



**Division of State Patrol
Policy and Procedure**

Number
11-12

Subject ADMINISTRATIVE BOARD OF REVIEW	
Author/Originator Office of the Superintendent	Approved by <i>Stephen Fitzgerald</i> Superintendent
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I. POLICY

It is the policy of the Division of State Patrol (DSP) to convene an Administrative Board of Review under special circumstances. The purpose and intent of the Board is to preserve the integrity of the Division and its employees, and to maintain public confidence.

II. GENERAL PROVISIONS

A. A Board of Review (BOR) is primarily fact-finding in nature and may be requested by any member of the Division and may be activated to review any event that exposes the Division or its employee(s) to a high degree of liability, including on-duty deaths or critical injuries regardless of their nature. All requests shall be written and include the reasons for the request and forwarded to the employee’s respective Region Commander, Wisconsin State Patrol Academy (WSPA) Commander, Section Chief or Bureau Director as applicable. Notwithstanding this section, a BOR will be convened for the following reasons:

1. An employee discharges an authorized firearm whether or not the employee was on duty, unless exempted under official policy. If the unintentional discharge of an authorized weapon occurs while an employee is off-duty and the discharge does not result in the injury or death of any person, an abbreviated review may be conducted at the discretion of the Board. Any intentional or unwanted discharge resulting in personal injury or death will require notification of the Division’s Technical Reconstruction Unit (TRU) for scene mapping.
2. An employee is involved in a motor vehicle crash while operating a state-owned vehicle or while operating a personally-owned vehicle on work-time that results in serious injury or death. Upon notification of the region/post, the Division’s TRU shall be contacted to investigate and reconstruct such crash.

- B. The applicable Region Commander, WSPA Commander, Section Chief, Bureau Director or designee shall within 24 hours of the event or incident, brief the Superintendent or his/her designee. If it is determined that a BOR will be activated, the selected members shall be notified of their assignment within 48 hours of the event that is under review. The Superintendent may activate a BOR verbally and follow with written confirmation.
- C. When requested to convene, the Board shall:
1. Be available for initial administrative guidance to the involved region(s).
 2. Liaison with investigators, reviewing prosecutors and other officials as necessary to provide information that will assist in their determination of the legality of the employee's actions.
 3. Make a determination of the findings of fact and compliance with DSP Policy and Procedure.
 4. Make a determination of any training issues that may be related to the incident.
 5. Provide a summation and formal follow-up of lessons and Board recommendations.

III. REGION ACTIONS/INVESTIGATIONS

Region response to an officer-involved shooting or significant incident involving DSP personnel is to provide timely and effective on-scene supervisory guidance and decisions supporting employee welfare.

- A. *Investigation.* Generally, incidents that could result in a BOR should be thoroughly investigated by a member or members of a specialized and trained DSP unit, by a separate law enforcement agency that has the required expertise, or by a specialized and trained DSP unit in conjunction with a separate law enforcement agency that has the required expertise.
- B. *Evidence.* For purposes of investigation and evidence preservation, incident locales will be treated as crime scenes. Physical evidence, including vehicles, weapons, radio recordings, pictures, video recordings, etc., are to be preserved in an "as is" condition until they are authorized to be released by the Superintendent, investigative agency and the local prosecutor's office.
- C. *Region Liaison.* To ensure that a thorough and timely investigation is conducted, bureau directors and region commanders shall appoint a supervisor who will serve as a liaison between the investigating agency or agencies and the BOR. The liaison shall obtain, collect and organize written reports and other investigative materials to

facilitate a thorough BOR examination as soon after the event or incident as practicable.

- D. *Administrative Duty.* Any officer directly involved in a deadly force incident that results in injury or death to any person shall be placed on administrative alternate duty by the Region Commander, WSPA Commander, Section Chief or Bureau Director as applicable. This does not preclude the DSP from placing an employee on administrative suspension should the situation merit. Administrative leave shall be with pay, is not considered discipline and does not imply wrongdoing by the employee(s).
1. No provision in this policy will prohibit the ability of the Division to require an employee to attend a critical incident debriefing or evaluation with a qualified mental health care professional, prior to the employee being considered suitable for their return to duty.
 2. In the event of an off-duty unintentional discharge of an authorized firearm, where no injury or death to a person has occurred, an employee's placement on administrative alternate duty is optional. In this case, determination for alternate duty is optional. Determination for alternate duty will rest with the region commander based on the totality of the circumstances.
- E. *Duty Weapons.* If an employee's duty weapon has been seized as evidence and replaced with a substitute weapon, the employee shall participate in a familiarization shoot with that weapon as soon as practical.

IV. MEMBERSHIP

The Superintendent shall appoint a standing cadre of core Board members comprised of DSP employees and will normally serve a term of two years. When a Board of Review is convened, no member shall be an employee of the Region in which the event or incident under review occurred. A BOR will normally consist of three members (but vary in size dependent on complexity and need of expertise for a particular event or incident) and at a minimum shall include:

- A. At least one member from the same civil service classification as the employee(s) for whom the BOR is convened.
- B. A sworn member from the Wisconsin State Patrol Academy (unless the event involves an Academy staff member).
- C. If the incident occurs within a core member's region, the chairperson will assign alternate members and/or co-chair not from that region to conduct the review.
- D. Core BOR members are also members of the BOR Planning Team and are responsible, by assignment of the chairperson for:

1. Tracking and insertion of BOR events or incidents in a 10-year local area network (LAN) database.
2. Periodic review of the BOR policy for enhancements and modifications.
3. Monitoring of completed reviews and recommendations for action and implementation.
4. Present generic summary reviews during annual in-service training.

V. INITIAL PROCEDURES

- A. Generally, within 48 hours of the chairperson being notified of an event, he/she or their designee will attempt to contact the involved employee(s) to review this policy and provide an explanation of the process.
- B. Depending upon the circumstances, the BOR will make attempts to personally meet with the region liaison and involved employee(s) within 5 days of the event or incident.
- C. Notification shall be made to the Wisconsin Department of Transportation (WisDOT) Office of General Council and Risk Management as soon as practical after the event or incident by the BOR chairperson.

VI. REVIEW PROCESS

- A. Duties of Board Members
 1. Chairperson (See Section V.)
 - a. Collect and distribute all available investigative material to Board members.
 - b. Establish and notify other Board members, involved employee(s), witnesses, region command staff and union representatives of the date, time and place where the Board shall convene.
 - c. Direct any DSP employee who has vital information concerning the event or incident, for which the Board is convened, to appear before the proceedings of the Board. An employee receiving such a request from the chairperson shall consider the request an official order. Nothing precludes inviting a non-employee who has information regarding the event or incident in question to appear before the Board.
 - d. Notify employee(s) – in addition to sub B – with information as to what issue(s) the Board will be reviewing as well as whom an employee may bring to the review proceedings.

- e. Advise DSP Executive Command Team (management at the bureau director level and higher) and the affected employee of the prosecutor's conclusions or findings as soon as practicable.
- f. Identifying training, equipment and/or policy deficiencies that may have contributed to the incident or event. With approval of the Bureau of Field Operations Director, ensure that any remedies are immediately acted upon and directed to the appropriate program/policy coordinator.

2. Other Members

Members of the standing BOR team shall carry out the duties, responsibilities and tasks assigned to them by the chairperson and will assist him/her with interviewing employees and witnesses, gathering evidence and other materials, developing reports and other tasks as assigned.

B. Notice

1. A minimum of 5 days prior to the interview, the chairperson will provide written notice to the employee(s) indicating:
 - a. A statement that a BOR is being convened for administrative purposes.
 - b. The general areas the Board will be reviewing.
 - c. The date, time and place where the Board will interview the employee.
 - d. The employee is entitled to request the Board to call witnesses by submitting a request to the chairperson.
 - e. Represented employees are entitled to have a union steward present during the proceedings of the Board. Non-represented employees shall be informed that they have a representative of choice present during the proceedings.
 - f. The employee is not entitled to have an attorney present during the proceedings of the Board.
 - g. If an employee believes a Board member is unable to review the event or incident in question objectively, he/she shall immediately request the appointment of an alternate. Such request shall be made to the Board chairperson in writing and shall explain fully why the employee believes the appointed board member cannot be objective. The Superintendent will make the determination as to whether or not the request for an alternate member will be honored.

C. Interview Procedure

1. The chairperson shall arrange to record all interviews conducted by the Board. When all matters involving the BOR are completed, these recordings shall be turned over to the Superintendent. Those appearing before the Board may request copies of the recordings. Those appearing before the Board are entitled to be furnished (upon request) transcripts of the proceedings if transcripts are made.
2. Once the BOR proceedings commence, the chairperson shall advise the employee of the following:
 - a. The purpose of the BOR is to solicit responses that will assist in determining the facts related to the event under review.
 - b. All questions relating to the performance of official duties must be answered. Disciplinary action up to and including discharge may be taken if the employee refuses to answer.
 - c. No answers or any information gained by reason of such statements may, as a matter of constitutional law, be admissible against the employee in any criminal proceedings.
 - d. The Board is convened for administrative purposes only; therefore, an attorney will not be allowed to be present during the proceedings. Represented employees are entitled to have a union steward present with them during the proceedings.
3. Miranda warnings or any warnings of Fifth Amendment Rights shall not be given because Miranda warnings are inconsistent with Garrity warnings. Garrity warnings, if given, assure the employee that statements cannot be used against him/her in a criminal proceeding.

D. Finalized Reporting Requirements

1. Division employees involved in the investigation and proceedings of the matter under review shall maintain confidentiality. Only information contained in the final report(s) accepted and released by the Superintendent will no longer be considered confidential.
2. The chairperson shall report on the findings of fact to the Superintendent within 30 days of the incident under review. Within 90 days of the incident, the Board shall complete and present a review document consisting of a **summary, lessons learned, and recommendations** to the Division Executive Command Team to include the bureau directors, colonel and superintendent, and the commander of the affected region. If the Board's review determines improper action(s) on the part of the employee(s), the Superintendent may refer the matter to the appropriate management/supervisory personnel for corrective action.

3. Upon approval by the Superintendent, the BOR shall separately present and distribute its finding to the following: involved employee(s) and their representative, affected region supervisory staff and the Division Executive Command Team.
4. By April 1 of each year, the Board chairperson shall complete and forward a written summary of the previous year's events and/or incidents, findings, lessons learned recommendation and conclusion to the Division Executive Command Team.

VII. SUPERINTENDENT

The Superintendent or designee shall, within 60 days of formally accepting the identified BOR recommendations, assign them to appropriate coordinators or committees, including the Wisconsin State Patrol Academy Commander, for action related to possible changes in policy, equipment and training.

VIII. REFERENCES

DSP Policy and Procedures 2-2, 2-3, and 2-4



BOARD OF REVIEW LIAISON RESPONSIBILITY OUTLINE

REV, 03/03/10

The items noted on this document are not all inclusive. Through advances in technology and individual thought process, items may be added to assist in the incident review.

GENERAL ON- SCENE

- Arrive on scene to coordinate DSP review activities.
- Ensure the scene is controlled (including access to).
- Arrange to have DSP or an outside agency that has the required expertise conduct a thorough investigation, if not already in progress.
- If possible and practical, have employee talk and walk you through the event.
- If possible review the employee's personal cell phone and note the time of the last incoming or outgoing call
- Control In-car video.
- Arrange for a TRU member to conduct a reconstruction of the scene.
- Notify the DA of the event. If serious, encourage meeting with you at scene.
- Meet with employee(s) and determine action to address physical and mental health needs.
- If employee is injured, arrange for supervisor(s) to be at hospital.

- Arrange for notification of employee's family through employee, or Post representative, if necessary.
- Advise employee(s) of EAP opportunity.
- Arrange for a mandatory incident debrief.
- Request and coordinate a blood draw (Sent to Madison Crime Lab).
- Have employee start DRAFT report using main headings. Employee may need time after the incident to complete a final report.
- A Division supervisor should review and discuss the employee's DRAFT report with the employee and make appropriate changes before allowing the DRAFT report to become final.
- Identify media coordination- The BOR liaison will not fill the role of the media liaison.
- Have DSP Radio complete and send a preliminary report via TTY to State HQ.
- Discuss with command staff to determine employee's work status (off due to injury, administrative alternate duty, etc.).
- All on-scene DSP personnel will document all of their activities and direction given while on-scene.

SHOOTING

- Employees involved in a shooting should be evaluated by medical personnel to determine if any injuries were sustained.
- Have DSP fire weapons and duty rounds collected by investigating agency.
- Complete Weapon Discharge Check list (reverse side).
- Physically and visually check all Division Employee weapons and magazines utilized during the incident whether they were fired or not.
- Provide employee with replacement weapon as soon as practical.
- Arrange for the taking of digital photos.
- Depending on the complexity of the incident – video record the scene, officer position, perception and actions.

FLEET

- Review and follow the above noted responsibilities as applicable to the incident (crash).
- Complete the fleet crash checklist to ensure all reports are completed (Attachment 1, P&P 6-3).
- Determine if a mechanical overview of state-owned fleet vehicle to determine if any mechanical failure occurred that may have contributed to the crash.

Post Event

- Follow up on employee(s) condition.
- Arrange for assistance to the employee as needed/requested.
- Complete the necessary Occupational Injury Reports, if employee suffers and injury.
- **In addition to the above items, collect the following items for inclusion in the BOR briefing package:**
 - ‡ Statements, reports and documents of all agencies involved.
 - ‡ Statements of all witnesses and drivers.
 - ‡ Listing of evidence collected, by whom and where it is stored.
 - ‡ TRU report, drawings, re-enactment.
 - ‡ Photos and video of the scene.
 - ‡ Investigating agency final report.
 - ‡ D.A. findings and actions, if known.
 - ‡ Radio, CAD report, logs, LED statements and audio recordings of radio and phone conversations.
 - ‡ Radio logs of other agencies involved.
 - ‡ MDCN records.
 - ‡ Supplemental weapons carried/ used.

- : Body armor information (worn vs. not worn, type.).
- : List of weapons drawn/ fired by all involved.
- : Medical reports- if released.
- : Autopsy report.
- : Blood draw results- if completed.
- : Weather conditions at the time of the event, temperature, wind direction and speed, precipitation, snow depth, etc.
- : Lighting conditions.
- : Employee profile, to include: relevant pre-DSP training and experience, DSP graduation date, assignments, specialized training, current assignment and shift.
- : Relevant training records.

WEAPON DISCHARGE CHECK LIST (Incidents other than training and animal euthanasia)

Date of Incident (mm/dd/yy)	Time of Notification: <input type="checkbox"/> AM <input type="checkbox"/> PM	Approx. Time of Discharge: <input type="checkbox"/> AM <input type="checkbox"/> PM	Method of Notification: <input type="checkbox"/> Radio <input type="checkbox"/> In Person <input type="checkbox"/> Phone <input type="checkbox"/> Other:
Reason for Discharge (As provided by Officer): <input type="checkbox"/> Intentional Act <input type="checkbox"/> Unintentional Act <input type="checkbox"/> Malfunction <input type="checkbox"/> Other: <small>(Explain Other)</small>			
Number of DSP Personnel Involved: → <small>Ensure a draft report is completed for all Division Personnel involved.</small>		Physical Explanation and Walk Through: <input type="checkbox"/> Yes <input type="checkbox"/> No (if no) → Reason:	Digital Photos Taken By:
Non-DSP Witnesses and Written Statements Collected: <input type="checkbox"/> Yes <input type="checkbox"/> No		Video Taken: <input type="checkbox"/> Yes By: <input type="checkbox"/> No	
Employee Assistance Information <input type="checkbox"/> Employee Assistance Offered:		Date: Time:	Investigating Agency:

Weapon Type Information				
<input type="checkbox"/> Duty Handgun <input type="checkbox"/> Supplemental <input type="checkbox"/> Rifle <input type="checkbox"/> Shotgun <input type="checkbox"/> Other:				
Weapon Make:	Weapon Model:	Weapon Serial Number:	Weapon Caliber/ Gauge	Ammunition:
Number or Rounds Fired:	Remaining Rounds and Location of Fired Weapon: (Include accessible and carried ammunition on person and in or on weapon)			
	<input type="checkbox"/> Chamber	<input type="checkbox"/> Magazine in Weapon	<input type="checkbox"/> Inside Mag. <input type="checkbox"/> Bottom Mag	<input type="checkbox"/> Outside Mag. <input type="checkbox"/> Top Mag
Impact Location Verified:	Weapon Secured:	Weapon Secured by:	Location Secured:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Replacement Weapon Provided :	If weapon not replaced provide reason:		Replacement Magazine(s) Provided:	
<input type="checkbox"/> Yes <input type="checkbox"/> No			<input type="checkbox"/> Yes <input type="checkbox"/> No	
Incident a Pursuit w/ DSP Involvement:	Did Pursuit end in Crash:	Pursuit Critique attached:	Crash Investigated by (Agency):	
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Crime Scene Log Completed and Attached:	Supervisors Report Attached:			
<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			