

Use of Force Review Boards

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Modoc County Sheriff's Office 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 Modoc County Sheriff's Office 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 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department 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 Sheriff 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 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 euthanizing gravely injured animals, training or recreational use.

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

The Under-sheriff will convene the Use of Force Review Board as necessary. It will be the responsibility of the Under-sheriff or supervisor of the involved employee to notify the Sheriff of any incidents requiring board review. The Under-sheriff or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and reviewed by the board.

302.4.1 COMPOSITION OF THE BOARD

The Under-sheriff should select four Use of Force Review Board members from the following, as appropriate

- Representatives of each department (Patrol, Dispatch, Corrections) of the department
- Commanding officer in the involved member's chain of command
- A peer deputy

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The senior ranking command representative who is not in the same department as the involved employee will serve as chairperson, or otherwise directed by the Under-sheriff.

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 Sheriff 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 deputy 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 deputy at the time shall neither justify nor call into question a deputy'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 written recommendation to the Sheriff.

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The Sheriff 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 Sheriff's final findings will be forwarded to the Under-sheriff for review and appropriate action. If the Sheriff 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 Sheriff.