

<b>SPECIAL REVIEW BOARD (DEADLY FORCE INCIDENTS)</b>	Document Number	GO 304
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1. PURPOSE

The purpose of this General Order is to establish a process to reasonably and objectively review the use of deadly force by sworn members of this department.

2. PERSONS AFFECTED

All sworn personnel.

3. POLICY

The Hawai'i Police Department is tasked with the important responsibility of objectively evaluating the use of deadly force. It is the policy of this department to convene a Special Review Board (SRB) for Deadly Force Incidents. The SRB will convene when the use of force deemed to be deadly force by a sworn member is used.

The Police Chief may at his/her discretion convene the SRB for Deadly Force Incidents to review other use of force incidents.

4. DEFINITIONS

4.1 Negligent Discharge – A negligent discharge occurs when the officer did not intentionally discharge a firearm, but the actions of the officer are such that negligence in the handling, storing, cleaning or operation of the firearm created the deadly force incident.

4.2 Intentional Discharge – An intentional discharge occurs when the officer's actions are a deliberate or intentional response to an incident. The officer engages or uses their firearm, or any instrument, that could create deadly force.

4.3 Person – The term person as used in this policy includes the individual that is carrying, using, operating or in possession of the firearm or instrument that created the deadly force incident.

4.4 Accidental Discharge - Accidental discharge denotes that the discharge of a firearm was not preventable. In cases where a firearm is discharged by a law enforcement officer who is trained in the operation, handling, cleaning,

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deployment and discharge of a firearm, it is either negligence or intentional acts that caused the deadly force incident.

- Exception: For the term accidental discharge to be considered by the Special Review Board, there must be clear and convincing evidence of a mechanical malfunction supported by documentation by a licensed or certified gunsmith or armorer, that the officer would not have been conceivably aware existed, or could not have clearly prevented by any means while operating, handling, cleaning, deployment and discharge of the firearm.

4.5 Findings – The Special Review Board shall determine findings in their review of deadly force incidents. The findings should be supported by clear and convincing evidence that would prove a person of reasonable caution that the incident was within department policy and procedure or not within policy and procedure.

- In rare situations where the Special Review Board is not conclusive in their review of the incident, they can call for a deposition of an expert in order to reach a clear and convincing decision in the incident or they can appeal to have the Office of Professional Standards conduct further inquiry for additional details that would assist in a better understanding of the incident.

## 5. COMPOSITION OF THE BOARD

The Special Review Board for Deadly Force Incidents shall be comprised of the Deputy Police Chief and two Assistant Police Chiefs. The Assistant Chief that oversees the area where the incident took place or has the involved employee under their area of command will not serve on the SRB.

In the absence of the Deputy Police Chief or an Assistant Police Chief, the Police Chief may appoint a Police Major. The appointed Police Major shall be from the uninvolved area of the incident.

The Deputy Police Chief will serve as chairman. In the absence of the Deputy Police Chief, the senior Assistant Police Chief will serve as chairman.

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The Deputy Police Chief at the direction of the Police Chief will convene the board as necessary. It will be the responsibility of the Captain in the Office of Professional Standards to notify the Police Chief of any incident requiring board review.

The Office of Professional Standards will ensure that all relevant reports, documents, and materials are available for consideration and review by the board.

Involved officers are not required to appear before the SRB or provide any statements to the SRB regarding the incident.

#### RESPONSIBILITIES OF THE BOARD

The Special Review Board for Deadly Force Incidents is empowered to conduct a review of the circumstances of a deadly force incident.

The board does not have the authority to recommend discipline. The board shall conduct a review and make a finding. The finding will be limited to one of the following:

1. The sworn member's action was within department policy and procedures.
2. The sworn member's action was not within department policy and procedures.

A finding is based on the consensus of the board. After the board has concluded, the board chairman will submit a written report of the finding to the Police Chief. A recommended report format is attached to this General Order.

After review by the Police Chief the report will be routed in one of two methods, as follows:

- a. A violation of department policy or procedure will result in the entire incident being routed to the Office of Professional Standards for administrative investigation.
- b. No violation of policy or procedure will result in the entire report being routed to the Office of Professional Standards for retention.

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At the conclusion of the review process, a copy of all relevant reports and information will be filed with the Office of Professional Standards.

The Special Review Board for Deadly Force Incidents shall also make any recommended procedural changes, training needs and recommendations as appropriate.

Any training recommendations made by the SRB shall be reviewed by the Police Chief.

Training recommendations shall be forwarded to the Administrative Captain for review and specific training developed to assist in preventing similar incidents.