

LAW ENFORCEMENT MANAGEMENT INSTITUTE

Written Directives for a Small Law Enforcement Agency

A Learning Contract
Submitted in Partial Fulfillment
of the Requirements for
Module I

by

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Laredo, Texas

April, 1990

#205

TABLE OF CONTENTS

I.	Introduction	1
II.	Mission and Goals of the Constable's Office	3
III.	Responsibility of the Constable's Office	4
	A. Job Description	4
	B. Vicarious Liability & Law Suits	4
	C. Why Written Directives are needed	5
	1. Standards for law enforcement agencies	6
	2. Future Accreditation	7
IV.	Introduction to Seven Topical Areas of Written Directives needed in the Constables's Office	7
V.	General Provisions	8
VI.	Organization	9
VII.	Personnel Management	10
VIII.	Professional Conduct and Community Relations	10
IX.	Station Operations	11
X.	Field Operations	12
XI.	Sexual Harassment	13
XII.	Implementation of Proposal	13
XIII.	Conclusion	14

INTRODUCTION

Laredo is located on the border of the United States and Mexico in Webb County, Texas, and was founded on May 15, 1755, as part of the Spanish colonization program. When Texas was under Mexican rule, Stephen F. Austin first documented the office of the Constable to preserve order in 1823. A Code of Civil and Criminal regulations was proposed, which was then approved by the Mexican government to describe the functions, duties, and responsibilities of all Constables. Until Texas won her independence from Mexico, people from Texas adopted the English Common Law (The Constitution of Texas) in 1836. After 1836, the Constitution provided each county a certain number of Constables to hold their offices for two years, to be elected by qualified voters of such district and county. The Constable's district in Webb County is divided in two parts: Precinct 1, Place 1 and Place 2. Each place is presided over by a Justice of the Peace Court with jurisdiction over the entire district. The Webb County Constable's Office is the chief server of all civil process coming out of the justice courts and is responsible for all property seized under court actions. The Constable is to attend all justice courts within his or her precinct. In addition to service of the Justice of the Peace Courts, the office serves civil process for other Federal, District, and County Courts as well as other counties' civil process. As certified peace

officers, the office is responsible for law enforcement throughout the State of Texas.

The Webb County Constable's Office has been in existence since 1876. As of January 1, 1990, the office has consisted of the Constable, a Chief Deputy, six Deputy Constables, and an Administrative Deputy. The Constable is an elected official who must run for public office every four years. The Constable is a certified peace officer in the State of Texas and must acquire the same training as any other certified peace officer. The Constable's jurisdiction is state wide, and he or she may serve all civil process throughout Texas. The Constable is empowered to employ deputies to assist in these duties.

The Webb County Constable's Office at present has no written guidelines or policies and procedures for the office. The purpose of this paper is to clearly state the mission, goals, and objectives of the Constable's Office. The Office wishes to implement policies and procedures which will help attain the mission and goals, and needs a codified outline of policies and procedures in order to run more efficiently and effectively. Written directives will give each employee direction and a better understanding of what is expected of him or her.

The first section of this paper will state the mission of the Constable's Office. In addition, specific goals of the office will be addressed. Next, the responsibility of the Constable's Office will be stated.

Job descriptions will be reviewed to avoid vicarious liability and law suits. The need for new directives will be also be reviewed. Seven important topic areas for the Constable's Office of written directives will be identified as a guide and work plan. A developmental process will then be discussed in order to implement these written directives.

Mission and Goals of the Constable's Office

The mission of the Constable's Office is to manage the department's delivery of civil process to ensure quality and proficiency in its delivery and attend all Justice Courts within the precinct. In addition, the mission is to enforce laws, protect life, and protect property. To accomplish this, a large number of people and other resources must be systematically directed and coordinated.¹ It is the goal of the office to serve civil process promptly upon receipt and to ensure that it is served within the guidelines of the Courts and State Statutes. Service is done in an efficient manner to ensure cost effectiveness. Citizens being served process are to be treated with respect and courtesy. In addition, planning and utilizing available resources to maximize

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Joe H. Mize, Charles R. White, and George H. Brooks, Operations Planning and Control, (New Jersey: Prentice-Hall, Inc., 1971), pp. 21-25.

short and longrange effectiveness is needed to work toward these goals.

Responsibility of the Constable's Office

The powers and duties of the Constable stated in the Texas Vernons Statutes (Anno.), "Local Government Code" are to

execute and return as provided by law each process, warrant, and precept that is directed to the Constable and is delivered by a lawful officer. A Constable may execute any civil or criminal process throughout the County in which the Constable's Precinct is located and in other locations as provided by the Code of Criminal Procedure or by any other law. The Constable shall attend each justice court held in the precinct.

Another important consideration for the office is the issue of liability. Officers are responsible for their actions and should execute their duties in a legal, professional manner. Officers who do not execute their duties in a correct manner may be held liable for their actions. The Constable can be held personally liable for the misconduct of employees.³ The legal doctrine applicable in a situation where an employer is responsible for an employee's actions is known as vicarious liability. The administrator can be held personally liable and can face court action for practices within the Office that do

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Texas Statutes Local Government (Vernon 1988), pp. 445-446.

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Robert Sheenan and Gary W. Cordner, Introduction to Police Administration, p. 468.

not comply with judicial or professional law enforcement standards. Many courts have ruled that the absence of written policies and procedures may constitute gross negligence.⁴ For example, if an individual sues an officer claiming a lack of training, the court could ask the officer to produce written documentation of law enforcement practices and evidence that the practices were implemented. If the department does not have written directions for the staff, the court may view the individual's claim more favorably. Written policies and procedures, developed in accordance with professional standards and fully implemented in the department, provide the agency with important documentation of the philosophy, goals, and practices of the organization. Written procedures serve as a defense against personal liability in court actions. Employers wishing to avoid such liability must implement policies and procedures which effectively restrict this liability. Having written directives will serve several purposes: it will decrease liability, giving some protection from lawsuits; increase a compliance with the existing unwritten standards in the department; improve the department operations by letting

4

Ruth Friedman, "Municipal Liability for Police Misconduct: Must Victims Now Prove Intent?," Yale Law Journal, Feb. 1988, Vol. 97 Issue No. 3: pp.448-465.

the employees know exactly what to do; provide better staff performance, improve morale, increase the efficiency of operations by not wasting time and/or money, build better communications with everyone, and serve as a defense against personal liability in court action.

Policies and procedures are an important management tool to the Constable's Office because they will promote consistency and professionalism, offer an opportunity for an administrator to improve operations and formulate necessary practices, provide the administrator with means of delegating responsibility to the staff by accomplishing the goals of the organization and provide the staff with direction and guidance in the performance of duties.

Equally important, policies and procedures are also needed for a smooth, orderly operation within the department's internal structure. Most problems within an department arise when the department is involved in the hiring, firing, and promotion phases of an employee's career. A department with unclear guidelines, or no guidelines at all, is at a distinct disadvantage. The door is left wide open for discrimination suits. Clearly stated guidelines can avoid such problems. Guidelines can give direction regarding what to do in each situation, while still allowing enough discretion for the various situations. Written policies will also enable administrators and supervisors to better manage the

office. Effective and efficient management is every administrator's goal. To achieve this goal, the PODSCORB Principles will be implemented. PODSCORB is an acronym for planning, organizing, directing, staffing, coordinating, reporting, and budgeting. The PODSCORB Principle stresses these seven processes in order to achieve efficient management within a department. Departments should implement policies which positively reinforce each aspect of the PODSCORB Principle. By doing so, the department can avoid many problems that arise within the course of operations.

Therefore, written directives are needed in a Constable's Office to set up standards for this selective law enforcement agency. In addition, by developing such standardized directives, the Constable's Office would have the opportunity to become accredited by the Commission on Accreditation for Law Enforcement Agencies.

Introduction to Seven Topical Areas of Written Directives Needed in the Constable's Office

Seven topic areas will be developed as a work plan. It is essential that the work plan be completed by the staff member of the department involved. The staff members of the Constable's Office must have several sources of written material to review and a process in constant motion, moving towards an end, in order to develop this work plan. Using the seven topic areas as guidance, the staff will begin to write the major elements

of the Constable's Office Policy and Procedures Manual. The seven topic areas are General Provisions, Organization, Personnel Management, Professional Conduct and Community Relations, Station Operations, Field Operations.

General Provisions

The General Provisions Chapter will provide the framework for developing and revising written directives, stating the mission, and outline the objectives in reference to the primary and secondary goals of the Office.⁵ In setting the framework of the Constable's Office, a mission statement is used to define the scope of responsibility of this agency.⁶ Goals are more specific statements used to identify intended results or achievements within this department's mission. Objectives are steps or milestones that must be reached in attaining an individual goal. These statements should be definitive and concise; otherwise, there is too much room for misinterpretation. Too much justification or elaboration may serve only to suggest loopholes or conditions that may result in avoidance behavior. "Police Departments should

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Sheehan and Cordner, pp. 15-21.

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James A. Auton, "Preparing Written Directives," FBI Law Enforcement Bulletin (Washington, D.C.: Office of Congressional and Public Affairs, May 1988), p.4.

develop and enunciate policies that give police personnel specific guidance for the common situations requiring exercise of police discretion." ⁷ Consequently, the individual has an opportunity for discretion, thinking, and innovation as a law enforcement officer. ⁸

Organization

The Organizational Chapter will outline the parameters of the office regarding the organizational chart, job descriptions of the employees who work there, and organizational relationships. The organization sets out the boundaries of the office. An organizational chart outlines the chain of command, giving normal and occasional authority and accountability relationships among the positions in the office. Job descriptions narrow the scope of the duties of a Constable. They serve to inform personnel what is generally expected of a person in a particular position. Organizational relationships are individuals in organizational positions who perform in the best interest of the Constable's Office.

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The Challenge of Crime in a Free Society, President's Commission on Law Enforcement and Administration of Justice, (New York: Avon Books, 1968), p. 267.

⁸
Craig Campbell, "Policies and Procedures vs Rules and Regulations," Police Journal, Dec. 1985, pp. 15-17.

Personnel Management

The Personnel Management Chapter will deal with discipline, training, and employee grievances. Personnel Management encourages progress toward accomplishing the Office's goals and procedures encouraging compliance with the office rules. Disciplinary actions are used as a deterrent to those actions that are inconsistent with the goals and policies of the Constable's Office. Most disciplinary problems can be eliminated with proper training. It is therefore desirable to render honest, efficient, and courteous performance of duties as an officer. Employee grievances provide a means to hear suggestions, opinions, and problems concerning grievances.⁹ Because of past administrations' philosophies of deputy constables serving at the pleasure of the constable, no constructive method was implemented to safeguard legitimate grievances and how they were resolved properly.

Professional Conduct and Community Relations

The Chapter Titled Professional Conduct and Community Relations will discuss the contact with the public and press, abuses of the office, and use of the uniform while

9

David J. La Brec, "Employment Discrimination Claims Can You Stop Them?", Coverage, Volume 4, No. 4, July 1983.

on duty. The Professional Conduct and Community Relations will deal with how a Deputy Constable will handle himself as a peace officer. It is important that he give his utmost as a professional, in the law enforcement field. Officer's conduct, both on and off duty, will be addressed. ¹⁰ Uniforms indentifying the Constable's Office will be worn while on duty. Deputy Constables having personal contact with the public should be conscious of maintaining regulation dress attire, proper grooming, and hygiene standards desired by the Constable's Office.

Station Operations

The Station Operations Chapter will outline procedures in dealing with citizens' complaints, requests made by the public, reports, and assignments. Station Operations addresses complaints and requests made by the public to the office. This chapter sets out the process used for a complaint by an individual or for a complaint against the office. Important community concerns are addressed to the Constable's Office regardless of the office's direct responsibility over the matter. For example, school districts having a major problem with truancy will place the responsibility of the Constable's

Office to develop alternatives and divergences to reduce repeated offenders in juvenile delinquency. The method by which reports are to be made in the office and the selection of special assignments will be discussed.

Field Operations

The Field Operations Chapter will discuss the day-to-day operations of use of force, deadly force, court security, responding to and handling emergency situations, civil process, the use of handcuffs, and interactions between agencies. Field Operations are the daily operations of the Office. Use of force is important in an officer's judgment, and an officer must know when and when not to use deadly force.¹¹ All provisions of "Chapter 9" of the Penal Code will be incorporated in the procedures addressing the use of force. Court Security deals with the make up and security of sensitive cases that are brought to court. In developing this section it is important to develop effective crisis management.¹² Civil Process comprises the majority of the Deputy Constable's work. In 1989 the Webb County Constable's office served 3,919 processes, 99% of the office's work load. Civil

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Kenneth S. Matulia, "The Use of Deadly Force: A Need for Written Directives and Training," Police Journal, Feb. 1984.

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Mayer Nudell, and Norman Antokol, "Contingency Planning for Terrorism: Part 2," Risk Management, Vol. 33 Issue No. 8: Aug. 1986: pp. 30-36.

process is bringing those parties involved into court and getting their differences resolved through litigation. In some cases, handcuffs are used to ensure the safety of officers, public property, and individuals being handcuffed. Permissible interaction between law enforcement agencies will be discussed.

Sexual Harassment

The chapter titled Sexual Harassment will discuss the policy of this office regarding harassment both in and out of the office and will outline the procedures for making formal complaints and the disposition of complaints.

Implementation of Proposal

Several factors are essential in the implementation of the proposal for written directives. First, selecting those individuals who are qualified for staff positions is important. Once the selection is made, a team must be organized, making them responsible for the work to be completed. This task should be done within a set time frame. Developing a time schedule for each task is important until the process is completely finished. Next, the resources available must be considered, including case law, civil procedure, and statutory law. Once a draft has been prepared, revision and updating is essential to keep the manual current. Finally, training the personnel and providing ongoing instruction for the implementation of the policies and procedures manual is a two-fold process: first, the administrator must teach the policies and

procedures and then make sure the information was understood by the staff.

Conclusion

In conclusion, written directives will increase effectiveness and productivity by making the work more efficient. A policies and procedures manual will reduce liability and lawsuits. Directives will give a sense of organization and outline responsibilities. Directives will facilitate working with other law enforcement agencies by developing network policies. The manual will be a starting point and foundation for future administrators in the Constable's Office. Written directives will focus and define the Constable's Office mission, goals, and role in the community.

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