Kowalski  
**APOLOGIZEE:** Christi Hernandez  
**FOR:** Wrongful arrest

<http://apologyindex.com/blog/category/mistaken-identity/>

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## DAY 2 AGENDA

8:00 Use of Force Investigations Including Police Shootings	2:30 Break
10:00 Break	2:45 Record Keeping, Subpoenas, and Open Records Requests
10:15 Police Shootings (Continued) News Media Relations	3:45 Citizen Review Committees
11:45 Lunch	5:00 Adjourn
1:00 Police Shootings (Continued)	Thank you!

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# BASIC INTERNAL AFFAIRS INVESTIGATIONS CLASS - Day 2

Presented by: Chief Doug Kowalski



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## DISCIPLINARY ACTION NOTICE

*Town of Prosper Personnel Policies and Procedures Manual, Reference No. 7.01F-2*

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Date:

**January 20,  
2014**

Name:

**Officer G**

Department:

**Police**

Position/Title: **Patrol Officer**

### **DEFICIENT PERFORMANCE AND/OR INFRACTION:**

Violation of Town of Prosper Personnel Policies and Procedures, Reference No. (Reference No. violated), (provision violated), as more particularly described in the following section.

### **FACTS OF INCIDENT/BASIS FOR DISCIPLINARY ACTION:**

On Friday, 01/03/14, at approximately 6:15 p.m., you were notified by Human Resources Director, Asst. Chief M, and Sgt. N that you were being sent home for the remainder of your shift due to administration's concern regarding your health and ability to perform the essential job functions of a Police Officer in a safe manner. This decision was based on information reported by your supervisor, Sgt. N that included you sleeping on the job, causing damage to your patrol vehicle, noticed slurred speech, etc. During this discussion, you showed difficulty standing up straight and were seen leaning on a chair for support which caused additional concern. You were informed to report to Human Resources on Monday, 01/06/14 at 8:00 a.m. for a fitness for duty exam and drug/alcohol screen. The results of that drug/alcohol screen showed "positive" for the presence of alcohol in your blood which is a violation of Town of Prosper Personnel Policies and Procedures, 7.01 VI, C (31), and 916.2 of the Town of Prosper Police Department Policy Manual. Furthermore, there is a violation of 7.01(VI) (C)(33) due to unbecoming conduct and (C)(40) due to the adverse impact this could have on organization's reputation.

You were placed on administrative leave **with** pay pending the outcome of an investigation of the complaint. A formal investigation was conducted, which has now been completed.

### **The summary of that investigation is as follows:**

A preponderance of the evidence proved that Officer G did violate Town of Prosper Policies and Procedures, 7.01 VI, C (31), 7.01(VI)(C)(33)- unbecoming conduct and (C)(40) and 916.2 of the Town of Prosper Police Policy Manual.

Officer G being told that he was to report on January 6, 2014 at 8:00 a.m. for a fitness for duty exam and drug/alcohol screen and the lab results show .2 g/dl, due to the lab results it is a violation of The Town of Prosper Policies and Procedures.

**DISCIPLINARY ACTION AND CONDITIONS: (Choose any/all that apply delete others)**

Based upon all pertinent facts and violation or violations of the Town of Prosper policies and procedures, which are stated above, the following disciplinary action is hereby being taken against you:

**Written reprimand.** You are hereby given a written reprimand for the above conduct.

**Suspension without pay.** You are hereby suspended without pay for period of (?) days. Effective (**immediately of date when effective**), you are relieved of all responsibilities and removed from the payroll for the duration of such suspension. Also your duties as a Field Training Officer and Department

**Disciplinary probation.** You are hereby placed on disciplinary probation for a period of (6 Months), during which time you are to demonstrate your fitness for this position by actual performance of duties. Also your duties as a Field Training Officer and Department Range Officer will be removed and you are to attain the following specific goals:

1. Commit no action in violation of the Ordinance or Charter of the Town, state law or federal law in the performance of your duties.
2. Become proficient with the policies and procedures of the Town for the areas listed herein.

During the period of your disciplinary probation, you will not be eligible to receive any merit increase. Any additional reasons for disciplinary action which may occur or be discovered during the period of disciplinary probation may result in extension of the period of probation, additional disciplinary action, or termination.

**ADDITIONAL CORRECTIVE ACTION:**

In addition to the above disciplinary action, as a further corrective action, and as a condition of your continued employment you are required to:

Enroll within five (5) days in the Town of Prosper Employee Assistance Program (EAP), attend and fully cooperate in counseling for alcohol treatment, as recommended by the counselor assigned to you, until released; and

Successfully complete a fitness for duty exam prior to returning to regular patrol duties

**CONSEQUENCES OF FURTHER VIOLATIONS:**

Any further violation of the policies, procedures or work rules of the Town of Prosper, approved departmental rules for your department, failure to comply fully with the conditions for continued employment stated above, and/or intentional or knowing violation of the law in performance of your job functions will result in disciplinary action up to and including termination of



employment. You should be aware that any prior violation of the policies, procedures or work rules of the Town of Prosper may be considered in determining the severity of disciplinary action warranted for any future violation.

This disciplinary action is taken in accordance with Reference No. 7.01 of the Town of Prosper Personnel Policies and Procedures Manual. This Disciplinary Action Notice, in accordance with Reference No. 7.01, shall be placed in the central personnel file of the employee named above.

**X TERMINATION FROM EMPLOYMENT:**

Your employment with the Town of Prosper Police Department is terminated effective immediately. You will surrender all your Town issued credentials and equipment to your immediate supervisor.

**EFFECTIVE DATE OF DISCIPLINARY ACTION:**

The above-described disciplinary action is effective (date).

**AUTHORIZATION:**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Supervisor**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Chief of Police**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Human Resources Representative**

**ACKNOWLEDGMENT BY EMPLOYEE:**

By my signature below, I acknowledge receipt of a copy of this Disciplinary Action Notice.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Typed or printed Name: \_\_\_\_\_

**NOTICE OF RIGHT TO REQUEST A DISCIPLINARY REVIEW HEARING:**

**You are hereby notified that you have the right to file a request for a Disciplinary Review Hearing on this disciplinary action by following the procedures set out in Reference No. 7.02 of the Town of Prosper Personnel Policies and Procedures Manual. The deadline for filing any such appeal is ten (10) days from the date of this Notice.**

## **NOTICE OF ADMINISTRATIVE LEAVE WITH PAY**

*Town of Prosper Personnel Policies and Procedures Manual, Reference No. 7.01F-3*

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Date: 1/13/2014  
Name: Officer G  
Department: Police  
Position/Title: Patrol  
Officer

### **ALLEGATION(S):**

Violation of Town of Prosper Personnel Policies and Procedures, 7.01 VI, C (31), 7.01(VI) (C)(33)—unbecoming conduct and (C)(40) and 916.2 of the Town of Prosper Police Policy Manual.

### **FACTS OF INCIDENT/BASIS FOR ADMINISTRATIVE LEAVE:**

On Friday, 01/03/14, at approximately 6:15 p.m., you were notified by Human Resources Director, Asst. Chief M, and Sgt. N that you were being sent home for the remainder of your shift due to administration's concern regarding your health and ability to perform the essential job functions of a Police Officer in a safe manner. This decision was based on information reported by your supervisor, Sgt. N that included you sleeping on the job, causing damage to your patrol vehicle, noticed slurred speech, etc. During this discussion, you showed difficulty standing up straight and were seen leaning on a chair for support which caused additional concern. You were informed to report to Human Resources on Monday, 01/06/14 at 8:00 a.m. for a fitness for duty exam and drug/alcohol screen. The results of that drug/alcohol screen showed "positive" for the presence of alcohol in your blood which is a violation of Town of Prosper Personnel Policies and Procedures, 7.01 VI, C (31), and 916.2 of the Town of Prosper Police Department Policy Manual. Furthermore, there is a violation of 7.01(VI) (C) (33) due to unbecoming conduct and (C) (40) due to the adverse impact this could have on the organization's reputation.

As a result, a Police administrative investigation will occur which will focus on the above policy violation(s) listed herein.

### **ADMINISTRATIVE LEAVE:**

You are hereby placed on **administrative leave with pay**, which is effective immediately. Also effective immediately, you are relieved of all responsibilities for the duration of such leave. You are hereby ordered to transfer custody of your credentials, department issued badge, and department issued duty weapon to the Interim Chief of Police. During this time you are encouraged to take advantage of any available benefits that you have through the Town. Please contact Human Resources for additional information regarding your benefits.

This action is being taken in accordance with Reference No. 7.01 of the Town of Prosper Personnel Policies and Procedures Manual. This Notice of Administrative Leave With Pay, in accordance with Reference No. 7.01, shall be placed in the central personnel file of the employee named above.

**AUTHORIZATION:**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Supervisor**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Interim Chief of Police**

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
**Human Resources Department**

**ACKNOWLEDGMENT BY EMPLOYEE:**

By my signature below, I acknowledge receipt of a copy of this Notice of Administrative Leave With.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Typed or Printed Name: \_\_\_\_\_



## *Harker Heights Police Department*

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### **Office of the Chief**

*Michael R. (Mike) Gentry  
Harker Heights Police Department  
402 Indian Trail Drive  
Harker Heights, Texas 76548  
Ph. (254) 953-5420*

To: Lt. HJ  
Re: Opening of Internal Affairs Investigation  
Date: April 25, 20XX

Earlier this date, you requested an internal affairs investigation be opened to examine the conduct of Officer XXX XXXXX regarding his arrest for Driving While Intoxicated on or about April 24, 20XX.

Because of the severity of the accusation, I am directing you to open and complete an internal affairs (administrative) investigation into the conduct of Officer XXX XXXXX to determine if violations of law or Department policies have occurred. Please administer the written notification bearing my signature to Officer XXXXX and secure his written response as soon as is practical. Also make certain he is aware of the directives contained within that notice. Make certain to administer the "Garrity Warning" form as is provided prior to questioning Officer XXX XXXXX as well as providing him a copy of the letter bearing my signature and the memo you provided me requesting the investigation. You may utilize another HHPD supervisor to assist you in the investigation as is required to facilitate a timely completion.

Please complete this internal investigation including your findings as soon as possible but no later than 4:00 pm on April 29, 20XX. If circumstances require additional time please advise me prior to deadline.

Sincerely,

Michael R. (Mike) Gentry  
Chief of Police



## ***Harker Heights Police Department***

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### **Office of the Chief**

***Michael R. (Mike) Gentry***  
***Harker Heights Police Department***  
***402 Indian Trail Drive***  
***Harker Heights, Texas 76548***  
***Ph. (254) 953-5420***

To: Officer XXX XXXXX  
Re: Opening of Internal Affairs Investigation  
Date: April 25, 20XX

Earlier this date, Lt. HJ provided a written request asking that an internal affairs (administrative) investigation be opened regarding the circumstances surrounding your being arrested for the criminal offense of Driving While Intoxicated on or about April 24, 20XX. You are immediately placed on administrative leave with pay pending the conclusion of this investigation. While on administrative leave, you will make yourself available to Lt. HJ at any time he requests from 8:00 am until 5:00 pm every day on Monday through Friday until the completion of the investigation in order to facilitate the timely completion of the investigation.

You are directed to fully cooperate with this investigation and to completely and truthfully respond to any questions posed to you during this investigation. You are further directed to provide any and all information, whether or not directly asked, that is relevant to this investigation. Lt. HJ will be tasked with performing the investigation and he may utilize other supervisors to facilitate the investigation. Immediately upon receipt of this notice, you are directed to provide a complete and truthful written account of the events related to your arrest.

You are directed not to speak with anyone regarding this investigation or the described incident other than those individuals authorized by the Chief of Police. Please know that a finding of any violations of law, Department policy, or any failure on your part to comply with these or any other lawful verbal or written directives issued you will be grounds for personnel actions up to and including termination.

Respectfully,

Michael R. (Mike) Gentry  
Chief of Police

I acknowledge receipt:

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XXX XXXXX

Date/Time

Attachment: Copy of memo from Lt. HJ requesting the IA Investigation.



# Harker Heights Police Department

Office of the Chief  
Michael R. (Mike) Gentry  
402 Indian Trail Drive  
Harker Heights, Texas 76548



May 2, 20XX

TO: City Manager  
RE: Internal Affairs Investigation Conclusion – Officer XXX XXXXX

Dear Mr. City Manager:

While at home on Sunday, April 24, 20XX I was advised by Deputy Chief PG that HHPD Officer XXX XXXXX had been arrested while off-duty and in his personal vehicle for the criminal offense of Driving While Intoxicated. On Monday, April 25, 20XX I was presented with a memo from Lt. HJ requesting an internal affairs investigation into the conduct of Officer XXXXX be opened to determine if violations of law and/or policy had occurred. That same morning, I instructed Lt. HJ to open and administer the investigation and have his completed report to me by Friday, April 29, 20XX. The completed investigation was delivered to me at the close of business on that date. I have reviewed the investigation and found that the investigation sustained that Officer XXXXX did violate both law and the policies of the HHPD.

#### The facts of the event are shown as follows:

1. Officer XXXXX was arrested for the offense of DWI by Troopers of the Texas Department of Public Safety in or around Nolanville, Texas in the early morning hours of April 24, 20XX, after driving his personal vehicle through a fence and onto railroad tracks, damaging his vehicle and stranding it on those railroad tracks.
2. Sgt. JL of the HHPD was called to the scene of the arrest and personally observed XXXXX intoxicated and in the custody of DPS Troopers.
3. Officer XXXXX provided a statement to Lt. HJ during the IA investigation admitting that he had consumed a number of alcoholic beverages prior to the arrest at two separate locations. He states that he consumed 6-8 beers at Hooter's restaurant in Killeen and then he proceeded to a party at the house of a friend in Nolanville where he consumed more alcoholic drinks. He further states he does not remember much from the event at the friend's house.
4. HHPD Call-taker "J" was at the party in Nolanville and was the only other HHPD employee present there. XXXX states in his statement to Lt. HJ that he observed XXXX consume "a fair" amount of alcohol in an effort to "catch up" with the others there. Call-taker "J" further states that it was clear to him that XXXXX was "under the influence" and that he witnessed him consume enough to be "over the legal limit". Call-taker "J" tried to convince XXXXX not to leave the party because of his intoxication but XXXXX insisted he was good to drive and was adamant that he needed to leave. XXXXX did leave at approximately 1:45 am according to Call-taker "J". According to the CAD event chronologies, the initial call was dispatched to Nolanville PD that a vehicle (XXXXX's) was stranded on the railroad tracks at 1:52 am.
5. According to information provided by Texas DPS personnel, XXXXX refused to provide a sample of his breath during the arrest, thereby subjecting himself to the suspension of his driver license based on that refusal.

#### Violations of Law and Policy Sustained by the Investigation:

1. There was probable cause for the arrest of XXX XXXXX for the offense of DWI and he was arrested for that charge. As a result, if convicted, he would be subject to discipline and possible suspension against his Texas Peace Officer License by the Texas Commission on Law Enforcement.

2. XXX XXXXX did refuse to submit to a breath test and as a result will be subject to the suspension of his Texas Driver License under State Law.
3. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IA-2 Section 3.1 by failing to present the most professional and capable image possible to all persons contacted and achieving the highest level of respect and trust possible from the community and other governmental agencies.
4. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IA-3 and the Law Enforcement Code of Ethics by violating the values of the Department and failing the ethical code that states in part, "I will keep my private life unsullied as an example to all".
5. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IB-3, Section 2.1 requiring a higher ethical standard on and off duty.
6. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IB-3, Section 3.1 in failing to "not act officially or privately in such a manner to bring discredit upon himself individually or the Department".
7. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IB-3, Section 3.9 by being "disorderly or intoxicated in a public place or in any other circumstance wherein their actions would bring discredit to themselves or the Department".
8. XXX XXXXX did, by virtue of his conduct in this event, violate HHPD Policy IB-3, Section 3.10 by consuming "alcoholic beverages...that would impair to the degree that they would be unfit for duty if called in for an emergency".

#### Conclusion

As a result of this investigation, I concur with the conclusions of the internal investigation that state law was violated by XXX XXXXX and the consequences of his actions imperil both his peace officer license and his driver license, both of which are required to fulfill his duties as a police officer for the City of Harker Heights and the likely outcome of his actions is a conviction of a criminal offense (Class B Misdemeanor). Additionally, his conduct was in direct violation of the values and policies of the HHPD and the City of Harker Heights.

As a result, I recommend his immediate termination from employment with the City of Harker Heights and the Police Department.

Sincerely,



Michael R. (Mike) Gentry  
Chief of Police  
Harker Heights Police Department

Cc: Human Resources Department  
Personnel File