



## California Exposition and State Fair Police Department

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### DEPARTMENTAL GENERAL ORDER

**ORDER № 800.600**

Mar. 2019 (Revised)

08/01/2006 (New)

### POTENTIAL CIVIL CLAIMS – REPORTS OF INCIDENTS

#### **800.601 PURPOSE**

- A. The purpose of this Order is to establish guidelines for the reporting of potential incidents, both property and injury damages, involving California Exposition & State Fair Police personnel. This procedure will assist the California Exposition & State Fair defend itself if a claim for damages is filed.

#### **800.602 POLICY**

- A. To “.....support the economic well-being of the California Exposition & State Fair” against false or exaggerated claims for damages and protecting the employees by following these procedures in any incident with a potential for civil liability.

#### **800.603 REPORTING INCIDENTS OF POTENTIAL CIVIL LITIGATION**

- A. A “Use of Force” incident report serves to protect California Exposition & State Fair” by documenting facts known when an incident occurs which could foreseeably result in a claim for damages.
- B. Completion Requirements. As a general rule, the “Use of Force” incident report should be completed in every situation where there is potential for a claim for damages or civil litigation against the California Exposition & State Fair. The “Use of Force” incident report shall be completed when (non-motor vehicle) incidents involving the public, occurring on state fairgrounds property, or involve state employees or equipment, which could possibly result in a claim for damages.
- C. Examples of situations requiring completion of a “Use of Force” incident report as follows:
1. Whenever a firearm, baton, impact weapon, oleoresin capsicum (OC) spray, personal weapon (hands, feet, etc.), or other defensive instrument is used in a tactical enforcement situation. (Use should be interpreted as actual use versus display or threatened use.)

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2. When the use of a control hold or handcuffs (including plastics handcuffs) on an individual results in apparent injury, complaint of injury, or a subsequent claim of injury by that individual.
  3. When high-risk or felony procedures are used and the suspect(s) is later found to be an innocent party. (Due to the potential for a claim for emotional damages in this situation, the “Use of Force” incident report shall be completed regardless of any apparent injury, complaint of injury, or subsequent claim of injury.)
- D. The foregoing examples of potential civil litigation incidents, which shall be documented on the “Use of Force” incident report, are not all inclusive. It is expected that good judgment will always determine the need for documentation of employee actions at incidents which could give rise to civil liability for the state. When any doubt exists as to the necessity for the documentation of an incident, the “Use of Force” incident report shall be completed.
- E. The “Use of Force” incident report only needs to be prepared when there is no other report documenting the incident, such as a traditional arrest report. An example is: an officer is confronting a hostile crowd of individuals and uses an impact weapon to disperse the crowd. The subject of the impact weapon flees into the crowd, is never apprehended, and there is no arrest, and thus no arrest report. In this example, a “Use of Force” incident report shall be prepared documenting the use of force.
- F. Completion of “Use of Force” incident report. The procedures for completing the “Use of Force” incident report are as follows:
1. The “Use of Force” incident report shall be completed by the involved employee, or supervisor if the employee is incapacitated or otherwise unavailable (e.g., injured, vacation, leave of absence, etc.). In the event that more than one police employee is involved in an incident which could give rise to civil liability, only one report need be completed. The other involved employees shall be listed as witnesses.
  2. The “Use of Force” incident report should be completed within 48 hours of the incident. The involved employee’s printed name and signature (if the employee is available) shall be inserted in the spaces provided. If the employee is unavailable, the employee’s supervisor shall complete and sign the “Use of Force” incident report as the preparer as well as the reviewing supervisor.
  3. The Casualty report should contain sufficient information in narrative form. The narrative description of the incident shall be factual. Opinions, conclusions or allegations concerning negligence by the state or state employees shall not be included. If additional information is required, it will be obtained by the California Office of the Attorney General through attorney/client communication.
  4. When the “Use of Force” incident report is prepared for liability purposes only, and there is no civil action pending, no attachments, (e.g. arrest reports, accident reports, CHP 180’s etc.) are required. Only the “Use of Force” incident report shall be forwarded through the Chief of Police.

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- G. Review and Distribution. Upon completion, the “Use of Force” incident report shall be reviewed by the employee’s immediate supervisor and shall then be reviewed by the Chief of Police.
- H. Investigation – Preservation of Evidence. In reviewing the “Use of Force” incident report, it will be the responsibility of the Chief of Police to ensure an adequate investigation of the incident has been conducted. If it appears likely the incident will result in civil action against the Department, the Chief of Police or designee shall gather and preserve all physical evidence relating to the incident; (e.g., radio logs, available surveillance video, etc.)
- I. Incidents Involving Citizens’ Complaints. Where an incident causes a citizen’s complaint investigation to be conducted, it shall be conducted in accordance with the department’s Internal Affairs investigation policies.