

<b>Maricopa County Policies and Procedures</b>	<b>Subject:</b> Constables Personal Safety Training Policy	<b>Number:</b> A2232 <b>Issue Date:</b> 07/01
<b>Approved by: Jan Brewer, Chairman, Board of Supervisors</b>	<b>Initiating Department:</b> County Administration	

## A. PURPOSE

This policy identifies three levels of training opportunities that will be available to the constables and deputy constables of Maricopa County in order to enhance their personal safety while serving the process of the Justice Courts.

## B. POLICY

1. Maricopa County will make available to the constables three levels of enhanced safety training. Level I Safety Training will be made available to all constables. Constables who successfully complete and maintain Level I and II Safety Training may carry certain defensive (non-lethal) weapons during the performance of their duties and in course and scope of service. Constables who successfully complete and maintain Level I and III Safety Training may carry a firearm during the performance of their duties and in course and scope of service.
2. Constables and deputy constables who are currently certified and in compliance with all AzPOST regulation for peace officer status are exempt from duplicating applicable requirements in this policy.
3. A constable who has completed Level III training and has obtained an Arizona Concealed Weapons Permit may carry a concealed weapon in the performance of duty. A concealed weapons permit issued pursuant to A.R.S. § 13-3112 is **not** specific authorization to enter county property with a concealed weapon or to carry a concealed weapon in the course and scope of service. (County Administrative Policy A2228).
4. A constable who carries a firearm in violation of this policy acts outside the course and scope of service; is subject to any criminal action as provided by law; is subject to disciplinary action; and may be subject to personal liability for any claim of damage resulting from the violation (see section (E)(6)).
5. Completion of Levels I and III training does not in itself qualify a constable as an AzPOST certified peace officer. This policy in no way amends the duties of constable; rather it provides enhanced, personal safety in the performance of their statutory duties.

## C. DEFINITIONS

**Firearm:** For the purpose of this policy firearm means any loaded or unloaded handgun, pistol or revolver that is designed to or that may readily be converted to expel a projectile by the action of an explosive. Firearm does not include a firearm in permanently inoperable condition.

**Course and scope of service:** A.R.S. § 22-131(A): "Constables shall attend the courts of justices of the peace within their precincts when required, and within their counties execute, serve and return all processes and notices directed or delivered to them by a justice of the peace of the county or by competent authority..."

**Carrying:** The term "carrying" includes possession or access to a firearm by the constable or deputy constable.

**Public establishment:** A.R.S. § 13-3102(K)(1): is "a structure, vehicle or craft that is owned, leased or operated by this state or a political subdivision of this state."

**AzPOST Certification:** A.R.S. § 41-1821 establishes the Arizona Peace Officers Standards and Training Board and sets forth the requirements of peace officer certification stated in A.R.S. § 41-1822(A)(3).

**Use of weapon:** Includes drawing, brandishing, un-holstering, displaying or discharging lethal or defensive non-lethal weapons for other than training, cleaning, maintenance or proper storage.

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## D. AUTHORITY

Arizona Attorney General Opinion I01-011 (R00-53): "A State agency may establish rules or policies prohibiting its employees from possessing a weapon while on duty, and such rules or policies could apply to an employee who has a concealed weapons permit."

A.R.S. § 41-1823(B): "...no person may exercise the authority or perform the duties of a peace officer unless he is certified by the board [AzPOST] pursuant to section 41-1822, subsection A, paragraph 3."

Maricopa County Administrative Policy A2228: Prohibition of Weapons: "Deadly weapons are prohibited on any county owned/leased property or at a county sponsored event."

Superior Court Administrative Order 96-047(D): "No persons will be permitted within any Superior Court Building with any type of weapon."

A.R.S. § 13-3108(C)(4): Maricopa County may regulate its independent contractors and employees by prohibiting weapons in the course and scope of their employment or contract.

A.R.S. § 13-3102(A)(10): The county, as the "operator of an establishment," is authorized to request removal of a weapon or surrender of the weapon for safekeeping.

## E. APPLICATION OF POLICY

### Constables Safety Training Program

#### Purpose:

This policy is intended for personal safety of constables in the performance of their duties by making available to them three levels of training. Level I Safety Training will be made available to all constables. Constables who successfully complete and maintain Level I and II training may carry certain defensive (non-lethal) weapons during the performance of their duties and in course and scope of service. Constables who successfully complete and maintain Level I and III Safety Training may carry a firearm during the performance of their duties and in course and scope of service.

#### 1. Minimum Qualifications

**Level I Safety Training:** There are no prerequisites and all constables will be encouraged to obtain this level of safety training.

**Level II Safety Training:** Constable must have successfully completed Level I training and shall have read the Code of Ethics (subsection c) and affirmed by signature the constable's understanding and agreement to abide by the Code prior to entering Level II training.

**Level III Safety Training:** Constable must have successfully completed Level I training before being considered for Level III training.

a) Prior to attending Level III training, candidates shall meet the following minimum requirements.

1. The constable shall have undergone a complete background investigation, which meets the standards of subsection b). The background investigation shall attest to the fact that the constable meets minimum standards, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the position of constables, and is of good moral character.
2. The constable shall not have been convicted of a felony or any offense that would be a felony if committed in Arizona.
3. The constable shall not have been convicted of any offense involving dishonesty, unlawful sexual conduct, physical violence or domestic violence.
4. The constable does not suffer from mental illness and has not been adjudicated mentally incompetent or committed to a mental institution.

5. The constable shall not have been denied a permit to carry a concealed weapon or had a permit revoked by the State of Arizona.
  6. The constable is not under court order (i.e., order of protection, harassment, etc.) or has active warrants or wants.
  7. The constable shall have undergone and passed an approved drug screening test.
  8. The constable shall have read the Code of Ethics (subsection c) and affirmed by signature his/her understanding and agreement to abide by the Code, if not completed under Level II training.
- b) Constables requesting to attend Level III training shall complete and submit to Maricopa County Sheriff's Office (MCSO) a background questionnaire to initiate a background investigation. The questionnaire shall address issues to aid in determining whether the constable is eligible for Level III training. MCSO shall determine, based on their organization's established standards, whether the constable: "Meets Standards" or "Does Not Meet Standards". All information in questionnaire will be retained by MCSO. The background questionnaire shall include the following:
1. Proof of United States citizenship. Copy of a birth certificate, United States passport or United States naturalization papers shall be acceptable proof.
  2. Proof of education. Copy of a diploma, certificate or transcript shall be acceptable proof.
  3. Record of any military discharge. A copy of the Military Service Record Form (DD 214) shall be acceptable proof.
  4. Department of Transportation driving record.
  5. Personal reference and previous employer inquiries.
  6. Law enforcement agency records. Law enforcement agency records in jurisdictions where the applicant has lived or worked in the past five years shall be checked and reviewed.
  7. Federal Bureau of Investigation and Department of Public Safety records. The applicant shall have undergone a fingerprint check with these departments.
  8. National and Arizona Criminal Information Center checks.
  9. Psychological fitness assessment conducted by a psychologist or psychiatrist designated by MCSO.
- c) Code of Ethics: The people of the State of Arizona and Maricopa County have conferred upon constables specific authority and responsibility within applicable statutes. Because of this trust and confidence, constables are expected to personally make the following commitment:
- "I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and applicable policies of Maricopa County, and be loyal to the State of Arizona, my office and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty."
  - "I will never take selfish advantage of my position and will not allow my personal feelings, animosities or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, without favor, malice or ill will, and without compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Maricopa County."

## 2. Training Requirements:

**Level I Safety Training.** All Constables will be encouraged to obtain Level I Safety Training.

1. Law & Legal	16	hours
2. Emergency First Care	8	hours
3. CPR	8	hours
4. Basic Traffic	8	hours
5. Defensive Tactics I & II	12	hours
6. <u>Defensive Driving I</u>	<u>4</u>	<u>hours</u>
<b>Level I Total</b>	<b>56</b>	<b>hours</b>

**Level II Safety Training (optional).** Constables may carry certain non-lethal defensive weapons (oleoresin capsicum spray (OC) or police batons) in the performance of their duty and in course and scope of service only after successfully completing Level I training and the following:

7. Chemical Agents	4	hours
8. <u>Baton Training</u>	16	hours
<b>Level II Total</b>	<b>20</b>	<b>hours</b>

**Level III Safety Training.** Constables may carry a firearm in the performance of their duties and in course and scope of service only after successfully completing Level I training and the following

9. Basic Firearms	60	hours
10. Weapons Retention	12	hours
11. <u>F.A.T.S.</u>	4	hours
<b>Level III Total</b>	<b>76</b>	<b>hours</b>

- a) All courses in Level I, II and III will be provided by the MCSO. Course and hour requirements may be amended by MCSO as necessary. Constables will be scheduled to attend classes based on space availability within the existing schedule established by MCSO for their own training needs. Cost not covered by MCSO will be for rounds of ammunition, OC spray and drug testing.
- b) Requirement waiver: Specific training requirements may be waived upon review and approval by MCSO:
  - An application is submitted to the MCSO on a form prescribed by MCSO. Written verification of previous experience and training must accompany the application.
  - The constable successfully completes a comprehensive examination measuring comprehension of the basic course. The examination shall be approved by MCSO and include a written test and practical demonstrations of proficiency in firearms, defensive driving, first aid, and defensive tactics.
- c) Continuing training required: All constables who have successfully completed Levels II or III shall be required to successfully complete eight hours of proficiency training that meets AzPOST requirements every three years beginning with the date they receive initial training. Constables who have completed Level I training will be encouraged to receive this refresher training. The curriculum in this proficiency training shall cover one or a combination of the following topic areas:
  - Defensive Tactics
  - Defensive Driving
  - Firearms Safety (not firearms re-certification)
  - Emergency First Care
  - CPR

*(Continued training can be applied toward constables statutory training requirements in A.R.S. 22-131(B))*
- d) Re-qualification requirements for Level II: A constable who has successfully completed Level II training and who carries a non-lethal defensive weapon in performance of duties and in course and scope of service shall successfully complete a refresher course every three years following the receipt of initial training.
- e) Re-qualification requirements for Level III: A constable with Level III training and who carries a firearm in performance of duties and in course and scope of service shall re-qualify each calendar year through MCSO beginning the year following the receipt of initial training.
- f) Documenting training: Constables who successfully complete any level of the Safety Training Program will receive a certificate of completion from the MCSO and are responsible for reporting all training per A.R.S 22-131(B): "Copies of certificates of completion of the constable training shall be forwarded to the Clerk of the Justice Court and the Clerk of the Board of Supervisors within thirty days after completion."
- g) Failure to complete or pass Constable Safety Training: Constables who fail to successfully complete or pass Level II training shall not carry certain non-lethal defensive weapons in the performance of duties and in course and scope of service. Constables who fail to successfully complete or pass Level III training shall not carry a firearm while in the performance of duties and in course and scope of service.

**3. Approved Lethal and Non-Lethal Defensive Weapons and associated hardware.**

- a) Constables who have successfully completed Level II or III training will comply with all applicable sections of MCSO Authorized Weapons Policy.
- b) Constables who have successfully completed Level II or III training will utilize only lethal and non-lethal defensive weapons that are approved in MCSO Authorized Weapons Policy. Constables

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will be responsible for keeping firearms maintained in a factory condition and subject to inspection by the MCSO. Purchase, maintenance and repair of a firearm will be the responsibility of the constable and will not be reimbursed by Maricopa County.

**4. Grounds for Denial, Revocation, Suspension and Cancellation**

- a) The following constitute grounds for denial, revocation, suspension or cancellation, as determined by MCSO, Maricopa County Board of Supervisors or County Administrative Officer.
  - 1) Willful falsification of information to obtain Level III training, or failure to meet minimum requirements prior to obtaining Level III training;
  - 2) MCSO background investigation of the constable determines “does not meet standards” prior to receipt of training;
  - 3) Failure to maintain Level III minimum qualifications after completion of training;
  - 4) A physical or mental disability which substantially impairs the constable’s ability to responsibly carry a firearm;
  - 5) A violation of a state law or applicable county policies related to constable duties and responsibilities;
  - 6) Addiction to or the unlawful use of narcotics or drugs;
  - 7) Unauthorized use of or being under the influence of spirituous liquor on duty, or excessive use of spirituous liquor which would tend to discredit the office of constable;
  - 8) The commission of a felony, or an offense which would be a felony if committed in this state;
  - 9) The commission of any offense involving dishonesty, unlawful sexual conduct, physical violence or domestic violence;
  - 10) Violation of A.R.S. § 13-3112, concealed weapons permit, or statutes governing firearms, lethal and non-lethal weapons;
  - 11) Malfeasance, misfeasance or nonfeasance in office;
  - 12) Any other conduct or pattern of conduct that would tend to disrupt, diminish or otherwise jeopardize public trust in the office of constable, to be determined by the Maricopa County Board of Supervisors;
  - 13) Discharge of a firearm by a constable in violation of any municipal, county or state law, regulation or policy;
  - 14) Drawing of a firearm or use of non-lethal defensive weapon in violation of any municipal, county or state law, regulation or policy;
  - 15) Failure to comply with Reporting Responsibilities in section 5;
  - 16) Failure to satisfy the requirements of Level III training will result in suspension. This suspension shall remain in effect until the requirements are met and permission shall be reinstated upon notice by MCSO of their satisfaction.
- b) Upon receipt of information that grounds exist for denial, cancellation, suspension, or revocation, MCSO, Maricopa County Board of Supervisors or the County Administrative Officer shall determine the action to be taken. These agencies may conduct additional inquiries or investigations in making this determination. The affected constable shall be notified of a decision. The notice shall be delivered by certified mail or personal delivery and specify the cause for the action. Within ten days of delivery, the constable named in the notice shall advise the notifying agency or their staff in writing of any additional information pertinent to the action.

**5. Reporting Responsibility**

Whether or not a constable is AzPOST certified as a peace officer, when involved in a situation where police action is necessary, they should contact the local police or sheriff’s dispatch. In the event that the constable is forced to take defensive action to protect their personal safety prior to response by local police or sheriff’s deputy, they are required to complete a written incident report.

- a) Level I: Any incident where constable felt their personal safety at risk. Incident report must be forwarded to Constables Administration within 48 hours. Incident reports will be maintained on file and used to document constable actions.
- b) Level II: Any incident involving the use of non-lethal defensive weapon (OC spray, police baton):
  - The constable must notify local law enforcement.
  - Incident report with any available supporting documents (police/medical treatment report) must be forwarded to Constable Administration within forty-eight hours. Copy of report will be forwarded to County Risk Management.

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- c) Level III: Any incident involving the use, or allegation of use, of a firearm.
  - Local law enforcement must be notified immediately by the constable.
  - Incident report with any supporting documents must be submitted to MCSO and Constables Administration within twenty-four hours. Copy of report will be forwarded to Risk Management.
  - MCSO will conduct independent investigation of any incident involving use, or allegation of use, of a firearm by a constable. The results of the investigation may be independent of any other law enforcement agency and can be used to determine whether the constable may continue to carry a firearm in the performance of duty and in course and scope of service.

**6. Violation of Policy**

Violation of this policy by any constable or deputy constable shall result in appropriate action including, but not limited to, the following potential consequences:

- a) Referred to law enforcement agency for weapons misconduct (A.R.S. § 13-3102(A)(10)), or violation of other law;
- b) Written report to the Constable Ethics Committee (A.R.S. § 22-136);
- c) Sanctions by the Board of Supervisors and/or County Administration;
- d) Written report to the Presiding Judge of the Superior Court in the county (A.R.S. § 22-131(A));
- e) Risk of personal liability for consequences resulting from use of a firearm contrary to Maricopa County policy.