

Off-Duty Law Enforcement Actions

336.1 PURPOSE AND SCOPE

Best Practice MODIFIED

The decision to become involved in a law enforcement action when off-duty can place a sworn law enforcement employee as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for sworn law enforcement employees of the California Department of State Hospitals (DSH) with respect to taking law enforcement action while off-duty. In addition, this policy details the expectations for the Department of State Hospitals sworn law enforcement employees who intend to carry off-duty firearms in their personal capacity.

336.2 POLICY

Best Practice MODIFIED

Initiating law enforcement action while off-duty is generally discouraged. Officers should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Officers are not expected to place themselves in unreasonable peril. However, any sworn employee of OPS who becomes aware of an incident or circumstance that they reasonably believe poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.

336.3 DECISION TO INTERVENE

Best Practice

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.

Off-Duty Law Enforcement Actions

- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

336.3.1 INTERVENTION PROCEDURE

Best Practice **MODIFIED**

If involvement is reasonably necessary the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an OPS officer until acknowledged. Official identification should also be displayed.

336.3.2 INCIDENTS OF PERSONAL INTEREST

Best Practice

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances officers should call the responsible agency to handle the matter.

336.3.3 CIVILIAN NON-SWORN RESPONSIBILITIES

Best Practice **MODIFIED**

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

336.3.4 OTHER CONSIDERATIONS

Best Practice

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she needs to maintain an undercover capability.

336.4 REPORTING

Best Practice **MODIFIED**

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Watch Commander as soon as practicable. The Watch Commander shall determine whether a report should be filed by the employee. Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate.

336.5 OFF DUTY FIREARMS

Agency Content

State and federal law dictate the circumstances under which a sworn peace officer may carry a weapon off-duty. This policy sets forth the Department's expectations that employees who choose to carry a weapon while off duty do so in accordance with all applicable laws and in a safe and

Off-Duty Law Enforcement Actions

responsible manner. A failure to follow expectations outlined herein may give rise to disciplinary action up to and including termination.

336.6 AUTHORIZED FIREARMS AND AMMUNITION

Agency Content

- (a) Employees who choose to carry a firearm while off-duty based on their authority as peace officers are required to meet the following guidelines:
 - 1. A personally owned firearm intended to be carried off-duty must conform to Penal Code section 16640 and may not be an antique firearm as defined in Penal Code section 16170 or a single-action revolver.
 - 2. The firearm shall be carried concealed at all times and in such a manner as to prevent accidental or unintentional cocking, discharge, or loss of physical control.
 - 3. Prior to personal carry the employee must satisfy DSH-Range Master requirements as follows:
 - i. The firearm to be carried off duty must pass a basic inspection by the DSH Range Master.
 - ii. Successfully qualify with the weapon at a DSH Range demonstrating proficiency in safe handling and firing the firearm.
 - iii. Employees shall submit a written notification on intent to carry a firearm off duty that includes the make, model, color, serial number, and caliber of the firearm to be carried to their supervisor and the Range Master.
- (b) If an employee desires to carry more than one firearm while off-duty the employee must meet all requirements set forth in this policy for each firearm including the provisions in sections 336.17 – 336.19. When armed, officers shall carry their badges, DSH identification cards, and a copy of their current off-duty qualification card.

336.7 FIREARMS PURCHASED PURSUANT TO PENAL CODE SECTION 32000

Agency Content

- (a) For the purposes of Penal Code section 32000, subdivision (b)(6), a service weapon is a weapon issued by the Office of Protective Services and used in the course and scope of duties of employees appointed pursuant to Penal Code section 830.3, subdivision (v), while on duty.
- (b) It is the Department's position that based on statutory changes effective January 1, 2021, the purchase of firearms pursuant to Penal Code section 32000, subdivision (b) (6), by DSH employees appointed pursuant to Penal Code section 830.3 subdivision (v) is prohibited because the Department provides any necessary service weapon to these employees and peace officers appointed pursuant to Penal Code section 830.38 are not authorized to carry service weapons in the course and scope of their duties, unless serving as a DSH Range Master.

Off-Duty Law Enforcement Actions

- (c) Use of department identification cards to purchase firearms pursuant to Penal Code 32000, subdivision (b)(6), is prohibited.

336.8 10-DAY WAITING PERIOD PURSUANT TO PENAL CODE SECTION 26950

Agency Content

It is the policy of the Department not to provide waivers of the statutory 10-day waiting period.

336.9 AMMUNITION

Agency Content

Employees may only utilize legal ammunition for off-duty weapons. Sworn law enforcement employees may only utilize ammunition defined in Penal Code section 16650 for use off duty.

- (a) Armor Piercing (AP) ammunition, incendiary ammunition, frangible ammunition, and tracer ammunition are prohibited. Ammunition shall be factory new, designed for duty applications, and made by a reputable ammunition manufacturer that is recognized as an industry standard in law enforcement.
- (b) Ammunition for off duty handguns will not be exchanged. Department members shall be responsible for obtaining and replacing approved ammunition at their own expense.

336.10 REPAIRS OR MODIFICATIONS

Agency Content

- (a) Firearms carried off duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual employee.
- (b) Excluding routine maintenance or cosmetic parts intended to be interchangeable by the end user (i.e. sights, adjustable back straps or grip modules), prior to any repair or modification authorization will be obtained from the Range Master and the chief of law enforcement.
- (c) Any repairs or modifications to the employee's personally owned firearm shall be done at the employee's expense.
- (d) Employees shall not modify their off-duty firearms(s) in any way that would alter the firearm's safety features.
- (e) Firearms with competition style triggers, or trigger components not intended for duty/carry use are not authorized for off duty carry.
- (f) Each employee shall be responsible for promptly reporting any damage or malfunction of any personally owned firearm to a supervisor or the Range Master.

[Firearms Modification Repair Form](#)

336.11 HOLSTERS

Agency Content

Off-Duty Law Enforcement Actions

Employees shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the firearm. Employees must utilize holsters that prevent unintended discharge or loss of physical control.

336.12 SAFE HANDLING, INSPECTION AND STORAGE

Agency Content

Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

- (a) Employees shall not unnecessarily display or handle any firearm.
- (b) Employees shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Range Master. Members shall not dry fire except as instructed by the Range Master or other firearms training staff.
- (c) Employees shall not clean, load or unload a firearm anywhere in the OPS.
- (d) Employees shall store firearms as prescribed in Penal Code sections 16540, 16610, 16850, 16860, 25135, and 25140.

336.13 INSPECTION AND STORAGE

Agency Content

A basic inspection and cleaning should be completed by the employee after each qualification. A basic inspection of off duty firearms shall be completed by the Range Master the first time the firearm is presented for qualification and then at the first qualification of each year.

336.14 BASIC INSPECTION

Agency Content

A basic inspection will consist of:

- (a) Unloading the firearm
- (b) Performing a safety check to ensure the firearm is unloaded.
- (c) For semi-automatics conduct a field strip of the firearm by separating the slide from the frame, remove the barrel and recoil spring from the slide.
- (d) Check for damage, debris, and any abnormalities.
- (e) Function check the magazines by ensuring the springs have enough tension to feed the ammunition, the follower is in good condition, the tube and feed lips are not bent or damaged and the base plate is properly secured.
- (f) Reassemble the firearm
- (g) Function check the firearm while unloaded

336.15 STORAGE AT HOME

Agency Content

Off-Duty Law Enforcement Actions

Employees shall ensure all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Employees should be aware that negligent storage of a firearm could result in civil and criminal liability. (Pen. Code, Section 25100).

336.16 ALCOHOL AND DRUGS

Agency Content

Firearms shall not be carried by any employee who has consumed any amount of an alcoholic beverage, or has taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the employee's senses or judgment.

336.17 STORAGE IN VEHICLES

Agency Content

- (a) When leaving a handgun in an unattended vehicle, employees shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code Section 25140, Penal Code Section 25452).
- (b) If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or similar locking device (Penal Code Section 25140).
- (c) Officers are exempt from these requirements during circumstances requiring immediate aid or action in the course of official duties (Penal Code Section 25140).

336.18 STORAGE OF PERSONALLY OWNED OFF-DUTY FIREARMS AT DSH FACILITIES

Agency Content

All personally owned firearms shall be stored in designated firearms lockers provided by DSH. Personally owned firearms are prohibited from being stored in the employee's vehicle while the vehicle is on DSH premises, even if it is equipped with a lockbox. Please refer to your respective facility local procedures for the designated firearm storage location and storage procedures. Only firearms in compliance with this policy shall be allowed on state grounds unless preapproval is obtained by the hospital police chief.

336.19 OFF-DUTY FIREARMS QUALIFICATIONS

Agency Content

The purpose of this section is to establish guidelines for the qualification and proficiency testing of sworn officers carrying firearms while off duty. This policy ensures that officers maintain the skills necessary for safe and effective firearm use and comply with legal and departmental requirements.

All employees when carrying off duty firearms will qualify every six months with any off-duty firearm they intend to carry. All range qualifications must occur on an approved department range.

Off-Duty Law Enforcement Actions

All employees who choose to carry a firearm while off duty must meet the department qualification standards to ensure proficiency, safety, and legal compliance. Failure to meet qualification standards will result in the employee being out of compliance with department policy until qualification is achieved.

These qualifications shall occur only during the employee's off duty hours. It is the responsibility of the individual, not the department to maintain their eligibility. For the approved course see the attached link. See [attachment: DSH Off-Duty Qualification Course and Qualification Form.pdf](#)

Upon successful qualification the Range Master will issue an off-duty qualification card for the weapon(s) for which the employee qualified. This card will document the firearm(s) qualified on. The qualification card will be signed and dated by the officer and the Range Master. The card will state qualification expires six months after the date listed on the card. The qualification card will include the date the firearm was last inspected per this policy. This card must be carried with the ID card and badge whenever the officer carries a firearm off duty. A new card will be issued every six months after successful qualification. DSH Range Masters will track those employees qualified to carry off duty. Should any employee fail to requalify after the expiration of six months from the last successful qualification, the Range Master will inform the employee and their supervisor that they are out of compliance with departmental policy, are required to qualify, and give a time frame to qualify. If the employee does not requalify within the period of time designated by the Range Master, the employee and their supervisor will be notified in writing that they are out of compliance with this policy. Employees are responsible for scheduling their qualifications during the posted qualification dates set by the Range Masters.

336.20 NON-CERTIFICATION OR NON-QUALIFICATION

Agency Content

Employees will be allowed three (3) attempts within the same day at the off-duty qualification.

If an employee fails three (3) attempts on the same day the employee will be asked to leave. The employee will be permitted to return to the next scheduled off duty qualification. It is the employee's responsibility to ensure this qualification occurs before the expiration of the prior qualification. If an employee fails to qualify before the expiration of the prior qualification, it is the Range Master's responsibility to submit a memorandum to the employee's supervisor and hospital police chief outlining the failure to qualify by the employee. The memorandum shall contain the employee's name, make, model, caliber, and serial number of the firearm. The memorandum will inform the employee they are not in compliance per this policy until successfully passing an approved qualification. The memorandum will remain in the officer's training file until successfully passing an approved qualification with that firearm, until the employee notifies the department, they have relinquished the firearm, or pursuant to the department's record retention schedule.

All qualification attempts, pass/fail results, will be documented in the officer's training file.

Off-Duty Law Enforcement Actions

336.21 FIREARM DISCHARGE

Agency Content

Except during training, qualifications, or lawful recreational use, any employee who discharges a firearm intentionally or unintentionally shall make a verbal report to the employee's supervisor as soon as circumstances permit but no later than 24 hours after the incident. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with OPS Policy 305 Officer-Involved shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved employee shall adhere to the additional reporting requirements set forth in the Use of Force policies.

In all other cases written reports shall be made as follows:

- (a) If on duty at the time of the incident, the employee shall file a written report with the Watch Commander or provide a recorded statement to investigators prior to the end of the shift, unless otherwise directed.
- (b) If off duty at the time of the incident, a written report shall be submitted or a recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

336.22 WARNING AND OTHER SHOTS

Agency Content

Generally, shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the employee reasonably believes that they appear necessary, effective and reasonably safe.

Warning shots shall not be used.

336.23 RECORD RETENTION

Agency Content

All qualification records are maintained during the course of an officer's employment and destroyed 5 years after resignation, retirement, rejection on probation, or layoffs. Records are to be kept indefinitely if on disability retirement, terminated by disciplinary action, resignation with fault, or AWOL. SAM Section 1667 DGS Cal-RIM.

Attachments

OPS 336 Firearms Modification Repair Form.pdf



California Department of State Hospitals
Office of Protective Services



Personally, Owned Firearm Modification/Repair Request

Officer/Firearm Information

Officer Name: _____ Badge #: _____

Make: _____ Model: _____ Serial #: _____

Description of Modification(s) or Repair(s):

***You MUST have a department approved Rangemaster approval PRIOR to any modification or repair on your firearm per Office of Protective Services Policy 306.4.1.*

Officer Signature Date

Rangemaster Approval
Rangemaster Initials Date

Armorer/Gunsmith Information

Company Name: _____

Address: _____ City: _____ State: _____ Zip: _____

Phone: _____ Armorer/Gunsmith Name: _____

By signing below, I acknowledge and certify that I am an armorer/gunsmith with an active and current certification from _____ on the _____ series of firearms.

Armorer/Gunsmith Signature Date

Rangemaster Approval

Approved Rejected

Comments:

Rangemaster Signature Date

DSH Off-Duty Qualification Course and Qualification Form.pdf

DEPARTMENT OF STATE HOSPITALS OFF DUTY QUALIFICATION COURSE

DATE:	NAME: LAST, FIRST	BADGE#	RANGE LOCATION
WEAPON MAKE/MODEL		CALIBER	SERIAL NUMBER
DISTANCE	TIME	INSTRUCTION TO SHOOTER	TOTAL NUMBER OF ROUNDS
3 YARDS	30 seconds	SHOOTER WILL DRAW AND FIRE 6 ROUNDS, RELOAD AND FIRE 6 ROUNDS	12 rounds
7 YARDS	30 Seconds	SHOOTER WILL DRAW AND FIRE 6 ROUNDS, RELOAD AND FIRE 6 ROUNDS	12 rounds
15 YARDS	45 seconds	SHOOTER WILL DRAW AND FIRE 6 ROUNDS, RELOAD AND FIRE 6 ROUNDS	12 rounds

NOTES: 36 ROUNDS / B-27 TARGET ALL HITS IN 7 RING OR BETTER / 80% IS PASSING = 29 OF 36.
Officer will start with two loaded magazines.

Passing Score:

1. Officers must achieve a minimum score of 80% to pass the qualification course.
2. Scoring is based on shot placement, adherence to course instructions, and safe handling procedures.
3. Failure to meet safety standards (e.g., accidental discharges, improper handling) will result in an automatic failure.

PASS	FAIL
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X _____

RANGE MASTER

X _____

OFFICER

