

GENERAL ORDER



DISTRICT OF COLUMBIA

Title	
Use of Force Investigations	
Series / Number	
GO - RAR - 901.08	
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Related to	
General Order RAR-901.07 (Use of Force)	
General Order RAR-901.09 (Use of Force Review Board)	

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I. BACKGROUND

Accurate and timely reporting of use-of-force incidents is essential for Department monitoring and training. Fair and accurate follow-up investigations, especially in use of force situations involving firearms or serious bodily injury or death, allow the Department and community to learn of the integrity and appropriateness of such decisions. It enables the Department to make decisions regarding the incident and to provide further necessary guidance to members on appropriate levels of use of force.

II. POLICY

The Metropolitan Police Department has established the following statements of policy guidance regarding the use of force:

- A. The policy of the Metropolitan Police Department is to value and preserve human life when using lawful authority to use force. Therefore, members of the Metropolitan Police Department shall use the minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the member or others.
- B. The decision to use force of any level should be based on the danger posed by the subject, rather than the nature or category of the incident. That decision must be based on the circumstances that a reasonable member believes exist. (CALEA 1.3.1)
- C. A decision to use deadly force should be based on a member having probable cause to believe that the suspect poses an imminent threat of serious physical harm, either to the member or to others. (CALEA 1.3.2)

III. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated:

- A. **Deadly Force** – any use of force likely to cause death or serious physical injury, including but not limited to the use of a firearm or a strike to the head with a hard object.
- B. **Non-Deadly Force** – any use of force that is neither likely nor intended to cause death or serious physical injury.
- C. **Serious Use of Force** – lethal and less-than-lethal actions by MPD members including:
 - 1. All firearm discharges by an MPD member with the exception of range and training incidents and discharges at animals;
 - 2. All uses of force by an MPD member resulting in a broken bone or an injury requiring hospitalization;
 - 3. All head strikes with an impact weapon;
 - 4. All uses of force by an MPD member resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ.
 - 5. All other uses of force by an MPD member resulting in a death; and
 - 6. All incidents where a person receives a bite from an MPD canine.
- D. **Use of Force** – any physical contact used to effect, influence or persuade an individual to comply with an order from an officer. The term shall not include un-resisted handcuffing or hand control procedures that do not result in injury.
- E. **Use of Force Indicating Potential Criminal Conduct by a Member** – includes, but is not limited to, all strikes, blows, kicks or other similar uses of force against a handcuffed subject and all accusations or complaints of excessive force made against the member.
- F. **Serious Physical Injury** – any injury that results in hospitalization and that creates a substantial risk of death, serious disfigurement, disability or protracted loss or impairment of the functioning of any body part or organ.
- G. **Less-Than-Lethal Weapons** – any object or device deployed with the intent or purpose of eliminating a threat without causing death. These include, but

are not limited to, a 37 mm gas gun containing a cloth bag filled with small lead shot pellets, rubber bullets, batons, OC Spray, A.S.P. (Armament System Procedures) tactical batons.

- H. **Use of Force Continuum** – a training model/philosophy that supports the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. The level of response is based upon the situation encountered at the scene and the actions of the subject in response to the member's commands. Such response may progress from the member's actual physical presence at the scene to the application of deadly force.
- I. **Objective Reasonableness** – reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene in light of the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation.
- J. **Duty Status** – the relief of a member as an immediate interim step to preclude any further action concerning the incident by the involved member(s). *Note:* policing responsibilities as defined here is used only in the context of serious use of force incidents. (CALEA 1.3.8)
- K. **Probable Cause** -- where known facts and circumstances, of a reasonably trustworthy nature, are sufficient to justify a man of reasonable caution or prudence in the belief that a certain person has committed, is committing, or is about to commit a criminal act. (CALEA 1.3.2)

IV. REGULATIONS

- A. The Force Investigation Team (FIT) shall be responsible for investigating all incidents involving Deadly Force, Serious Use of Force or the Use of Force Indicating Potential Criminal Conduct (see definitions).
- B. The Office of the Superintendent of Detectives shall be responsible for investigating the offense leading up to the use of force, where applicable.
- C. The member's Element Commander or Director shall be responsible for the investigation of all use of force incidents not involving Deadly Force, a Serious Use of Force or a Use of Force Indicating Potential Criminal Conduct. The Element Commander or Director may delegate responsibility for conducting the investigation to another official who must be of a higher rank than the involved member.
- D. The Use of Force Incident Report (PD Form 901-e) shall be completed by the involved officer in all of the following situations:
 - 1. all Use of Force incidents (except Cooperative or Contact Controls, e.g., mere presence, verbal commands or submissive handcuffing,
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- unless there has been a resulting injury or the subject complains of pain following the use of Cooperative or Contact Controls);
2. any time when an officer is in receipt of an allegation of excessive use of force; or
 3. whenever a member draws and points a firearm at or in the direction of another person.
- E. Members shall notify their supervisor and complete a PD Form 901-e (Use of Force Incident Report) immediately following any use of force, receipt of an allegation of excessive force, or immediately following the drawing of and pointing a firearm at or in the direction of another person.
- F. When a member has declined to complete the Use of Force Incident Report immediately following an incident, the supervisor shall compel the member to complete the report following a declination by the U. S. Attorney's Office and/or issuance of an authorized Reverse-Garrity warning.
- G. The Department's Use of Force Review Board shall be responsible for reviewing all use-of-force incidents as required by GO RAR – 901.09 (Use of Force Review Board). (CALEA 1.3.7)
- H. When a subject has sustained visible injuries or expresses complaints of pain as a result of a member's use of force, the injured subject shall be provided immediate medical assistance for the treatment of those injuries.
- I. FIT shall prepare a transmittal document to the Mayor describing the circumstances of any accidental or performance-of-duty firearm discharge.

V. PROCEDURAL GUIDELINES

A. Initial Response Duties at the Scene of a Use of Force

1. When a Metropolitan Police member becomes involved in a use-of-force incident that requires a Use of Force Incident Report, the initial responsibilities of the officer(s) shall be to ensure that the scene is safe, render first aid if applicable, secure the scene's integrity, and notify a supervisor.
2. When a subject is suffering from or complains of injuries, he or she shall be immediately taken to the Hospital for examination and treatment pursuant to GO PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).
3. District Watch Commanders and/or appropriate element supervisors shall respond immediately to the scene of the use of force, and ensure that the Communications Division and the Synchronized Operations Command Center (SOCC) are notified.

4. If the use of force occurs outside the District of Columbia, members shall make notifications in accordance with Section V.-F. of this order and GO RAR-901.01 (Handling of Service Weapons). An official from the involved member's organizational element shall also respond to the scene. In such cases, the appropriate law enforcement authority of the jurisdiction of occurrence will handle all criminal investigations. The Force Investigation Team shall only conduct a policy review in this circumstance.

B. Notification and Reporting of a Use of Force Incident

1. Member Responsibilities

- a. In all uses of force requiring a Use of Force Incident Report, the member shall immediately notify his/her supervisor of the use of force, intentional or unintentional, exercised by the member, any allegation of excessive force made against the member, or immediately following the drawing of and pointing a firearm at or in the direction of another person, and shall promptly complete the Use of Force Incident Report.
- b. Members who observe the use of force by another member or are aware of a complaint regarding the use of force by another member shall notify their supervisor of any knowledge they have concerning the incident and shall cooperate with their supervisor and the Force Investigation Team as may be appropriate.

2. Supervisor Responsibilities

When a member has declined to complete the Use of Force Incident Report immediately following an incident, the supervisor shall compel the member to complete the report following a declination by the U. S. Attorney's Office and/or issuance of an authorized Reverse-Garrity warning.

C. Investigation of Offense Leading Up to the Use of Force

1. The Office of the Superintendent of Detectives (OSD) shall immediately respond to begin their investigation and secure evidence, witnesses, and other information related to the crime that led up to the use of force. An OSD official shall designate a lead investigator for the crime that led up to the use of force.
2. The OSD is responsible for handling the arrest and processing of any individual charged as a result of the offense leading up to the use of force.
3. Members from the Forensic Science Services Division (Mobile Crime Lab) shall respond and be responsible for evidentiary crime scene processing.

4. The Forensic Science Services Division Technician handling the scene shall be required to coordinate all evidentiary information with the Force Investigation Team throughout the duration of the investigation.

**D. Investigation of Use of Force Incidents
Within the District of Columbia**

1. Rights of Officers Before USAO Declination Has Been Made

In all cases involving serious use of force, or any other force indicating potential criminal misconduct by an officer, the subject officer(s) will not be compelled or ordered to make a statement (which includes interview by video or tape-recording) until the USAO has issued a written declination.

2. Interviewing Subjects, Members and Witnesses (General)

In conducting administrative misconduct investigations involving a serious use of force or serious physical injury (following a criminal declination where applicable), the appropriate investigators shall include, subject to and in conformance with applicable MPD directives, the following measures:

- a. Whenever practicable and appropriate, complainants and witnesses shall be interviewed at sites and times convenient for them, including at their residences or places of business.
- b. Officers involved in a use of force incident shall be sequestered until they are interviewed by a member of FIT or by appropriate supervisory personnel.
- c. Group interviews are prohibited.
- d. Supervisors of the involved members subject to the investigation shall be notified, as appropriate.
- e. All appropriate MPD members, including supervisors, shall be interviewed.
- f. Investigators shall ensure that all appropriate evidence is collected, preserved, and analyzed, including canvassing the scene to locate witnesses and obtaining complainant medical records, where appropriate.
- g. Investigators shall tape record or videotape interviews of complainants, involved officers, and material witnesses in investigations involving a serious use of force or serious physical injury (subject to and in conformance with applicable

law). If a complainant or non-officer witness refuses to be tape-recorded or videotaped, then a written narrative of the statement shall be prepared to be signed by the complainant or non-officer witness.

- h. Any inconsistencies in officer and witness interview statements gathered during the investigation shall be identified and reported in writing.

3. Response to Deadly Force, Serious Use of Force Incident or a Use of Force Indicating Potential Criminal Conduct

The Force Investigation Team (FIT) shall be responsible for investigating all incidents involving Deadly Force, Serious Use of Force or the Use of Force Indicating Potential Criminal Conduct. In such instances, the following procedures shall apply:

- a. When a member reports any use of force or accusation of force, a supervisor from the district of occurrence (of higher rank than the reporting member) is required to respond to the scene.
- b. The supervisor shall notify the Force Investigation Team and the Office of the Superintendent of Detectives through the Communications Division and the Synchronized Operations Command Center (SOCC).
- c. The supervisor shall maintain and preserve the scene and canvass and gather witnesses.
- d. The supervisor shall provide the assistance of District personnel to the Force Investigation Team in conducting the investigation of the incident, as necessary.
- e. In cases of use-of-force incidents within the investigative jurisdiction of the Force Investigation Team, FIT members shall be responsible for the following:
 - (1) Submitting a preliminary report of investigation to the Assistant Chief, Office of Professional Responsibility, prior to being relieved from duty.
 - (2) Notifying and consulting with the United States Attorney's Office (USAO), within 24 hours or the next business day, of any use of force incident involving deadly force, a serious use of force, or any force indicating potential criminal misconduct by a MPD member.

- (3) Forwarding all completed investigations, through the Assistant Chief of the Office of Professional Responsibility, to the Use of Force Review Board.
 - (4) Completing every aspect of the investigation of use of force incidents within 90 days of the date FIT receives a Letter of Declination from the USAO or the termination of the criminal prosecution of the member.
- f. The Force Investigation Team shall reserve the right and have the authority to assume control of any force-related incidents. Their primary responsibility, however, shall be the investigation of uses of deadly force, serious use of force incidents and uses of force indicating potential criminal conduct.

4. **Response to Incidents Not Involving Deadly Force, a Serious Use of Force nor Indicating Potential Criminal Conduct**

Chain of command district or division supervisors shall investigate all use-of-force incidents not investigated by the Force Investigation Team. In such instances, the following procedures shall apply:

- a. When a member reports any use of force or accusation of force, a supervisor (of higher rank than the reporting member) is required to respond to the scene.
- b. No supervisor who was involved in the incident shall be responsible for the investigation of the incident.
- c. The supervisor shall notify the Office of the Superintendent of Detectives through the Communications Division and the Synchronized Operations Command Center (SOCC).
- d. The supervisor shall respond to the scene of the incident and locate and interview witnesses and document their statements on a PD Form 119 (Complainant/Witness Statement).
- e. When a member has used force, which is not considered a serious use of force or any other force indicating potential criminal misconduct and an administrative investigation/policy review has commenced, the member shall complete forms and reports consistent with MPD policies.
- f. The supervisor shall ensure that the following steps are taken:
 - (1) Document and photograph any injuries to involved members.
 - (2) Interview and photograph any person on whom force was used.

- g. The supervisor shall complete and submit a preliminary report to the Element Commander or Director within 24 hours.
- h. The supervisor shall ensure that the Force Investigation Team is notified for tracking purposes.
- i. The Final Investigative Report will be completed by the supervisor/manager as designated by the Element Director or Commander.
- j. At the discretion of the Chief of Police or his designee, any incident that may be investigated by chain of command supervisors may be assigned to the Force Investigation Team.

E. Handling Use of Force Incidents Indicating Potential Criminal Conduct

1. The United States Attorney's Office shall make the determination as to whether criminal wrongdoing is present in any use of force incident.
2. The Force Investigation Team shall consult with the United States Attorney's Office for the District of Columbia about incidents of Deadly Force, Serious Use-of-Force, Use of Force Indicating Potential Criminal Conduct, and in-custody deaths involving Metropolitan Police Department officers.
3. When evidence of criminal wrongdoing is determined as a result of a member being involved in a use-of-force incident, members from the Force Investigation Team shall coordinate prosecutorial needs between the U.S. Attorney's Office or other appropriate prosecuting entity and the affected organizational element and/or investigative unit, and shall serve as a liaison with other applicable local and federal law enforcement agencies.
4. In cases where the United States Attorney's Office has not issued a written declination, the subject officer shall not be compelled or ordered to make a statement.
5. The Force Investigation Team is responsible for handling all arrests of police officers in regards to a use of force.

F. Processing Use of Force Incidents by MPD Members Outside of the District of Columbia

When a member is involved in a use of deadly force *outside* of the District of Columbia, whether on or off duty:

1. The member shall immediately notify the Watch Commander of his/her element through the Communications Division and SOCC who shall notify the Force Investigation Team.
2. The Force Investigation Team shall respond immediately.
3. The appropriate law enforcement authority of the jurisdiction of occurrence will maintain primary responsibility for conducting a criminal investigation of the underlying matter.
4. The Force Investigation Team shall initiate a concurrent investigation, and shall work closely with the investigator/official from the originating police jurisdiction that is investigating the primary criminal offense. In cases where the United States Attorney's Office or the competent prosecutorial authority has not yet issued a written declination, FIT shall not compel or order a subject officer to make a statement.

G. Processing In-Custody Deaths

1. When a Metropolitan Police Department officer becomes aware of a possible in-custody death, the initial responsibilities of member(s) shall be to ensure that the scene is safe, render first aid if applicable, secure the scene's integrity, and notify a supervisor.
2. Deaths occurring while a subject is in custody shall be reported to both the Force Investigation Team and the Office of the Superintendent of Detectives.
3. In cases involving in-custody deaths, the Office of the Superintendent of Detectives shall respond to the scene and be responsible for completing the PD 120 (Death Report).
4. The Force Investigation Team shall consult with the United States Attorney's Office for the District of Columbia about in-custody deaths involving subjects that were in Metropolitan Police Department custody.

H. Determination of Duty Status of Involved Officer

1. Immediately following a Serious Use of Force incident in which a serious injury occurs or any in-custody death, the Element Commander or Director (or the highest ranking official on the scene from the involved

officer's element) shall relieve the involved member of his or her normal policing responsibilities. (CALEA 1.3.8).

2. Determination as to the permanent duty status of the involved member shall be made pursuant to GO RAR-901.11 (Force-Related Duty Status Determination).
3. The Force Investigation Team shall be responsible for handling all arrests of police officers with regard to a use of force.

I. Command Support Responsibilities

1. The Office of Professional Responsibility (OPR) shall, in use of force incidents, be responsible for the dissemination of Complaint System Numbers for all reported incidents.
2. OPR shall enter and maintain the database for information relative to all uses of force.
3. District or Division Commanders shall ensure that:
 - a. Force Investigation Team members are immediately notified of any incident involving use of force through the Communications Division.
 - b. All uses of force are reported in writing to the Office of Professional Responsibility and that Complaint System Numbers are obtained within one hour of the incident. (CALEA 1.3.6 a – d)
 - c. All use of force incidents are investigated.
 - d. A designated management official from the police district where the incident occurred (or, if in another jurisdiction, a management official from the involved member's assigned element) responds to the scene.
 - e. A copy of the Use of Force Incident Report is forwarded to OPR and the affected element's detectives' office for the purpose of entering relevant information into WACIIS.
 - f. The Office of Professional Responsibility is notified if there is evidence of any wrongdoing as a result of a member being involved in any use of force investigated at the command level.
 - g. The final investigative report of the use of force incident, with recommendations and conclusions, is forwarded, through the chain of command, to the Use of Force Review Board within 60 days of the use-of-force incident, absent special circumstances.

- h. All completed investigations are forwarded to the Use of Force Review Board.
4. The Office of the Superintendent of Detectives (OSD) shall respond and assume primary responsibility for conducting a criminal investigation of the underlying matter (e.g., robbery, burglary, theft, etc.)
5. When requested, the Synchronized Operations Command Center (SOCC) shall be available to assist members of the Force Investigation Team in facilitating requests to other Department elements or outside agencies.

J. Routine Reports and Follow-up Duties

It is the responsibility of the involved officer's organizational element to handle routine administrative follow-up duties. They include but are not limited to:

- PD Forms 251, 252 (Incident Report Forms)
- PD Form 77 (Temporary Change of Duty Status Report)
- Adherence to Medical Services Division and Employee Assistance program follow-up
- PD Form 42 (Medical/Injury Reports) & Certification
- PD Form 43 (Property Damage Report) & Certification
- Service weapon replacement
- Processing of the injured/arrested person (where applicable)
- Guard details

K. Investigative Report Contents and Completion Schedules

1. In instances of deadly force, serious use of force, or any use of force indicating potential criminal misconduct by an officer, the Force Investigation Team preliminary report of investigation shall be forwarded, to the Chief of Police, through the chain of command, within twenty-four hours. A transmittal document to the Mayor of the District of Columbia from the Chief of Police shall also be completed.

2. In instances of deadly force, serious use of force, or any use of force indicating potential criminal misconduct by an officer, the Force Investigation Team shall complete a final investigative report with conclusions and recommendations within ninety (90) days of receiving a Letter of Declination from the USAO or the conclusion of a criminal prosecution (absent special circumstances that must be documented).
3. The final investigative report shall include a description of the force incident and any other uses of force identified during the course of the investigation; a summary and analysis of all relevant evidence gathered during the investigation, and proposed findings and analysis supporting those findings.
4. The proposed findings shall include: a determination of whether the force was consistent with MPD policy and training, a determination of whether proper tactics were employed, and a determination whether lesser force alternatives were reasonably available.
5. To ensure comprehensive and timely completion of investigations by the Force Investigation Team, the Office of the Superintendent of Detectives shall liaison and provide full cooperation with members of the Force Investigation Team.
6. The Office of the Superintendent of Detectives shall forward immediately a duplicate copy of all reports, communications, and information related to an enumerated use-of-force incident to the Force Investigation Team.
7. The Forensic Science Services Division (to include the Mobile Crime Lab and Firearms Examination Unit) shall forward immediately a duplicate copy of all reports, communications, diagrams, lab results, and other related information to the Force Investigation Team.
8. The Director, Communications Division, shall ensure that duplicates of all related radio communication tapes of a use-of-force incident are immediately provided to the Force Investigation Team.
9. The Director, Information Technology, shall ensure that computer related communications (MDC Terminals) concerning a use-of-force incident are immediately provided to the Force Investigation Team.
10. The Force Review Operations Liaison of the Force Investigation Team shall maintain a repository of electronic and paper copies of Preliminary and Final Investigative Reports completed by the Force Investigation Team. In addition, the liaison will ensure coordination with the department's Use of Force Review Board.

11. Force Investigation Team final investigative report findings shall reflect both the criminal and policy findings. They shall be classified as follows:
 - **Justified, Within Departmental Policy** – this classification reflects a finding in which a police use of force is determined to be justified, and during the course of the incident the subject officer did not violate department policy.
 - **Justified, Policy Violation** - this classification reflects a finding in which a police use of force is determined to be justified, but during the course of the incident the subject officer violated a department policy.
 - **Justified, Tactical Improvement Opportunity** - this classification reflects a finding in which a police use of force is determined to be justified, and during the course of the incident no departmental violations occurred. However, the investigation revealed tactical errors that could be addressed through non-disciplinary and tactical improvement endeavors.
 - **Not Justified, Not Within Departmental Policy** - this classification reflects a finding in which a police use of force is determined to be not justified, and during the course of the incident the subject officer violated a department policy.
12. The standard of review in a criminal investigation is *probable cause*. The standard of review in a policy review (administrative) investigation is a *preponderance of the evidence*.
13. When allegations of excessive force or misconduct are made, the Force Investigation Team or the Office of Internal Affairs (whichever is applicable), shall make one of the following dispositions:
 - a. **Unfounded:** Where the investigation determined that there are no facts to support the incident complained of actually occurred.
 - b. **Sustained:** Where the person's allegation is supported by a preponderance of the evidence to determine that the incident occurred and the actions of the officer were improper.
 - c. **Insufficient Facts:** Where there are insufficient facts to decide whether the alleged misconduct occurred.
 - d. **Exonerated:** Where a preponderance of the evidence shows that the alleged conduct did occur, but did not violate MPD policies, procedures, or training.

L. Use of Force Review Board (UFRB)

1. The UFRB shall conduct timely reviews of all use of force investigations pursuant to GO RAR – 901.09 (Use of Force Review Board).
2. Based on its review of the use of force incidents from throughout the Metropolitan Police Department, the Use of Force Review Board shall act as a quality control body for all use of force investigations and shall forward policy and training recommendations to the Chief of Police or his designee.
3. A thorough review of all use-of-force incidents shall be conducted annually by the UFRB to reveal patterns or trends that would indicate training needs, equipment upgrades, or policy modifications. (CALEA 1.3.7 and 1.3.13)

VI. CROSS REFERENCES**A. Related Directives**

1. GO OPS-304.10 (Police-Citizen Contacts, Stops and Frisks)
2. GO RAR-306.01 (Canine Teams)
3. GO PCA-502.07 (Medical Treatment and Hospitalization of Prisoners)
3. GO RAR-901.01 (Handling of Service Weapons)
4. GO RAR-901.04 (Oleoresin Capsicum Spray Dispensers)
5. GO RAR-901.07 (Use of Force)
6. GO RAR-901.09 (Use of Force Review Board)
7. GO RAR-901.11 (Force-Related Duty Status Determination)

B. Court Opinions

1. Tennessee v. Garner, 471 U.S. 1, 11-12 (1985)
2. Graham v. Connor, 490 U.S. 386 (1989), 104 L. Ed 2d 443, 447
3. Saucier v. Katz, 533 U.S. 194 (June 18, 2001)

C. Laws and Regulations

1. D.C. Code §4-176 (Use of Wanton or Unnecessary Force)
2. D.C. Municipal Regulations, Title 6A, Section 207 (Use of Firearms and Other Weapons)

D. Other

1. CALEA Standards Section 1.3 (Use of Force)
2. IACP Model Policy (Use of Force)

E. Related Forms

1. PD Form 901-e (Use of Force Incident Report)
2. PD Form 42 (Medical/Injury Reports)
3. PD Form 43 (Property Damage Report)
4. PD Form 77 (Temporary Change of Duty Status Report)
5. PD Forms 251, 252 (Incident Report Forms)
6. PD Form 118 (Complainant Statement)
7. PD Form 119 (Witness Statement)
8. PD Form 313 (Arrestee's Injury or Illness Report and Request for Examination and Treatment)

// SIGNED //
Charles H. Ramsey
Chief of Police

Attachment: PD Form 901-hc (Use of Force Incident Report) [interim hard-copy version]

CHR:NMJ:JAE:MAR:AFA:afa