



Policy Number: 301 – Response to Aggression and Resistance Review Board
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Approved By: Denis Otterness, Chief of Police

301.1 PURPOSE AND SCOPE

This policy establishes a process for the Montana State University Billings Police Department (Department) to review University police officer's response to aggression and resistance.

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 the Department's administrative review of the response to aggression and resistance.

301.2 POLICY

The Department will objectively evaluate responses to aggression and resistance by its members to ensure that their authority is used appropriately and consistent with training and policy.

301.3 REMOVAL FROM DUTY ASSIGNMENT

Generally, whenever an officer's actions or response to aggression and resistance in an official capacity, or while using department equipment, results in death or very serious injury to another, that officer will be placed in a temporary administrative assignment pending review. The Chief of Police may exercise discretion and choose not to place a member in an administrative assignment.

301.4 RESPONSE TO AGGRESSION AND RESISTANCE REVIEW BOARD

The Response to Aggression and Resistance Review Board (Board) will be convened in all cases when the response to aggression and resistance by an officer results in very serious injury or death to another person.

The Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the officer was on or off duty, excluding training, dispatching of wildlife, or recreational use.

The Chief of Police may request that a Board investigate the circumstances surrounding any officer(s) response to aggression and resistance incident.

The Assistant Chief of Police will convene the Board as necessary. It will be the responsibility of the Assistant Chief of Police or the Police Patrol Sergeant to notify the Chief of Police of any

incidents potentially requiring Board review. The Assistant Chief of Police will ensure that all relevant reports, documents and materials are available for consideration and review by the Board.

301.4.1 COMPOSITION OF THE BOARD

The Assistant Chief of Police should staff the Board with five individuals from the following, as appropriate:

- Police Patrol Sergeant
- University Executive(s) and Administrator(s)
- Non-administrative supervisor
- A peer officer/Department member
- A law enforcement officer from an outside law enforcement agency, as appropriate
- Department instructor for the type of weapon, device or technique used, when applicable

The Assistant Chief of Police will serve as Board chairperson.

301.4.2 RESPONSIBILITIES OF THE BOARD

The 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 officer appear. The involved officer 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, 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 involved officer, no more than two designated Board members may ask questions of the involved officer. Other Board members may provide questions to the designated Board 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 involved officer at the time shall neither justify nor call into question an officer's decision regarding their response to aggression and resistance.

Any questioning of the involved officer conducted by the Board will be in accordance with Montana State University Billings Police Department disciplinary procedures, the current collective bargaining agreement, and any applicable state or federal law.

The Board shall make one of the following recommended findings:

- a. The officer's actions were within Department policy and procedure.
- b. The officer's actions were in violation of Department policy and procedure.

A recommended finding requires a simple 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 Chief of Police.

The Chief of Police shall review the recommendation, make a final determination as to whether the officer's actions were within policy and procedure, and 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 Chief of Police.