

CHAPTER 1
RISK MANAGEMENT PROGRAM
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CHAPTER 1

RISK MANAGEMENT PROGRAM

1. INTRODUCTION. California Highway Patrol (CHP) employees encounter incidents throughout the state which could result in personal injury and/or property damage resulting in civil litigation. The Employee Health and Wellness Section (EHWS), Risk Management Unit (RMU), collects, analyzes, and reports information related to departmental risk, including pursuits, use of force, departmental vehicle crashes, claims, and occupational safety. This information is used to identify risks, improve departmental practices, and promote workplace safety.

2. POLICY.

a. This policy was created to ensure a complete investigation of the circumstances surrounding a threshold incident is conducted for the purposes of liability exposure.

b. A threshold incident is any event involving a member of the Department where a high probability of significant civil liability exists (refer to paragraph 3. of this chapter).

c. Division commanders will establish Standard Operating Procedures for Risk Management Program situations unique to their individual commands. These may include geographical or logistical challenges which could impact response. Division commanders shall ensure personnel under their command are familiar with, and follow, the policies and procedures contained in this chapter.

d. Notification and reporting requirements set forth by this chapter are supplemental to, and do not replace or supersede, existing notification and reporting requirements contained in other departmental policies or statutory regulations.

e. Area commanders shall ensure all evidence retained from threshold incidents and all other incidents involving potential civil liability are held in accordance with the Department's retention schedule, unless otherwise specified by the Internal Affairs Section (IAS), EHWS, or the Office of Legal Affairs (OLA). Approval shall be obtained from EHWS, RMU, prior to purging or releasing any evidence from a threshold incident, and all other incidents involving potential civil liability, by sending an e-mail to RiskManagementUnit@chp.ca.gov. RMU will coordinate with OLA and IAS before approving or disapproving any requests for purging evidence.

NOTE: The term Risk Management Administrator (RMA), as previously defined in this chapter, has been removed. Overall Risk Management Program oversight is the responsibility of the Division commander, or the Assistant Chief, if designated by the Division Chief.

3. THRESHOLD INCIDENTS.

a. Any incident in which a member of the Department suffers serious bodily injury or death, during the performance of their duties.

(1) For the purposes of this manual, “serious bodily injury” is defined as a bodily injury that involves a substantial risk of death, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

b. Any incident involving the use of force by departmental personnel where that use of force results in serious bodily injury or death to a member of the public.

c. Any crash, pursuit, or arrest involving departmental personnel which results in serious bodily injury or death to a member of the public.

d. An officer-involved shooting involving a member of the Department, whether on or off-duty.

e. An incident involving the discharge of a firearm at departmental personnel.

NOTE: The above list of Threshold Incidents is not all-inclusive. When any doubt exists, sound professional judgment should be used to determine if the incident could have a **high probability** of resulting in **significant** civil liability for the Department. For all other incidents involving potential civil liability (e.g., when a non-suspect vehicle runs over a spike strip), follow the procedures outlined in HPM 100.86, Chapter 2, Reports of Incidents—Potential Civil Liability.

4. RESPONSIBILITIES.

a. The EHWS, RMU, is a proactive section created for the purpose of preventing and/or mitigating risks to the Department. The RMU provides support services to Divisions and Areas for risk-related incidents as needed. Once an incident reaches the litigation stage, the Office of Primary Interest is OLA. The OLA will coordinate litigation management with the affected Divisions and Areas.

b. Risk Management Unit.

- (1) Provides guidance and comprehensive training specific to the handling of risk management incidents.
- (2) Investigates pre-litigation claims against the Department.
- (3) Collects, analyzes, identifies trends, and provides information to Executive Management relative to risk management issues.
- (4) Notifies the Attorney General's office regarding in-custody deaths, per Section 12525 of the California Government Code (GC).
- (5) Notifies the Attorney General's office regarding use of force incidents, per Section 12525.2 GC.

c. Office of Legal Affairs.

- (1) Provides legal analysis, advice, and representation on sensitive and complex legal matters.
- (2) The OLA will ensure procedures necessary to provide legal advice relative to incident risk are followed and that the interests of the Department are properly addressed.
- (3) Provides support services to designated managers assigned to field operations in evaluating situations of potential liability.

NOTE: The OLA will **not** serve as the legal representative for involved employees at a Threshold Incident. The OLA is responsible for securing legal representation to employees named as defendants as outlined in HPM 11.1, Administrative Procedures Manual, Chapter 9, Civil Actions, Defense of Employees, Small Claims Actions, Sovereign Citizen Actions, Defense for Criminal Charges.

d. Division Commander. The Division commander or designated alternate, under the direction of the Division Chief and/or Division Assistant Chief, is responsible for the overall management of the Risk Management Program within their area of responsibility. This involves Threshold Incidents, response protocols, case management/tracking, and coordination with the appropriate Assistant Commissioner and adjacent Divisions regarding interdivisional events.

- (1) Ensures Division-level tracking of Threshold Incidents.

(a) Division commanders shall establish a tracking system of case milestones and time-sensitive events (e.g., In-Custody Death; Pursuit Report; CHP 275, Risk Management Use of Force Report; CHP 208, Collision Prevention Report; STD. 270, Vehicle Accident Report; Multidisciplinary Accident Investigation Team [MAIT] reports/supplementals; and CIIT reports) to ensure appropriate management oversight.

(b) If the event involves criminal prosecution, the Division commander shall ensure the Area/section commander maintains ongoing contact/coordination with the local district attorney from case filing to case disposition.

(2) Acts as the liaison with RMU and OLA on case management and coordinates specific command involvement to case conclusion.

(3) Ensures all required reports generated from the incident are completed in a timely manner. It is the responsibility of the Division commander to ensure all incident documentation is complete, consistent, and within policy. Reports shall not be delayed pending the completion of an investigation (e.g., MAIT report or CIIT report).

(4) Makes immediate notification of all significant events and newsworthy incidents involving the Department, occurring in their Division, to the appropriate Assistant Commissioner, including but not limited to, the incidents listed in General Order (GO) 100.80, Notification and Report of Emergency Incidents and Significant Events).

e. Area Commander. The Area commander is responsible for the initial oversight of the Risk Management Program within their area of responsibility and for making proper notifications to the Division commander.

(1) Ensures Area-level tracking of Threshold Incidents.

(a) Area commander shall establish a tracking system of case milestones and time-sensitive events (e.g., In-Custody Death, Pursuit Report, CHP 275, CHP 208, STD. 270, MAIT reports/supplementals, and CIIT reports) to ensure appropriate management oversight.

(b) If the event involves criminal prosecution, the Area commander maintains ongoing contact/coordination with the local district attorney from case filing to case disposition.

(2) Ensures all required reports generated from the incident are completed in a timely manner. It is the responsibility of the Area commander to ensure all incident documentation is complete, consistent, and within policy. Reports shall not be delayed pending the completion of an investigation (e.g., MAIT report or CIIT report).

(3) Makes immediate notification of all significant events and newsworthy incidents involving the Department, occurring in their Area, to the appropriate Division Chief, including but not limited to, the incidents listed in GO 100.80.

5. RELEASE OF INFORMATION. All requests for release of information involving any incident such as Information Practices Act, crash information or other requests (e.g., requests under the California Public Records Act), refer to HPM 11.1, Chapter 13, Information Disclosures—Public Records and Rights of Privacy; Chapter 27, Information Practices Act; and GO 110.2, Release of Collision Information. All requests for release of personnel records of any peace officer involved in any incident shall be coordinated with OLA.

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