

DRAFT GUIDELINES FOR REVIEW OF OFFICER-INVOLVED DEATHS

1. The review of officer-involved deaths by the Law Enforcement Officer Independent Review Board (“Board”) applies to a death of an individual that results directly from an act or omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of the officer’s law enforcement duties.¹
2. When the final disposition is received from the law enforcement agency’s criminal investigation with all related reports, documents and information, those materials and information will be disseminated to each member of the Board via encrypted pdf. All reports, documents, information and other investigative materials shall remain within the exclusive possession of Board members and shall not be disseminated or disclosed.
3. Board members shall disclose any potential conflicts of interest with a particular case. A majority of the remaining members shall decide whether a conflict exists. If it is determined that a conflict exists, that Board member shall not participate in the review of that officer-involved death. A Board member may voluntarily remove themselves from the review of a specific incident.
4. All correspondence and communication in any form (i.e., written, electronic) pertaining to an incident subject to these guidelines will be considered work product/confidential and shall not be disseminated or disclosed until the incident is adjudicated, unless otherwise prohibited by law.
5. The Board may request that the prosecuting attorney conduct further investigation. Board members will not engage in any investigation that is independent from the law enforcement agency’s investigation or the prosecuting attorney’s investigation.
6. The Board shall meet in person to evaluate the fairness of the criminal investigation and determine whether criminal prosecution is warranted. The Board’s recommendation whether criminal charges should be filed or whether the prosecuting attorney should conduct further investigation shall be determined by majority vote of at least five (5) members.² An audio recording of meetings shall be kept and minutes prepared.
7. When the review of an incident is complete, a recommendation shall be prepared expeditiously. That recommendation shall be supported by a simple and concise report. The chairperson of the Board, or a Board member designated by the chairperson, will be responsible for completing the recommendation and report. The report shall be supported by majority vote of at least five (5) members.
8. The Board will review officer-involved deaths for criminal charging purposes only, not for purposes of civil liability or whether a law enforcement agency’s procedures were or were not followed.

¹ §28-151. Hawaii Revised Statutes.

² If two(2) or more members are conflicted from reviewing a case/incident, this number may have to be reduced.

9. Once complete, the Board will transmit its' recommendation and report to the host-venue Prosecutor.
10. All reports, documents and information submitted to the Board by the law enforcement agency, and all proceedings, recommendations and reports of the Board, shall be confidential until any criminal prosecution or proceedings in the state related to the officer-involved death have been adjudicated whereupon the Board shall release its' recommendations and any accompanying reports, documents, and information, including but not limited to correspondence, communications, audio recordings of meetings and meeting minutes, unless otherwise prohibited by law.