

**Forest Service Manual  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Manual 5300 – Law Enforcement  
Chapter 5350 – Procedures**

**Amendment:** 5300-2022-3

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**Approved by:** Angela Coleman, Associate Chief

**Date approved:** February 16, 2022

**Responsible Staff:**

**Last Change:** 5300-2022-2 to FSM 5320 Investigations

**Superseded Document(s):** 5350\_Procedures, 5300-2008-5, February 15, 2008

**Posting Instructions:** Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 5300-2022-2 to FSM 5320 Investigations.

**Digest:** Following is an explanation of the changes throughout the directive by section.

**5350:** Throughout the chapter, revises cross-references and makes minor editorial and technical changes.

**5351:** Adds new information regarding Vehicle Inventory/Tow form.

**5352.2:** Adds language, “after checking with LEI and OGC to ensure the release would not impact any civil or criminal cases.”

**5353:** Removed from chapter and recode to 5361.13.

**5355.04a:** Paragraph 1 adds situations in which the Director, LEI and/or Regional Special Agents in Charge may arrange for psychological counseling.

**5355.05:** Adds the definition of “Critical Law Enforcement Incident” and “Serious Physical Injury.”

**5355.2:** Retitles the section from “Counseling” to “Counseling Procedures” and adds procedures for employees to follow if referred to counseling.

**5355.3:** Retitles the section from “Counseling Procedures” to “Post Counseling Procedures,” adds procedures for terminating counseling and circumstances when fit for duty examinations may be authorized.

**5356.1:** Retitles the section from “Critical Law Enforcement Incidents” to “Critical Law Enforcement Incident Procedures.”

**5356.10:** Establishes procedures for law enforcement personnel involved in a critical incident.

**5356.11:** Amends title from “Supervisory Law Enforcement Personnel” to “Supervisory Law Enforcement Personnel and Special Agent.”

**5356.11(1-5):** Adds procedures for supervisory law enforcement personnel and special agents to follow in the event of a critical incident.

**5357:** Adds the language, “should.”

**5357.04b:** Section 2 adds language, “The Board of Review (BOR) may be delayed due to ongoing criminal, civil, or administrative investigations associated with this event.”

**5357.1:** Establishes causes to convene board of review by Director, LEI.

**5357.21:** Section 3, paragraph f adds language, “the Director, LEI may also appoint an additional participating team members from any staff area at his/her discretion.”

**5357.22:** Paragraph 5 adds language, “Assistant Director OPR.” Paragraph 6 adds language, “Prepare and transmit a report listing any training or policy deficiencies found to the LEI Assistant Director - Training, Development, and Standards.”

**5357.4:** Paragraph 1 adds language, “by identifying any training or policy deficiencies and corrective action recommendations.”

**5358.04c:** Adding paragraph “C” establishes components of a criminal background check for ride-alongs that may be restricted by state law and what elements may constitute a completed background check.

**5358.11b:** Paragraph 1, section G3 adds language, “or a person they are intimately involved with.”

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**5358.11b:** Paragraph 2 adds language “or the ASAC.”

**5358.2:** Paragraph 2, section C2 adds language, “SACs may grant an exception to this prohibition for law enforcement officers and agents from other agencies, if they have the authority to carry firearms off duty.”

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### **5350.01 - Authority**

See FSM 5301.

### **5350.02 - Objective**

To ensure that law enforcement activities are effective, efficient, and comply with law.

### **5350.03 - Policy**

1. Counseling. Law enforcement personnel may experience varying degrees of stress and medically predictable reactions due to involvement in a traumatic incident or a critical law enforcement incident; therefore, provide counseling to these personnel at Government expense to assist them with these effects.
2. Arrests. Only law enforcement personnel shall make arrests (FSM 5303.12, para. 5).
3. Recovery of Government Property. The United States has the right through its agents to seize or recover Government property wherever it is found. Law enforcement personnel, as agents of the Government, may within judicially approved guidelines, seize Government property wrongfully taken wherever it may be found. Extend every effort to obtain property peacefully. Take care to ensure that the property about to be seized is Government property that was illegally obtained and possessed (FSH 5309.11, sec. 55-56).
4. Search and Seizure Authority. Only law enforcement personnel shall apply for and serve search warrants. For further instructions see the Law Enforcement Handbook, FSH 5309.11, sec. 55, and the Federal Rules of Criminal Procedure for the U.S. district courts (FSM 5308, para. 1).
5. Subpoenas and Summonses. Only law enforcement personnel shall serve subpoenas and summonses.
6. Prosecutions. If through a criminal act the Government suffers damages, such as resource damage or fire suppression costs, the Forest Service shall take criminal and/or civil action to recover damages. The criminal action must always precede the civil, unless the appropriate prosecutor directs otherwise.
7. External Relations. Law enforcement personnel shall be the primary contact with other Federal law enforcement agencies.

### **5351 - Arrest Procedures**

In the event of an arrest, law enforcement personnel shall transport the arrested person in restraints, subject to the policy in FSM 5380

If a vehicle is involved, the arrested person's vehicle may be impounded, towed, and stored as evidence if essential to the case, or in the event the suspect is alone and there is no one authorized by the suspect to take responsibility for the vehicle. Forest Service funds may be used to pay for such towing and storage charges.

Inventory the contents of an impounded vehicle in accordance with FSH 5309.11, chapter 50, before placing it in storage and as soon after the arrest as possible utilizing form FS-5300-56, Vehicle Tow/Inventory, or other state/local approved form.

### **5352 - Release of Information**

See FSH 5309.11, chapter 50, section 58 for direction on release of information pertaining to law enforcement operations.

#### **5352.1 - Release of Information Regarding Prosecution**

Employees may only release information on civil complaints or criminal prosecutions with the consent of the U.S. attorney or his or her designee. Unauthorized disclosure could jeopardize a case and violate Federal criminal and civil law (FSM 5320.3, para. 3, 10, and 11; FSM 5322.16; FSH 5309.11, chapter 50).

#### **5352.2 - Release of Information Regarding Claims**

Regional claims officers, within their respective authorities, may release information regarding claims after checking with Law Enforcement and Investigations (LEI) and Office of General Counsel (OGC) to ensure the release would not impact any civil or criminal cases.

### **5353 - Reserved**

### **5354 - Enforcement Actions and Procedures on Incidents**

#### **5354.03 - Policy**

The authority of law enforcement personnel serving as either security managers (SECM) or security specialists level 1 (SEC1) in incident camps is limited to that which is conferred by law and regulation. These SECMs or SEC1s will not engage in any activity that is beyond the scope of their law enforcement authority. Law enforcement personnel will take special care to avoid activities that might make them personally liable and subject to lawsuit for alleged infringements of constitutional rights.

### **5354.1 - Activities Not Within Law Enforcement Authority**

Performance and conduct problems involving incident camp personnel should not be enforced by law enforcement personnel by means beyond their law enforcement authority. See the following examples of activities that are beyond the scope of law enforcement personnel when serving as security manager or security officer level 1 in incident camps:

1. Removing personnel without their consent from commercial establishments.
2. Restricting personnel to incident camps during off-duty hours.
3. Searching vehicles without probable cause.
4. Searching fire packs, or other personal property, in the absence of:
  - a. Probable cause and a warrant;
  - b. Probable cause and exigent circumstances justifying the absence of a warrant; or
  - c. Established and well-defined exceptions to the probable cause and warrant requirements of the 4th Amendment of the Constitution.
5. Holding personnel in an area when they are not under arrest, except when exercising law enforcement authority conferred by law or regulation.
6. Seizing alcoholic beverages or enforcing alcoholic beverage restrictions not authorized by a valid closure order or by law. See Title 7, Code of Federal Regulations (CFR), section 0.735-11, which identifies provisions for prohibited conduct of U.S. Department of Agriculture employees, including the prohibition on alcohol in the workplace or at any time or place to the extent that performance of official duties is adversely affected. This is a personnel management issue that should be reported to the incident commander.

### **5355 - Employees and Traumatic Incidents**

#### **5355.03 - Policy**

The Forest Service shall provide assistance to law enforcement personnel who have been involved in a traumatic incident or series of incidents that have the potential to result in traumatic incident stress. It is the intent of the Forest Service to provide support and assist employees and their families to continue to be valuable and productive employees.



## **5355.04 - Responsibility**

### **5355.04a - Washington Office, Director of Law Enforcement and Investigations and Special Agents in Charge**

It is the responsibility of the Washington Office, Director of Law Enforcement and Investigations (for personnel assigned to the Washington Office or Forest Service National Academy) and Special Agents in Charge (for personnel assigned to the region) to:

1. Arrange for psychological counseling for law enforcement personnel when appropriate. Situations include, but not limited to:
  - a. Involved in an action that caused the death or serious injury requiring immediate hospitalization of another person.
  - b. Wounded or fired upon.
  - c. Involved in an incident that the Special Agent in Charge (SAC) or Director, LEI determines significant enough to require counseling (such as, but not limited to a witness to the death or serious injury of a suspect or another employee, or threats made against the employee or the employee's family as a result of job-related activities).
2. Assign law enforcement personnel experiencing traumatic incident stress to other duties, when appropriate, until the officer can resume normal duties.
3. Approve law enforcement personnel to resume normal field duties upon the receipt of documentation from a designated psychologist or psychiatrist.

## **5355.05 - Definitions**

Traumatic Incident Stress. A single significant incident or the result of the day-to-day accumulation of the effects of being exposed to traumatic situations that causes law enforcement personnel to experience unusually strong emotional reactions that have the potential to interfere with their ability to function either at the scene or at a later time and may impair immediate or long-term job performance.

Critical Law Enforcement Incident. A single significant event or chain of events that has resulted in:

1. The use of deadly force, either by or against law enforcement personnel, or
2. Serious physical injury to a participant in the event, or
3. The potential for highly negative publicity and/or charge of agency misconduct from internal, external, or public media sources.

Serious Physical Injury. A bodily injury likely to cause death or serious or permanent disfigurement or loss of function of a member or organ.

### **5355.1 - Temporary Reassignment of Employee**

The Director, Law Enforcement and Investigations (LEI) (for personnel assigned to the Washington Office or Forest Service National Academy) or SAC (for personnel assigned to the region) may temporarily assign law enforcement personnel involved in a traumatic incident to:

1. Administrative law enforcement responsibilities, and/or
2. Other Non-Law Enforcement duties to which the employee is normally assigned.

Full-range law enforcement duties may be resumed when the Director, LEI or SAC receives documentation from a designated counseling facility certifying the involved employee is ready to resume such duties.

### **5355.2 - Counseling Procedures**

Most formal assistance available is in the form of counseling. The fact that an employee is undergoing counseling is not indicative of a need for medical treatment or change in duty status, which is a separate issue. Counseling is intended to help the employee resolve emotionally difficult events, diminish traumatic incident stress symptoms, and prevent the development of post-traumatic stress disorder.

1. If an employee is referred to counseling, a minimum of one session must be completed before returning to full duty.
2. The details of counseling shall remain confidential.
3. The counseling should allow employees the opportunity to express their feelings without being judged, criticized, or reprimanded. Employees should be assured that what they are experiencing is a normal reaction to an abnormal situation. It should also educate employees as to what they may experience in the future, and which reactions are a sign that they may need further counseling services.
4. Affected law enforcement personnel should report to the designated counseling facility the first available day the facility is open for business after a traumatic incident unless the SAC or Director, LEI approves an exception to this procedure and establishes an alternate reporting time. The counselor should be instructed by the coordinating supervisor not to write down any details of the event in any medical records.
5. In those instances where the employee is not in duty status due to an injury received, such counseling may be scheduled to coincide with a visit to a designated medical facility.
6. The reaction of an employee involved in a significant traumatic incident may go beyond the need for routine counseling and require immediate need for medical attention.

### **5355.3 - Post Counseling Procedures**

1. Psychological counseling may be terminated when:
  - a. A written document is received by the SAC or Director, LEI from the clinical psychologist or psychiatrist, certifying that the employee is ready to resume normal law enforcement responsibilities, or
  - b. The employee has been permanently assigned to a position that does not include law enforcement duties.
2. A fitness for duty exam, as it relates to the traumatic incident, shall only be conducted if concerns arise over the involved employees' ability to safely resume law enforcement and investigative duties.

### **5356 - Critical Law Enforcement Incidents and Use of Deadly Force**

#### **5356.02 - Objective**

To establish policy and procedures for investigation and review of critical law enforcement incidents involving law enforcement personnel.

#### **5356.04 - Responsibility**

##### **5356.04a - Washington Office, Director of Law Enforcement and Investigations**

It is the responsibility of the Director, Law Enforcement and Investigations to:

1. Report any critical law enforcement incident to the Chief as soon as possible.
2. Assign a critical law enforcement incident investigative team to investigate the incident and ensure that a written report of their findings is prepared (FSM 5356.13 and 5356.14).
3. Advise the appropriate special agent in charge when a determination has been made that the employee(s) involved in any critical law enforcement incident can return to normal field duties.

##### **5356.04b - Special Agents in Charge**

It is the responsibility of each Special Agent in Charge to:

1. Report any critical law enforcement incident to the Director, Law Enforcement and Investigations as soon as possible.
2. Assign a Special Agent to begin a preliminary investigation of the incident until relieved by the critical law enforcement incident investigative team. The Special Agent

assigned must not be the immediate supervisor of the employee(s) involved in the incident.

#### **5356.04c - Law Enforcement Personnel**

It is the responsibility of law enforcement personnel to immediately report a critical law enforcement incident to supervisory law enforcement personnel as soon as possible.

#### **5356.1 - Critical Law Enforcement Incident Procedures**

##### **5356.10 - Law Enforcement Personnel Involved in Critical Law Enforcement Incident**

1. Take appropriate measures to secure the scene. Request medical assistance for any injured person(s) and render first aid once the scene is secure and safe to do so.
2. Notify supervisory law enforcement personnel as soon as safe and practical that a critical law enforcement incident has occurred.
3. Secure in a safe manner, the duty firearms, equipment, ammunition, and vehicle(s) in the same condition as they were at the conclusion of the incident.
4. Secure in a safe manner, the suspect's weapons(s) and ammunition in the same condition as they were at the conclusion of the incident.
5. Evidence shall not be unnecessarily moved or altered. Evidence in the personal possession of involved officers shall be turned over as soon as practical to a supervisor or designee, or to the investigating agency.
6. Relinquish control of duty firearms or other equipment to the appropriate investigative authority, when directed to do so by a supervisor or other designated Forest Service LEI personnel.
7. Remain available at all times while on administrative leave (FSM 5356.11b, para. 5b).
8. Ensure that a brief public safety statement is provided to the lead investigative agency, supervisor if first on scene covering only information necessary to focus initial police response and direct the preliminary investigation. This includes information such as:
  - a. Type of force used;
  - b. Direction and approximate number of shots fired by officers and suspects;
  - c. Location of injured persons;
  - d. Description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons;

- e. Description and location of any known victims or witnesses;
  - f. Description and location of any known evidence; and
  - g. Any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
9. Issue no statements or press releases to media. The SAC or his/her designee will be the sole person authorized to make any statement to the media. No statements will be made without the concurrence of the Director, Law Enforcement and Investigations and coordination with the PIO and OGC.
10. Obtain legal representation if desired. Law enforcement personnel are entitled to legal representation and are not required to make any immediate statements regarding circumstances of the incident without full opportunity to obtain counsel. Representation may include private counsel or a union representative, if the employee is part of a bargaining unit. The employee shall normally be allowed 48 to 72 hours of rest prior to providing a verbal or written statement or participating in an interview.

#### **5356.11 - Supervisory Law Enforcement Personnel or Special Agent**

- 1. Proceed immediately to the scene of the incident and ensure that appropriate action has been taken.
- 2. Ensure that contact is made with the involved officer's family. If possible, this contact should be made by the Officer. If the Officer is injured, the Officer's family should be personally contacted and, where appropriate, provided transportation to the medical or treatment facility by a Forest Service employee.
- 3. Ensure that employees are fully briefed regarding their constitutional rights (FSM 5356.10, para. 9).
- 4. Immediately notify the SAC. The SAC shall then provide a telephonic briefing to the Director, Law Enforcement and Investigations within 4 hours of the incident. If the SAC or other regional leader is not available, they need to directly notify the Director's Office.
- 5. If the incident involves the discharge of a firearm that resulted in serious injury or death to another person. (FSM 5356.05, para. 2):
  - a. Facilitate the transfer of the firearm to the investigating agency. A replacement firearm should be provided to the involved employee as soon as possible, unless the Officer(s) is exhibiting aberrant behavior or there is probable cause to believe the involved officer(s) has committed a crime. Temporary infield transfer of primary weapon may be approved by a supervisor.

- b. Ensure that the involved employee(s) is temporarily placed on administrative leave or assigned to non-field duties after the involved officer(s) has been released from the scene.
- c. Ensure that preliminary interviews are conducted, absent exigent circumstances only by the personnel assigned to the case.
- d. Prepare a form FS-5300-1, Incident Report or form FS-5300-22, Supplemental Incident Report, and ensure the incident is entered into LEI Reporting System to document the actions and activities that preceded and followed the incident within 48 hours of the conclusion of the incident.

#### **5356.12 - Command Staff – Patrol Commander or ASAC**

- 1. Ensure a Supervisory Law Enforcement Officer or Special Agent, not directly involved in the incident is immediately dispatched to manage the incident.
- 2. Facilitate response of other law enforcement personnel as needed.
- 3. Ensure the family of the involved LEO is notified of the incident and the status of the involved officer(s).
- 4. Coordinate with the investigating agency as appropriate.
- 5. Ensure the Forest Supervisor is notified.
- 6. Ensure the immediate replacement of firearms to the involved officer(s), unless the officer(s) is exhibiting aberrant behavior or there is probable cause to believe the involved officer(s) has committed a crime.
- 7. If the SAC is unavailable, provide a telephonic briefing to the Director, LEI within four hours of the incident.

#### **5356.13 - Critical Law Enforcement Incident Investigative Team**

The critical law enforcement incident investigative team shall be comprised of the following personnel:

- 1. A Special Agent determined by the Director, Law Enforcement and Investigations, (Director, LEI) to be designated as the lead investigator.
- 2. Additional special agents or law enforcement officers, as deemed appropriate by the Director, LEI.
- 3. Additional investigators from cooperating agencies, such as other Federal agencies, local sheriff's departments, State police, and so forth, as deemed appropriate by the Director, LEI.

#### **5356.14 - Investigative Procedures**

The lead investigator shall submit to the Director, Law Enforcement and Investigations:

1. A summary or briefing containing key findings within 15-calendar days following the investigation of the incident, and
2. A report of investigation within 30-calendar days following the investigation of the incident.

#### **5357 - Board of Review**

The Director, Law Enforcement and Investigations should conduct a Board of Review (BOR) for law enforcement incidents that meet the criteria set forth at FSM 5357.1.1.

##### **5357.02 - Objective**

The objective of a Board of Review is to provide a structured and impartial administrative review of critical law enforcement incidents and other incidents as deemed appropriate by the Director, Law Enforcement and Investigations (FSM 5357.1).

##### **5357.03 - Policy**

A Board of Review may be convened to evaluate the performance and conduct of Forest Service law enforcement personnel during and after those incidents described in FSM 5357.1, and to offer any law enforcement policy recommendations to the Director, Law Enforcement and Investigations.

##### **5357.04 - Responsibility**

###### **5357.04a - Chief**

The Chief reserves the authority to require additional inquiry resulting from any Board of Review report.

###### **5357.04b - Washington Office, Director of Law Enforcement and Investigations**

It is the responsibility of the Director, Law Enforcement and Investigations to:

1. Determine if it is necessary to convene a Board of Review within 20-calendar days after receipt of a critical law enforcement incident investigative team's report detailing a critical law enforcement incident (FSM 5356.13).
2. Convene a Board of Review within 20-calendar days for any incident that meets the criteria set forth at FSM 5357.1, paragraph 1. The BOR may be delayed due to ongoing criminal, civil, or administrative investigations associated with this event.

3. Notify the Chief when a Board of Review has been convened, the circumstances surrounding the incident being reviewed, the name of the team leader, and when and where the team is to meet.
4. Provide oversight on all matters relating to a Board of Review and determine applicable follow-up requirements.
5. Track and evaluate law enforcement policy recommendations identified by a Board of Review and ensure their implementation, if appropriate (FSM 5357.4, para. 7).

#### **5357.04c - All Forest Service Employees**

It is the responsibility of all employees to cooperate with the Board of Review during all aspects of the review process (FSM 5357.3).

#### **5357.1 - Cause To Convene Board of Review**

1. The Director, Law Enforcement and Investigations (LEI) should convene a Board of Review when any of the following situations exists:
  - a. The discharge of a firearm by Law Enforcement and Investigations personnel resulting in an injury to an individual or damage to either private or government property.
  - b. Pursuits resulting in serious bodily injury or death to a participant or bystander.
2. The Director, Law Enforcement and Investigations (LEI) may convene a Board of Review when any of the following situations exists:
  - a. Any critical law enforcement incident involving law enforcement personnel.
  - b. Any other incident or situation involving law enforcement personnel deemed necessary by the Director, LEI.

#### **5357.2 - Composition and Function of Board of Review**

##### **5357.21 - Composition of Board of Review**

1. Number of Members. A Board of Review shall consist of five team members.
2. Restrictions on Appointment to Board. An employee shall not be appointed to the Board if:
  - a. The employee had any involvement in the incident leading to the Board being convened, or



- b. The employee is the immediate supervisor of the employee whose actions are being reviewed.
3. Participating Team Members.
  - a. The Director, Law Enforcement and Investigations (Director, LEI) shall appoint a team leader to head the deliberations of the Board.
  - b. The employee(s) whose actions are being reviewed may select one other Forest Service employee as a member of the Board. The selected employee shall not serve as a representative for the employee whose actions are being reviewed. If the employee(s) declines to select a Board member, the Director, LEI shall appoint an employee who is of the same grade as and whose duties are similar to those of the employee(s) whose actions are being reviewed.
  - c. One member of the Board shall be a Supervisory Special Agent or a Supervisory Law Enforcement Officer assigned to a region other than that of the involved employee(s).
  - d. One member of the Board shall be a Forest Service line officer outside of the LEI program.
  - e. One member of the Board shall be a sworn law enforcement officer from outside the Forest Service (Federal, State, or local).
  - f. The Director, LEI, may also appoint an additional participating team member from any staff area at his/her discretion.
4. Advisory and subject matter experts. The Director, LEI may request other personnel as needed to provide expert and technical advice.

#### **5357.22 - Functions of Board of Review**

The functions of a Board of Review shall, at a minimum, include the following:

1. Review the findings of facts and circumstances of the incident or situation being reviewed.
2. Identify legal and policy requirements that apply to the facts of the incident or situation and determine the degree of compliance with those requirements by all individuals involved.
3. Conduct an objective critique of the incident or situation, including a review of applicable operational procedures.
4. Identify the need for any changes to current Forest Service policy.

5. Prepare and transmit a written report containing the Board's findings to the Director, Law Enforcement and Investigations. If the Board's findings indicate possible employee misconduct on behalf of any Forest Service employee, the team leader shall consult with the appropriate employee relations staff member(s) and the Assistant Director, Office of Professional Responsibility before the report is issued.

6. Prepare and transmit a report listing any training or policy deficiencies found to the LEI, Assistant Director - Training, Development, and Standards.

### **5357.3 - Procedures and Responsibilities**

Procedures and responsibilities to be used when a Board of Review is convened are shown in exhibit 01.

**Forest Service Manual 5300 – Law Enforcement**  
**Chapter 5350 – Procedures**  
**Amendment: 5300-2022-3**  
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**5357.3 – Exhibit 01**

**Board of Review Procedures and Responsibility**

**Responsible Party**

**Procedure**

WO, Director of  
Law Enforcement  
and Investigations

After receiving a report of a critical law enforcement incident, ensure that a central case file or entry is established for the incident, documenting the name(s) of involved individuals, the date(s) and time(s) of the incident, the time reported, and the nature of the incident. Make additional notations reflect pending follow-up disposition and/or status, and the anticipated schedule for case closure.

Consult with the U.S. Department of Agriculture, Office of the General Counsel, Forest Service employee relations staff, the U.S. Attorney's Office, and the State prosecuting attorney's office (if that office has jurisdiction), prior to convening the Board, when there is a reasonable likelihood of criminal prosecution, administrative action, or tort claim action.

Board of Review  
Team Leader

Ensure that a record is maintained of all information gathered during the proceedings of the Board, including all testimony presented and all written material reviewed by the Board.

Ensure that the employee(s) being reviewed has (have) been given sufficient time to arrange for representation.

Inform the employee(s) whose actions are being reviewed, whether the review may result in administrative or criminal action, if known. Ensure that all testimony before the Board of Review is in accordance with applicable case law (Garrity, New Jersey, 385 U.S. 493, 87 S.Ct. 616 (1967); *Kalkines v. United States*, 473 F. 1391 (CT. Cl. 1973); and, if applicable, *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602 (1966)).

Notify the employee(s) whose actions are being reviewed that:

1. The employee(s) may remain present during all information gathering proceedings of the Board;
2. The employee(s) shall be excluded from the Board's deliberations; and

All expenses associated with attending the proceedings shall be paid for by the Government, since proceedings are within the scope of employment.

**Forest Service Manual 5300 – Law Enforcement**  
**Chapter 5350 – Procedures**  
**Amendment: 5300-2022-3**  
**Effective date: February 17, 2022**  
**5357.3 – Exhibit 01--Continued**

**Board of Review Procedures and Responsibility**

**Responsible Party**

**Procedure**

Board of Review

Determine when it is appropriate to require that testimony presented be confirmed by oath or affirmation.

Require any Forest Service employee who has knowledge of the facts related to the case being reviewed to appear before the Board for questioning.

Request subject matter experts to assist in the review process.

Employee(s) Being Reviewed

Choose to be accompanied by an attorney, or union representative, if applicable. If represented by an attorney, it shall be at the personal expense of the employee(s). The attorney or union representative can take an active role in a Board of Review's proceedings. The attorney or union representative cannot answer for the employee(s), but can advise and assist; for example, counseling the employee(s). Assistance and counsel includes asking for the clarification of questions and objecting to any questions they deem improper. This must be done in a professional manner; the attorney or union representative cannot disrupt the proceedings. The attorney or union representative may not question witnesses and may address the Board only with the consent of the team leader.

Request the appearance of other Forest Service employees who have knowledge of facts related to the case being reviewed.

All Employees

Cooperate with the Board of Review during all aspects of the review process (FSM 5357.04c).

#### **5357.4 - Incident Evaluation and Report**

1. Evaluation. The purpose of the Board of Review is to determine the adequacy of, and adherence to, Forest Service policy and standards, and, when deemed necessary, to develop recommended managerial actions intended to prevent similar incidents in the future by identifying any training or policy deficiencies and corrective action recommendations.
2. Content of Report. The Board of Review must prepare a report on their findings, which shall contain only facts and other findings supported by the information obtained during the inquiry. Do not include any recommendations for either criminal prosecution or administrative action. Mark the report and the letter transmitting the report to the Director, Law Enforcement and Investigations (Director, LEI) as confidential information.
3. Letter of Transmittal. Send the Board of Review report via a letter of transmittal to the Director, LEI. This letter may contain general comments by the Board, opinions regarding probable cause(s) and causative factors and recommend corrective actions.
4. Transmittal of Report. The team leader shall forward the original and three copies of the report via overnight mail to the Director, LEI. The team leader shall retain one copy of the report and ensure all documents and materials are secured.
5. Official Case File. Ensure that the case folder contains the Board of Review report, the critical incident investigative team report (FSM 5357.22, para.5)), if applicable, any appendix material, and all correspondence relating to the case.
6. Time Limitations. Submit the Board of Review report to the Director, LEI, within 10-working days after the Board has completed its inquiry. If delay in completing the report is unavoidable, submit a written request for extension to the Director, LEI.
7. Tracking and Implementing Law Enforcement Policy Recommendations. The Director, LEI is responsible for tracking and evaluating the implementation of any law enforcement policy recommendations developed by the Board (FSM 5357.04b, para. 5).

#### **5358 - Ride-Along**

##### **5358.01 - Authority**

The authority for the Ride-Along Program is Title 41, Code of Federal Regulations (CFR), volume 3, chapter 102, part 34.220; and FSH 6509.33, section 301-2.6.

## **5358.02 - Objectives**

The objectives of this program are to:

1. Educate individuals about the Forest Service Law Enforcement and Investigations (LEI) program by providing them with an opportunity to accompany law enforcement personnel and to observe their tasks and activities.
2. Enhance the community and cooperative relationships of the LEI staff.
3. Improve the quality of Forest Service customer service.
4. Serve as a recruitment tool for persons interested in employment with the Forest Service LEI program.

## **5358.04 - Responsibility**

### **5358.04a - Special Agents in Charge**

Special Agents in Charge are responsible for:

1. Authorizing exemptions to the Ride-Along Program (FSM 5358.11b).
2. Authorizing a ride-along when an applicant has participated in four ride-alongs in a given year.
3. Withdrawing delegated authority to approve ride-along applications from any subordinate.
4. Retaining completed records on all ride-along participants for at least two years, in accordance with agency record retention requirements.

### **5358.04b - Immediate Supervisor of the Law Enforcement Officer or Special Agent to be Accompanied**

The immediate supervisor of a Law Enforcement Officer or Special Agent to be accompanied is responsible for:

1. Approving an applicant's participation in the Ride-Along Program by signing the approval block of form FS-5300-33, LE&I Ride-Along Program – Information Statement and Application prior to a ride-along.
2. Forwarding the completed ride-along package to the appropriate SAC (FSM 5358.04a).
3. Forwarding all rejected applications for a ride-along with an explanation for the rejection to the SAC.

**5358.04c - Law Enforcement Officer or Special Agent to be Accompanied**

1. Prior to a Ride-Along. Before a ride-along, the Law Enforcement Officer or Special Agent to be accompanied is responsible for briefing the prospective ride-along on the terms of the program including those contained in the pre-ride safety briefing and waivers, and for:
  - a. Obtaining a completed application (form FS-5300-33, LE&I Ride-Along Program – Information Statement and Application) and waiver (form FS-5300-34, Assumption of Risk, Waiver of Liability, and Indemnity Agreement) from the applicant.
  - b. If one or more of these components of a background check is restricted or prohibited by State law, the remaining components may constitute a completed background check).
    - (1) A National Crime Information Center (NCIC) criminal history (use of the NCIC III for this purpose is authorized pursuant to 28 U.S.C. 534 and 28 CFR 20.3(b) and (g));
    - (2) Federal and State warrant and restraining order check; and
    - (3) Driver's license history.
  - c. Completing the authorization or rejection blocks of form FS-5300-33.
  - d. Forwarding rejected ride-along applications to the Law Enforcement Officer's or Agent's immediate supervisor with an explanation for the rejection.
2. During a Ride-Along. During a ride-along, the accompanied Law Enforcement Officer or Agent is responsible for closely controlling the actions of the ride-along participant and complying with requirements in FSM 5358.2.
3. After a Ride-Along. After a ride-along, the accompanied Law Enforcement Officer or Agent is responsible for verifying a ride-along occurred and returning a completed form FS-5300-33 to the approving supervisor.

**5358.1 - Who Can Be Accompanied in the Ride-Along Program**

Participants in the Ride-Along Program can accompany only law enforcement personnel as defined in FSM 5305. Participation in a Ride-Along Program is voluntary and is discretionary for the accompanying Law Enforcement Officer or Agent.

## **5358.11 - Eligibility**

### **5358.11a - Ride-Along Participants**

1. Application Process. Prospective participants in the Ride-Along Program must:
  - a. Complete the applicant section of form FS-5300-33, Ride-Along Program Information, Privacy Act Statement and Program Application;
  - b. Review and sign form FS-5300-34, Assumption of Risk, Waiver of Liability, and Indemnity Agreement; and
  - c. Submit the completed forms to the law enforcement officer or agent whom the applicant wishes to accompany.
2. Approval Process. The approval process for a ride-along participant's application is described in FSM 5358.04.
3. Rejection Process and Restrictions.
  - a. Applicants shall be rejected from the Ride-Along Program if:
    - (1) They have previously been convicted of a felony, offenses involving illegal drugs, or offenses involving violence;
    - (2) Are subject to a restraining order or warrant;
    - (3) Are under investigation, in custody, or under indictment for a criminal offense by any governmental entity; or
    - (4) If they are under 16 years of age.
  - b. Program participants shall be restricted to four ride-alongs in Forest Service law enforcement vehicles per year, unless the special agent in charge authorizes an exception to this restriction. Family members are limited to two exemptions from the application requirements in FSM 5358.11a per year (see FSM 5358.11b).

### **5358.11b - Exemptions**

#### **1. Persons Exempted.**

The following persons are not required to comply with the application requirements in FSM 5358.11a in order to accompany law enforcement personnel in official vehicles:

- a. On-duty Forest Service employees;
- b. On-duty Law Enforcement Officers or Agents and dispatch personnel of local, State, or other Federal agencies;



- c. Off-duty Law Enforcement Officers or Agents and dispatch personnel who are authorized by their agency to participate in a ride-along;
- d. Passengers of any kind transported because of exigent circumstances threatening loss of life or property or because failure to assist could be considered negligence;
- e. Persons on official business with the Forest Service, including but not limited to contractors, cooperators, and permit holders;
- f. Members of the media engaged in official business; and
- g. Immediate family members of law enforcement personnel, subject to the following conditions:
  - (1) The primary purpose must be to familiarize the immediate family members with the law enforcement duties and local area of responsibility of their family member. This type of ride-along, on a limited basis, furthers the Government's interest by enhancing family members' awareness of and support for stressful law enforcement work;
  - (2) The immediate family members must be over 16 years of age;
  - (3) The immediate family members, or a person they are intimately involved with may not ride with a law enforcement officer or agent who is a member of their family; and
  - (4) Use of this exemption is limited to two times per year per family member;

2. Approval for Exemptions.

The second-level supervisor of the law enforcement officer, or the ASAC for the agent to be accompanied, must obtain written authorization from the appropriate Special Agent in Charge before any ride-along involving persons exempted under FSM 5358.11b.1(c)(f)(g).

**5358.2 - Conditions During a Ride-Along**

1. Law Enforcement Work Subject to a Ride-Along.

- a. Ride-along participants should observe the daily work routine of the Officer or Agent being accompanied and should not accompany the Officer or Agent during temporary duty, per diem travel, or other activities that are ancillary to the performance of law enforcement work in a permanent position.
- b. Ride-along participants may not accompany law enforcement personnel during execution of search or arrest warrants.

2. Pre-Ride Safety Briefing.

Accompanied officers or agents shall inform prospective ride-along participants of the following prior to application, and then shall also complete a pre-ride briefing with participants prior to the ride-along. Participants should be apprised of risks inherent in law enforcement work as described in the waiver. In addition, participants shall be required to comply with the following requirements, and failure to comply with any of these requirements constitutes grounds for immediate dismissal from a ride-along:

a. Participants shall wear seatbelts.

b. Participants shall receive instruction on the use of a two-way radio that is sufficient to allow its use during an emergency.

c. Participants shall receive instruction on personal safety precautions and practices, which must be followed during any public or law enforcement contacts. At a minimum, participants other than law enforcement officers or agents who have the requisite authority shall be instructed:

(1) Not to verbally or physically assist with, engage in, or interfere with any law enforcement contact or activities;

(2) Not to carry any weapons; SACs may grant an exception to this prohibition for law enforcement officers and agents from other agencies, if they have the authority to carry firearms off duty.

(3) To obey the accompanied officer's or agent's direction at all times;

(4) To provide physical assistance (for example, in connection with operation of the two-way radio) to the accompanied officer or agent, if the officer or agent becomes disabled; and

(5) To follow agreed-upon procedures immediately if the accompanied officer or agent needs to terminate the ride-along unexpectedly due to dangerous conditions.

d. All dispatch centers serving the accompanied officer or agent shall be verbally advised of the presence and name of ride-along participants prior to a ride-along.