

Firearms and Community Supervision Officers

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### Abstract

Should CSOs (CSO) carry firearms? The 33rd/424th Judicial District allows all of its CSOs to carry firearms. This has been an eye-opening research topic as I did not realize how controversial this topic would be. This paper is not to influence Community Supervision and Corrections Departments one way or another but to simply show the data so that Directors and Judges can make an educated decision. CSCDs across the State should be aware that their decision impact their CSOs.

### Introduction

Should a CSO in the State of Texas carry firearms? If so, what are the pros and what are the cons? Are departments being influenced by the liability that the department may have should a CSO encounter a deadly situation. Yes, all CSOs have a duty to retreat, but given a shooting, the odds of the ability to retreat will be slim. The 33rd/424th Judicial District CSCD allows all of their Certified CSOs to carry firearms. It is my opinion that all CSOs be armed, this paper will reflect the data of the pros and cons and the opinions of other criminal justice professionals.

### Legislation

As previously mentioned above the legislation leaves it up to each CSCD to make the decision on whether or not they will allow their CSOs the option to carry the firearm. We must all follow the Texas Commission on Law Enforcement (TCOLE) set guidelines on training.

### Training

TCOLE requires all CSOs requesting to carry a firearm to apply for a license through them. They ask all CSOs to attend a 2401 Approved Firearms Course that is a week-long and you shoot over 500 rounds for practice, you must also qualify at this event through a course that the firearm instructors create. Most CSCDs do not have firearm instructors and send CSOs to take

the course with other CSCDs. Once your 2401 is completed you must undergo a physiological exam by an Licensed Professional Counselor. Furthermore, you must also qualify at your department's standard, this qualification occurs at the minimum of once a year.

Our CSCD requires all CSOs to qualify in a 50 round qualification course that meets TCOLEs criteria for qualifications amongst departments. Furthermore, we require all of our certified CSO to qualify once every year and encourage them to get out on the range as often as their schedule permits.

### **POSITION**

The first year of my career as a CSO, I was not allowed to carry a firearm, I was pregnant and could not take the required 2401 Course. I still remember the conversation with my husband when he asked me not to do field visits without a second officer that was certified to carry a firearm. He was a police officer and he knew the area and the clients we dealt with. After my daughter was born, I was able to take the course and get certified. Carrying a firearm, for me, has never been about being able to feel superior to anyone or to pretend to be a police officer, it has always been about the ability to defend myself should the situation arise.

I have been sitting on the other side of that chair when you get told your spouse has passed. My director has always been of the opinion that he would never want to give any spouse that news if he can avoid it. He rightfully justifies us being allowed to carry firearms as not more than a tool to do our jobs effectively.

I can effectively be an agent of change and believe in treatment and reintegration through supervision but I also believe that I as a CSO who deals with the same offenders who committed felonies some of them violent should be granted the ability to carry a firearm for protection purposes.

*On the flip side.*

You must be prepared to take someone's life, the minute anyone gives you a firearm to carry as a tool to your job, you must know that there may come a time that you will have to pull the trigger. The liability of carrying a firearm is enormous not only for the CSO but also for the department as a whole. If you discharge your weapon in the course and scope of your employment "*the probation office may provide legal support to the extent authorized by law for probation officers involved in the civil actions as a result of performing duties under this policy, provided that the officer acted in good faith and with a reasonable belief in the lawfulness of his/her actions.*" (33rd/424th Judicial District CSCD Policy and Procedure 39.03) Note that even our department policy does not speak to defending any CSO should a criminal charge be filed. We all know what the climate is in society when it comes to any person discharging their firearms at a suspect or defendant.

I have seen CSOs carry firearms that should not carry firearms due to health issues. Furthermore, I also have seen officers who only know where their weapon is when the time to qualify comes around.

In reality, I should have done a survey asking offenders how they felt about CSOs carrying firearms.

In the law enforcement survey, I was surprised that 27% thought that we should not carry firearms, this is very interesting to me. I do not conduct very many field visits with law enforcement due to them being short staffed, however, we do sometimes call into dispatch to make sure they know where we are.

### **Counter Arguments**

When I began to research this topic, I did not know that it was controversial, in fact, I thought we were all on the same page, we should without a doubt arm our CSOs in this change in our offenders.

To start with, those who make the decisions on whether or not we get to carry firearms have likely never been a CSO before and if they have, they have not been assigned a caseload in a decade, at the very least. The second hurdle, everything revolves around politics. Judges who make the decision on if their officers can carry have the public, they have to consider more than the safety of their CSOs, how would it look if our probation department dressed like police? How would the public perceive this decision? All of these obstacles are things that Directors consider while making decisions on their officers.

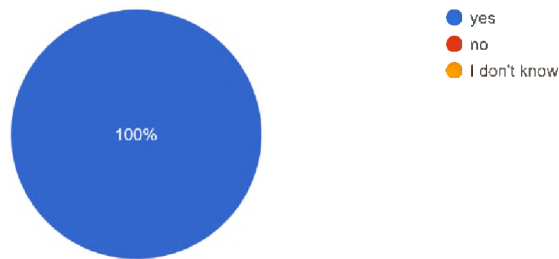
What I found out the most is that there is no actual research on how many departments actually carry or how incidents are reported. There is not a database that tracks incidents, you would think that this is something we would keep track of. Is it a lack of reporting from the CSCDs across the state?

I conducted a survey for law enforcement and one for CSOs. All participants in the law enforcement survey are licensed peace officers in the State of Texas mostly in my district, some are officers outside of my district.

In the law enforcement survey 100% of the officers responded that in their opinion CSOs should carry firearms and the majority of them believe that CSOs do not make their job more difficult.

Do you believe Community Supervision Officers should carry firearms while exercising their duties?

29 responses

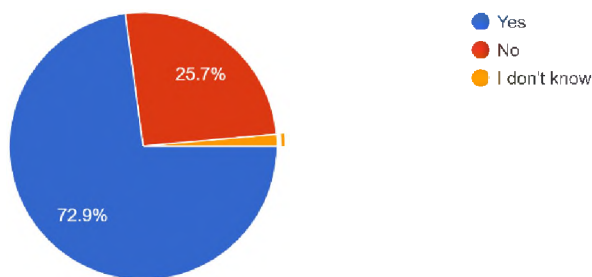


In the survey done amongst CSOs, I sent out to several different districts hoping to obtain a wide number of responses that were more accurate than only having the survey done by our CSOs.

72% of Community Supervision Officer believe that they should be able to carry firearms.

1. Do you believe Community Supervision Officers should carry firearms while exercising their duties?

70 responses



I propose that someone take over the ability to provide accurate training and be able to report any and all incidents that happen involving CSOs and shooting incidents. There are so many CSCDs that do not have adequate information on firearms and what it means for CSOs to carry. CJAD should have a committee that takes surveys amongst CSOs and review said

information to determine whether or not they should make it mandatory for CSOs to carry. Directors of CSCDs who make these decisions should have a background in actual probation work.

### **Conclusion**

We are no longer in a time when probationers, clients, defendants are scared to go spend years in the Texas Department of Criminal Justice. In fact, Defendants almost challenge our CSOs. The 33rd/424th Judicial District Community Supervision and Corrections Department takes pride in doing our job which means going to rough areas in the district, all of the CSOs in my district are certified to carry firearms and are required to do so per our policy when they go out for field visits. As a department, we set a standard of excellence and the best supervision to our clients, we take the task of keeping our community safe seriously and work hard to make sure that our clients are following any term and conditions. Sometimes this does put us in harms way but we have been granted the opportunity to defend ourselves.

It is time for CJAD and everyone else who is influenced by politics to put the safety of our officers first. Giving a CSO a weapon is nothing more than just another tool in her/his toolbox. We should be able to defend ourselves should we encounter any issues. Across the State we should have trainings specific to CSOs. It is our job to protect the community and ourselves.

### References

37 Tex. Admin. Code § 163.34 The provisions of this §163.34 adopted to be effective February 22, 1998, 23 TexReg 1314; amended to be effective June 20, 2002, 27 TexReg 5220; amended to be effective May 2, 2011, 36 TexReg 273337 Tex. Admin. Code § 163.34

Bourgon, G. (2013). The Demands on Probation Officers in the Evolution of Evidence-Based Practice: The Forgotten Foot Soldier of Community Corrections. *Defederal Probation*, 77(2) 30-35

Lehnerer, Melodye. (2021). Guns and Feelings: Emotionality and the Arming of Probation and Parole Officers.

Roscoe, T., Duffee, D., Rivera, C., & Smith, T. (2007). Arming Probation Officers: Correlates of the Decision to Arm at the Departmental Level. *Criminal Justice Studies*, 20(1), 43–63. <https://doi-org.ezproxy.shsu.edu/10.1080/14786010701241333>

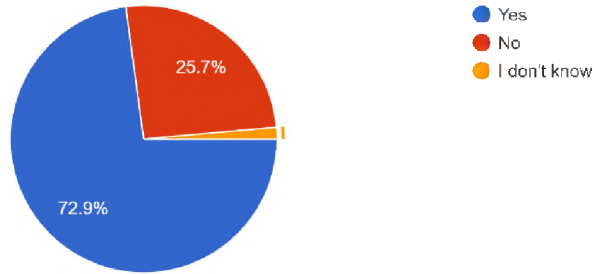


## **TABLES AND CHARTS**

### CSO Survey

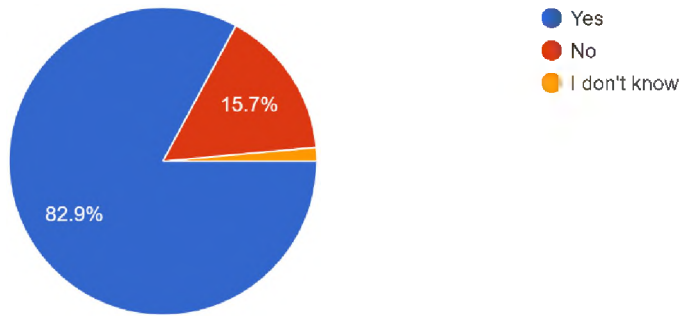
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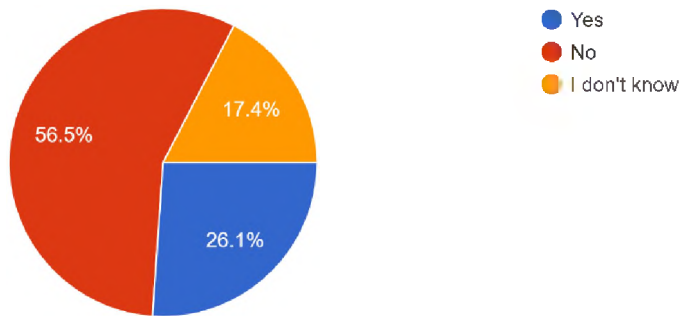
2. Do you believe that Community Supervision Officers should be trained in less lethal options?

70 responses

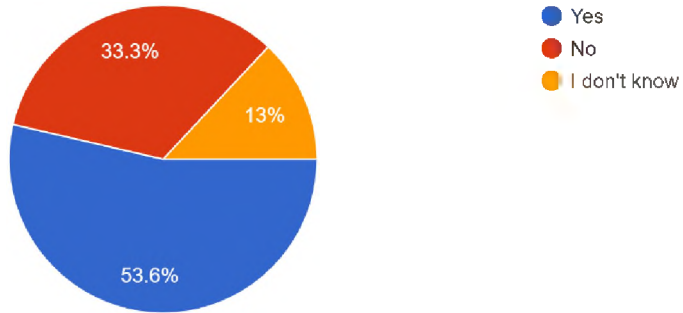


3. Does seeing a Community Supervision Officer with a firearm escalate offenders?

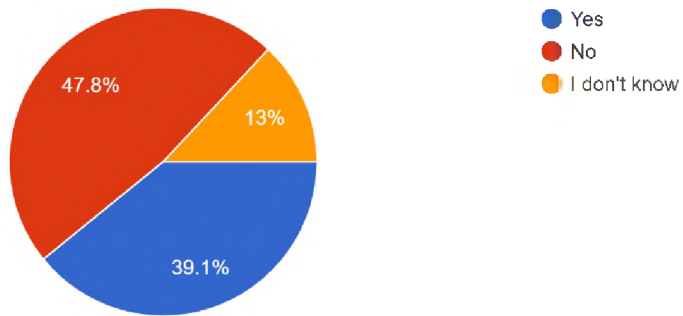
69 responses



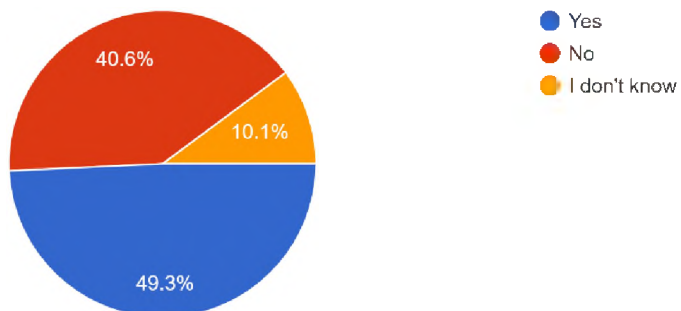
Do you believe that Community Supervision Officers who carry firearm should carry handcuffs?  
69 responses



Does your CSCD allow your CSOs to carry firearms?  
69 responses

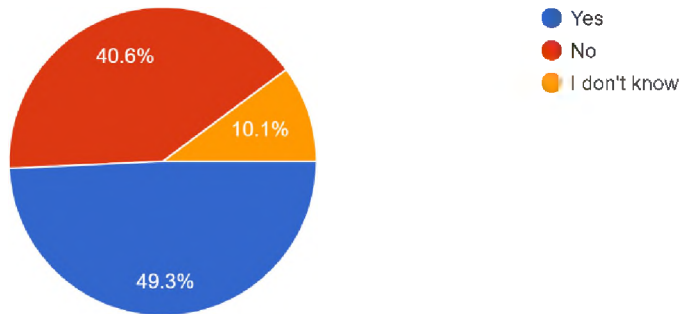


Would you/are you comfortable with carrying a firearm?  
69 responses



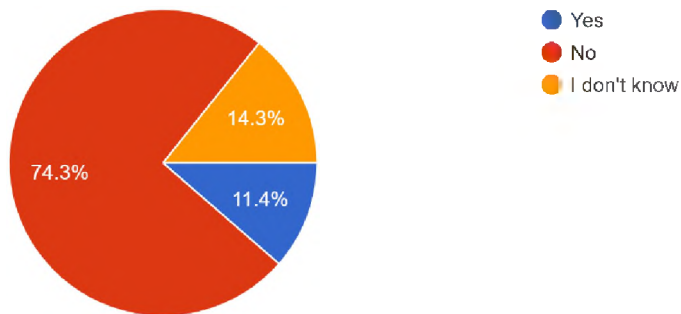
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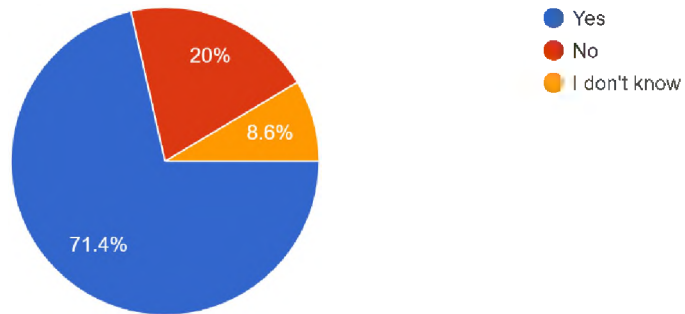
Do you think that the liability that the Department may have if a firearm is discharged by a CSO more important than giving Community Supervision Officers the ability to defend themselves?

70 responses



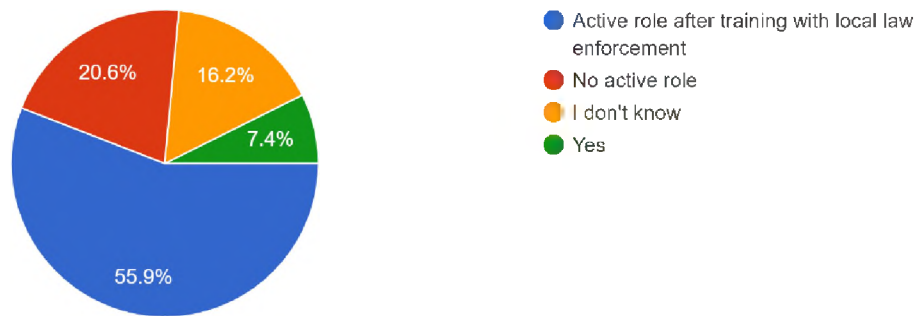
Should Community Supervision Officers train with local law enforcement?

70 responses



If the Community Supervision Officers in your County carry firearms, what role should they play during an active shooter situation?

68 responses



**Law Enforcement Survey**

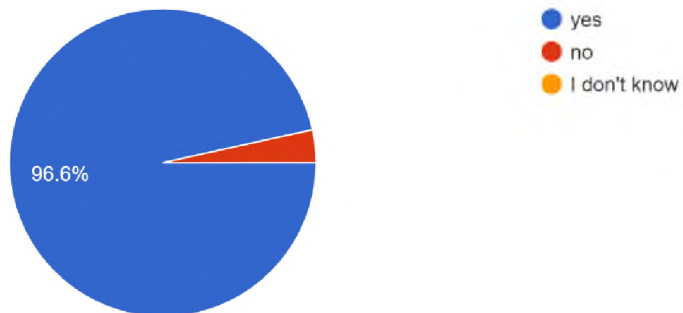
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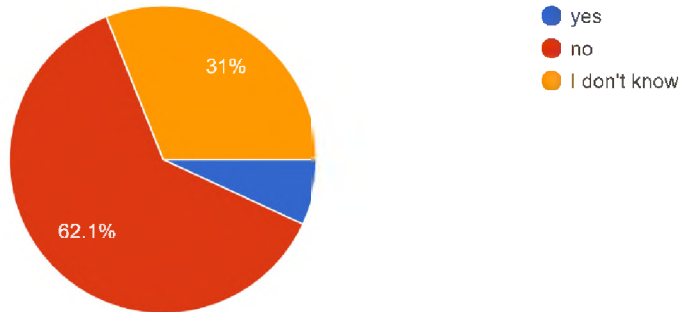
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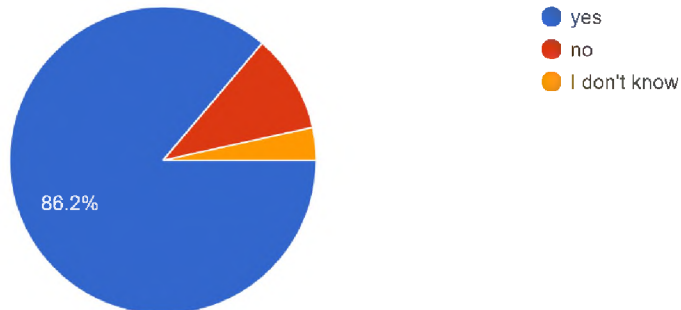
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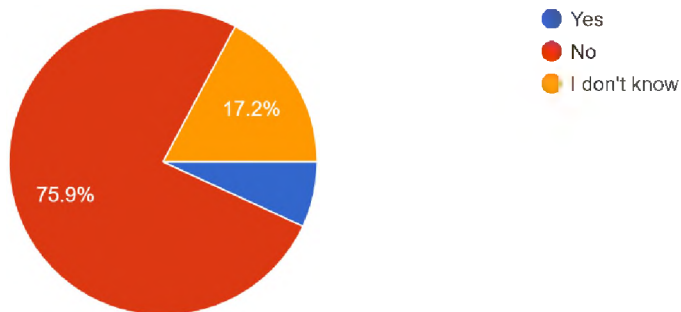
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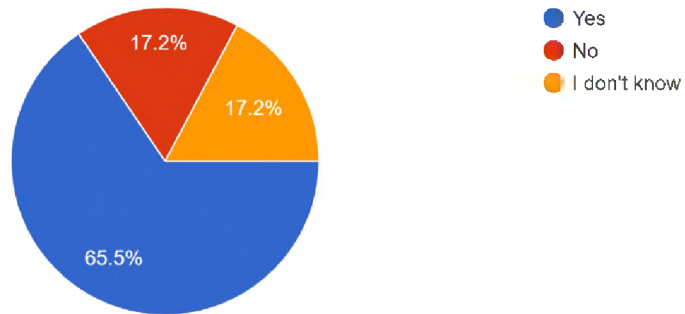
Do Community Supervision Officer carrying firearms in this District make it more difficult for law enforcement?

29 responses



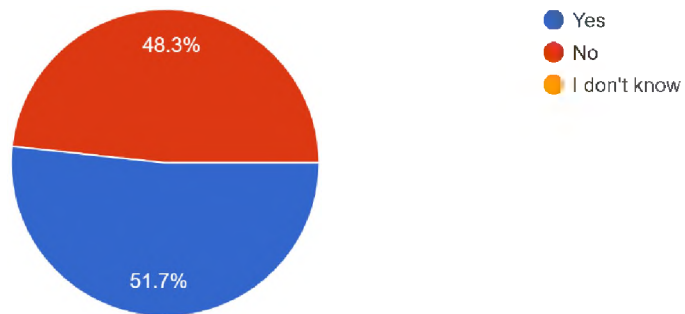
Did you know if the Community Supervision Officers in your District carry firearms?

29 responses



Have you ever worked next to a Community Supervision Officer in this District who carries a firearm?

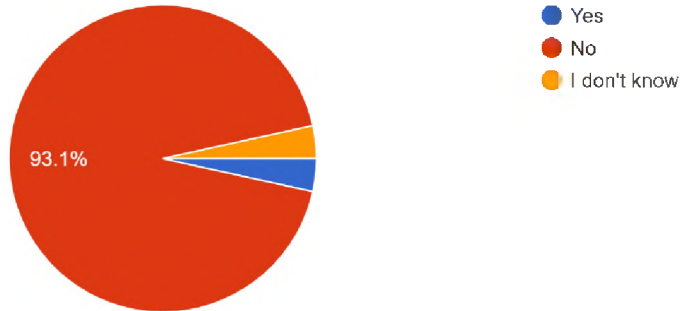
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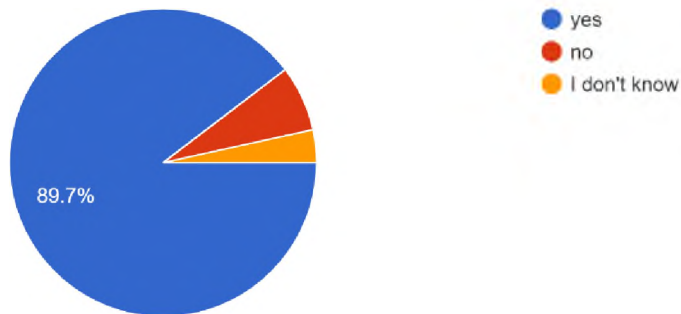
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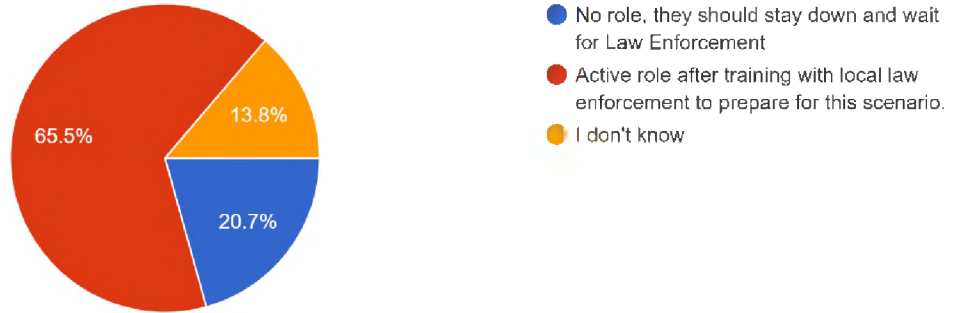
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29 responses



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29 responses



**Texas Government Code**

(a) In accordance with Texas Government Code § 76.0051, a CSO (CSO) is authorized to carry a handgun or other firearm while engaged in the actual discharge of the officer's duties if:(1) The CSO possesses a current certificate of firearms proficiency issued by the Texas Commission on Law Enforcement Officer Standards and Education (TCOLE); and(2) The community supervision and corrections department (CSCD) director grants the authorization.(b) This section does not authorize a CSO to carry a firearm while off-duty.(c) The carrying of a handgun or other firearm by CSOs shall be done strictly in accordance with Texas Government Code § 76.0051 and the authorization, policy, and procedures promulgated by the director as set forth in subsection (e) of this rule.(d) Prior to undergoing training to carry a firearm, a CSO shall meet the following qualifications.(1) The CSO shall be examined by a psychologist or psychiatrist licensed in the state of Texas and declared in writing by the psychologist or psychiatrist, using TCLEOSE approved forms, to be in satisfactory psychological and emotional health for the carrying of a weapon in the performance of the CSO's duties for which a certificate of firearms proficiency is sought.(2) The CSO shall execute an instrument wherein the CSO acknowledges:(A) It is unlawful for any person to possess any firearm or ammunition who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; or who has been convicted of any domestic violence crime, misdemeanor, or felony; or who has been discharged from the armed forces under dishonorable conditions;(B) It is the CSOs' responsibility to immediately inform their supervisor and the CSCD director of any arrest, charges, or conviction related to such crimes; and(C) The CSO has never been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; has never been convicted of any domestic violence crime, misdemeanor, or felony; or has never been discharged

from the armed forces under dishonorable conditions.(e) Each CSCD that elects to authorize certain, or all, of its CSOs to carry firearms in accordance with the foregoing requirements shall adopt written policies and procedures defining which of its CSOs have authority to carry firearms and the limitations that apply to their carrying and use of firearms. The CSCDs shall submit written policies and procedures for review by the Texas Department of Criminal Justice Community Justice Assistance Division (TDCJ CJAD) director. The policies and procedures shall specify:(1) The firearm training and qualification requirements;(2) The handling, use, and storage of firearms;(3) The types of firearms authorized; and(4) The process for reporting and investigating incidents related to the possession or use of firearms by the CSOs.(f) Each CSCD that elects to authorize CSOs to carry or use less than lethal weapons, such as aerosol sprays, chemical agents, restraining devices, or stun guns, shall adopt written policies and procedures defining which of its CSOs have authority to carry such weapons and the limitations that apply to their carrying and use. The CSCDs shall submit written policies and procedures for review by the TDCJ CJAD director. The policies and procedures shall specify:(1) The training, qualification, and certification requirements;(2) The handling, use, and storage of the particular weapons and devices involved;(3) The types and relevant specifications that apply to the less than lethal weapons that are authorized; and(4) The process for reporting and investigating incidents related to the possession or use of less than lethal weapons, such as aerosol sprays, restraining devices, or stun guns.(g) CSCDs that elect not to authorize CSOs to carry firearms or use less than lethal weapons in the performance of their duties shall adopt a written policy statement disallowing such practices, as applicable. Each new CSO shall be notified of these policies prior to an offer of employment by the CSCD.(h) Requirements of the Texas Commission on Law Enforcement Officer Standards and Education.(1) The CSOs authorized by the CSCD to make application to

the TCLEOSE for certification in firearms proficiency in accordance with the above provisions shall use TCLEOSE approved forms and provide copies to the TDCJ CJAD and the CSCD.(2) CSCDs shall conduct a comprehensive background check on all CSOs seeking firearms certification.(3) CSCDs shall maintain records of background information obtained on all CSOs seeking firearms certification.(4) CSCDs shall maintain records of annually required requalification on all CSOs obtaining firearms certification.(5) CSCDs shall notify the TCLEOSE if a CSO's authority to carry a firearm is rescinded.(6) CSCDs authorizing CSOs to carry firearms shall notify the TCLEOSE of the name, address, telephone, and fax numbers of the CSCD director.(7) Each CSCD shall allow the TCLEOSE and other law enforcement agencies access to records pertaining to firearms for auditing and investigation purposes.(i) CSO Training and Qualification Requirements.(1) CSOs shall not be granted permission to carry a firearm in the performance of their duties unless that CSO has completed a firearms training program approved by the TCLEOSE and has been issued a certificate of firearms proficiency by the TCLEOSE as provided in subsection (a) of this rule. The firearms training program shall be completed within six months after obtaining the TCLEOSE psychological release as required in subsection (d)(1) of this rule.(2) Firearms training provided to CSOs shall be designed to prepare the CSOs to carry such weapons while conducting field visits, participating in community based criminal justice initiatives with law enforcement agencies, and in dealing with the safety and self-defense considerations related to such activities.(3) CSO qualification of weapons usage, a periodic proficiency test, and documentation of training shall be completed in the presence of a TCLEOSE approved instructor on a yearly basis in addition to the required TCLEOSE certificate of firearms proficiency.(4) Specific firearms and other weapons training course guidelines and recommendations shall be published in the TDCJ CJAD Weapons Procedures Guidebook.(j)

Ownership, Inspection, and Maintenance.(1) CSOs authorized to carry weapons shall provide their own weapons.(2) CSCDs shall appoint an individual within the department to be responsible for yearly inspection and maintenance programs for firearms used by CSOs.(k)

Types of Firearms Authorized.(1) CSOs are authorized to carry the following weapons:(A) Double action revolvers; or(B) Semi-automatic pistols.(2) Barrel length of weapon shall be between two and five inches.(3) Approved cartridges shall be:(A) 9mm caliber;(B) .38 Special;(C) .357 Magnum;(D) .357 Sig;(E) .40 caliber;(F) 10mm caliber;(G) .45 caliber; or(H) .380 caliber.(4) Ammunition. All carried ammunition shall be factory original loads of bullet weight between 85 and 230 grains, per Sporting Arms Ammunition Manufacturer Institute (SAAMI) Guidelines.(l) Reports to the Texas Department of Criminal Justice Community Justice Assistance Division.(1) Each CSCD shall have a written Use of Force policy and a written procedure for reporting and investigating each incident where a firearm or less than lethal weapon is discharged, used, or drawn on an individual. The term "to draw" means to unholster a firearm in preparation for use in self-defense against a perceived threat.(2) Such procedure shall include:(A) Notification of incidents;(B) Procedures for interaction with outside entities, such as local law enforcement and media;(C) Internal investigation procedures; and(D) Employee support components.(3) Notification of Incidents to the Texas Department of Criminal Justice Emergency Action Center (EAC). Serious incidents, such as a CSO's drawing of a firearm on an individual or the unauthorized use of a less than lethal weapon by a CSO, shall be promptly reported to the EAC (936) 437-6600 and in all events within 24 hours of the incident. Incidents involving the discharge of a firearm shall be reported to the EAC immediately, if possible, and in all circumstances within three hours of occurrence. A preliminary written report of each of the above-described incidents shall be sent to the TDCJ CJAD within ten days of the occurrence.

