

Use of Force Review Boards

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Elk Grove Police Department to review the use of force by its employees.

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

The Elk Grove Police Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

302.3 DEFINITION-USE OF FORCE

For the purposes of this policy, a use of force is defined as: an intentional act by an officer that causes injury to a subject or that goes beyond simple control holds or handcuffing.

302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member 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 Chief of Police may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Professional Standards Commander will convene the Use of Force Review Board as necessary.

302.4.1 COMPOSITION OF THE BOARD

The Professional Standards Commander shall chair the Use of Force Review Board and members should be from the following, as appropriate:

- Professional Standards Commander, chair
- Training Sergeant
- Use of Force expert
- Sworn Division Commander who is not in the same division as the involved employee.
- Department instructor for the type of weapon, device or technique used or has an expertise in the area of force application.

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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 Chief of Police 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 (Government 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, department 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 department's 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 department policy and procedure.
- (b) The employee's actions were in violation of department 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 recommendation to the employee's Division Commander through the Blue Team process. The Division Commander will forward their recommendation to the Chief of Police.

The Chief of Police 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. If the Chief of Police 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 Professional Standards Bureau.

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302.5 PROCEDURE

All incidents of use of force will be documented on an Incident Report.

- After the Field Sergeant becomes aware of a use of force, he/she shall notify the Watch Commander verbally or in writing.
- The Field Sergeant shall review the Incident Report.
- The Watch Commander shall review the incident and recommend if the use of force was "Within Policy" or "Not Within Policy".
- The Watch Commander shall submit an Administrative Routing Sheet with the Incident Report number to the Bureau of Professional Standards.
- The Use of Force Review Board shall review all submitted incidents and determine if the use of force was within policy and procedure.
- The Use of Force Review Board shall make the appropriate recommendations within the Blue Team reporting and route their findings to the Captain of the involved employee.
- The Captain will review the incident, findings and recommendations. Once reviewed, the Captain will make his/her recommendations and forward the Blue Team routing to the Chief of Police.
- The Chief of Police will make a final determination of "Within Policy" or "Not Within Policy". The Chief will return his/her findings to the Bureau of Professional Standards. If the final determination is "Not Within Policy", an administrative investigation will be initiated.
- Documentation of the final determination will be attached to the original Incident Report

302.5.1 DOCUMENTING POLICY, EQUIPMENT OR TRAINING ISSUES

At any time, a Watch Commander may submit a memorandum to the Use of Force Review Board identifying any use of force policy, procedure, training or equipment issues he or she feels should be addressed. The Use of Force Review Board Chairman may submit a like memo to the Chief. Any such memos shall have no reference to an individual case number, officer name or suspect's name.

302.5.2 INVESTIGATIVE PROCEDURES

Supervisors should follow these procedures when reviewing uses of force:

- Independently interview the subject(s) upon whom force was applied
 - If such a statement is taken after a Miranda waiver, attach the statement to the Incident Report.

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- If such a statement is taken outside Miranda, make a notation in the Incident Report that "an administrative interview was conducted". Attach the statement (document), recording or video as an item of evidence to the report.
- Ensure photographs are taken of any apparent injuries or any reported areas of injury
- Ensure any submitted reports are accurate and complete