

## 7-07/000.00 Use of Force Review Procedures

### Immediate Supervisor's Responsibility

#### Responding to Force Incidents

A sergeant shall respond without unnecessary delay to any incident involving reportable force and advise the watch commander or supervising lieutenant of any reportable force incident. Sergeants who planned, directed, or participated in the use of force should not investigate the incident.

With respect to any force incident, unless otherwise directed by the watch commander an uninvolved sergeant shall do the following:

- Ensure the inmate is taken for a documented medical assessment and/or treatment as soon as practical after the force incident. Inmates should only refuse medical treatment to a medical professional
- Locate and interview all potential witnesses, including Department personnel, medical/mental health staff, chaplains, and any other civilians who may have been present, and document their statements, including those who could have witnessed but claim not to have witnessed the incident
- Interview mental health staff who witnessed the force incident and/or attempted to resolve the incident without the use of force and what those attempts entailed. With the permission of mental health staff, the interview should be recorded on video or audiotape
- Inmates who witnessed the use of force shall be interviewed away from all other inmates and Department members involved in or witnessing the use of force
- Photograph and/or record the scene in conditions as near as possible to those at the time of the force incident, if appropriate
- Determine if the force incident was recorded and secure any such recordings of the incident
- Ensure that Department members who used force or witnessed force prepare required reports in a timely manner
- Review first reports and separate supplemental reports or memorandums to ensure that, consistent with this section, they describe in detail the force incident (including force used by another Department member), including the tactics leading up to the use of force, attempts to resolve the incident without force, the actions of the inmate necessitating the use of force, and the specific force used in response to the inmate's actions, as well as obvious or observable injuries to any party
- To the extent practical, Department personnel involved in the use of force, including Department members who witnessed the force incident, shall be separated from each other until their written first reports have been completed
- In cases where a recording has been secured, if the sergeant determines (after their initial review of the video and the incident reports) that there is evidence of apparent misconduct, or it appears that a Department member failed to make proper notifications of the incident, the sergeant should consult with the watch commander or supervising lieutenant before proceeding further (refer to Watch Commander/Supervising Lieutenant's Responsibilities subsection)

- After first reports and separate supplemental reports have been reviewed by the sergeant, and where there is no such evidence of apparent misconduct or a failure to properly notify, afford Department members an opportunity to review the recording of the force incident to facilitate recollection of additional details (refer to Manual of Policy and Procedures (MPP) section, 3-10/115.00 "Video Review and Admonishment")
- Complete a "Supervisor's Report, Use of Force" (SH-R-438-S) documenting each member who used force, or witnessed force
- Interview the attending physician or other qualified medical personnel, when the inmate is taken to a medical facility for examination, as to the extent and nature of the inmate's injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported
- If the inmate is admitted to a medical facility or requires further medical treatment, it is the supervisor's responsibility to follow up with medical staff to ascertain if the injury was more serious than initially believed and make any necessary notifications in a timely manner
- Photograph and video record the members' injuries, swelling, or redness sustained during the use of force or document the absence of injuries

In incidents involving the Total Appendage Restraint Procedure (TARP), the sergeant shall document the following information in the "Incident Details" section of the SH-R-438S, if possible:

- How long the inmate was restrained with the TARP
- The emergency medical services agency that responded to the scene of the TARPing
- How the inmate was transported and in what body position(s) they were placed during the transport
- The length of time of the transport phase
- The observations of the inmate's psychological/physical condition while TARPed and during the transport phase
- Any alleged recent drug usage by the inmate or indications by them that they suffer from cardiac or respiratory diseases (e.g., asthma, bronchitis, emphysema, etc.)

For additional information, refer to Manual of Policy and Procedures (MPP) section 3-01/110.22, "Total Appendage Restraint Procedure."

If the force incident is a category 3 force incident that results in a response from the Internal Affairs Bureau (IAB) Force/Shooting Response Team, the sergeant's or immediate supervisor's function shall be limited to:

- Notifying the watch commander or supervising lieutenant of the force incident
- Identifying witnesses
- Ensuring that the members who used force or witnessed force do not communicate with each other until they have prepared their report or have been interviewed by investigators
- Preserving the scene and evidence as appropriate.

Unless otherwise specifically directed by the watch commander/supervising lieutenant, members (including

supervisors) who directed force shall complete a written first report of the force incident prior to the member going off duty, unless exigent circumstances exist. If exigent circumstances exist, reasons for the delay shall be documented.

### **Force Packages**

Sergeants reviewing reports or memos regarding force incidents shall ensure that all pertinent information is contained in them. Particular attention should be given to the tactics leading up to the use of force, attempts to resolve the situation without force, the description of the use of force, observable or otherwise obvious injuries, and the inmate's actions that led to the use of force. The sergeant shall ensure that copies of such reports or memos are forwarded to the concerned watch commander/supervising lieutenant for inclusion in the force package.

### **Watch Commander/Supervising Lieutenant's Responsibilities**

#### **Interviewing Inmates**

The watch commander/supervising lieutenant shall, with extreme priority, personally examine any inmate upon whom force has been used and, except in category 3 force incidents, interview the inmate regarding the incident.

Personnel involved in a use of force, including participants, witnesses, and supervisors directing force, shall not be present when the interview is requested or conducted without approval from the on duty watch commander. If exigent circumstances require their presence, detailed justification shall be made in all supervisors' subsequent reports.

When interviewing inmates regarding use of force incidents, the watch commander/supervising lieutenant shall ask the inmate if they have any injuries, the nature of the injuries, and if they were medically treated. These questions must be asked whether or not the inmate has any apparent injuries (refer to MPP section 3-10/105.00 "Medical Treatment and Transporting Suspects"). If the inmate is taken to a medical facility for examination or treatment, the watch commander/supervising lieutenant shall ensure that a supervisor interviews the examining physician or qualified medical personnel as to the extent of the injuries, or lack thereof, and whether the injuries are consistent with the force reported.

The watch commander/supervising lieutenant shall ensure that the interview of the inmate is recorded on video and, if appropriate, photographs are also taken, paying particular attention to any known or alleged areas of injury (obtain inmate consent for photographing injuries hidden by clothing). Where practical, the inmate should not be interviewed during actual medical treatment. Prior to beginning the interview, the time, date and location of the interview shall be clearly stated, along with the names, ranks, and employee numbers of all persons present.

When an inmate must be transported to Los Angeles County + University of Southern California (LAC + USC) Medical Center or an alternate hospital for treatment, the watch commander or supervising lieutenant shall arrange to interview the inmate at the hospital.

### **Completion of Investigations**

After interviewing an inmate in incidents involving directed or planned force, the watch commander/supervising lieutenant shall determine who should complete the initial investigation. Sergeants who planned, directed, or participated in the use of force shall not complete the investigation of the incident. If a non-involved sergeant is not available, the initial investigation should be completed by the watch commander/supervising lieutenant. The supervisor who directed the force shall prepare a supplemental report, or memo, detailing their actions for inclusion with the force package.

Except in the case of an IAB Force/Shooting Response Team rollout, in situations involving very large numbers of potential witnesses, the watch commander or supervising lieutenant shall determine the appropriate scope of the witness canvass that would be necessary to sufficiently document the force incident.

In cases where a supervisor has reviewed video of an incident and determined that there is evidence of apparent misconduct, or it appears that a Department member failed to make proper notifications of the incident, the watch commander/supervising lieutenant shall determine the nature and seriousness of the matter. The watch commander/supervising lieutenant shall then contact the unit commander, who shall decide if an administrative or criminal investigation is warranted, including the necessity for an immediate response by IAB or ICIB. If an administrative or criminal investigation is initiated, then the force investigation will be conducted as part of that investigation. If it is determined that an administrative or criminal investigation is not warranted, then the force investigation shall be completed by the watch commander/supervising lieutenant. If an involved employee is not allowed to view video of an incident due to possible misconduct, the watch commander/supervising lieutenant shall notify the member he or she may be subject to an investigation.

### **Force Packages**

The watch commander/supervising lieutenant shall prepare and submit a force package to the unit commander for all reviews of force not conducted by an IAB Force/Shooting Response Team as soon as possible, but no later than 21 days after the incident, unless otherwise directed. In reviewing Department members' force reports, the watch commander/supervising lieutenant shall determine whether the reports reflect individual perceptions and recollections and do not contain language or verbiage that would suggest inappropriate collaboration. The watch commander/supervising lieutenant is responsible for detailing the results of his or her review and recommendation as to whether further action or investigation is warranted in the appropriate section of the SH-R-438S.

The force package shall include the following items:

- "Supervisor's Report, Use of Force" (SH-R-438S)
- Copy of SH-R-49 and related supplemental reports and/or memos
- Copy of in-service rosters for the concerned shift(s)
- Documentation showing suitable treatment from qualified medical personnel was sought and/or received
- Photographs and/or video recordings of inmate's injuries or areas of alleged injury (copies of booking photographs may also provide excellent documentation)
- Copies of any recorded interviews conducted by supervisors during the investigation
- Any related material which is deemed significant or serves to further document the incident, such as

dispatch or complaint telephone tapes, other photos, etc.

- The video and related material shall be placed in a 6" x 9" manila envelope. A "Use of Force Package - Attachments" label shall be affixed on the top, front of the envelope. The label itemizes related material and identifying data from the Use of Force Package
- All videos and related material contained in the envelope shall be labeled with the Use of Force Package URN

## **Requesting an IAB Force/Shooting Response Team**

The watch commander/supervising lieutenant is responsible for making an immediate verbal notification to the on call IAB lieutenant in any of the following situations:

- Hospitalizations due to injuries caused by any Department member
- Skeletal fractures caused by any Department member
- All large party situations where category 2 or 3 Force is used
- Injury or complaint of injury to a person's head, or neck area, resulting in medical evaluation and/or treatment, following contact with any Department member. (This does not apply to contamination due to the use of Departmentally approved chemical agents)
- All head strikes with impact weapons
- Kick(s) to an individual's head with a shod foot
- Knee strike(s) to an individual's head
- Any situation wherein a Department member pushes, shoves, takes down, or otherwise causes a person to hit their head against a hard object (e.g., bench, concrete floor, wall, door jamb, jail bars, etc.)
- Any death following a contact with any Department member
- All inmate deaths
- Any of the above uses of force witnessed by a Department member applied by personnel from another law enforcement agency involved in an operation with Department personnel

The IAB lieutenant shall determine whether the response of an IAB Force/Shooting Response Team is appropriate. If a response team is to be sent, the IAB lieutenant shall direct the watch commander/supervising lieutenant as to whether to conduct an inmate interview.

In any situation in which an IAB Force/Shooting Response Team responds to conduct a force review, the watch commander/supervising lieutenant shall cooperate with and assist team personnel in conducting the review. Neither the watch commander/supervising lieutenant nor the sergeant shall conduct an inmate interview unless directed to do so by the IAB lieutenant. A unit-level force package shall not be submitted on any force incident which is documented by IAB Force/Shooting Response Team personnel who have responded to the scene.

The watch commander/supervising lieutenant shall make an immediate verbal notification to the unit commander of any incident requiring an IAB Force/Shooting Response Team response. (Refer to MPP

section 3-10/130.00\_“Activation of an IAB Force/Shooting Response Teams.”) The watch commander shall respond to the location when an employee discharges a firearm, whether intentional or unintentional.

## **Unit Commander’s Responsibilities**

The involved employee’s unit commander shall verbally notify the Department duty commander or involved employee’s Division commander who shall then respond to the location (if within Los Angeles County) when the employee, on or off duty, intentionally discharges a firearm at a person, whether or not anyone is hit, as well as to any type of shooting by the employee which results in a person being hit. Exceptions must be approved by the involved employee’s division chief or division director.

The unit commander shall ensure that preliminary data is entered into the Preliminary Data Entry (PDE) system within the first 24 hours of the force incident, or as soon as possible thereafter.

## **Force Packages**

The unit commander shall promptly evaluate all force packages and the watch commander/supervising lieutenant’s findings concerning the use of force. The unit commander shall determine if further action or investigation is necessary.

In determining if further action or investigation is necessary, the unit commander shall consider:

- The tactics leading up to the use of force
- Whether the reports and witness statements are complete and consistent
- Whether the reports reflect individual perceptions and recollections and do not contain language or verbiage that would suggest inappropriate collaboration
- If there are unexplained injuries to the inmate against whom force was used or injuries to the head, eyes, throat, spine or groin areas
- If the inmate was in restraints when force was applied
- If the objective evidence corroborates any allegations of unreasonable force by the inmate
- Whether only authorized tactics, equipment and devices were used in accordance with Department policies and procedures.

There shall be a presumption that further investigation is necessary if an inmate sustains unexplained injuries or there is evidence that head strikes were used by Department members (whether by fists, knees, feet, or weapons) against a handcuffed inmate.

If further investigation is warranted, the unit commander may either initiate an administrative investigation or request an investigation by the ICIB, or both. The unit commander shall ensure that the member(s) who used force are notified as soon as possible in any case requiring further investigation.

Unit commanders shall hold supervisors accountable for the quality and timeliness of their investigations.

The unit commander shall ensure that unit-level force packages are completed, reviewed/approved, and

processed in a timely manner. The unit commander shall ensure that unit personnel utilize a tracking system in order to track force packages.

The unit commander shall ensure that completed/approved force packages are either submitted to the Discovery Unit, or forwarded to division, as required below. Force packages not submitted to the Discovery Unit within 60 days will be considered overdue.

Involved employees are entitled to a copy of the completed SH-R-438S. The unit commander shall ensure that the involved employee(s) receive a copy, if so requested.

## **Use of Force Analysis**

It is imperative that leaders of the Los Angeles County Sheriff's Department be personally informed about issues involving the use of force.

Whenever a Department supervisor or manager prepares or receives an analysis, the concerned unit commander shall ensure that a copy of any analysis on systemic issues regarding use of force investigations or use of force trends in the unit commander's facility is delivered to the Office of the Sheriff and the Office of the Assistant Sheriffs.

To honor the Department's commitment to transparency, the concerned unit commander shall also ensure that a copy of the analysis also is delivered to the Office of the Inspector General (OIG), and the Law Enforcement Division chief in the Office of the Los Angeles County Counsel.

## **Commander's Responsibilities**

The facility's commander shall review all use of force incidents. The commander shall note their concurrence with the unit-level force review on the documents. In the event that the commander does not concur, they may specify to the unit commander the additional steps necessary to satisfactorily complete the package and, when warranted, request an administrative and/or criminal investigation. If the commander concurs but would like an additional review, they may request to have it scheduled by the Custody Force Review Committee (CFRC) if it has not already been scheduled, refer to CDM section, 7-07/020.00 Custody Force Review Committee.

Evaluations of force incidents should be reviewed as follows:

- All Category 1 Force cases and Category 2 cases that do not meet the criteria for a roll-out by the CFRT should be reviewed by a least one commander in Custody Services Division
- All allegations of force should be reviewed by at least two commanders in Custody Services Division

All Category 3 Force cases should be reviewed by the Executive Force Review Committee.

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