

Use of Force Review Boards - Non-Patients

302.1 PURPOSE AND SCOPE

This policy establishes a process for the California Department of State Hospitals (DSH) to review the use of force by its Office of Protective Services (OPS) employees towards non-patients, which results in very serious injury or death to another.

For all use of force reviews involving patients, refer to the Use of Force - Patients Policy.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

302.2 POLICY

DSH will objectively evaluate the use of force by its OPS employees to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using DSH-approved equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Hospital Police Chief may exercise discretion and choose not to place an employee in an administrative assignment in any case.

302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by an OPS employee results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

The Hospital Police Chief may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Hospital Police Chief will convene the Use of Force Review Board as necessary. It will be the responsibility of the Hospital Police Chief of the involved employee to notify the Chief of Law Enforcement (CLE) of any incidents requiring board review. The involved employee's Hospital Police Chief will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

302.4.1 COMPOSITION OF THE BOARD

The CLE or designee should select at least three Use of Force Review Board members as appropriate. These board members may include , but are not limited to:

- Hospital Police Chief
- Division Commander/Lieutenant
- Hospital Administrator or designee
- A sworn peace officer from an outside law enforcement agency
- OPS instructor for the type of weapon, device or technique used The chairperson shall be appointed by the CLE or designee.

302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The CLE or designee will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee. (Gov. Code, § 3303.) Other members may provide questions to these members.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, DSH policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the DSH disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law

The board shall make one of the following recommended findings:

- (a) The employee's actions were within DSH policy and procedure.
- (b) The employee's actions were in violation of DSH policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the CLE or designee.

The CLE or designee shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The final findings by the CLE or designee will be forwarded to the involved employee's Hospital Police Chief for review and appropriate action. If the Hospital Police Chief concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the CLE.