

**Hidalgo County Fire Marshal's Office  
Standard Operating Guidelines**



# **Authority of the County Fire Marshal's Office**

## **Policy Statement**

The Office of the County Fire Marshal is authorized by State Law and through Commissioners Court Order. The office shall exercise its legal authority as prescribed by statute, and serve at the will of the Court.

## **Reason for Policy**

State law authorizes commissioner's courts to establish an Office of County Fire Marshal, and prescribes certain activities that may be performed by the County Fire Marshal. Failure to act within that authority may result in disciplinary action up to, and including, termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

## **Legal Authority of the Hidalgo County Fire Marshal's Office**

### ***Appointment of a County Fire Marshal***

Texas Local Government Code, Chapter 352, Subchapter B authorizes commissioners court to establish the Office of County Fire Marshal.

### ***Fire Investigations, Authority to Conduct***

Texas Local Government Code, Section 352 authorizes the County Fire Marshal to investigate the cause, origin, and circumstances of any fire in the unincorporated areas of the county, including the right to enter and examine a structure where a fire has occurred.

If the county fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the marshal may subpoena witnesses and documents; administer oaths; take and preserve written statements, affidavits, and depositions; and file criminal charges for arson, attempted arson, conspiracy to defraud, failure to cooperate, or any other crime against a person the marshal believes to be guilty. With the advice of the Fire Marshal, commissioner's court shall adopt rules and procedures to determine which fires warrant investigation by the county fire marshal.

## **Organization**

### **Policy Statement**

The Department organization shall reflect the public service needs of the community. Only Commissioners Court can approve a restructuring of the HCFMO organization.

### **Reason for Policy**

HCFMO organizational structure should reflect the agency's vision to provide the best possible public service. As such, the FMO organization is designed to provide functional grouping of similar operational activities, a logical chain of command, and efficient use of taxpayer funds. FMO personnel are expected to understand their respective roles and responsibilities within the organization, how each function interacts with and affects

others, their respective chains of command, and how to practice good financial stewardship. Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

## **Organizational Structure**

- **Fire Prevention:** The Fire Prevention Services Branch is responsible for the effective prevention of fires through periodic inspection of commercial or public buildings, licensed facilities, and other buildings in the unincorporated county.
- **Fire Investigation:** The Fire Investigation Services Branch is responsible for the effective investigation of fires and explosions in the unincorporated county, preparing arson cases for prosecution, maintaining fire records, and providing juvenile intervention services.
- **Emergency Operations:** The Emergency Operations Services Branch is responsible for effective planning, mitigation, and recovery from emergencies and disasters -- natural, accidental, or deliberate, including hazardous materials response, and providing assistance and training to first responders.
- **Administrative Services:** The Administrative Services Branch is responsible for effective day-to-day support of all HCFMO operations, and for the timely preparation and distribution of public outreach information

## **General Expectations**

### **Policy Statement**

The Department shall establish general expectations of behavior for all personnel, both paid and non-paid. The intent is to provide legal, non-discriminatory, and consistent guidance for department work practices and actions.

### **Reason for Policy**

The purpose of this document is to provide general direction so that personnel can seek clarification on issues related to the subject of acceptable standard of operation. This document establishes only the framework within which the department wishes to operate. Personnel should refer to specific departmental policies, guidelines, and recommended practices, where applicable. Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

### ***General Behavior***

All FMO personnel are expected to maintain high standards of excellence when representing the department -- in the office, on scene, during conferences or seminars or any other county related activity. No personnel shall act or behave, privately or in an

official capacity, in such a manner as to bring discredit upon himself or the Department. Personnel shall obey all federal, state and local laws.

Staff members are expected to greet all persons entering FMO offices with respect and courtesy. Whether the contact is in person, by phone, or in writing, FMO staff members are responsible to conduct themselves as professionals.

### ***ADA compliance***

FMO is committed to complying fully with the Americans with Disabilities Act (ADA), and insuring equal opportunity in employment for qualified persons with disabilities. The Department will make reasonable accommodations for qualified individuals with known disabilities in accordance with applicable laws.

### ***Attorneys, Bondsmen, Contractors, and other Third-Party Business***

FMO personnel shall not directly or indirectly recommend the employment of any person as attorney, bondsman, contractor, installer, or dealer for any product or service.

***Compliance with department policies and procedures*** The FMO encourages progress toward the accomplishment of department goals, within department values and policies. Personnel are to use common sense, the golden rule, and other similar attitudes to accomplish these goals. Supervisors are encouraged to use their best judgment to determine the recommend action based on the purpose and goals of the department. Corrective measures, up to and including termination, are sometimes necessary to correct a performance problem, prevent recurrence, and prepare the personnel for satisfactory performance in the future.

### ***Confidentiality of Information***

Personnel shall treat all information collected and maintained by the Department as confidential. They shall not disseminate such information to anyone except those for whom it is intended, or as directed by their supervisors, or as required by law. The contents of any criminal record file in the Department shall not be disclosed or divulged except to persons authorized by Department order, state and federal statutes, or valid court order.

### ***Conflicts of Interest***

Personnel have an obligation to conduct business within guidelines that prohibit or eliminate potential conflicts of interest. As an ethical practice, personnel should not accept any gifts, gratuities or anything of value from vendors other than business promotional novelty of nominal value or a meal related to business purposes.

An actual or potential conflict of interest occurs when personnel are in a position to influence a decision that may result in a personal gain for themselves or for a relative as a result of the decision. For this purpose, a relative is any person who is related by blood or marriage, or whose relationship with the personnel is similar to that of persons related by blood or marriage.

### ***Cooperation with Other Agencies***

Department personnel should cooperate in every way possible with other criminal justice agencies for the mutual benefit of those involved in the criminal justice system. Similarly, the FMO desires to cooperate with other county departments in working toward county goals. Department personnel are expected to respond and render any reasonable service requested, based on the importance and urgency of the requested service and its relation to currently assigned duties. Supervisor approval is required for assistance beyond immediate emergency requests and for any requests outside County lines.

### ***Courtesy and Respect for Others; criticism***

All department personnel of the department should show courtesy and respect for other department members. Constructive comments are encouraged, but comments that indicate dislike or disapproval of personnel are discouraged. Personnel should not publicly criticize any official act of any other city, county, state, or federal agency.

### ***Emergency Equipment on Privately Owned Vehicles***

Personnel may use emergency equipment on privately owned vehicle ONLY if the personnel is a Volunteer Fire Fighter or Volunteer Fire Investigator, and is authorized by that agency to use emergency equipment.

### ***Drug Free Work Place***

It is the intent of the FMO to provide a drug-free, healthful, safe and secure work environment. To promote this goal, personnel are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner. **The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on FMO premises or while conducting FMO business off the premises, or while representing the FMO is absolutely prohibited.**

### ***Electronic communications***

Hidalgo County provides access to electronic forms of communication and information exchange. The County encourages personnel to use electronic equipment, media and services to make communication more efficient and effective and because they are valuable sources of information for government-related work. The use of electronic equipment, media and services is presumed to be work-related. Personnel should not expect privacy in the use or content of electronic equipment, media and services. At the Department Head's discretion, personnel are permitted to use electronic media for incidental or county appropriate personal matters.

### ***Emergency Call to Duty***

Personnel may be called to duty at any time in the event of any natural or man-made disaster. Catastrophic disasters can occur with little or no warning; therefore, personnel should develop and maintain plans to assure the safety of their families and conservation of personal property.

### ***Equal Opportunity Employer***

The county and this department do not discriminate in employment opportunities or practices on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation, or other characteristics protected by law. Any personnel can raise concerns and make reports without fear of reprisal or retaliation.

### ***Fraternization and Socialization***

An individual's right to associate is one that is normally subject to little or no restriction. However, the need to ensure and maintain security takes precedence, and personnel are cautioned that their relationships with others will be continually subjected to scrutiny. FMO is authorized to impose certain restrictions upon its personnel with respect to those with whom they wish to associate.

### ***Follow-Up Assignments***

Personnel shall complete follow-up assignments, in a complete and thorough manner, as soon as practical. If unable to complete the assignment, personnel shall notify a supervisor as soon as the conflict is recognized.

### ***Handling of Monies and Property***

All monies or other property rightfully belonging to a third party that comes into the possession of any personnel shall be delivered to the appropriate custodian and properly recorded.

### ***Harassment and discrimination***

**FMO prohibits discrimination and harassment of personnel or anyone, including any manager, supervisor, co-worker, client, or visitor to the department. Actions, words, jokes, or comments that create an intimidating, hostile, or offensive work environment based on an individual's sex, sexual orientation, race, ethnicity, age, or religion will not be tolerated.**

### ***Hours of Work***

All full-time FMO personnel are expected to work 80 hours each pay period. Normal office business hours are Monday through Friday 8:00am to 5:00pm, but individual work schedules are designed to maximize the department's efficiency, given the 24/7 nature of the department's responsibilities, and are at the discretion of the Fire Marshal. All personnel are expected to begin work at the designated time, and should work only their designated hours. All personnel are subject to recall at any time.

### ***Information to Citizens***

Personnel shall respond to requests for public information in a courteous and accurate manner. In so responding, personnel shall disclose only that information deemed public. Personnel shall not communicate information of a sensitive nature to any person or agency, except as allowed by county policy. No personnel shall make inquiry of the party requesting such public information beyond establishing the party's identity and the precise nature of the information being sought.

### ***Interpersonal relationships***

The department encourages cooperation and productive relationships that accomplish department goals and preserve the professional image of the department and its personnel.

### ***Light Duty / Non- Hazardous Duty Assignments***

Personnel who have sustained an injury or other health problems that do not allow them to perform their regular work assignments may be assigned to light duty or non-hazardous duty, at the discretion of the Department and based on individual circumstances.

### ***Outside Employment and related activities***

Outside employment that constitutes a conflict of interest is prohibited. Personnel may not receive any income or material gain for materials produced, or services rendered, while performing their jobs or during work hours.

Personnel may hold outside employment if approved by the department. If the department determines that activities outside work interfere with performance or with the personnel's ability to meet the requirements of the department, the department may (1) require that the personnel terminates the outside activity; or (2) reassign the personnel to other, non-conflicting duties if the personnel wishes to remain employed with the county.

FMO investigators shall not participate in any civil investigation within Hidalgo County in conjunction with any other agency (unless routine), or independent agent, without prior approval of the Fire Marshal.

### ***Overtime***

No overtime is allowed unless supervisor approval is obtained prior to working overtime.

### ***Professional Conduct***

All FMO personnel should exemplify professional conduct in their behavior. Such conduct is required to maintain public trust, confidence, and high department morale. Also, such professional conduct maximizes the safety of the officer and others, and minimizes civil and criminal liability.

*On-duty actions.* Personnel respond to citizens' needs for services as assigned or as they observe the need for such services. Personnel are knowledgeable of laws and procedures and represent such to the citizens. Actions reflect proper handling of all equipment, i.e., weapons, vehicles, use of force, and give all situations close attention. Behavior should be business-like, and actions should be fair and impartial.

*Off-duty actions.* As public servants, FMO personnel are under constant scrutiny of the public including while off-duty. Therefore, off-duty personnel shall conduct themselves in a manner that does not bring the department into disrepute, discredit members of the department, or impair the operation of the department.

### ***Relations with Other Law Enforcement Officials and Fire Department Officials***

Personnel shall be respectful, courteous and civil with all law enforcement and fire officials.

### ***Relations with the Public***

Personnel shall at all times be respectful, courteous and civil with the public and each other. They shall not use coarse, profane, insolent or abusive language toward any individual. Certain arrest and control situations may require actions by a peace officer which are authoritative and which might be perceived as discourteous. Peace officers in such situations should accomplish the arrest, control or other necessary actions with as much courtesy and respect as possible without unreasonably endangering themselves or other.

### ***Removal of Records***

No personnel shall remove from the physical environs of the Department any official record except as directed by a supervisor, or as required by law or valid court order. If possible, a true and accurate copy of such record should be provided in lieu of the original.

Solicitation or Acceptance of Rewards, Loans, or Gift: No personnel shall solicit or accept any reward or gratuity either for the performance of duty or for the anticipated performance of duty. No personnel shall solicit or accept a reward, gratuity, gift, loan, or anything of value from any person subject to arrest or complaint, or from any person in custody, or from any person subsequent to discharge from custody, or from any relative or friend of such person.

### ***Sharing Information***

Department personnel should willingly share relevant information with other department personnel. Due to the confidential nature of some information and possible adverse effects, personnel should not release information to people outside the department unless authorized to do so. A decision to share information should be based on consideration of the law, the purpose for sharing the information, and possible consequences.

### ***Securing the Office***

Certain areas of FMO facilities are designated as secure areas and are not accessible to the general public. Any non-FMO personnel must be escorted when in a secure area. The administrative staff shall lock the front door at the end of the regular work hours. The rear door should be locked if the facility is unoccupied for an extended period.

### ***Solicitation of Bribes***

No personnel shall accept a bribe or engage in any act of extortion or other unlawful means by obtaining money or property through his/her position with the Department.

### ***Solicitation of Free Admissions, Favored Treatment, Services or Merchandise***

Personnel shall not use their positions to solicit or obtain free admissions to places of amusement, sporting events, etc. Personnel shall not solicit any favored treatment, service, merchandise, or any other thing of value which would not ordinarily be accorded or available to a private citizen.

### ***Testimony and depositions***

Any requests to testify (give depositions, statements, etc.) regarding the Hidalgo County Fire Marshal's Office related activities must be scheduled and approved by a supervisor. Any requests to testify in incidents and cases outside FMO jurisdiction will be referred to the Fire Marshal.

### ***Tardiness and Absence from Work***

All personnel must report to a supervisor if they will be tardy or absent from duty. Personnel who feel that extreme weather conditions make it impossible and/or unsafe to arrive at work at the regularly scheduled time must notify the supervisor as soon as possible. Unexcused tardiness or absences may be grounds for disciplinary action.

### ***Timekeeping***

All personnel are responsible to accurately document all time worked. It is the personnel's responsibility to sign time records to certify the accuracy of all time recorded. The supervisor will review and then sign the time recorded before daily time is entered for payroll processing. **Altering, falsifying, tampering with time records, or recording time on another personnel's time record is prohibited.**

### ***Time Off Requests***

Time off may be requested within County guidelines, with the approval of a supervisor for any deviation from regular work hours.

### ***Use of Official FMO Correspondence or Emblems***

No one shall use official Departmental correspondence, letterhead, or emblems enrichment without proper authorization.

### ***Vacation Requests***

All vacation requests should be submitted within County guidelines. Depending on necessary scheduling, management may modify existing vacation schedules with due considerations given to travel and other issues.

### ***Workplace Safety***

Personnel are expected to work safely, adhere to the safety rules, and exercise good judgment in all work activities on and offsite. Personnel **MUST** immediately report any unsafe condition to the appropriate supervisor, including any injury, regardless of how

insignificant the injury may appear. Violation of safety standards, including failure to report or correct unsafe conditions, will not be tolerated.

## **Fires To Be Investigated, Rules and Procedures**

### **Policy Statement**

In accordance with Section 352.013(b) of the Texas Local Government Code, the Hidalgo County Fire Marshal's Office may provide advice to the Commissioners Court to adopt rules and procedures for determining which fires warrant investigation by the county fire marshal. The HCFMO shall begin such investigations within 24 hours of notification of a fire that warrants investigation under adopted rules and procedures.

### **Reason for Policy**

In populous counties, it is impractical for the county fire marshal to investigate each and every fire. Further, it is not always necessary. The cause of many fires is clearly accidental and can be readily determined and documented by the local fire department. Thus, the HCFMO can concentrate its efforts on fires of undetermined cause, criminal arson fires, fires that result in injury or death, commercial fires, fires caused by juveniles, and other fires of special interest or circumstances. This operating practice provides a great savings benefit to county taxpayers.

Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

### **Definitions**

**Fires Warranting Investigation.** Any fire listed below and reported to HCFMO.

1. Any fire suspected to be intentionally set;
2. Any structure fire for which the Incident Commander for the responding agency is unable to determine the origin and cause;
3. Any vehicle fire for which the Incident Commander for the responding agency is unable to determine the origin and cause;
4. Any significant outdoor fire (defined as an outdoor fire where vegetative fuels are involved AND at least 100 homes are threatened and there is some evacuation; OR for which Texas Forest Service resources are requested) for which the Incident Commander for the responding agency is unable to determine the origin and cause.
5. Any fire that causes bodily injury that requires transport to a hospital or results in death;
6. Any fire that occurs in a commercial establishment, public building, or multi-family dwelling of four or more units;

7. Any fire involving fire alarm or automatic sprinkler system malfunctions or false alarms;
8. Any fire resulting from a suspected violation of outdoor burn bans, outdoor burning rules, or fireworks restrictions; and
9. Any fire suspected to have been started by juveniles.
10. Any other fire that the Fire Marshal determines warrants an investigation.

## **Procedures and Responsibilities**

### ***General***

1. HCFMO shall investigate any fire listed in this policy in accordance with established HCFMO policies and procedures.
2. The Incident Commander, or designee, shall contact the HCSO dispatcher to request an HCFMO investigation for any fire that occurs in an unincorporated area of the county and is listed as a “Fire Warranting Investigation” as defined by this policy.
3. The dispatcher shall contact the on-duty investigator and/or inspector as follows:

<b><u>Type of Fire</u></b>	<b><u>Investigator</u></b>	<b><u>Inspector</u></b>
ANY fire suspected to be intentionally set	X	
Any STRUCTURE fire, unable to determine the origin and cause	X	
Any VEHICLE fire, unable to determine the origin and cause	X	
Any SIGNIFICANT OUTDOOR FIRE, unable to determine the origin and cause. A significant outdoor fire is defined as: <ul style="list-style-type: none"> <li>➤ At least 100 homes are threatened AND some evacuation; OR</li> <li>➤ Texas Forest Service resources are requested; OR</li> <li>➤ There is property damage over \$200</li> </ul>	X	
Any fire with BODILY INJURY that requires transport to a hospital or results in DEATH;	X	
Any fire suspected to have been started by JUVENILES	X	
Any fire in VIOLATION of outdoor burn ban, rules, or fireworks restrictions	X	X
Any COMMERCIAL, MULTI-FAMILY DWELLING, or PUBLIC BUILDING fire	X	X
Any fire alarm/ automatic sprinkler system MALFUNCTION or false alarm		X

# **Use of Force, including Deadly Force**

## **Policy Statement**

To effectively accomplish their duties, officers must sometimes use or threaten to use physical force against a person. Officers should use force only when necessary to protect life or prevent serious bodily injury, and only when such force does not unreasonably endanger bystanders, consistent with the provisions of Chapter 9 of the Texas Penal Code.

All officers are responsible for their actions in the use of force, even if justified under the relevant legal provisions of the penal code. Additionally, Section 9.06 of the Texas Penal Code explicitly states that the remedy for conduct available in a civil suit is not abolished or impaired by Chapter 9 provisions.

## **Reason for Policy**

The purpose of this policy is to define and establish guidelines for the safe, effective and humane use of force procedures by members of this agency to achieve or further lawful objectives whether it is used in response to a threat to life or serious bodily injury, in protection of property, to effect an arrest, or to quell a disturbance.

This policy applies to all HCFMO personnel where the use of force is or could be a part of their core job functions. Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

## **Definitions**

**Deadly force.** Any force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

**Peace Officer.** Any person certified through TCLEOSE and commissioned by the HCFMO as a peace officer.

## **General**

The U.S. Constitution prohibits unwarranted search, seizure and intrusion into the homes, effects, and persons of citizens. Central to this theme is that force used in these official acts must be clearly and immediately necessary to accomplish these objectives and immediately cease when the objective(s) is met.

Improper use of force options that create an unnecessary risk of harm to the subject violate Constitutional constraints, offend the spirit of the law, create criminal and civil liability, and are outside the goals, objectives and mandates of this agency. This clearly includes physical pain or discomfort inflicted for punitive or retaliatory reasons or which is applied without serving a lawful objective.

The management of violent persons and behavior is a fundamental duty of the law enforcement mission. The taking into custody of persons is a necessary and frequent official function of employees of this agency. Commensurate with this is the movement of said persons to places of disposition including, but not limited to jails, courts, and medical facilities. **The safety of law enforcement personnel must be paramount to insure that they accomplish these objectives in an impartial and professional manner.**

The emphasis of policy and training therefore must seek to balance the safety of the officer, public and suspect against that of resolving situations quickly and effectively, within the law. In every instance, no more force shall be used than is necessary under the circumstances to gain control of the situation.

At all times, personnel will remember that the majority of arrest and custody situations involve persons who are presumed to be innocent and such arrest, custody, and transport of said persons are merely to facilitate the judicial process. It is to this end, that this policy is established to uniformly insure that the above stated goals, objectives and ideals are achieved. Specifically, this policy discusses these Use of Force options:

1. Weaponless Control Techniques
2. Handcuffs and Restraints
3. Intermediate Weapon Procedures
4. Deadly Force

Commissioned members of the HCFMO will familiarize themselves with, and be guided by, the provisions of the Texas Penal Code concerning the use of force. Attention is directed to the following sections:

- 9.21 -- Public Duty
- 9.22 -- Necessity
- 9.31 -- Self-Defense
- 9.32 -- Deadly Force in Defense of Person
- 9.33 -- Defense of Third Person
- 9.34 -- Protection of Life or Health
- 9.42 -- Deadly Force to Protect Property
- 9.43 -- Protection of Third Person's Property
- 9.51 -- Arrest and Search
- 9.52 -- Prevention of Escape from Custody

## ***Types of Behavior/Resistance***

The goal of any use of force is to gain control of the situation. When verbal commands and physical presence have failed to achieve the objective, officers must make a series of decisions based on a wide spectrum of variables. Some of the variables confronted by officers include alcohol, drugs, mental illness and irrational thought processes, which complicate an analysis of the immediate situation. To gain control, officers must be able to quickly assess the elements of subject behavior and the possible applications of force needed to overcome it. Different types of behavior/resistance are:

1. **Compliance:** this is a cooperative and willing compliance in response to a police officer's lawful request or direction. The majority of police/citizen encounters produce these behaviors.
2. **Passive Resistance:** this is identified as non-compliance to a lawful request or direction through non-verbal/verbal defiance but with little or no physical response (e.g., refusal to leave the scene, failure to follow directive, taunting officers, or advising others to disregard officer's lawful requests).
3. **Active Resistance:** the increased scope and intensity of resistance beyond verbal defiance. Active resistance to control is exhibited by pulling away, pushing away with intent to escape, running away, and open and angry verbal refusal to respond to lawful commands.
4. **Assaultive:** active, hostile resistance exhibited whether an actual assault has occurred or is about to occur on an officer or a citizen in response to the officer's attempt to gain lawful compliance or in an unprovoked assault. Examples of such behaviors are kicking, punching, spitting and clenching fists with intent to hurt or resist; threatening with a weapon; etc.
5. **Serious Bodily Harm/Death:** behavior likely to cause death or serious bodily harm to an officer or a citizen. Examples include choking, holding at gunpoint, brandishing an edged weapon, threatening and approaching with a weapon. This category represents the behaviors least encountered by officers but pose the most serious threat to public and officer safety.

## ***Guidelines***

1. Human life is valuable and should be protected.
2. The primary consideration in the use of force is preservation of life and prevention of bodily injury.
3. The objective of the use of force by authorized personnel is to establish and maintain lawful control.

4. The degree of force authorized is only that degree which is necessary to establish lawful control. This degree of force depends upon the degree of danger perceived by the officer.
5. Force may be used under the following conditions and circumstances:
  - a. To minimize the potential for injury and provide for the safety of the officer and others in response to perceived danger.
  - b. When necessary to accomplish duties authorized by law, such as performing a protective function or effecting an arrest.
6. Deadly force is that degree of force likely to cause serious bodily injury or death. Officers may employ deadly force when they perceive a danger of loss of life or serious bodily injury.
7. Officers need not wait for injury to occur to themselves or others before taking appropriate action. It is the officer's duty to take the steps necessary to prevent harm to themselves and/or others.
8. If circumstances permit, officers should make their identity as peace officers known.
9. Officers should, whenever possible, exercise persuasion, advice and warning before using physical force. However, if such verbal means clearly would be (or found to be) ineffective; officers may use physical force to accomplish a lawful purpose. An officer may have to rapidly escalate or de-escalate the use of force depending on the totality of the circumstances present.
10. The use of excessive force is prohibited by Federal and State law. Violation of these laws can carry both civil and criminal penalties.
11. Whenever an arrest is made or physical resistance is encountered by an officer while in the performance of official duty, the officer will promptly report the incident to their supervisor and will include the details of the incident in their written report. The report should contain a full explanation of the reasons for the application of force and detail the control techniques used when applying the force.
12. In any use of force resulting in death or serious bodily injury, the officer will contact dispatcher to request assistance in securing the scene, seek any medical assistance necessary, notify supervisory personnel, detain all witnesses and assist in the investigation.
13. Officers shall be familiar with the policies and procedures regarding the use of force, weapon and ammunition standards, proficiency standards and post application of force procedures.

## ***Training***

Because of the seriousness of using physical force against a person, and the complexity of the legal guidelines governing such use, officers shall carefully review the provisions of Chapter 9 of the Texas Penal Code at least once a year. As law changes occur, the department will furnish copies of the changes to personnel and conduct training classes as necessary. Questions regarding the application of the legal provisions of the use of force should be submitted to supervisors. Each officer is responsible for being informed on the legal provisions, and may choose to direct questions to several supervisors.

## **Confrontational Continuum**

The Confrontational Continuum provides an officer with reasonable guidance in determining what level of force is needed and a means of documenting that use of force. The physical process of arrest occurs after control has been achieved. Force must cease when control has been affected. The use of force on an individual who is already under control is punishment and exceeds the bounds of all prevailing standards of police conduct.

## ***Officer/Subject Factors***

The following variables highlight why there is no absolute set of rules dictating an officer's response to resistance. They also illustrate the variety of factors, which the court may examine.

1. Officer/subject size disparity.
2. Officer/subject age disparity.
3. Officer/subject (apparent) strength disparity.
4. Officer/subject (apparent) skill disparity.
5. Officer's perception of the subject's probable resistance.
6. Officer's perception of the immediate threat (to officer, subject or third party).

## ***Special Circumstances***

In addition to Officer/Subject Factors, a confrontation may include Special Circumstances, which would necessitate an officer to increase the use of force. Special Circumstances include:

1. Close proximity to a firearm/weapon.
2. Special knowledge.
3. Injury or exhaustion.
4. Ground position.

5. Disability.

6. Imminent danger.

A subject in close proximity to a firearm or other weapon creates an increased danger to the officer, which must be dealt with immediately. An officer may have special knowledge of a subject's skills that would require the use of increased force. An officer who is injured, exhausted, on the ground, disabled or is in imminent danger would be justified in escalating through the use of force options.

### **Using Force**

Officers shall prepare for the use of force as they observe the need to do so, consistent with laws and department goals. Examples of preparation include holding a baton in a "ready" position, or informing someone of an intention to use physical force.

Under normal circumstances requiring the use of force, the officer should use his physical strength, skill, oleoresin capsicum (OC) spray, impact/control devices and/or conducted energy weapon. Officers should use no more force than necessary to accomplish the desired purpose and to provide for their own safety. If circumstances permit, officers should strive to minimize the pain and injury that may result from the type and degree of force they use.

### ***Weaponless Control Procedures***

Weaponless control methods cover a variety of subject control and restraint techniques, which utilize verbal and physical skills. Weaponless control methods are the most commonly used control and restraint techniques. They are based on fundamental policing skills and capitalize upon the acceptance of authority by the general public. These control methods are classified into three escalating force categories:

1. Verbal Control - techniques that employ verbal persuasion and psychological manipulation.
2. Soft Empty Hand Control - physical techniques that have minimal implications of injury.
3. Hard Empty Hand Control - physical techniques that have a higher probability of injury.

Weaponless control methods may be employed when the officer perceives that a minimal use of force is appropriate to establish and maintain lawful control. Each officer shall participate in training on weaponless control methods.

### ***Handcuffs***

The purpose of handcuffs, transport handcuff restraints (including hobble restraints and leg cuffs) and flex cuffs is to restrain the movements of a subject or to prevent further physical resistance by a subject.

1. Officers shall carry handcuffs approved by the department, or a comparable substitute (cuffs using an S & W key) while acting in the capacity as a peace officer.
2. All arrested subjects should be handcuffed before being searched to ensure proper safety for all.
3. Officers should use handcuffs on prisoners to ensure safety of all persons, to protect property and to maintain security of the prisoner. When practical, officers shall minimize the possibility of unusual discomfort, injury, or adverse public opinion.
4. Officers should place handcuffs on prisoners as soon as practical following an arrest, even though the prisoner appears to be cooperative. Officers may choose not to use handcuffs when the person can be safely transported, and the use of handcuffs would obviously cause adverse consequences, e.g., an elderly person or an incapacitated person.
5. For maximum security, handcuff the prisoner's hands behind his back and run the handcuff chain, if (practical and/or available), through the person's belt or belt loop.
6. Avoid injury to the prisoner by double-locking handcuffs whenever they are used. Officers should remove handcuffs as soon as practical for the safety of all concerned.
7. **Do Not Attempt To Handcuff A Subject Who Is Not Under Control!** There is no effective handcuffing method, which will work on an aggressive subject. If resistance is encountered during handcuffing, officers should either re-establish control, or disengage from the situation at once.

### **Impact/Control Devices**

Peace officers may carry an expandable baton, oleoresin capsicum (OC) spray, or Taser® X26, so long as they comply with applicable provisions of Federal and State law, specifically Chapters 9 and 46, Texas Penal Code.

### ***Compliance and Use of Impact/Control Devices***

Only licensed peace officers may carry impact/control devices in their official capacity as a peace officer. Personnel shall be trained and certified to use these devices and must be able to demonstrate proficiency through regularly scheduled qualification sessions before being permitted to carry these items.

### ***Baton***

1. Expandable batons are the only type of control device allowed by this policy. The expandable baton, also referred to as the Grip Action Baton, may be used by personnel under circumstances where the use of force is authorized by State law:
  - a. Self-defense;

- b. Defense of a third party;
  - c. Prevention of the escape of an arrested person from custody; or
  - d. Effecting the arrest of an individual, in lieu of the use or threatened use of deadly force
2. The baton shall be directed only towards vulnerable areas below the shoulder line, and only with that degree of force so as not to inflict serious bodily injury or death (except in circumstances where the use of deadly force may be authorized by Departmental policy or under State law).
3. The authorized expandable baton shall:
- a. Not be altered in any way unless necessary to repair it to its original condition.
  - b. Be an Armament Systems and Procedures Inc. (ASP) expandable baton. The HCFM must approve other brands or makes of the expandable baton.

### ***Oleoresin Capsicum Spray***

Only licensed peace officers that have successfully completed an approved course of instruction, from a currently certified instructor, on Oleoresin Capsicum (OC) Spray may carry or use it. It is not mandatory that all officers carry this Control device. OC Spray may be used when reasonable and justified in the following situations:

- 1. To prevent the possibility of injury to an officer or another person
- 2. To ward off threatening dogs or other animals
- 3. In tactical building entries such as arrest warrants
- 4. To subdue a person who is:
  - a. Threatening or attempting physical harm to himself or another
  - b. Resisting an arrest / failure to follow the instructions of a law enforcement officer
  - c. Rioting
  - d. Interfering with an arrest

## **Taser®**

Only licensed peace officers who have successfully completed an approved course of instruction, may carry and use a Taser. During the initial Taser certification course the student shall be subjected to the discharge of the Taser X26 to their person. An outside agency may certify or qualify an employee of the HCFMO. Each peace officer approved to carry a Taser must demonstrate competency with the weapon on an annual basis. This competency will be documented by the HCFM.

1. The only allowable conducted energy weapon is a Taser X26, and the Fire Marshal must approve the weapon. It is not mandatory that all officers carry this Control device.
2. At no time shall an officer carry a Taser on the same side of his body as his duty weapon. The weapon may be carried in either a drop down holster attached to the leg or cross draw on the officer's belt.
3. Officers approved to carry and use a Taser may discharge the Taser probes from the cartridge, and may also use the weapon in the drive stun mode.
4. The Taser may be used when reasonable and justified in the following situations:
  - a. To prevent the possibility of injury to an officer or another person;
  - b. In tactical building entries such as arrest warrants;
  - c. To subdue a person who is:
  - d. Threatening or attempting physical harm to himself or another
  - e. Resisting an arrest / failure to follow the instructions of a law enforcement officer
  - f. Rioting
  - g. Interfering with an arrest
5. Proper consideration and care should be taken when deploying the ADVANCED TASER on subjects who are in an elevated position or in other circumstances where a fall may cause substantial injury or death.
6. Officers must be prepared to justify such a deployment.
7. The Taser has the ability to ignite flammable liquids. It will not be deployed at subjects who have come in contact with flammables or in environments where flammables are obviously present.

### ***Officer-involved Taser Process***

Any officer who discharges an electrical shocking device shall initiate the Officer-Involved Taser Process.

### ***Officer responsibilities***

1. The officer should take actions necessary to protect himself, other personnel, and the public from additional threats, and to maintain control of the situation.
2. When safely capable to do so, the officer shall immediately notify his supervisor, advise that the officer has discharged his Taser, if there are any injuries or deaths, and any other information requested by the supervisor.
3. If capable to do so, the officer shall treat the scene of any Taser discharge as a crime scene and take necessary steps to preserve the scene.
4. At the suspect's request or at the discretion of the ranking officer at the scene, the officer will request that qualified medical personnel respond to the scene to examine the suspect and if needed remove the probes from the suspect.
5. The officer shall, within reasonable time of the incident, submit a written report to the Fire Marshal. The report shall detail, to the best of the officer's recollection, the course of events which lead up to the use of the Taser and the actions taken during the incident.
6. The officer may be required to provide additional details, information, or statements as part of an administrative internal review.

### ***Witness responsibilities***

1. Witnesses may include HCFMO personnel. Witnesses shall cooperate with investigating officers, HCFMO supervisors, and other HCFMO personnel, and be directed to treat the scene of any Taser discharge as a crime scene.
2. Witnesses may be required to provide oral or written statements as part of the investigation or an administrative internal review.

### ***Supervisor responsibilities***

1. Immediately contact the Fire Marshal.
2. Make an on-scene investigation and review reports, determining the effectiveness of investigation, justifications for firearm usage, and procedures followed.
3. If possible, the supervisor will:
  - a. Document the probes in the suspect with still photographs, if feasible.

- b. Document any injuries to the suspect that were caused by the Taser;
- c. Document the probe cartridge serial number.
- d. Obtain one or more AFID tag (small confetti-like ID tags with the serial number of the cartridge deployed) from the scene, if possible;
- e. Have qualified medical personnel dispose of the probes and cartridge as a bio hazard;
- f. Collect the Taser device.

### ***Fire Marshal responsibilities***

1. The Fire Marshal shall notify the respective county precinct commissioner and county judge, or designate.
2. In case of employee injury, notify next of kin or emergency contact consistent with HCFMO policy.
3. Only the Fire Marshal or his designate are authorized to provide media information about the discharge of a firearm.

### ***Validation***

The HCFMO shall maintain a file of personnel who have passed the approved Impact/Restraint Device training course as established by a TCLEOSE approved instructor certified for the specific device.

### ***Using Deadly Force***

The value of human life is immeasurable in our society. Police officers have been delegated the tremendous responsibility to protect life and property and apprehend criminal offenders. The apprehension of criminal offenders and protection must at all times be subservient to the protection of life. The officer's responsibility for protecting life must include his own.

To the extent an officer has reasonable time for consideration, he shall never use deadly force (i.e., use his weapon) which creates a greater risk to himself and others (such as hostages, bystanders, and other officers) of causing death or serious bodily injury than if he did not use such deadly force. This decision must reflect the totality of the circumstances, which should include but is not limited to the following:

1. The nature and seriousness of the risk of injury to the officer or others, the age, physical condition, and behavior of the subject of the force.
2. Relevant actions by any third parties.
3. Physical conditions (such as visibility) at the scene.

4. The feasibility and availability of alternative actions.
5. The opportunity and actual ability of the subject to injure the officer or others.

Officers should prepare for the use of deadly force as they observe the need to do so, consistent with laws and department goals. Examples of preparation include releasing safety strap of gun holster (if applicable); placing hand on pistol grips; carrying pistol in hand; removing shotgun from vehicle; pointing a firearm at a person; or verbally threatening a person.

1. Deadly force may be used by an officer only when and to the degree the officer reasonably believes the deadly force is immediately necessary to protect himself or any other person against another's use or attempted use of unlawful deadly force.
2. An officer may use deadly force to effect the capture or prevent the escape of a suspect whose freedom is reasonably believed to represent an imminent threat of serious bodily injury or death to the officer or other person(s).
3. No distinction shall be made relative to the age of the intended target of deadly force. Self-defense and imminent threat shall be the only policy guideline for employing deadly force. In a deadly force situation, weapons of opportunity as well as departmentally authorized weapons may be employed as a last resort to further the preservation of life.
4. An officer shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force by means other than the mere operation of the vehicle.
5. The use of deadly force on an animal is justified for self-defense, or to prevent substantial harm to the officer or another.
6. An officer shall not discharge a firearm as a warning, as a threat, or to summon assistance.
7. Officers should also strive to accomplish the threatened use of deadly force so as to not alarm, frighten, or incite other persons to violence. Weapons shall not be fired when such firing unreasonably endangers bystanders.

## **Firearms**

### **Policy Statement**

Only authorized personnel may carry firearms. Firearms may be carried or used by HCFMO personnel while on duty as provided by this policy.

## **Reason for Policy**

The purpose of this policy is to define the employee's roles, responsibilities, guidelines and principles in regards to firearms and HCFMO employment. Every HCFMO employee is responsible for adherence to the firearms policy. Failure to comply with this policy and related procedures may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor and/or Firearms Proficiency Officer if you need assistance with interpretation, resolution of problems, or permission in special situations.

## **Definitions**

**Firearms Proficiency Officer (FPO).** Employee designated by the Fire Marshal with responsibility to provide general and specialized firearms training for HCFMO personnel, qualify HCFMO personnel with authorized firearms, maintain firearms-related personnel files, and participate in after-action reviews of firearms-related events.

**Exhibited.** When used in regard to a firearm, exhibition of a firearm means any time the employee removes a firearm from a holster or any other secured place.

**Accidental Discharge.** Anytime a firearm is discharged where there is no intent to discharge the firearm.

**Peace Officer.** Any person properly certified through TCLEOSE and commissioned by the HCFMO as a peace officer.

**Senior Law Enforcement Contact (SLEC).** The position held by the highest ranking employee of the Fire/Arson Investigation Division, currently the Fire Marshal.

## **General Provisions**

### ***Modifications to this policy***

1. No exceptions to this policy, except those written in the form of a directive and approved by the Fire Marshal, shall be allowed.
2. Any written exceptions shall be clearly defined by the Fire Marshal, and the peace officer shall acknowledge understanding and compliance with the directive. A copy of the directive shall be kept in the employee's firearms file maintained by the FMO.

### ***Duty to Carry Firearm***

1. When functioning as a peace officer, every HCFMO peace officer, including an officer working extra employment as a peace officer, shall have immediate access to the items necessary to function in his official capacity as a peace officer. This includes official agency identification and badge, TCLEOSE identification or certification card, hand restraint devices, authorized firearms, approved holsters, and any other item necessary to function in his official capacity as a peace officer.

2. When reasonable, Peace Officers are expected to be prepared for criminal activity intervention whenever they are off-duty. To ensure such preparedness, HCFMO peace officers should keep a firearm reasonably available while off duty.

**3. This section does not apply if personnel are engaged in activities that make it impractical or impossible to comply, or where the carrying of a firearm contradicts with the specific job function or purpose of the peace officer.**

### ***Authorization to Carry Firearm***

1. Except as provided in this policy, only those HCFMO personnel licensed as peace officers by the Texas Commission on Law Enforcement Officers Standards and Education (TCLEOSE) and commissioned by HCFMO as peace officers are authorized to carry firearms while on duty.

2. In order to obtain authorization to carry a firearm, a peace officer must meet all the following requirements in this policy.

3. Only personnel with two or more years experience in law enforcement, and a current shotgun qualification, may be authorized to carry an approved rifle.

4. No prohibited weapon, as defined by Section 46.05, Texas Penal Code, may be carried except as authorized by department policy.

**5. Any weapon defined as “automatic” under State and /or Federal statutes is prohibited.**

### ***Special Requirements for Non-Paid Peace Officers***

1. Non-paid and/or Part-time peace officers are required to meet the same proficiency with their firearm as full time peace officers.

### ***Concealed Handgun License (CHL)***

1. This section does not apply to properly commissioned HCFMO peace officers who hold a valid CHL.

2. Any employee who holds a CHL is individually responsible to comply with the provisions of the license and all applicable laws.

### ***Supervisory responsibilities***

#### ***Firearm Inspection***

1. Peace officers shall keep all firearms clean and ready for immediate use in accordance with this policy.

2. Any TCLEOSE-licensed supervisor or FPO may inspect any firearm at any time.

3. The FPO shall perform a formal inspection of every authorized firearm at least annually. At a minimum, the FPO shall inspect the firearm for cleanliness, proper mechanical operation, and to ensure that any alterations or modification are in accordance with this policy.

4. A formal inspection report will include the date, time, name of inspector, and outcome of the inspection. A copy of the report will be placed in each Peace Officer's Firearms Qualification file.

### ***Revocation of authorization to carry a firearm***

1. Any supervisor or the FPO may temporarily revoke an authorization to carry a firearm for:

a. Lack of good judgment, to include but not be limited to unsafe handling, inappropriate display, or accidental discharge

b. Dirty, unclean, or operationally unsound firearm.

2. The inspecting supervisor or FPO shall prepare a written report of the circumstances and forward it to the SLEC for review and any further action.

3. The SLEC may recommend to the Fire Marshal permanent revocation of authorization to carry a firearm privileges in the following circumstances:

a. Any reckless display, mishandling, or accidental discharge; or

b. If a firearm is deployed and the deployment is found to be unwarranted.

4. Upon any temporary or permanent revocation of authorization to carry a firearm, the SLEC and FPO shall:

a. Immediately notify the peace officer in writing of the revocation;

b. Order the Peace Officer to immediately unload the firearm, secure it properly, and remove it from HCFMO property as soon as practical. If the firearm is an HCFMO-issued weapon, it must be immediately returned to the care, custody, and control of the FPO.

c. Order the Peace Officer to surrender his police ID and suspend all law enforcement duties; and

d. Document the revocation in writing, place a copy in the peace officer's personnel file, and forward a copy of the report to the Fire Marshal.

5. Upon the recommendation of the SLEC, the Fire Marshal may suspend or remove a peace officer, either temporarily or permanently, for violation of this policy and any related directives. At the discretion of the Fire Marshal, the officer may be temporarily reassigned to a position not requiring the exercise of law enforcement powers.

### **Acceptable Service Firearms, Ammunition, and Accessories**

The Hidalgo County FMO requires all peace officers to be equipped with a safe, reliable and effective handgun.

1. All service firearms and ammunition carried by officers, on duty or off duty, are subject to approval and may be inspected at any time for cleanliness and proper function by a TCLEOSE-licensed supervisor, the SLEC, or FPO.
2. Safety devices shall not be deactivated, nor shall any modification be performed which adversely affects the safety or reliability of the firearm.
3. Any magnified optical device (scope) is prohibited. Any non-magnified optical device that restricts or eliminates the use of "iron" sights is prohibited.

### ***Acceptable Ammunition***

1. All ammunition carried by peace officers shall be factory ammunition. No reloads are allowed to be carried on duty or off duty while in an official capacity, except during range practice.
2. Only issued ammunition shall be utilized. The only exception is ammunition used for range practice, .45 ACP ammunition, or when, in the opinion of the FPO, the tactical situation requires the use of other ammunition.
3. The ammunition to be used with authorized 12 gauge shotguns is 00 Buckshot or slugs.
4. **Tracer ammunition is prohibited.**

### ***Acceptable Firearms***

#### ***Duty handguns***

1. Either revolver or semi-automatic firearms are acceptable. Firearms must be of high-quality manufacture, and must be reliable and in top working order.
2. Revolvers must be capable of double-action fire and have a minimum of five-round cartridge capacity.
3. Semi-automatics must have a minimum of five-round cartridge capacity.
4. Only .38 caliber or larger pistols are allowed for service firearms, or a minimum .380 caliber for back-up firearms, to a maximum caliber of .45 ACP.

5. Barrel length, including any attachments such as compensators, must be at least 1.75 inches and not more than 6.5 inches.

### ***Shotguns***

1. Either pump or semi-automatic shotguns are acceptable. Firearms must be of high-quality manufacture, and must be reliable and in top working order.
2. Shotguns must have a minimum of five-round shell capacity.
3. Only twelve-gauge shotguns are allowed.
4. Minimum shotgun barrel length must be 18 inches, with a minimum overall length of 26 inches.
5. All shotguns may be equipped with a retention sling designed to safely carry the weapon when not engaged in primary use.

### ***Rifles***

1. If specifically approved, peace officers may be equipped with a rifle as an additional long gun.
2. Only semi-automatic rifles using the AR-15 or CAR 15 chassis are acceptable. Firearms must be of high-quality manufacture, and must be reliable and in top working order.
3. Rifle magazines shall be limited to 30 rounds or less. **Any magazine with a capacity greater than 30 rounds is prohibited.**
4. Only .223 Remington is allowed.
5. Minimum rifle barrel length is 16 inches; maximum barrel length is 22 inches.
6. All rifles may be equipped with a retention sling designed to safely carry the weapon when not engaged in primary use.
7. All rifles may be equipped with an illumination device designed for the rifle and approved by the FPO. No authorized employee shall modify illumination devices to meet this requirement.

### ***Acceptable Accessories***

#### ***Holsters and fanny packs***

1. Only holsters made for the handgun being carried are approved. The holster shall assure the handgun is secured in a positive manner.
2. Only fanny packs made for concealing handguns are approved. The pack shall assure the handgun is secured in a positive manner.

3. Holsters and fanny packs are subject to approval by an FPO and the SLEC.

### ***Flashlights, Optic Sights, and other Accessories***

1. Any magnified optical device (scope) is prohibited.

2. Any non-magnified optical device that restricts or eliminates the use of “iron” sights is prohibited.

### **Qualifying and Proficiency**

#### ***Qualification Process***

1. In accordance with TCLEOSE Rules, each approved person shall demonstrate proficiency in the use of any kind of firearm that the person carries while engaged in an official capacity as a peace officer, before he receives authorization to carry such firearm.

2. Each authorized person shall be required, at least once each year, to demonstrate that he meets Departmental standards for firearm proficiency using any firearm he carries for law enforcement purposes.

**3. It is the responsibility of each officer to qualify annually with at least one service handgun.** Each officer shall qualify with any and all weapons they intend to carry on duty. Any officer who fails to qualify within a 12-month period is in violation of TCLEOSE Rules, and may be subject to suspension or revocation of his TCLEOSE license and revocation of his status as a peace officer.

4. Any HCFMO officer who fails the qualification on the 1st attempt with a primary service firearm will be allowed a second attempt to qualify on the same day. **If any officer fails the 2nd qualification attempt, his authority to carry and law enforcement authority will be temporarily revoked.** In addition, the officer shall be denied permission to work a police related “extra-job” until he has successfully completed the requirements of firearms qualification.

5. The FPO shall complete and sign a written record of each qualification attempt and forward it for placement in the employee’s personnel file.

6. Any officer who fails to qualify on a second attempt will not be allowed to re-qualify less than 14 days from the initial qualification date. An officer will only be given three chances to qualify with a firearm. After three total unsuccessful attempts, the employee will be subject to disciplinary action up to and including termination.

7. Any officer who fails to attend his scheduled session shall contact the SLEC and give reason(s) for failure to attend.

### ***Firing Range Procedures***

- 1. All personnel on the firing range will follow all safety rules and regulations at all times.**
2. All personnel present at the firing range shall document their attendance by filling out a department "sign-in" sheet and the proper firearm identification form.
3. Prior to qualification, an FPO shall inspect all firearms cleanliness, proper function, and modifications or accessories. All modifications and accessories on the firearm must be within policy at the time of qualification. Presenting an unacceptable firearm to an FPO for qualification counts as a failure to qualify.
4. If the officer has a non-magnified optic device on his firearm, he must annually qualify utilizing iron sights, while leaving his non-magnified optic device in place.
5. Once the personnel has qualified with the firearm, no changes may be made that would affect its operation or shooting accuracy.

### ***Course of Fire and Targets***

1. Prior to each qualifying session, an FPO shall select the course of fire and qualification target, and submit it for approval by the SLEC. The FPO will discuss the approved course of fire and target selection with each officer prior to each qualification attempt.
2. Officers will shoot a minimum of 44 rounds of target ammo and 6 rounds of duty ammo for a total of 50 rounds from each qualifying handgun.
3. The FPO will select the number of rounds to shoot for each qualifying shotgun or rifle.
4. Scoring shall be on a Pass/Fail basis and numerical scores shall not be recorded. To qualify, a passing score is defined as 80% for duty handguns, and 90% for shotguns and rifles.
5. Each officer shall attempt to pass the qualifying session with one primary service weapon. The officer may not alternate primary weapons unless the weapon has a mechanical malfunction or other event that renders the firearm unsafe or inoperable.
6. Each TCLEOSE commissioned peace officer will be issued two boxes of ammunition specifically for qualifications.
7. Officers shall pass the qualifying session on their primary weapon before attempting any other weapons such as a shotgun, rifle or backup weapon.

### ***Proficiency Shooting***

1. HCFMO FPOs will schedule at least two proficiency-shooting courses each year to allow officers to shoot random designed courses and practice shooting techniques. These courses will be recognized as formal firearms training.
2. Every person authorized by HCFMO to carry a firearm shall attend at least one formal firearms-related training course annually. Attendance at the HCFMO's semi-annual formal firearms training will meet this requirement.
3. Other firearms courses substituted for this requirement must be approved by an FPO prior to attendance, must be at least 8 hours in length, and must include a certificate of attendance, signed by the course instructor.

### **Carrying, Securing, and Storing Firearms**

#### ***All firearms***

1. All firearms carried by authorized personnel on or off duty shall be clean, safe, and functional at all times. The FPO, or any supervisor, may inspect any firearm at any time to ensure compliance.
2. Authorized personnel shall use utmost caution when carrying, using, or storing firearms, both on and off duty, to ensure that no person is negligently injured. Firearms must remain under the control of the authorized person at all times.
3. The firearm must be secured in such a manner as to prevent an accidental discharge.
4. Authorized personnel shall ensure that their firearms are secured against access by unauthorized persons at all times. This includes both on duty, off duty and extra employment.
5. All firearms shall be removed from any vehicle, and stored in an approved, secured location where access is restricted to law enforcement personnel, if the vehicle is to be used by any person not authorized to carry a firearm. Exception: A firearm may remain in the vehicle if the person authorized to carry the firearm is also in the vehicle.
6. At no time, should a firearm be left in a county vehicle unsecured, or in view of unauthorized persons.
7. When going off duty, personnel shall place all firearms in a secure location preventing unauthorized persons from gaining access to the firearms.

## ***Duty Handguns***

1. Duty handguns may be carried concealed while the officer is working in an official capacity, except as authorized by written directive approved by the Fire Marshal. In this context, “concealed” means the presence of which is not openly discernible to the ordinary observation of a reasonable person. Acceptable methods of concealment include, but are not limited to, jacket, vest, ankle holster, fanny pack, square tail shirt worn out over the top of the handgun, or other method approved by the FPO and the Fire Marshal.
2. Duty handguns shall NOT be carried where prohibited by safety or by a magistrate.
3. Except for authorized inspection, storage, maintenance, training, or when entering firearm-restricted areas, officers shall not un-holster, draw, or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the firearm in conformance with this policy. **Authorized inspection of firearms does not include the displaying of a firearm for other officers' examination.**

## ***Shotguns and Rifles***

1. When stored in county vehicles and only during on-duty hours, shotguns, rifles and any other weapon shall be secured in the vehicle out of general sight of unauthorized persons in such a way as to prevent theft of the firearm or weapon. The vehicle shall be locked at all times when any weapon is inside the vehicle. This includes rifles, shotguns, handguns, impact weapons, Tasers, or any other weapon subject to Agency policy.
2. The shotgun or rifle must be transported with the magazine in place and with the chamber empty, the bolt closed and the safety engaged; this shall be considered “cruiser ready”.
3. Shotguns and rifles must be secured in such a manner as to keep the rifle immobile during a vehicular accident. Exception: Situations where the shotgun or rifle is in the hands of a person trained and authorized to initiate a dynamic maneuver, such as exiting the vehicle to serve a felony warrant.

## **Firearms, Use of, In Police Actions**

### ***Legal Limitations***

1. The authority for peace officers to use deadly force and to carry firearms is granted through various sections of law. No officer has the right to extend his power, but must decide his action in light of the circumstances confronting him within the limitations of the peace officer’s authority. **Officers should use force only when necessary to protect life or prevent serious bodily injury, and only when such force does not unreasonably endanger bystanders, consistent with the provisions of Chapter 9 of the Texas Penal Code.**

### ***Use and discharge of a firearm***

1. Regardless of the nature of the crime or the legal justification for firing at a suspect, the peace officer should remember that their basic responsibility is to protect the public.
2. An officer shall not discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force by means other than the mere operation of the vehicle.
3. Authorized rifles shall not be deployed except under the following circumstances:
  - a. When the training and experience of the officer indicates that (1) armed confrontation is imminent, and (2) a rifle is the appropriate weapon of choice. The peace officer must be able to justify the decision to use a rifle instead of another approved weapon.

### ***Officer-involved Shooting process***

1. Except for a firearms discharge in range practice, in connection with firearms qualification, or in the course of a lawful sporting activity, any discharge of a firearm shall require initiation of the HCFMO Officer-involved Shooting process.
2. The primary responsibility for the investigation of FMO-involved shooting cases rests with the law enforcement agency in whose jurisdiction the incident occurred.
3. A review board comprised of the SLEC, an FPO and one employee designated by the SLEC will review the circumstances of every discharge and determine whether or not the discharge was a result of a negligent action, mechanical malfunction or any other accidental means.

### ***Officer responsibilities***

1. The officer should take actions necessary to protect himself, other personnel, and the public from additional threats, and to maintain control of the situation.
2. When safely capable to do so, the officer shall immediately notify his supervisor, advise that the officer has discharged his firearm(s), if there are any injuries or deaths, and any other information requested by the supervisor.
3. If capable to do so, the officer shall treat the scene of any firearms discharge as a crime scene and take necessary steps to preserve the scene.
4. The officer shall, within reasonable time of the incident, submit a written report to the SLEC. The report shall detail, to the best of the officer's recollection, the course of events which lead up to the use of the firearm and the actions taken during the incident.
5. The officer may be required to provide additional details, information, or statements as part of an administrative internal review.

### ***Witness responsibilities***

1. Witnesses may include HCFMO personnel. Witnesses shall cooperate with investigating officers, HCFMO supervisors, and other HCFMO personnel, and be directed to treat the scene of any firearms discharge as a crime scene.
2. Witnesses may be required to provide oral or written statements as part of the investigation or an administrative internal review.

### ***Fire Marshal responsibilities***

1. The Fire Marshal shall notify the respective county precinct commissioner and county judge, or designate.
2. In case of employee injury, notify next of kin or emergency contact consistent with HCFMO policy.
3. Assist any investigating law enforcement agency as needed.
4. Only the Fire Marshal or his designate are authorized to provide media information about the discharge of a firearm.

## **County Vehicle Use**

### **Policy Statement**

The purpose of this policy is to ensure the security, protection, and well-being of personnel and property of the Hidalgo County Fire Marshal's Office and the public. Improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles, as well as excessive or avoidable traffic and parking violations, can result in disciplinary action, up to and including termination of employment. The minimum remedial action will be a written reprimand. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

### **Reason for Policy**

This policy is required for any employee who is using a county owned vehicle assigned to the Hidalgo County Fire Marshal's Office. Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with interpretation, resolution of problems, or permission in special situations.

### **Procedures and Responsibilities**

1. FMO employees may be assigned the use of a county vehicle to assist the employee in the performance of their job, and for the convenience of the County.

2. Each FMO employee who drives a county vehicle:

a. Shall possess a valid Texas driver's license appropriate for the class of vehicle being operated.

**b. Shall wear a seat belt any time the vehicle is in motion. This also applies to all passengers.**

c. Is expected to have alternate transportation available for off-duty use.

d. Is responsible for the safe operation, proper care, appearance, maintenance, and servicing of the vehicle at the scheduled times.

e. Shall secure loose equipment to reduce the risk of theft or other loss. All loose equipment should be removed from the vehicle when parked overnight or for other extended period.

f. Shall not drive county vehicles if they are using substances which may impair driving ability. Except for law enforcement personnel transporting lawfully confiscated alcoholic beverages, alcoholic beverages are not permitted in county vehicles at any time.

g. Shall be responsible for any violations, citations, fines, and other law enforcement actions.

h. Shall provide proof of liability insurance as required by state law and county policy.

i. Shall use the vehicle for county business only.

i. Assigned vehicles may be driven to and from work, including incidental stops during travel to and from the work place, or meal purposes and authorized breaks within the general locality where the employee is performing duties or reporting for assignments.

ii. A county vehicle shall not be used on a part-time job, driven to and from a part-time job not associated with county business, or used for personal gain or personal business.

iii. On-call personnel are expected be available for immediate response unless otherwise directed by a supervisor. As such, they may exercise discretion about the use of county vehicles outside normal working hours.

iv. Any exceptions, including incidental off-duty use or emergency use, must be approved in advance by the Fire Marshal. If used off-duty, the employee is responsible for any damage, citations, fines, or other costs.

4. Additional equipment in a county vehicle must be must be approved by the Fire Marshal. Exception: Items that plug directly into an existing lighter-style outlet are allowed without approval.

## **Protective Clothing**

It is the policy of this department that structural fire fighting clothing may be issued to employees.

Protective clothing issued to investigative employees include: hard-hat, boots, jump suit, gloves and protective eye ware. It is the policy of this department that employees don the appropriate level of protective clothing before entering a fire scene for an investigation.

**Note:** The same could apply to inspections (some departments issue similar protective clothing for inspectors.

## **Self-Contained Breathing Apparatus**

It is the policy of this department that self-contained breathing apparatus are not issued to employees. Employees are not to enter into an environment that would require the use of self-contained breathing apparatus.

Employees will wait for assurance from the on-scene incident commander before entering a fire scene for an investigation.

Employees are issued (particle mask) (respirators) and should utilize this equipment in dusty environments or where there is suspicion of particles in the air that would cause respiratory problems.

- or -

It is the policy of this department that self-contained breathing apparatus are not issued to employees. Employees that are trained in the use of self-contained breathing apparatus may obtain a self-contained breathing apparatus from the on-scene fire department if that department meets Texas Commission on Fire Protection rules pertaining to selection, care and maintenance of self-contained breathing apparatus. If a suitable SCBA unit is not available - employees will not enter into IDLH atmospheres.

## **Personal Alert Safety System (PASS)**

It is the policy of this department that personal alert safety devices are not issued to employees. Employees will not enter into IDLH atmospheres that would require the use of a personal alert safety device.

- or -

It is the policy of this department that personal alert safety devices are not issued to employees. Employees trained in the use of SCBA and PASS devices may obtain units from the on-scene fire department if that department meets Texas Commission on Fire

Protection rules. If a suitable SCBA unit with an approved PASS is not available personnel will not enter into IDLH atmospheres.

### **Incident Management System**

It is the policy of this department that responding employees will report to the on scene incident commander upon arrival for duty assignment. All employees of the HIDALGO COUNTY FIRE MARSHALS OFFICE will follow the incident management system of the fire department in charge of the fire scene.

Note: Once the fire scene is made safe and the scene is turned over to the fire marshal's office they should have an incident management system that addresses their needs. Examples:

Implementation: It is the policy of this department that once a fire scene is released by the on scene incident commander the HIDALGO COUNTY FIRE MARSHALS OFFICE will establish an incident management system.

All HIDALGO COUNTY FIRE MARSHALS OFFICE personnel will be trained in incident management and an incident management system will be utilized at all scenes including training exercises.

Communications: (this should follow their unique situation as to number of channels, clear text usage, request for assistance, etc.

Multi-Agency Incidents: It is the policy of this department that all responding agencies may report to the HIDALGO COUNTY FIRE MARSHALS OFFICE command post. The incident commander will assign liaisons for each responding agency if necessary.

Command Structure: It is the policy of this department that once the incident scene is turned over to the HIDALGO COUNTY FIRE MARSHAL'S OFFICE that the ranking on scene person will assume the role of Incident Commander and establish a command structure that meets the requirements of the incident.

The Incident Commander may develop as needed the following structure as needed:

Incident Commander (always established) – the incident commander will be responsible for overall management of the incident scene and for insuring safety of all on scene personnel.

Incident Safety Officer – the incident safety officer will insure that personnel adhere to established safety rules and policies. The incident safety officer will have the authority (regardless of rank) to intervene and stop unsafe acts. The incident safety officer will update the incident commander on a regular bases and keep personnel operating at the scene aware of hazards or unsafe conditions.

Operations Section – the operations section is responsible for managing the tactical operations of the incident site which may include securing the scene, fire cause determination, removal of debris, evidence collection and preservation, etc. The operations section may be divided into divisions and/or groups to deal with expanding needs or multiple tasks.

Planning Section – if established by the incident commander will be responsible for providing and planning for resources, situation status reports, documentation of resources used, obtaining technical or specialized support and demobilization.

Logistics Section – if established by the incident commander the logistics section will be responsible for providing the support needs of the incident, including ordering resources through appropriate procurement authorities for off-incident locations. It also provides facilities, transportation, supplies, equipment maintenance and fueling, food service, communications and medical services for incident personnel.

Finance/Administration Section – if established by the incident commander the finance/administration section will be responsible financial, reimbursement (individual, agency or department), and/or administrative services to support incident activities.

### **Personnel Accountability System**

It is the policy of the HIDALGO COUNTY FIRE MARSHALS OFFICE to utilize the personnel accountability system at all incidents and at all training drills.

The HIDALGO COUNTY FIRE MARSHALS OFFICE utilizes the on scene, in charge fire departments personnel accountability system.

### **Operating at Emergency Incidents and Procedures for Interior Structural Fire Fighting**

The HIDALGO COUNTY FIRE MARSHALS OFFICE employees will not engage in interior structural fire fighting.

**Note:** If fire marshal personnel engaged in interior structural fire fighting they would need to have all the elements recommended in 29 CFR Section 1910.134 (g) (4).