

GENERAL ORDER



DISTRICT OF COLUMBIA

Title	Use of Force Review Board
Series / Number	GO – RAR – 901.09
Effective Date	May 15, 2009
Replaces:	GO-RAR-901.09 (Use of Force Review Board), Effective Date February 14, 2003
Rescinds:	General Order 201.07 (Review Boards), Part I.A.4, Effective Date August 10, 1990 Teletype 05-033-07, (Use of Force Review Board Membership), Dated May 3, 2007
Related to:	GO-PER-120.21 (Disciplinary Process) GO-PER-120.23 (Serious Misconduct Investigations) GO-RAR 901.01 (Handling of Service Weapons) GO-RAR-901.07 (Use of Force) GO-RAR-901.08 (Use of Force Investigations) CALEA Chapter 1 (Law Enforcement Role and Authority)

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I. BACKGROUND

The purpose of this general order is to establish the Use of Force Review Board. The Use of Force Review Board primarily focuses on serious use of force investigations. All other use of force investigations are reviewed by chain of command officials and conclude at the Assistant Chief/Executive Director level. The Force Investigations Branch, Internal Affairs Bureau, conducts a quality control review of all chain of command investigations involving the use of force and may recommend to the Assistant Chief, Internal Affairs Bureau, that a chain of command case be reviewed by the Use of Force Review Board.

II. POLICY

It is the policy of the Metropolitan Police Department to conduct fair and accurate investigations of use of force incidents in a timely manner. The Use of Force Review Board shall review all use of force investigations completed by the Force Investigations Branch, all chain of command use of force investigations forwarded to the Board by the Assistant Chief, Internal Affairs Bureau, and all vehicle pursuits resulting in a fatality.

III. DEFINITIONS

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

1. Board – Use of Force Review Board.

2. Member – Sworn or civilian employee of the Metropolitan Police Department or Reserve Corps member.
3. Serious Use of Force – Lethal and less-lethal actions by Metropolitan Police Department (MPD) members, including:
 - a. All firearm discharges by an MPD member with the exception of range and training incidents and discharges at animals;
 - b. All uses of force by an MPD member resulting in a broken bone or an injury requiring hospitalization;
 - c. All head strikes with an impact weapon;
 - d. All uses of force by an MPD member resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, or disability or impairment of the functioning of any body part or organ;
 - e. All other uses of force by an MPD member resulting in a death; and
 - f. All incidents where a person receives a bite from an MPD canine.
4. Use of Force – Any physical contact used to effect, influence, or persuade an individual to comply with an order from an MPD member. The term shall not include un-resisted handcuffing or hand control procedures that do not result in injury or complaint of pain.

IV. REGULATIONS

- A. The Use of Force Review Board shall review all use of force investigations completed by the Force Investigations Branch; all firearm discharges at animals; all chain of command investigations forwarded to the Board by the Assistant Chief, Internal Affairs Bureau; and all vehicle pursuits resulting in a fatality.
- B. The Use of Force Review Board is authorized to compel the appearance of members for questioning and to obtain MPD documents necessary for the discharge of the duties of the Board.
- C. The Use of Force Review Board is authorized to recommend commendations for members who have acted with distinction in use of force incidents.
- D. The Use of Force Review Board is authorized to recommend corrective or adverse action and may also recommend non-disciplinary action for any case reviewed by the Board.

- E. The Force Investigations Branch shall conduct a quality control review of all use of force incidents investigated by the chain of command, and may recommend to the Assistant Chief, Internal Affairs Bureau, that a chain of command case be reviewed by the Use of Force Review Board.
- F. The Internal Affairs Bureau shall be responsible for the administration of the Use of Force Review Board.
- G. The Assistant Chief, Internal Affairs Bureau, shall forward cases identified by the Force Investigations Branch to the Use of Force Review Board at his/her discretion.

V. PROCEDURAL GUIDELINES

A. Organization

The Use of Force Review Board shall consist of the following voting members:

1. One (1) Assistant Chief selected by the Chief of Police, who shall serve as the Chairperson of the Board;
2. Commanding Official, Special Operations Division, Homeland Security Bureau.
3. Commanding Official, Criminal Investigations Division, Investigative Services Bureau;
4. Commanding Official/Director, Metropolitan Police Academy;
5. Two (2) members, the rank of Commander or Inspector, who are assigned to the Patrol Services and School Security Bureau (PSSSB);
 - (a) The Assistant Chief, PSSSB, shall determine the rotation schedule for Commanders and Inspectors to serve on the Board;
 - (b) Each Commander/Inspector shall serve on the Board for at least one (1) year; and
6. One non-voting member selected by the Fraternal Order of Police consistent with the current Labor Agreement between the Government of the District of Columbia, Metropolitan Police Department and the Fraternal Order of Police, MPD Labor Committee.

B. Operation

1. Absent special circumstances, the Use of Force Review Board shall meet twice monthly to review use of force incidents.
2. The Chairperson shall determine the date, time, and location of meetings.
3. A member of the Internal Affairs Bureau shall serve as the Use of Force Review Board Administrator.
4. The quorum for each Use of Force Review Board proceeding shall be four (4) members.
5. Use of Force Review Board members shall not be permitted to send a representative in their place to a Use of Force Review Board proceeding.
6. Use of Force Review Board members shall be excused from a Board proceeding only by the Board Chairperson.
7. The Use of Force Review Board Administrator shall document Board member attendance as part of the record. Absences, both excused and unexcused, shall be formally noted in the meeting summary.
8. The Use of Force Review Board shall complete, to the extent practicable, its review of each incident within the timeline established in the Fire and Police Disciplinary Procedure Act of 2004 [GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004)].

C. Review Process

1. The Use of Force Review Board shall review the actions of all members involved in the use of force incident, not just the actions of the member(s) who used force. The actions of the member(s) leading up to and following the use of force shall be reviewed to identify commendable action(s) and/or conduct warranting corrective intervention by the MPD and, as appropriate, recommend training.
2. The Use of Force Review Board shall review use of force incidents with respect to the following:
 - a. Compliance with MPD policies, procedures, directives, and training;
 - b. Whether proper tactics were used by the involved member(s);
 - c. Risk management issue(s);
 - d. Adequacy of related MPD training; and

- e. Whether the level of force used was appropriate for the incident.
3. The Use of Force Review Board may recommend to the Chief of Police use of force investigative protocols, standards for use of force investigations, training enhancements, and policy and procedure amendments.

D. Findings and Recommendations

1. After evaluating each case, the Use of Force Review Board shall provide its findings and recommendations. The Board's determination shall either affirm or reject the investigative recommendation.
2. The Use of Force Review Board shall determine the findings for use of force incidents in accordance with GO-RAR-901.08 (Use of Force Investigations) and as:
 - a. Justified, Within Departmental Policy – This disposition reflects a finding in which a use of force is determined to be justified, and during the course of the incident the subject member did not violate an MPD policy;
 - b. Justified, Policy Violation – This disposition reflects a finding in which a use of force is determined to be justified, but during the course of the incident the subject member violated an MPD policy;
 - c. Justified, Tactical Improvement Opportunity – This disposition reflects a finding in which a use of force is determined to be justified; during the course of the incident no MPD policy violations occurred; and the investigation revealed tactical error(s) that could be addressed through non-disciplinary and tactical improvement endeavor(s); or
 - d. Not Justified, Not Within Departmental Policy – This disposition reflects a finding in which a use of force is determined to be not justified, and during the course of the incident the subject member violated an MPD policy;
3. The Use of Force Review Board shall determine the findings of excessive force allegations and other misconduct in accordance with GO-RAR-901.08 (Use of Force Investigations) and as:
 - a. Unfounded – The investigation determined there are no facts to support the incident complained of actually occurred;
 - b. Sustained – The investigation determined the person's allegation is supported by a preponderance of the evidence to

- determine that the incident occurred and the actions of the member were improper;
- c. Insufficient Facts – The investigation determined there are insufficient facts to decide whether the alleged misconduct occurred; or
 - d. Exonerated – The investigation determined a preponderance of the evidence showed that the alleged conduct did occur, but did not violate MPD policies, procedures, or training.
4. The Use of Force Review Board shall determine the findings for vehicle pursuits as:
 - a. Justified – This classification reflects a finding in which a vehicle pursuit is determined to be within MPD policy; or
 - b. Not Justified – This classification reflects a finding in which a vehicle pursuit is determined to be not within MPD policy.
 5. When the Use of Force Review Board has additional questions or determines that an investigation is incomplete, the Board may compel the appearance before the Board of member(s) of the Force Investigations Branch, reassign the case to the Force Investigations Branch for investigation, return the case to the Force Investigations Branch for follow up, or return the case to the investigating unit for appropriate action.
 6. Any case returned to the Force Investigations Branch or an investigative unit for completion or correction of an investigation shall be returned to the Chairperson of the Use of Force Review Board within five (5) business days of receipt for a re-evaluation by the Board.
 7. Dissenting or non-concurring members of a Use of Force Review Board finding or recommendation may submit a minority report.
- E. Referral of Findings and Recommendations
1. When the Use of Force Review Board determines there has been an act that merits recognition, the Board shall forward appropriate commendation recommendations to the appropriate element's Commanding Official/Director or to the Chairperson, MPD Awards Committee.
 2. When appropriate, the Chairperson, Use of Force Review Board, shall submit training recommendations for specific members, as well as the entire MPD, to the Commanding Official/Director, Metropolitan Police Academy.

3. When the Use of Force Review Board determines that a violation of MPD policy has occurred, the Board shall forward the case to the Director, Disciplinary Review Branch (DRB), Human Resources Management Division, Professional Development Bureau to determine the appropriate level of discipline.
4. When the DRB receives notice of recommended discipline from the Use of Force Review Board, the Director, DRB, shall report back to the UFRB, in a written memorandum, within fifteen (15) business days of receipt of the notice from the Board, of the action(s) taken. Copies of any forms executed in conjunction with the action(s) taken shall be attached to the memorandum.
5. The Use of Force Review Board, assisted by the Internal Affairs Bureau, shall conduct an annual analysis of all use of force incidents to detect any pattern, problem and/or issue and submit no later than February 15 of each calendar year a report to the Chief of Police of findings and recommendations.
6. The Internal Affairs Bureau shall follow up on all recommendations implemented by the MPD and report outcomes to the Chief of Police.

F. Internal Affairs Bureau

1. The Assistant Chief, Internal Affairs Bureau, shall designate a member to serve as the Use of Force Review Board Administrator.
2. The Use of Force Review Board Administrator shall:
 - a. Coordinate with the Internal Affairs Bureau staff to identify completed investigations that are ready for review by the Board;
 - b. Track the progress of investigations conducted by the Force Investigations Branch and notify the Assistant Chief, Internal Affairs Bureau, regarding any cases that are at risk of missing the ninety (90) day deadline [GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004)];
 - c. Prepare proposed agendas for review and approval by the Chairperson of the Board;
 - d. Notify members of the Board as to the date, time, and location of Board meetings;
 - e. Review all investigations prior to submission to the Board and prepare and distribute “Decision Point Matrix Analysis” summaries for each investigation;

- f. Provide all pertinent reports, records, and evidence to be considered;
 - g. Ensure that relevant and appropriate historical information about subject members and supervisors are available for consideration by the Board in connection with recommendations of appropriate discipline;
 - h. Ensure that relevant and appropriate MPD directives and/or lesson plans are available for review by Board members at the Board hearings;
 - i. Prepare a summary of the Board proceedings including documenting conclusions that outline findings and recommendations;
 - j. Prepare memoranda for MPD units as appropriate to transmit Board findings and recommendations;
 - k. Notify the subject members and their supervisors and Commanding Officials/Directors of Board decisions;
 - l. Maintain records reflecting the adverse and corrective actions taken by the Board in response to Board decisions and recommendations.
 - m. Assist with the preparation of the annual reports of the Board;
 - n. Maintain complete historical records of Board actions including agendas, meeting summaries, correspondence, and annual reports; and
 - o. Complete other Board administrative duties as assigned by the Assistant Chief, Internal Affairs Bureau.
3. The Internal Affairs Bureau shall ensure that statistical information concerning all use of force cases is available to the Board.

V. CROSS REFERENCES

- A. GO-PER-201.22 (Fire and Police Disciplinary Procedure Act of 2004)
- B. GO RAR-901.08 (Use of Force Investigations)



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