The report that follows provides detailed case studies of the Metropolitan Police Department’s investigations of four officer-involved fatalities that occurred in 2018 and 2019. The case studies were prepared by The Bromwich Group, led by Michael R. Bromwich, who served as Monitor for a Memorandum of Agreement (MOA) on police use of force between the District and the Department of Justice from 2001 to 2008. His team partnered with Steptoe & Johnson LLP and we appreciate the law firm’s substantial pro-bono assistance.

This work builds upon a review of the Department’s policies and practices on use of force prepared by The Bromwich Group for ODCA in 2016. That review found that the Metropolitan Police Department (MPD) and its overall policies on use of force “continues to be consistent with best practices in policing” and with the provisions of the earlier MOA. We also identified deficiencies in use of force investigations that needed correction.

The case studies that follow document serious lapses in the MPD’s investigation of the 2018 and 2019 uses of deadly force. We note that “weaknesses identified in our 2016 report have not been remedied and, indeed, have grown substantially worse” while the Department has appeared “to resist or be unconcerned with remedying them.” The case studies document failure to comprehensively review the events leading up to the four fatalities and to fully explore the policy, tactical, and training issues they raise. The major recommendations include:

- Comprehensive investigation and analysis of use of force incidents including actions by all officers leading up to the use of force and any and all opportunities for de-escalation.
- Enhanced training for investigators who handle serious use of force cases.
- Requiring the Use of Force Review Board (UFRB) to provide specific recommendations on training, policy and best practices.
- Public release of both the Internal Affairs Division final report and the UFRB’s resulting conclusions on use of force investigations.

We also call on the U.S. Attorney for the District of Columbia to issue declination letters that explain the reasoning when choosing not to prosecute in use of force cases, as is standard practice in other jurisdictions.
This report will be followed by case studies of two officer-involved fatalities that occurred in the District in 2020. We were asked by the Police Reform Commission to add a review of the more recent fatalities as the Department conducted its investigations. We appreciate the leadership of former Chief Peter Newsham and Acting Chief Robert J. Contee III in permitting team members to observe interviews as well as the physical record in the form of body-worn camera footage. We will report on those investigations when MPD’s administrative investigations conclude.

Our 2016 report emphasized that police reform is possible and can be sustained. It stressed that a critical ingredient in sustaining reform includes accountability by government leaders and independent oversight bodies. In his written response to the findings and recommendations Acting Chief Contee expressly committed to implementing all of the report’s recommendations. This is welcome and appreciated. Our ongoing review of MPD’s investigation of the 2020 deaths of Deon Kay and Karon Hylton-Brown provides a real-time opportunity for the Department to demonstrate its commitment to improved oversight of use of deadly force.

Policing practices are under review nationally. We hope the case studies and resulting recommendations contribute to that ongoing discussion. It is important to keep before us the “why” of this review. Four young Black men -- Jeffrey Price, Jr., D’Quan Young, Marqueese Alston, and Eric Carter -- lost their lives. The very least the District government can do is recognize when and how and whether officer-involved fatalities can be averted and institute and maintain policy and practice with prevention as the goal.

I would like to thank The Bromwich Group and Steptoe & Johnson for their expertise and good work and Chiefs Newsham and Contee and their leadership teams for their collaboration and response.

Sincerely yours,

Kathleen Patterson
District of Columbia Auditor

cc: Councilmembers

MARCH 2021
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Executive Summary

Introduction

During 2018 and 2019, four young Black men—Jeffrey Price, Jr., D’Quan Young, Marqueese Alston, and Eric Carter—were killed during separate encounters with members of the District of Columbia’s Metropolitan Police Department (“MPD”). We were asked to undertake an in-depth review of these four cases by the Office of the District of Columbia Auditor (“ODCA”).

The purpose of the review was to evaluate the conduct of the MPD officers involved in the incident, and the MPD internal affairs investigations that followed, to determine whether the conduct was consistent with existing law, MPD policy, and best policing practices. The incidents under review occurred on May 4, 2018 (Mr. Price); May 9, 2018 (Mr. Young); June 12, 2018 (Mr. Alston); and September 16, 2019 (Mr. Carter).

Our review looked at each of these instances with a wide lens. We focused not only on the use of force incident itself, but also the events leading up to and following the incident. Likewise, we not only focused on the investigation itself, but also oversight by supervisory personnel and the Use of Force Review Board (“UFRB”), the internal unit within MPD that reviews serious uses of force. At each stage of our review, we considered not only whether MPD personnel complied with existing MPD policies and best policing practices, but also whether there were opportunities to improve MPD policies, practices, and training, particularly in light of recommendations we made in our January 2016 report.

We also considered whether MPD complied with the terms of a June 2001 Memorandum of Agreement (“MOA”) between MPD, the District of Columbia, and the U.S. Department of Justice (“DOJ”). While the MOA is no longer binding on MPD, it sets forth standards, best practices, and procedures that are useful reference points.

The work described in this report commenced in late July 2020 and extended through early February 2021. To conduct these assessments, the team received briefings from the Internal Affairs Division (“IAD”) agents investigating each use of force, as well as senior MPD officials, including Assistant Chief Wilfredo Manlapaz (Director, Internal

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1 Subsequently, we have been asked by the ODCA to review the September 2, 2020, death of Deon Kay, and the October 23, 2020, death of Karon Hylton-Brown. Those reviews are ongoing and will be analyzes separately.

Affairs Bureau), Inspector John Knusten (Director, Internal Affairs Division), and Maureen O’Connell (Director, MPD Policy and Standards Branch).

The review team\(^3\) thoroughly reviewed the voluminous case files of the four use of force incidents, including physical evidence, investigative reports, autopsy and forensic reports, audio recordings and transcripts of investigative interviews and dispatch communications, and body-worn camera (“BWC”) footage, among other evidence. The team also attended, by video, the UFRB’s deliberations in the Eric Carter case. Finally, the team reviewed civil litigation filed against MPD in connection with any of the four use of force incidents. After reviewing the evidence, the team re-interviewed the investigative agents and MPD officials.

Throughout our investigation, the review team found the MPD members with whom we interacted to be responsive, professional, cooperative, and supportive of our efforts. MPD provided us the information that we requested in a timely manner. The review team recognizes and appreciates the considerable time and effort each of these MPD members took out of their schedules to assist us.

With the hope of benefiting both the MPD and the communities of the District of Columbia, the overarching goals of our review are to: (1) mitigate the occurrence of use of force incidents; (2) minimize the risk to the general public and MPD members stemming from those incidents; and (3) enhance the credibility and efficacy of MPD’s use of force investigations.

Both the review team and ODCA recognize that this review comes at a critical moment in the relationship between the police and public, both nationally and within the District of Columbia. We conducted our review mindful of several important points of context. First, over the last several years, the relationship between law enforcement agencies and the communities they serve has been the focus of a growing nationwide discussion. While our review team made a similar observation in our 2016 review, this focus has further intensified in the years that have followed—particularly in the wake of the killing of George Floyd by members of the Minneapolis Police Department, and the demonstrations that followed in cities and towns throughout the country. Locally, policing issues have been front and center in Washington, D.C., where various groups

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\(^3\) The review team was led by Michael R. Bromwich, who had served as the independent monitor from 2002 through 2008, and as the head of the 2015–16 review team. The review team included policing experts Dennis E. Nowicki, the former Chief of Police in Joliet, Illinois, and Charlotte, North Carolina; Kerr Putney, the former Chief of Police in Charlotte; and Ann Marie Doherty, the former Superintendent of the Boston Police Department. Mr. Bromwich, Chief Nowicki, and Superintendent Doherty served on the independent monitoring team and the 2016 review team. The review team also included as full participants Michael G. Scavelli and Emma S. Marshak from the Washington D.C.-based law firm Steptoe & Johnson LLP.
have sought greater transparency and accountability from the MPD. In this context, it is more important than ever that law enforcement agencies, including MPD, focus on fostering trust and confidence in the community by demonstrating that uses of force are taken seriously, and that they are investigated and overseen in a transparent, even-handed manner. Indeed, the credibility of investigations of serious uses of force, especially those resulting in the death of civilians, has never been more important.

After a brief discussion of our previous work with MPD and the methodology for our review, this report provides an in-depth analysis of each of the four cases, including providing an overview of the facts of the incident that led to the deaths of the four men, describing the investigation conducted by members of the IAD’s Internal Affairs Bureau (“IAB”), analyzing the investigator’s findings, reviewing the available materials on the UFRB’s review of the investigation, and making recommendations relevant to the case under review. We then propose a number of more general recommendations that flow from our review of the four cases.

The Death of Jeffrey Price, Jr.

On May 4, 2018, at approximately 1:23 p.m., the D.C. Office of Unified Communications (“OUC”) broadcast a call reporting multiple gunshots in the 5300 block of Blaine Street, N.E. The dispatcher advised that two males, one on a four-wheel all-terrain vehicle and a second on a dirt bike, were fleeing the area of the gunshots at high rates of speed. The operator of the dirt bike, Jeffrey Price, Jr., drove by Officers David Jarboe and Anthony Gaton near the intersection of 53rd Street and Blaine, N.E. Officers Jarboe and Gaton began following Mr. Price, radioing that they were behind a person riding a dirt bike who matched the description of one of the vehicles that had been seen in the area of the gunshots.

Separately, Officer Michael Pearson had responded to a different report of gunshots in the Lincoln Heights area of Northeast. Officer Pearson was completing his work on the response when he heard a radio transmission from Officer Jarboe reporting, “I’m behind him. He’s coming up on Division [Avenue]. Red dirt bike—Division toward Burroughs.” Moments later, Officer Jarboe repeated the substance of that transmission.

Officer Pearson drove eastbound on Fitch Place. When he entered the intersection of Fitch Place and Division, he saw the dirt bike traveling towards his police vehicle. Officer Pearson pulled forward into the northbound lane, and as he did so, Mr. Price applied the dirt bike’s brakes and began an extended skid. The dirt bike skidded over 100 feet and collided with Officer Pearson’s vehicle. The impact caused severe injuries to Mr. Price—who was not wearing a helmet—and pinned him below the dirt bike. Officer Pearson pulled the bike off Mr. Price and checked his condition. Additional officers came to the scene, rendered first aid and called for medical
assistance. Paramedics transported Mr. Price to the hospital, where he was later pronounced dead from the injuries he sustained in the collision.

The MPD investigation was conducted jointly by the MPD Major Crash Investigation Unit (“MCIU”) and the Internal Affairs Division. The accounts from multiple eyewitnesses to the collision were largely consistent, reporting that: Mr. Price was well ahead of the police cars following behind him; Officer Pearson’s marked SUV emerged on to Division Ave from Fitch Place; Mr. Price attempted to brake; and Mr. Price then struck the SUV. All of the eyewitnesses except one, and all of the MPD officers, reported that Mr. Price was traveling in the wrong lane of traffic. MCIU performed a detailed crash reconstruction and concluded that the primary cause of the accident was Mr. Price’s “reckless operation of a stolen dirt bike.”

The investigation of all three officers—Pearson, Jarboe, and Gaton—focused on potential violations of MPD’s policy governing vehicle pursuits. Specifically, Officers Jarboe and Gaton were investigated for engaging in an unjustified vehicular pursuit, while Officer Pearson was investigated for intentionally utilizing his car as a “blocking vehicle,” which is prohibited by MPD policy. At the conclusion of the investigation, allegations that these policies were violated were deemed “Unfounded,” which, according to MPD’s terminology, means “there are no facts to support that the incident occurred.” On June 18, 2019, the UFRB unanimously concurred with IAD’s recommendation that the allegations were “Unfounded.”

We disagree with the “Unfounded” conclusion. The collision occurred, and Mr. Price died as a result, so at best it is misleading and confusing to find that the allegations are “Unfounded,” according to MPD’s own definition of that term. As to each potential act of misconduct, there were obviously facts that showed that the incident actually occurred. However, in the end, we did not find sufficient evidence to determine that the involved officers violated MPD policies or procedures. Thus, the officers should have been “Exonerated” under MPD policy.

Even so, our review determined that the investigation had significant shortcomings. It did not adequately question Officer Pearson’s account of the collision to fully explore the “blocking” allegation. Nor did it adequately explore whether Officers Jarboe and Gaton engaged in a vehicle pursuit, as defined by MPD policy, and if they did, whether it violated any MPD requirements. We found that the shortcomings of the investigation and analysis of the vehicle pursuit issue were in large part because of the likely confusion and ambiguity surrounding the definition of what constitutes a vehicle pursuit. For example, MPD’s vehicular pursuit policy defines the situation where a police officer does not activate emergency equipment as something other than a pursuit when law, logic and common sense dictate the opposite. More broadly, we found the investigative interviews of the three officers on these and other issues to be brief and relatively superficial, especially the re-interviews, which were
The Death of D'Quan Young

On Wednesday, May 9, 2018, at approximately 6:45 pm, MPD Officer James Lorenzo Wilson III was off duty and in civilian clothes, on his way to attend a cookout with four of his former MPD Academy classmates at a house in the 2300 block of 15th Street, N.E., in Washington, D.C. After parking his car, Officer Wilson began walking northbound on 15th Street in search of his classmates’ house. He had trouble locating the house and unsuccessfully attempted to phone one of his classmates to help him locate it. While still walking northbound, he realized that he must have passed the house and reversed direction, walking southbound on the east sidewalk of 15th Street.

Shortly after he reversed direction, Officer Wilson was approached by D’Quan Young, a resident of the area. As shown in footage from three surveillance cameras located across the street at the Brentwood Recreation Center, Mr. Young walked casually across 15th Street and approached Officer Wilson. According to Officer Wilson, as Mr. Young approached, he asked whom Officer Wilson was calling on his cellphone. Officer Wilson refused to engage with Mr. Young, in substance responding that whom he was calling was none of Mr. Young’s business. The question was repeated, with substantially the same answer.

As Mr. Young approached the east sidewalk, Officer Wilson turned towards the street and stepped from the sidewalk, off the curb, and into the street where Mr. Young had stopped. Officer Wilson placed a bag with beverages he had been carrying on the ground, crouched and then took a couple of steps back. He settled into a semi-crouch, which in video appears to be at the same time confrontational and defensive. At that point, Officer Wilson and Mr. Young were only a couple of feet apart. After they faced each other in the street for no more than a few seconds, Mr. Young stepped up on the curb and continued onto the sidewalk, followed by Officer Wilson. At that point, according to Officer Wilson, Mr. Young reached into his waistband and drew what was subsequently determined to be a Kai-Tee .380 caliber pistol, and said, “Be cool.” The video footage shows Officer Wilson take a step forward while Mr. Young retreated, followed by Officer Wilson backing up rapidly while still facing Mr. Young. According to Officer Wilson, he backed up rapidly in response to Mr. Young pointing and firing his pistol at Officer Wilson. Officer Wilson said he saw the flash and felt the bullet go by.

In retreat, Officer Wilson drew his service pistol and fired numerous rounds at Mr. Young as Mr. Young continued to back away. After retreating, Officer Wilson took cover behind a van parked at the curb, and peeked around the front driver’s side. Mr. Young had crossed from the sidewalk into the street and was on the ground, having...
been struck by multiple shots from Officer Wilson. Officer Wilson fired an additional shot from behind the cover of the van, and then, after pausing, peeked around the front of the van again and fired a final shot.

Initial emergency medical care was provided to Mr. Young by MPD members who were in the vicinity. Personnel from D.C. Fire and Emergency Medical Services responded to the scene. They treated Mr. Young and brought him to the Washington Hospital Center Medstar Unit, where he was pronounced dead by emergency room staff at 7:23 pm.

The MPD investigation of Officer Wilson’s use of deadly force included interviews of witnesses; video footage from the Brentwood Recreation Center cameras, which was subsequently enhanced by the FBI; a substantial volume of BWC footage of the aftermath of the shooting; forensic evidence that included recovery and analysis of shell casings recovered at the scene; medical and autopsy reports documenting the fatal wounds suffered by Mr. Young; and substantial additional evidence. In general, the investigation did a thorough job of gathering the large amount of potentially relevant evidence. Based on this evidence, including multiple interviews of Officer Wilson, the investigation concluded that Officer Wilson’s use of deadly force was justified and within MPD policy.

We disagree with this finding based on Officer Wilson’s failure, prior to the exchange of gunfire, to explore opportunities for de-escalation, as required by MPD’s use of force policy. We credit Officer Wilson’s claim that Mr. Young drew his weapon and shot first, and therefore Officer Wilson’s use of deadly force in firing his weapon at Young on the sidewalk was justified. But there is no evidence that Officer Wilson tried at any point to de-escalate his encounter with Mr. Young. Our review of the evidence showed that Officer Wilson failed to take advantage of numerous opportunities to do so, beginning with the initial verbal exchange and extending through to his following Mr. Young up on the sidewalk after their faceoff in the street. Officer Wilson did not identify himself as a police officer. He did not call for backup. He did not call 911. He took no steps to avoid the encounter or seek any potential avenue of escape. He made no effort to attempt “warning, verbal persuasion, tactical communication,” as required by MPD policy, or employ any other de-escalation technique.

The issue of de-escalation was not investigated, was not flagged at any stage of MPD’s review, and was not addressed either by the IAD chain of command or the UFRB. Our independent review concluded that although Officer Wilson’s use of deadly force was indeed justified, he violated MPD’s policy requiring de-escalation. In addition to this core issue, we found that certain civilian witnesses should have been re-interviewed outside a group setting, and that Wilson’s final two shots when Mr. Young was already prone in the street should have been more critically examined.
The Death of Marqueese Alston

On June 12, 2018, members of MPD’s Seventh District Impact Team were patrolling in the 3700 block of First Street, S.E. The team members were traveling in two marked MPD cars. Officer Ronald Koch and three other officers were assigned to Cruiser D16 (“Car #1”). Officer Caleb Demeritt and one other officer were traveling behind them in Cruiser 760 (“Car #2”).

At approximately 7:10 pm, one of the officers in Car #1 saw Mr. Marqueese Alston walking northbound in the 3700 block of First Street, S.E. That officer said he observed Mr. Alston carrying something in his front pants pocket that he suspected was a pistol. Officer Demeritt, who was driving Car #2, later said that he believed that the officers in Car #1 “[saw] something.” He made eye contact with Mr. Alston, who started running away. Officer Demeritt (Car #2) and Officer Koch (Car #1) simultaneously got out of their respective cars and pursued Mr. Alston on foot.

During a foot chase that lasted only 12 seconds, Mr. Alston drew a handgun from his waistband. Mr. Alston turned and fired four rounds in the direction of the officers, none of which struck them. As Mr. Alston began firing, Officer Demeritt dove to the ground in the alley, and while on the ground, fired eight rounds at Mr. Alston. Nearly simultaneously, Officer Koch, who was behind Officer Demeritt, fired seven rounds from his weapon. Mr. Alston was struck by six of the shots fired by the two officers. Three of the officers then approached Mr. Alston, who was on the ground and appeared to be unconscious. The officers immediately called for medical assistance. D.C.’s Emergency Medical Services reached the scene and pronounced Mr. Alston dead at 7:30 pm.

The IAD investigation began immediately. The officers who were involved in the incident were interviewed either at the scene or at the Seventh District. Members of IAD performed a witness canvass, seeking eyewitnesses to the shooting. The investigators spoke with seven civilian witnesses and obtained statements from each of them. The witness accounts were largely consistent. Among those who actually saw the exchange of gunfire, three of four witnesses stated that Mr. Alston shot first. The fourth witness indicated that she “did not see Mr. Alston with a gun” and “only saw the police shooting at him.”

Members of MPD’s Department of Forensic Services (“DFS”) also responded to the scene, took photographs, and collected forensic evidence, including four shell casings that were subsequently determined to have been fired from Mr. Alston’s pistol. IAD personnel also reviewed and analyzed BWC footage from a number of the Impact Team officers.
We agree with MPD’s ultimate conclusion, concurred in by the UFRB, that the officers’ use of deadly force was justified and within MPD policy. That conclusion is reasonable and fully supported by the evidence. Nevertheless, we noted a number of opportunities for significant improvements in MPD tactics and in IAD investigative practices.

The speed at which the encounter unfolded made it unfeasible for the officers to exhaust other options or identify themselves as officers prior to discharging their firearms, but the investigation should have explored why the officers appeared not to have issued any verbal commands during the pursuit, as required by MPD policy. Although it is extremely unlikely that these commands would have altered the outcome, the policy requires such a command. At a minimum, the investigator should have asked the officers involved in the pursuit whether such commands were considered and why they were not provided. In addition, we saw no evidence that any officer actually checked Mr. Alston’s vital signs or otherwise attempted to render first aid, as required by MPD policy. Indeed, the officers’ failure to attempt to render aid to Mr. Alston was undoubtedly noticed by onlookers, which likely stoked their anger and increased the tension and volatility at the scene.

A central question in the case was why the officers initiated contact with Mr. Alston in the first place. We do not believe the reason for the initial pursuit was adequately explored. In particular, the IAD report’s account of how and why Officer Demeritt pursued Mr. Alston does not appear to be supported by the weight of the evidence. The report suggests that he “joined” three other officers—each of whom believed Mr. Alston was armed—in an existing pursuit. But nearly all of the evidence suggests that Officer Demeritt was initially unaware that Mr. Alston was armed and initiated the pursuit on his own—i.e. in parallel to the three other officers. Neither the report nor the investigation adequately addressed how and why Officer Demeritt joined the pursuit and whether Officer Demeritt had an adequate factual basis for doing so. Instead, it focused almost entirely on the moment of the exchange of gunfire between Mr. Alston and the officers and not sufficiently on the events leading up to it. The fact that Mr. Alston was in fact carrying a weapon does not eliminate the need for the propriety of the foot pursuit to have been addressed and evaluated.

The interviews with the involved officers were extremely brief—all but one lasted fewer than 10 minutes. The interview of one of the central officer participants was eight minutes in total and included only approximately five minutes of substantive questioning. Each of the interviews occurred shortly after the incident, and IAD agents did not conduct follow-up interviews with the officers after having the opportunity to review the BWC footage. Such follow-up interviews might have provided the officers involved in the incident the opportunity to provide needed context and information relating to various important issues, including whether the officers involved in the pursuit had an adequate factual basis for a lawful stop of Mr. Alston.
More thorough interviews are critical to ensure that MPD (and the public at large) can have full confidence in the investigative process and that all relevant issues are fully explored, even if they are sensitive and difficult, and even if they are not relevant to the ultimate issue of whether the use of force was justified.

The Death of Eric Carter

On September 16, 2019, at approximately 7:00 pm, the D.C. Office of Unified Communication (“OUC”) received a series of 911 calls related to an incident at 2245 Savannah Terrace, S.E. One of the calls was from Ms. Carter, who reported that her son, Eric Carter, was firing a gun inside her apartment. Within two minutes, officers from MPD’s Seventh District responded to the scene.

The first officer on the scene learned that shots had been fired in the apartment and requested a ballistic shield. One of the radio transmissions suggested that Mr. Carter might have mental health issues. Numerous officers arrived at the scene, one of whom brought a ballistics shield; another was armed with an M4 patrol rifle.

The officers deployed on the front stoop around the exterior door to the building, which led to the apartment where Eric Carter was inside. The officers remained in this position for several minutes and discussed their tactical options. The officers then heard a gunshot, which they believed came from inside the Carter apartment (Apartment 12). Officer Dennis Sfoglia entered the hallway and climbed the staircase; other officers followed and were positioned on (or at the top of) the stairs leading to the apartment. While Officer Sfoglia held the ballistic shield, he kicked the door to Apartment 12 several times but the door did not open, and there was no response from inside. Officer Sfoglia was told to stop by Sergeant Joseph Devlin, and he and his fellow officers returned to their positions on the front stoop. Sergeant Devlin then told the dispatcher he was “declaring a barricade.” The officers radioed that they believed the shots came from Apartment 12 and requested a second ballistic shield.

Less than a minute later, Officer Sfoglia told the other officers that he saw “someone jiggling the door” of Apartment 12. He yelled “police department” and “come out with your hands up.” After a few seconds, Mr. Carter emerged from Apartment 12. Officer Sfoglia yelled, “Gun, gun, step back, he’s got a gun.” Mr. Carter then returned to Apartment 12. At this point, the officers were positioned on the front step and the narrow sidewalk leading up to the building. A few seconds later, Mr. Carter re-emerged from Apartment 12. An officer yelled, “He’s got a gun” to his fellow officers and, “Put your hands up” to Mr. Carter. Nearly simultaneously with the officer’s command, Mr. Carter raised his gun, took aim at the officers and fired his weapon.
Multiple officers returned fire. Officer Sfoglia fired two rounds, turned his back to Mr. Carter, and retreated to the parking lot. Officer Juwan Jefferson fired at least one round, turned his back to Mr. Carter, and retreated to the sidewalk—ultimately firing eighteen rounds at Mr. Carter. It was later determined that one of those rounds struck Officer Sfoglia in his tactical vest. Officer Byron Jenkins backpedaled on the walkway and fired nineteen rounds from his M4 patrol rifle. While backpedaling, Officer Jenkins fell to the ground but continued to fire in the direction of Mr. Carter. Two other MPD members also returned fire. Mr. Carter continued advancing towards the officers, as they fired at him. He eventually collapsed in the front walkway of 2245 Savannah Terrace. Mr. Carter was unresponsive and was later pronounced dead on the scene at 9:38 pm. The Emergency Response Team (“ERT”) was dispatched to the scene and entered Apartment 12. When ERT members forcibly removed the bathroom door, the officers discovered the body of Mr. Alphonso Carter on the bathroom floor. He was pronounced dead as a result of multiple gunshot wounds.

IAD investigators immediately began their investigation. Our review did not identify any major inconsistencies among the accounts of the civilian witnesses who were interviewed. However, the witnesses’ accounts focused on what occurred prior to the shooting—i.e., that Mr. Carter was agitated, fired his gun in the apartment, and that Ms. Carter had fled to another apartment. None of the civilian witnesses saw the exchange of shots between Mr. Carter and the MPD officers. The IAD investigators also interviewed 11 MPD members who responded to the scene. Their accounts were generally consistent with the narrative above, and all of the officers stated unequivocally that Mr. Carter fired first. Department of Forensic Services personnel collected forensic evidence and conducted weapons and ammunition checks on the scene. They recovered the Taurus .45 ACP semi-automatic pistol used by Mr. Carter.

The investigators recommended, and the UFRB unanimously concurred, that the use of deadly force by Sergeants Joseph Devlin and Darnell Sanders, and Officers Dennis Sfoglia and Bryon Jenkins, was justified and within MPD policy. The UFRB also unanimously concurred with the recommendation in the Internal Affairs investigative report that Officer Jefferson’s use of force was justified, but called for a tactical improvement opportunity based on his having shot Officer Sfoglia. Beyond its concurrence, the UFRB “directed all of the members that were on the scene of the incident … to attend a scene review” at the MPD Academy but made no additional findings or recommendations.

We agree with MPD’s ultimate conclusion that the officers’ use of deadly force was justified and supported by the evidence, but we identified a number of opportunities for significant improvements in tactics and investigative practices. BWC footage, witness statements, and physical evidence support the conclusion that the involved officers provided verbal warnings. The evidence shows convincingly that Mr. Carter exited Apartment 12 with a pistol in his hand, pointed the pistol at officers,
and fired at least once before the officers returned fire. Under these circumstances, the involved officers reasonably feared for their lives and were unable to otherwise de-escalate the situation prior to discharging their firearms.

However, there were multiple tactical issues implicating officer safety that the investigation needed to more fully explore. We agree with the investigators, and the UFRB, that Officer Jefferson’s actions warranted a “tactical improvement opportunity” for accidentally shooting Officer Sfoglia during the exchange of gunfire, but this was only one of many issues that should have been addressed. For example, consistent with MPD policy and best policing practices, the officers on scene should have notified the Emergency Response Team at the outset of the incident and declared a barricade. Indeed, MPD policy requires the mobilization of ERT when officers determine that the armed individual is known to have mental health issues. That did not occur, and the issues relating to declaring a barricade and notifying the ERT were not explored. Even though only about five minutes passed between the request for the ballistic shield and Mr. Carter’s emerging from the apartment and firing at the officers, our review of the evidence makes clear that the officers had the opportunity to summon ERT when they initially arrived on the scene and should have done so.

Further, the video evidence suggests that the MPD officers’ positioning created a “fatal funnel.” The videos clearly show that a number of the officers were fully exposed in the funnel and covered neither by the building nor by the ballistic shield. Several of the officers were forced to fall back as Mr. Carter began shooting, and two officers were forced to turn their back on the shooter as they retreated. This tactical error had a number of significant consequences, including Officer Jefferson’s shooting of Officer Sfoglia, excessive gunfire from unsafe shooting positions, and unnecessary risks to civilians both inside and outside the apartment building.

We found several significant tactical shortcomings in the actions of the MPD members during this incident. These shortcomings were not adequately investigated by IAD and not adequately identified and analyzed in the IAD report or by the UFRB. Like several of the other cases that we have examined, the investigation was largely focused on the “moment of discharge.” Accordingly, the only tactical improvement recommended by the report was directed at Officer Jefferson. And that recommendation stated only that he was “responsible for ensuring no other persons were within his line of fire for each shot.” While we agree with this conclusion, neither IAD investigators nor the UFRB grappled with the numerous tactical issues presented by the facts, including but not limited to those described above.

Recommendations

Our review of these four cases has raised questions about the adequacy of certain MPD policies and concerns about how these three shootings and one vehicle collision
were investigated and reviewed by the UFRB. In the body of this report, we describe specific recommendations that flow from the specific facts under review in the individual cases. However, our review of the four cases gave rise to some general recommendations broadly applicable to MPD deadly force investigations. We summarize several of them here, but the report contains a fuller set of these general recommendations, including those aimed at ensuring greater transparency in deadly force investigations and greater clarity and consistency in the classification of use of force incidents.

First, MPD must ensure that IAD investigations are sufficiently comprehensive to allow the UFRB to meet its mandate. MPD’s policy on use of force investigations does not currently ensure that IAD’s use of force investigations provide the Board with the range of information it needs. While the current policy requires IAD to consider the involved officer’s tactics, we recommend that MPD revise its policy so it is clear that IAD’s investigation should mirror the areas that the UFRB is required to review. This includes investigating and presenting to the UFRB risk management issues, the adequacy of training, and analysis of the events leading up to and following the incident, including the actions of DFS and OUC personnel. In our prior work with MPD, we did not observe that the lack of congruence adversely affected the quality of IAD’s use of force investigations. Our review of these four cases demonstrates that with the passage of time, it has. Therefore, we recommend a change in MPD’s use of force investigations policy.

Second, IAD investigators need to be trained on investigating and presenting the above issues to the UFRB. We noted with concern in our 2016 report that the merger of the former Force Investigations Team ("FIT"), created in 1999 by former Chief Charles H. Ramsey, into the Internal Affairs Bureau could, over time, degrade the quality of use of force investigations especially in serious use of force cases. Indeed, the first two recommendations in our 2016 report specifically addressed the degradation in quality of such investigations, noting that the MPD’s phasing out FIT could have serious negative effects on the quality of investigations. We recommended that MPD create use of force specialists, and that they receive specialized training similar to the training that was provided to FIT when it was formed in 1999. There is no evidence that those recommendations were implemented.

Third, the UFRB should improve its practices with respect to the “Decision Point Matrix Analysis” required by MPD policy. In each of the cases we reviewed, the content of the analysis did not match its title. The documents largely provided a summary of the Final Investigative Report’s investigative conclusions. But these analyses did not carefully scrutinize the various decision points faced by the officers involved in the incident. A decision point analysis can be an extremely helpful tool to facilitate the assessment of a use of force incident. It should serve as the basis for the UFRB to serve its critical role as an independent review body within MPD. It can also
serve as the basis for recommendations for additional training either for the officer(s) involved in the incident or for the entire Department, and it can be the source of instruction about appropriate police tactics in particular circumstances.

Fourth, the UFRB should embrace its broad responsibilities to recommend use of force investigative protocols, standards for use-of-force investigations, training enhancements, and policy and procedure amendments. In the four cases we reviewed, the Final Report and UFRB recommended additional training for only one officer. Even where the UFRB does not believe a formal “tactical improvement opportunity” classification is warranted, the UFRB should still make a practice of providing soft feedback and training recommendations where warranted.

Fifth, IAD should designate and train force investigation specialists. As described above, the 2016 Report recommended that MPD specially train a cohort of IAD agents to focus on investigating serious use of force cases, much like specially trained units for homicides and sexual assaults. At the time, MPD did not agree with this recommendation and, instead, indicated that all members of IAD would receive cross-training on use of force investigations and misconduct investigations. Based on the investigatory shortcomings described in our report, we believe MPD should reconsider. We do not believe that MPD must necessarily undo the merger of FIT and IAD, although that is an option MPD should certainly consider. But, at a minimum, we recommend that MPD provide intensive, specialized training to a select group of IAD investigators who can serve as the lead investigators in all serious use of force incidents. The current use of force investigation training offered to IAD investigators is insufficient, as evidenced by the decreasing quality and thoroughness of serious use of force investigations that we first observed during the 2016 Review. IAD investigators informed us that the primary training for new IAD investigators consists of shadowing other IAD investigators. This is not sufficient.

Conclusion

Our review over the past several months has focused on MPD’s investigations into the four incidents in which the actions of MPD officers caused the deaths of Jeffrey Price, Jr., D’Quan Young, Marqueese Alston, and Eric Carter. We have been mindful throughout our review that we are not engaged in an academic or theoretical exercise, but instead a review of some of the most significant and difficult incidents MPD has dealt with over the last several years. Those incidents have had enormous impact not only (and most obviously) on the four men who died, but also on their families and friends, and the communities who mourn their loss, regardless of whether the actions of the MPD officers who caused their deaths were justified under the circumstances. Less obviously, these fatal incidents have a large and lasting impact on the officers involved in these events, on the MPD as a whole, and on the relationship between MPD and the communities it serves. These incidents have become flashpoints in the city, just as
citizen deaths at the hands of police have caused anger and turmoil in many other places in the country.

MPD owes the D.C. community and the public a robust system for investigating and reviewing uses of force. That system must ensure that appropriate policies are in place for investigating serious uses of force, that MPD investigators are adequately trained to investigate such cases, and that the review and oversight system both in the Internal Affairs Bureau and the Use of Force Review Board is demanding and rigorous. If any policies relevant to an incident are unclear, that lack of clarity should be identified during the course of an investigation and brought to the attention of MPD officials so they can address the issue. If a set of facts presents thorny and difficult issues, IAD investigators must be adequately trained to identify those issues and thoroughly investigate them. And if an investigation fails to address the full range of issues presented by the use of deadly force, reviewing officials within IAD and the UFRB must identify those shortcomings and insist that all the relevant issues—not just those at the time that the ultimate decision to use force was made—be addressed. Those obligations exist for every investigation of serious uses of force, but they apply with even greater urgency to incidents resulting in death.

Our review of these four cases from 2018 and 2019 demonstrates that MPD has fallen short of the standards it should set for itself, and far short of the standards it achieved in prior years when it was under federal oversight (2002–08). For those six years, members of this Review Team reviewed every serious use of force investigated by FIT, including cases involving death. Those MPD investigations were not perfect but they consistently reached a high level of excellence, to the point that MPD became a national model for conducting and reviewing such incidents.

When we reviewed similar cases in 2015, we noted that the quality of use of force investigations had slipped to the point that we expressed concern that the dissolution of FIT and its merger into the Internal Affairs Division would further dilute the quality of investigation into serious uses of force. In the Conclusion to our January 2016 Report, we stated:

In addition, the Review Team found substantial evidence showing that the quality of serious use of force investigations has declined. MPD’s elite use of force investigations unit—FIT—has been disbanded and merged into IAD, though declining FIT caseloads over time make this reorganization decision understandable. Unfortunately, the intensive and continuing training needed to maintain high-quality use of force investigations has not occurred. The result is insufficiently trained use of force investigators who perform inadequate use of force investigations and produce unsatisfactory use of force investigative reports. Stakeholders in the process with whom we spoke—members of the UFRB, lawyers in the USAO, and members of IAD themselves—share this view. As we
have described in this report, the shortcomings in Internal Affairs investigations and investigative reports have had an adverse impact on the ability of the UFRB to make informed and appropriate judgments on whether the use of force by MPD officers is consistent with MPD policies and law enforcement best practices.4

Unfortunately, the weaknesses identified in our 2016 report have not been remedied; indeed, they have grown substantially worse. Our review of the four 2018–2019 fatal use of force cases has shown that those weaknesses persist, and that generally MPD has not recognized them and appears to resist or be unconcerned with remedying them.

At a time of crisis in American policing, when many of the causes and effects of that crisis are beyond the reach of law enforcement agencies, we recommend that MPD address the weaknesses in its system for investigating serious uses of force in a serious and committed way so that MPD’s investigations are thorough, credible, and can withstand public disclosure and examination. This will require the same level of innovation, commitment, and resources that were applied more than 20 years ago when MPD emerged as a leader in the field of investigating serious uses of force. If MPD is to meet the challenge it faces, the Department must first recognize and acknowledge the magnitude of that challenge—and the fierce urgency of meeting it.5

4 2016 Report at 115.

5 In his March 15, 2021 response to our draft report, included at Appendix O, Acting Chief Contee stated that MPD agrees with all of the report’s recommendations and targets full implementation by the end of this calendar year. We are pleased that the response is so positive and constructive, and is without reservation. Needless to say, full implementation of so many important reforms will require hard work and continuing vigilance.
I. Introduction

During 2018 and 2019, four Black men—Jeffrey Price, Jr., D’Quan Young, Marqueese Alston, and Eric Carter—were killed during separate encounters with members of the District of Columbia’s Metropolitan Police Department (“MPD”). We were asked to undertake an in-depth review of these four cases by the Office of the District of Columbia Auditor (“ODCA”).

This report evaluates whether these incidents, MPD’s investigations of these incidents, and the internal oversight of the internal MPD investigations were handled appropriately. More specifically, we were asked to determine whether MPD members at each stage of the process complied with existing law and MPD policy, best policing practices, and the terms of a June 2001 Memorandum of Agreement (“MOA”) between MPD, the District of Columbia, and the U.S. Department of Justice (“DOJ”). The report also looks at the MPD policies implicated by the review of these four cases and makes recommendations that flow from that review. The overarching goal of our review is to assist MPD and District of Columbia communities to mitigate the occurrence of use of force incidents; minimize the risk to the general public and MPD members stemming from those incidents; and enhance the credibility and efficacy of MPD’s use of force investigations.

Both the review team and ODCA recognize that this review comes at a critical moment in the relationship between the police and public, both nationally and within the District of Columbia. We conducted our review mindful of several important points of context.

Since our previous review of MPD was published in January 2016, the relationship between law enforcement agencies and the communities they serve has been the focus of a growing nationwide discussion. While our review team made a similar observation in our 2016 review, this focus has only intensified in the years that have followed. The issue was brought to a boil in late May 2020 with the killing of George Floyd by the Minneapolis Police Department, and the demonstrations that followed in cities and towns throughout the country. Policing issues have been front and center in Washington, D.C., where local groups have sought greater transparency.

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6 Subsequently, we have been asked by the Auditor to review the September 2, 2020, death of Deon Kay, and the October 23, 2020, death of Karon Hylton-Brown. Those reviews are ongoing and will be addressed separately.

and accountability from the MPD.8 We hope this report contributes to this important, ongoing dialogue. In this fraught context, it is more important than ever that law enforcement agencies, including MPD, focus on fostering trust and confidence in the community by demonstrating that uses of force are taken seriously, and that they are investigated and overseen in a transparent, even-handed manner.

In response to the Floyd case—and to the deaths of Ahmaud Arbery in Georgia,9 Breonna Taylor in Kentucky,10 and other Black men and women at the hands of police officers—the Council of the District of Columbia in June 2020 enacted a number of reforms through emergency legislation aimed at building such trust and confidence. A temporary version of the legislation, Act 23-0399, is in effect through July 15, 2021.11 The reforms address both permissible law enforcement techniques and process issues.


They include provisions to strengthen current limits on use of neck restraints, ban hiring officers previously fired from other departments for police misconduct, and expand mandatory training subjects to include racism and white supremacy. In addition, the emergency legislation requires MPD to add non-MPD members to the Use of Force Review Board, including an individual who has personally experienced use of force, and outlines additional definitions on use of deadly force by MPD. The D.C. Council’s Committee on the Judiciary and Public Safety plans to enact permanent legislation this year.

The history of substantial reform attempts in MPD, with respect to use of force, goes back 20 years. Beginning in 2002, an independent monitoring team (including three members of our current review team) oversaw MPD’s implementation of a broad MOA that focused on many of the issues at the core of our current review: use of force policies, use of force investigations, and MPD’s internal investigations review mechanism—the Use of Force Review Board (“UFRB”).12 The MOA and the monitorship followed an investigation by the Civil Rights Division of the DOJ requested by former MPD Chief Charles H. Ramsey that found MPD was engaged in a pattern or practice of civil rights violations, primarily through the excessive use of force.

As described further below, the MOA was a comprehensive document that set forth a large number of reforms that MPD was required to implement, including broad and exacting requirements that addressed all aspects of the use of force by MPD officers: use of force polices; the implementation of those policies; the training of MPD personnel on those policies and related procedures; the investigation and review of force; and many other related issues.

Federal oversight by the DOJ and the independent monitor ended in 2008, at the recommendation of the independent monitor. At that time, the independent monitor concluded:

In the seven years since the parties executed the MOA, MPD has become a much more sophisticated police agency in terms of training its officers in the proper use of force, investigating and reviewing use of force incidents and allegations of misconduct, and reaching out to citizens and members of the public based on sound principles of community policing. We believe that the City’s and MPD’s success in implementing the MOA’s reforms, which are now embedded in the Department’s internal policies

and practices, stands as a model for municipalities and police departments across the country.13

In 2015, ODCA retained the Bromwich Group LLC to perform a review of MPD policies and practices with respect to the use of force. The results of that review, published as The Durability of Police Reform: The Metropolitan Police Department and Use of Force (the “2016 Report”), were in many ways positive. We concluded that many of the reforms implemented during the monitorship remained in place, while others had eroded over time. The 2016 Report set forth a number of detailed recommendations—many of which MPD agreed should be implemented. We have considered these past reforms and recommendations in our analysis of the four incidents that we have been asked to review.

Finally, the need for sound policies and practices is critical as the District of Columbia faces considerable civil liability for police misconduct. Since 2016, according to The Washington Post, the District of Columbia has settled over 70 lawsuits, many of which have alleged police misconduct and negligence, at a cost to taxpayers of over $40 million.14 Indeed, two of the four cases under review are the subject of ongoing civil rights litigation against MPD and the District of Columbia, and both lawsuits specifically allege violations of MPD policy during the use of force incidents.

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With this context in mind, this report proceeds in three parts. First, we provide a general background of our previous work with MPD, our review’s procedures, and MPD’s use of force policies. Second, for each of the four cases under review, we


14 Paul Schwartzman, These are the police misconduct lawsuits the public hears little about, The Washington Post (Dec. 25, 2020), available at https://www.washingtonpost.com/local/legal-issues/dc-police-lawsuits/2020/12/24/e986472c-2375-11eb-8672-c281c7a2c96e_story.html; see also Jordan Fischer and Eric Flack, D.C. Police settle lawsuit over “invasive,” unconstitutional anal search during stop & frisk, WUSA9 (Dec. 6, 2018), available at https://www.wusa9.com/article/news/local/dc-police-settle-lawsuit-over-invasive-unconstitutional-anal-search-during-stop-frisk/65-621627554. Since 2016, the D.C. Attorney General’s Office has handled police misconduct settlements worth over $40 million: about $33 million for six claims of wrongful conviction and death; $2.8 million to settle lawsuits over arrests during 2002 protests; and the remaining $5 million to resolve at least 65 other suits, with amounts ranging from $25,000 to $200,000, alleging false arrest, excessive force, negligence, and violations of constitutional rights. In addition, the police department settled several additional lawsuits, at a cost of $805,000.
provide an overview of the facts of the incident that led to the deaths of the four men, describe the investigation conducted by members of the Internal Affairs Division (“IAD”) of MPD’s Internal Affairs Bureau (“IAB”), analyze the investigator’s findings, review the available materials on the UFRB’s review of the investigation, and make recommendations relevant to the case under review. Finally, we propose a number of more general recommendations that flow from our review of the four cases.

II. Background

A. The 2008 Final Monitoring Report and the 2015-16 Review

As described above, this report is the third and most recent assessment of the MPD undertaken by members of the review team since 2008.

Our 2008 review was the culmination of a six-year independent monitorship of the MPD, in which we assessed MPD’s implementation of the June 2001 MOA between MPD, the District of Columbia, and the DOJ. The 2001 MOA required MPD to adopt reforms relating to the use of force by police officers, and to incorporate those reforms into policies, procedures, and training. The goal was to create a culture of accountability and constitutional policing within MPD. Although MPD is currently under no legal obligation to maintain these reforms, they establish meaningful benchmarks for assessing MPD’s current management of the use of force.

The MOA was a detailed charter for reforming MPD. It addressed all aspects of the use of force by MPD officers. It included detailed prescriptions for appropriate use of force polices applicable to the use of firearms, and separate policies applicable to other MPD tools including ASPs (batons), chemical spray, and canines; the implementation of those policies, including the training of MPD personnel; the reporting and investigation of uses of force by MPD officers; and many other related issues. As noted above, in April 2008, the monitoring team recommended that the MOA and the monitorship be terminated, even though MPD had not yet achieved substantial compliance on a small number of MOA provisions. For those provisions, oversight was transferred from the monitor to the DOJ. The 2008 Final Report noted the MOA’s reforms had become “embedded in the Department’s internal policies and practices.”

In 2015, ODCA hired The Bromwich Group LLC to undertake a fresh review, to determine whether the reforms implemented from 1999 (when the DOJ investigation was launched) to 2008 (when the MOA and independent monitoring were terminated) remained in place. The central goal of that review was to determine whether MPD’s

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use of force policies, practices, and training were consistent with the MOA and best practices in law enforcement.

The 2016 Report, published in January 2016, reviewed the full set of MPD’s use of force policies. It found the policies were both consistent with the MOA and generally reflected best practices in law enforcement, with a small number of exceptions. That report recommended MPD’s use of force policy be modified to include more detailed discussion of neck restraints, including chokeholds; that the use of neck restraints be reported and investigated as a serious use of force; and that the use of MPD canines be more limited than the policy in effect at the time permitted.

The 2016 Report also identified problems with the review process for fatal shootings by MPD officers, but found the data did not support the claim that MPD officers use their firearms excessively. That report recommended MPD undertake a comprehensive review of its use of force policies every two years, and if necessary, make appropriate revisions. The 2016 Report also noted with concern that the quality of use of force investigations had deteriorated following the merger of the elite Force Investigations Team, created by former MPD Chief Charles H. Ramsey in 1999, into MPD’s Internal Affairs Bureau.

B. The 2020–2021 Review

In July 2020, ODCA asked The Bromwich Group to conduct a review of the four fatal use of force incidents that occurred in 2018 and 2019. The purpose of the review was to evaluate these cases and the MPD internal affairs investigations that followed to ensure consistency with existing law and MPD policy, the MOA, and best policing practices. The review team also looked more broadly at opportunities to improve MPD’s policies, practices, and training, particularly in light of our 2016 recommendations.

The review team was led by Michael R. Bromwich, who had served as the independent monitor from 2002 through 2008, and as the head of the 2015–16 review team. The review team included policing experts Dennis E. Nowicki, the former Chief of Police in Joliet, Illinois, and Charlotte, North Carolina; Kerr Putney, the former Chief of Police in Charlotte; and Ann Marie Doherty, the former Superintendent of the Boston Police Department. Mr. Bromwich, Chief Nowicki, and Superintendent Doherty served on the independent monitoring team and the 2016 review team. The review team also included as full participants Michael G. Scavelli and Emma S. Marshak from the Washington D.C.-based law firm Steptoe & Johnson LLP.

In preparing this report, we performed an in-depth review of four incidents involving MPD members that resulted in the death of a D.C. resident. The Black men who died in these incidents were: Jeffrey Price, Jr. on May 4, 2018; D’Quan Young on
May 9, 2018; Marqueese Alston on June 12, 2018; and Eric Carter on September 16, 2019. Our review looked broadly at not only the officers involved in the use of force incidents and the internal affairs investigators but also supervisory personnel and the UFRB. At each stage of these cases, we considered not only whether MPD personnel complied with existing MPD policies and best policing practices, but also whether there were opportunities to improve MPD policies, practices, and training.

The bulk of the work described in this report commenced in late July 2020 and extended through early February 2021. To conduct these assessments, the team received briefings from the Internal Affairs Division (“IAD”) agents investigating each use of force, as well as senior MPD officials, including Assistant Chief Wilfredo Manlapaz (Director, Internal Affairs Bureau), Inspector John Knusten (Director, Internal Affairs Division), and Maureen O’Connell (Director, MPD Policy and Standards Branch).

The review team thoroughly reviewed the extensive case files of the four use of force incidents, including physical evidence, documentary evidence, autopsy reports, audio recordings of investigative interviews, and body-worn camera (“BWC”) footage, among other evidence. The team also attended, by video, the UFRB’s consideration of the Eric Carter case. Finally, the team reviewed any civil litigation filed against MPD in connection with the four use of force incidents. After reviewing the evidence, the team re-interviewed the investigative agents and departmental officials.17

Throughout our investigation, the review team found the MPD members with whom we interacted to be responsive, professional, cooperative, and supportive of our efforts. MPD provided us all of the information that we requested in a timely manner. The review team recognizes and appreciates the considerable time and effort each of these MPD members took out of their schedules to assist us.

C. Use of Force, Use of Force Investigation, and UFRB Policies

Three MPD General Orders provide the core policy and regulatory framework for our review of the four 2018-2019 cases. The first is GO-RAR-901.07, which addresses the use of force and includes a delineation of the circumstances in which deadly force

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16 IAD is the division of the Internal Affairs Bureau (“IAB”) that investigates members of the MPD for misconduct as well as lethal and serious non-lethal uses of police force. For the purposes of this report, we refer to the investigators, staff, and supervisors responsible for these investigations as “IAD.”

17 The IAD investigator responsible for the Jeffrey Price, Jr. investigation briefed the Review Team at an early stage of our work. Sometime after this briefing, he retired from MPD. Although MPD attempted to secure his cooperation for an interview, he declined our request.
may be used.\textsuperscript{18} The second is GO-RAR-901.08, which covers Use of Force Investigations and provides the requirements for conducting such investigations.\textsuperscript{19} The third is GO-RAR-901.09, which establishes the structure, function, and membership of the UFRB, which is responsible for reviewing all cases involving the serious use of force, including deadly force.\textsuperscript{20}

1. Use of Force Policy

GO-RAR-901.07 ("GO 901.07") is the foundational use of force policy that governs the actions of MPD members. It has been modified over the years to reflect evolving best practices in the law enforcement profession, as well as MPD’s own experience implementing the policy. Major changes were made to the policy in August 2016, when two core principles governing the use of force—sanctity of human life and principles of de-escalation—were explicitly incorporated into the policy. The policy was most recently revised in 2017.

The policy is divided into various sections, including subsections on topics such as use of less lethal weapons, use of neck restraints, and handcuffing. The core of the policy is stated as follows:

The policy of the Metropolitan Police Department (MPD) is to value and preserve the sanctity of human life at all times, especially when lawfully exercising the use of force. Therefore, MPD members 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. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to the threat faced by him, her, or others.

GO 901.07 II. The policy defines serious uses of force to include, among other things, firearms discharges, any use of force that results in serious physical injury or death, and any use of neck restraints.

Consistent with the nationwide emphasis on de-escalation, GO 901.07 was amended in August 2016 to place this requirement front and center in MPD’s use of force policy:

\textsuperscript{18} Attached as Appendix A.

\textsuperscript{19} Attached as Appendix B.

\textsuperscript{20} Attached as Appendix C.
All members who encounter a situation where the possibility of violence or resistance to lawful arrest is present, shall, if possible, first attempt to defuse the situation through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques. Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.

GO 901.07 IV.A. The policy also requires MPD members to determine whether the victim of the use of force requires medical assistance, to perform emergency first aid, and immediately to call for medical assistance.

Deadly force may be used by an MPD officer only when it is “necessary and objectively reasonable,” in response to an actual or threatened attack that could result in death or serious bodily injury to the MPD officer or some other person—and only after all other options have been exhausted or are not feasible under the circumstances. Deadly force may also be used in limited circumstances when an officer is in pursuit of a “fleeing felon.” Those circumstances are: 1) if a suspect poses an immediate threat of death or serious bodily harm to another person (including the officer); or 2) the suspect has committed or attempted to commit a felony involving the threat of death or bodily harm, the suspect poses a continuing threat, and the use of deadly force does not threaten the lives of innocent people. GO 901.07 IV.G.1.

Although GO 901.07 addresses a broad range of additional issues, the elements of the policy described above are the provisions most relevant to our review and analysis of the four cases discussed below.

2. Use of Force Investigations Policy

MPD’s policy governing use of force investigations, GO-RAR-901.08 (“GO 901.08”), requires that all serious uses of force by MPD officers must be investigated thoroughly and impartially to address, among other things, “the decision to use force.” GO 901.08 II. The investigations of the use of deadly force, and serious uses of force, are conducted by the IAD, which also is responsible for investigating any other case where there is the possibility that the use of force may have amounted to criminal conduct. In cases involving potential criminal conduct, MPD is required to consult with the U.S. Attorney’s Office for the District of Columbia (“USAO”), which makes the determination whether the use of force involves criminal wrongdoing. If the USAO determines that there is no criminal wrongdoing, it notifies MPD in a “declination letter” of its decision not to prosecute, and MPD proceeds to complete its administrative investigation.
GO 901.08 mandates that IAD investigators report to the scene of the use of force and immediately take charge of the investigation. GO 901.08 IV.I. The policy mandates that:

- All relevant evidence be collected, documented, and analyzed;
- The scene of the use of force be canvassed to locate all potential witnesses;
- All witnesses be interviewed separately;
- Leading questions during interviews be avoided to the maximum extent possible; and
- Inconsistencies among witnesses, including MPD members, be identified and addressed.

GO 901.08 V.D.4. In addition, the statements of all members and material witnesses must be recorded and transcribed, so that personnel in the Internal Affairs chain of command and members of the Use of Force Review Board can refer to them when they review the investigative reports.

The introduction of body-worn cameras (“BWCs”) in MPD, which was completed in December 2016, has made available a significant new source of evidence for IAD investigators of serious uses of force. GO 901.08 requires that all BWCs and cellphones belonging to MPD members who were participants in or witnesses to the use of force be collected and uploaded to a website, Evidence.com, where they are available for review and analysis by IAD investigators. GO 901.08 IV.I.

GO 901.08 mandates that investigative reports must include a complete summary of the use of force, a summary and analysis of all the relevant evidence collected during the investigation, and proposed findings. The investigator is required to reach conclusions on whether the use of force was consistent with MPD policy and training; whether proper tactics were used; and whether alternative and less serious uses of force were reasonably available under the circumstances.

MPD uses a classification scheme for use of force investigations, with four possible findings:

- Justified, within Department Policy (the use of force was justified and consistent with MPD policies).

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• Justified, Policy Violation (the use of force was justified, but the officer nevertheless violated one or more MPD policies).

• Justified, Tactical Improvement Opportunity (the use of force was justified, and there was no policy violation, but the officer(s) made tactical errors).

• Not Justified, Not within Department Policy (the use of force was not justified and violated one or more MPD policies).

GO 901.08 V.J.3. In addition, for allegations of excessive force or misconduct, MPD’s policy requires one of the following findings:

• Unfounded – no facts to support that the incident occurred.

• Sustained – the allegation is supported by evidence, using a preponderance of the evidence standard.

• Insufficient Facts – there is not adequate evidence to determine whether misconduct occurred.

• Exonerated – the conduct occurred but did not violate MPD policy, procedure or training.

In some cases, there may not be any “allegations” of excessive force or misconduct, only the facts themselves. This creates some ambiguity as to when the second category of findings must be applied.

3. Use of Force Review Board

The Use of Force Review Board (“UFRB”) is the internal entity within MPD that reviews serious use of force investigations, including all investigations of uses of force that result in death. The UFRB reviews all use of force investigations completed by the Internal Affairs Division; any other use of force investigation sent to it by the Internal Affairs Bureau; and all vehicle pursuits that end in death. GO-RAR-901.09 (“GO 901.09”).

The UFRB is chaired by an Assistant Chief, who is selected by the MPD Chief, and consists of seven additional voting members, as well as a non-voting representative of the Fraternal Order of Police. The UFRB generally meets twice each month, and is assisted by the UFRB administrator, who deals with logistical and administrative matters.
The UFRB’s mandate includes:

…the actions of all members used 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 MP and, as appropriate, recommend training.

GO 901.09 V.C.1. The scope of the UFRB’s review includes: compliance with MPD policies; assessment of MPD tactics; evaluation of risk management issues raised by the incident; the adequacy of relevant training; and findings on whether the use of force was appropriate in light of all relevant circumstances. The UFRB is empowered to make recommendations to the Chief on investigative policies and procedures, standards for use of force investigations, and changes in training that result from the UFRB’s review.

UFRB policy requires the use of a “Decision Point Analysis Matrix,” which must be incorporated into the record, but which is not further described or defined in the policy. GO 901.09 V.C.3. The UFRB is required to either support or reject the findings made by the IAD investigation, using the same two sets of categories and classifications described above. Based on its review of the investigation, the UFRB may return the investigation to IAD for further investigation or other types of follow-up, but the rule requires that any follow-up be completed within five days.

As a result of its review of an individual case or group of cases, the UFRB has the power and authority, among other things, to make training recommendations for one MPD officer or, if appropriate, the entire Department. The UFRB also has the power to refer substantiated allegations of policy violations to the Disciplinary Review Division, which reports back to the UFRB on any discipline imposed on an MPD member. In addition to its review of individual use of force investigations, the UFRB is required to furnish an annual report to the MPD Chief analyzing uses of force that occurred in that year, and identifying any patterns, problems, or issues that have come to the UFRB’s attention. GO 901.09 V.E.5.

III. Review of 2018–19 Cases Involving Deaths of Civilians

A. The Death of Jeffrey Price, Jr.

1. Summary of Facts

On May 4, 2018, at approximately 1:23 p.m., the D.C. Office of Unified Communications (“OUC”) broadcast a call reporting multiple gunshots in the 5300
block of Blaine Street, N.E. 22 At the same time, the dispatcher provided a description of a male wearing a mask on a four-wheel all-terrain vehicle and a second male on a dirt bike. The dispatcher advised that the operators of these vehicles had been reported to be fleeing the area of the gunshots at high speed. OUC received this information from a witness who was inside a school located at 5300 Blaine Street and reported “two Black males, one was riding a motorcycle and the other was riding a four wheel vehicle, and he had a mask covering his face,” approximately two minutes prior to hearing gunfire.23 The witness said they did not see anyone with a weapon, and did not provide any further description of the individuals.24

Officers David Jarboe and Anthony Gaton, in a marked MPD vehicle, responded to the 5300 block of Blaine Street, N.E., to canvass for the suspects and any possible shooting victims. Around the same time, a sergeant25 reported over the radio that he had just seen a Black male, wearing gray pants, and said that the suspect was traveling on a dirt bike and “might be our guy.”26 Seconds later, an individual on a dirt bike drove by Officers Jarboe and Gaton near the intersection of 53rd Street and Blaine, N.E. The officers saw the dirt bike27 operator, later identified as Mr. Jeffrey Price, Jr., turn onto Division Avenue, N.E., traveling northbound in the southbound lane of travel. Officers Jarboe and Gaton turned onto Division Avenue and followed Mr. Price. Officer Jarboe radioed that he was driving behind an individual riding a dirt bike matching the description of one of the vehicles observed in the area of the gunshots.28

As the situation was unfolding, Officer Michael Pearson had responded to a separate call for service nearby concerning the sound of gunshots in the Lincoln Heights area of Northeast. Officer Pearson was parked in his marked MPD vehicle and was completing a report on his canvass of the area when he heard a radio transmission, in

22 Facts related to the incident are drawn from the Final Investigative Report (“Price Report”) dated April 25, 2019 unless otherwise noted.

23 OUC 854 Synopsis at 1.

24 OUC Recording 1 (5300 Blaine St. NE 5-4-18) at 2:08.

25 Pursuant to MPD’s request, we have not disclosed the identities of civilian witnesses, investigators, and officers who were not directly involved in the use of force.

26 OUC Recording 2 (Division & Fitch Pl. 5-418) at 2:11.

27 A subsequent check of the Washington Area Law Enforcement System/National Crime Information Center by MPD investigators revealed that the dirt bike had been reported stolen from Prince George’s County, Maryland on April 30, 2018.

28 OUC 854 Synopsis at 2.
which Officer Jarboe stated, “I’m behind him. He’s coming up on Division [Avenue]. Red dirt bike—Division toward Burroughs.” After stating that a second person riding a blue four-wheeler was coming right at them in the opposite lane of traffic, Officer Jarboe again stated, “Coming up on Division and Burroughs.”

Officer Pearson started his MPD vehicle and began to drive eastbound on Fitch Place. When he entered the intersection of Fitch Place and Division, he saw the dirt bike speeding northbound in the southbound lane of travel—i.e. traveling towards his police vehicle. Officer Pearson then pulled forward into the northbound lane. As he did so, Mr. Price applied the dirt bike’s brakes and began an extended skid. The dirt bike skidded over 100 feet and collided with the right passenger side of the police vehicle. The impact caused severe injuries to Mr. Price—who was not wearing a helmet—and pinned Mr. Price below the dirt bike.

After the collision, Officer Pearson got out of his vehicle, pulled the dirt bike off Mr. Price and checked his condition. According to Officer Pearson, Mr. Price was unresponsive. Additional officers then came on the scene. They began rendering first aid and called for medical assistance. Paramedics transported Mr. Price to the hospital, where he was later pronounced dead from the injuries he sustained in the collision.

Officials in MPD’s chain of command and the U.S. Attorney’s Office for the District of Columbia (“USAO”) were promptly notified of the incident.

2. Summary of Investigation

The investigation was conducted jointly by a detective in the MPD Major Crash Investigation Unit (“MCIU”) and an agent in the Internal Affairs Division. The detective responded to the scene. No “walkthrough” was conducted with the involved officers.

Investigators performed a thorough witness canvass and were able to take statements from a number of eyewitnesses to the collision. Investigators also looked for publicly-installed or private business or residential cameras that might have recorded the incident. The accounts from the multiple eyewitnesses were largely consistent, reporting that Mr. Price was well ahead of the police cars following behind him; Officer

29 OUC Recording 2 (Division & Fitch Pl. 5-418) at 2:27.

30 “Walkthroughs” are a standard practice for incidents where officers have been involved in the death of civilians. They allow the investigator to obtain a contemporaneous account of the officer who used deadly force or otherwise caused the death while it is still fresh in the officer’s mind, at the scene, so the investigator can more easily visualize and understand the description provided by the officer and the events that led up to it.
Pearson’s marked SUV emerged on to Division Ave from Fitch Place; Mr. Price attempted to brake; and Mr. Price then struck the SUV. There was a discrepancy among the accounts on whether Mr. Price was in the wrong lane of travel—all of the eyewitnesses except one, and all of the MPD officers, reported that Mr. Price was traveling in the wrong lane of traffic. One witness specifically characterized Officer Pearson’s SUV as trying to “cut off” Mr. Price. There were also some discrepancies and lack of recollection as to whether the pursuing officers had activated their emergency equipment. IAD interviewed Officer Pearson (the driver of the vehicle involved in the crash), as well as Officers Gaton, Jarboe, an additional officer, and the sergeant. Their accounts were also largely consistent with the summary above.

MCIU performed a detailed crash reconstruction. This included collecting and analyzing data on the movements of Officer Pearson’s vehicle from the recorder located in the vehicle. From that data, MCIU determined that Officer Pearson was traveling at 22 MPH, and rolled into the intersection without completely stopping at the stop sign located at the intersection of Fitch and Division. The recorder captured a sudden 36.9% depression of the accelerator immediately prior to impact. MCIU also recreated the path and speed of the dirt bike. Relying on deceleration (skid) marks, MCIU concluded that Mr. Price was traveling at least 40.91 MPH (in a 25 MPH zone) at the time of impact and left a skid mark in excess of 114 feet. MCIU ultimately concluded that the primary cause of the accident was Mr. Price’s “reckless operation of a stolen dirt bike.”

On February 21, 2019, the USAO issued a declination letter declining to prosecute any MPD officers for actions related to this incident, and referred the matter to the MPD for any administrative investigation deemed appropriate. The Final Investigative Report (“Price Report”) was issued on April 25, 2019.

The case was submitted to the Use of Force Review Board (“UFRB”). In preparation for its consideration of the case, UFRB staff prepared for the Board a document entitled “Decision Point Analysis Matrix,” which was a detailed synopsis of the facts developed during the investigation and set forth MPD’s policies concerning vehicular pursuits. On June 18, 2019, the UFRB unanimously concurred with the recommendation in the Price Report that the allegations against each of the involved officers were “unfounded.” Beyond its concurrence, the UFRB made no additional findings or recommendations.

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31 Body-worn camera (“BWC”) footage confirms that Officer Jarboe activated his siren seconds before the crash.

32 It does not appear any of the officers completed Use of Force Incident Reports.
3. Analysis

The three involved officers—Officer Pearson and Officers Jarboe and Gaton—were investigated for engaging in prohibited conduct as set forth in GO-OPS-301.03, which governs vehicle pursuits. Specifically, Officers Jarboe and Gaton were investigated for engaging in an unjustified vehicular pursuit. Officer Pearson was investigated for intentionally utilizing his assigned scout car as a blocking vehicle in an attempt to slow down, stop, and detain Mr. Price, which is prohibited by MPD policy.

At the conclusion of the investigation by IAD, each of these allegations was deemed “Unfounded,” which according to MPD’s terminology as contained in its rules and regulations means “there are no facts to support that the incident occurred.” The incident occurred, and Mr. Price died as a result, so at best it is misleading and confusing to find that the allegations are “Unfounded.”

We do not agree that the allegations of inappropriate police conduct were “Unfounded.” The Price Report does a disservice in reaching that conclusion. As to each potential act of misconduct, there were facts to support that the events actually occurred. We do ultimately find there was sufficient evidence to determine that the involved officers did not violate MPD policies or procedures. Thus, the officers should have been “Exonerated” under GO 901.08 V.J.4. IAD likewise should have drawn conclusions as to whether the alleged use of force was justified and within departmental policy under GO 901.08 V.J.3.

We provide support for these conclusions and make a number of recommendations below.

a. Officer Pearson’s Use of His Scout Car

A critical question in this investigation was whether Officer Pearson improperly used his MPD scout car in an effort to stop or slow Mr. Price. If Officer Pearson intended to do so, his conduct would, at a minimum, violate numerous MPD policies. These policies include prohibitions of: (1) the use of deadly force when there is no threat to officer safety and it is not necessary or objectively reasonable; (2) the use of deadly force during a vehicular pursuit when other reasonable means of preventing escape have not been exhausted; and (3) the use of roadblocks during a vehicular pursuit.

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33 Attached as Appendix D.

34 GO 901.08 V.J.4 (defining “Unfounded” as “there are no facts to support that the incident occurred”).

35 GO 901.07.

36 GO-OPS-301.03.IV.A.
pursuit.\textsuperscript{37} Indeed, Mr. Price’s family has alleged that this was precisely what occurred. In a lawsuit against the involved officers, the District of Columbia, and others, the complaint states:

It is alleged that Defendant, Michael Pearson, (hereinafter “Pearson”) a District of Columbia police officer, killed Jeffery Price, Jr., by intentionally and/or negligently using his police vehicle as a barricade to block the path of Mr. Price when it was outrageously unreasonable to do so. It is further alleged that Defendant Pearson intended to harass and intimidate Mr. Price as a pattern of profiling and harassing black motorcycle drivers, by use of excessive force in violation of the Fourth Amendment and violations of Due Process of the Fifth Amendment to the Constitution that are outrageous and shock the conscience.\textsuperscript{38}

As suggested above, we do not agree that such allegations against Officer Pearson were “Unfounded.” There \textit{were} and \textit{are} facts to support these allegations—but we found insufficient facts to establish any violation of MPD policy. We further note that IAD could have done more to critically examine Officer Pearson’s account to ensure he was being truthful about his intentions for entering the intersection and determine whether he was, in fact, trying to avoid Mr. Price, as he claimed.

\textit{b. Officer Pearson’s Account of the Crash}

Officer Pearson was interviewed twice by IAD investigators. The first time, Officer Pearson was interviewed jointly by IAD and MCIU investigators, and subsequently by IAD investigators alone.

In his first interview with MCIU and IAD, Officer Pearson stated that, as he approached the intersection of Division Ave and Fitch Place, he believed—based on the radio transmission from Officer Jarboe—that Mr. Price had already passed Fitch Place traveling north toward Burroughs Ave. As he entered the intersection, Officer Pearson said he saw Mr. Price speeding toward him in the wrong lane of traffic. He said he tried to move forward out of the path of Mr. Price, and then was struck by Mr. Price’s dirt bike.

In an interview months later, Officer Pearson “clarified” that he initially was going to turn left to head toward Burroughs Ave because the Jarboe radio transmission led him to believe Mr. Price was close to the intersection of Division and Burroughs, which was north of the intersection of Division and Fitch. Based on his understanding

\textsuperscript{37} GO-OPS-301.03.V.G.

of the Jarboe radio transmission, Officer Pearson said he entered the intersection and “quickly look[ed] left and didn’t see anyone, so I went to turn right up Division and right when I came to the intersection I saw the dirt bike on the wrong side of the road coming down toward me, so I continued straight to get out of the path of the dirt bike.”

Officer Pearson looked “left” or northbound toward Burroughs Avenue when he first entered the intersection of Division Avenue and Fitch Place.

Officer Pearson should have been asked by IAD investigators to clarify the movements of his vehicle in the intersection based on a review of his BWC footage. As the final MCIU Report explains in reconstructing the crash, “Officer Pearson’s Body Worn Camera shows that as he entered the intersection of Fitch Pl. NE and Division Ave. N.E., he slightly turned to the left (toward Division Avenue Northeast and Nannie Helen Burroughs Northeast) then back toward the right to progress straight across the intersection.”
Officer Pearson’s BWC footage shows him initially turning left, then right, then driving straight.
Officer Pearson’s intent as he entered the intersection is central to whether or not he was using his vehicle as a “roadblock.” As a result, it was critical for IAD investigators to carefully scrutinize his account to determine whether he was being truthful. We believe additional analysis and investigation should have been done consistent with that objective.

First, the Price Report appropriately calls out Officer Pearson’s erroneous statement that Officer Jarboe’s radio transmission meant that Mr. Price had already reached the intersection of Division Ave and Burroughs Ave as Officer Pearson was traveling on Fitch Place. As the Price Report explains, OUC radio transmissions make clear that Officer Jarboe says Mr. Price is “coming up on Division and Burroughs.” In fact, the OUC radio transmissions reveal that Officer Jarboe twice said Mr. Price was coming up on Division and Burroughs. And Officer Jarboe also said Mr. Price was on Division headed toward Burroughs.

Second, investigators failed to ask important follow-up questions after Officer Pearson clarified that he intended to turn left on Division Ave based on the belief that Mr. Price had passed his location on Fitch Ave. These questions include the following:

- Why did Officer Pearson stop his left turn when he saw Mr. Price speeding toward him?
- Wouldn’t Officer Pearson have been more likely to successfully avoid Mr. Price if he continued to turn left, because he would have moved through the intersection more quickly, turned into the lane opposite Mr. Price, and minimized the extent to which his vehicle was obstructing Division Ave.?
- Why did Officer Pearson instead stop his left turn and turn right towards Mr. Price when he saw him speeding toward the intersection?
- And was the MCIU report correct in concluding that Officer Pearson ultimately chose to “progress straight across the intersection?” As the above map makes clear, Officer Pearson would have driven directly into a park if he had continued to drive straight.

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**Third,** investigators should have asked Officers Jarboe and Gaton, who witnessed the incident, more detailed questions about the movements of Officer Pearson’s car. Both stated that they “observed an MPD vehicle [Officer Pearson’s] pull into the intersection of Division Avenue and Fitch Place, Northeast” and then observed the dirt bike strike the MPD vehicle. Their BWC footage likewise clearly demonstrates that they saw the crash given their audible reaction when it occurred. Despite having these important eyewitnesses, Officer Gaton was not asked any questions about whether he believed Officer Pearson was trying to get out of Mr. Price’s way. Although Officer Jarboe stated that he believed Officer Pearson was trying to get out of the way of Mr. Price and the motorcycle, the investigators did not probe the basis for that belief. Such follow-up was particularly necessary in the interview of Officer Jarboe, who can be heard radioing, “We got him stopped” immediately following the crash.

**Fourth,** we believe such scrutiny was particularly warranted given conflicting statements from two witnesses. One eyewitness stated that Officer Pearson’s car “turn[ed] off Fitch Place, Northeast, as if he were going to ‘cut off’ the dirt bike.” Another eyewitness, an officer, stated that the scout car was “stationary” and it appeared the dirt bike swerved into the cruiser.

It is clear that investigators had all of this information at the time of Officer Pearson’s second interview, which took place on February 28, 2019. Officer Pearson should have been confronted with this information to clarify and/or test the reliability of his account. To be sure, the event unfolded in a matter of seconds, and Officer Pearson may have aborted his left turn out of confusion or panic. Indeed, the Crash Data Retrieval analysis reflects that Officer Pearson accelerated approximately 1.5 seconds prior to impact (at approximately the same time as Officer Pearson appears to start turning right). These facts could support Officer Pearson’s account that he saw Mr. Price and tried to get out of the way. But Officer Pearson’s account is not conclusive and should have been further explored.

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41 The investigators asked him to clarify how he knew this and Officer Jarboe merely responded “he [inaudible] move[d] the scout car out of the way as the guy was coming down in the…oncoming lane.”

42 Price Report at 23.

43 The Price Report’s synopsis of the eyewitness officer’s statement says only that he “observed an MPD cruiser (Officer Michael Pearson) pull out into the intersection…. Simultaneously, [Mr. Price]…locked up his brakes, and struck the MPD cruiser.” Price Report at 28–29. The Price Report omits the eyewitness officer’s statement that the scout car was stationary.

44 Price Report at 13; Crash Data Retrieval Report, Table 1.
d. The Pursuit of Mr. Price

The Price Report states that Officers Jarboe and Gaton were investigated for engaging in an unjustified vehicular pursuit in violation of GO-OPS-301.03. The investigation determined that this was “Unfounded.” The Price Report provides minimal analysis on this aspect of the investigation and does not cite to any of the specific sections of GO-OPS-301.03 that the investigator believed to be at issue. Indeed, the crux of the analysis can be found in the following paragraph from the Price Report:

It is important to note that Mr. Price collided with Scout Car 6041 two seconds (00:47 to 00:49 timestamp on Officer Jarboe's BWC video) after Officer Jarboe activated his vehicle's emergency lights and sirens. Additionally, Officer Jarboe was approximately 300-500 feet behind Mr. Price when he activated his emergency equipment. The distance was so great, in fact that Officer Jarboe completely lost sight of the motorcycle. Officer Jarboe asserted that he activated his lights and sirens in an attempt to conduct a traffic stop on the dirt bike, and to alert other pedestrians and vehicle operators in the area that Mr. Price was traveling in the wrong lane of traffic, it has been determined that his brief activation of the emergency equipment did not constitute a vehicular pursuit. It was further determined that Officer Jarboe’s action was reasonable, and in accordance with the Department’s General Orders.45

While we ultimately agree that Officer Jarboe’s actions were justifiable and within the spirit of Departmental policy, we do not agree with the determination that the allegations were “Unfounded.” It was at least an open question as to whether the officers engaged in a pursuit—particularly by any objective standard of what a “pursuit” is.46 If the officers did engage in a pursuit, we believe it was justified, but we do not have sufficient information to conclude whether it was consistent with departmental policy.


46 This situation underscores the difficulty with the current classifications in GO 901.08 V.J.4. Here, if it is determined that there is some—but not a preponderance of—evidence to suggest a pursuit occurred, it is not accurate to refer to the allegations as “Unfounded.”
e. The Price Report Does Not Adequately Analyze Whether the Officers Engaged in a Pursuit

As described above, the Price Report quickly disposes of the argument that Officers Jarboe and Gaton engaged in a pursuit of Mr. Price. The Price Report reaches this conclusion without analyzing (or referring to) the criteria used to make this determination. It appears that the Price Report relied on three factors in reaching this conclusion: (1) Officer Jarboe activated his emergency lights two seconds before the incident; (2) the officers were a significant distance behind Mr. Price when they activated their emergency equipment; and (3) the officers’ intention in activating their emergency equipment was to warn citizens that Mr. Price was traveling in the wrong lane of travel. We do not read the General Orders to state that these factors control in assessing whether the officers’ actions constituted a pursuit.

MPD policy defines a vehicular pursuit as “an attempt...to apprehend a fleeing felon while in an authorized emergency vehicle with all emergency warnings devices activated.”47 As described below, we believe this definition should be revisited and may have led to confusion by the investigating agent. Regardless, it was clear that Officer Jarboe was following someone he believed to be a “fleeing felon.” And it is clear that Officer Jarboe activated his siren—if only momentarily—prior to the crash.48 Under MPD’s own definition, there is at least a colorable argument that a vehicular pursuit occurred.

Furthermore, Officer Jarboe’s conduct was certainly consistent with an officer pursuing a suspect. The officers initially observed Mr. Price while canvassing for a suspect matching his description who may have fired gunshots. Upon seeing him, Officer Gaton pointed to him and Officer Jarboe began accelerating his car rapidly. Officer Jarboe stated he reached speeds of 50 MPH—well in excess of the 25 MPH speed limit. While pursuing Mr. Price, Officer Jarboe notified the dispatcher that he was “behind him” and provided regular updates of Mr. Price’s location, consistent with MPD regulations regarding vehicular pursuits.49 Finally, upon reaching the scene of the accident, Officer Jarboe radioed, “We got him stopped.” The Price Report does not meaningfully confront these facts as part of its analysis.

47 GO-OPS-301.03.III.2.

48 Office Gaton’s interview does not address the issue of when Officer Jarboe activated emergency equipment. He stated that the equipment was on while they were heading down the hill behind Mr. Price. It is clear from the BWC that Officer Jarboe activated the siren just seconds before the crash. But we cannot determine whether the emergency lights were already activated, and witness accounts on the topic were inconclusive.

49 See GO-OPS-301.03.V.B.
The Price Report also does not address whether, if the actions of Office Jarboe and Gaton constituted a vehicular pursuit, it was justified and consistent with MPD policy. Further investigation and analysis were warranted because there was at least a possibility that the events could be deemed a vehicular pursuit. In particular, investigators should have determined whether the officer met the requirements of GO-OPS-301.03.IV.A, which governs the circumstance when an officer can engage in a vehicular pursuit. Here, it appears the officers arguably had probable cause to believe Mr. Price had committed a felony that could have resulted in serious bodily harm—firing the gunshots that were the subject of the original radio alert—and the pursuit would not endanger the lives of others. Because the issue was not explored, we do not have sufficient information to reach a conclusion on whether the officers reasonably believed that Mr. Price was a danger to others. Further investigation into these areas should have been pursued.

Finally, having definitively concluded that Officer Jarboe’s actions were not a pursuit, the Price Report does not consider whether his conduct implicated any other MPD policies governing the operation of a police vehicle not engaged in a pursuit. For example, was it appropriate for the officers to travel at a high speed without emergency lights activated? Were the officers at any point driving on the wrong side of the road, as one eyewitness suggested? Officer Jarboe indicated that he initially intended to conduct a traffic stop but indicated that this “was not going to happen.” Should emergency lights have been activated immediately? These questions were not adequately explored.

f. MPD Policies Do Not Provide Clear Guidance to the Officers or the Investigators

The Price Report’s conclusion that no pursuit occurred is, at least in part, based on a lack of clear policy guidance of what constitutes a vehicular pursuit. As noted above, MPD policy defines a vehicular pursuit as “an attempt...to apprehend a fleeing felon while in an authorized emergency vehicle with all emergency warnings devices activated.” Read literally, the only considerations that matter for whether officers engage in a “pursuit” are: (1) whether the individual is a “fleeing felon”; and (2) whether the officer is in an authorized emergency vehicle with its emergency equipment activated. We do not believe MPD intends such a formalistic construction of a “vehicle pursuit.”

50 GO-OPS-301.03.IV.A.2.a, c.

51 GO-OPS-301.03.IV.A.2.b.

52 GO-OPS-301.03.III.2.
It is illogical to define a pursuit based on whether the suspect was a “fleeing felon.” While to our understanding “fleeing felon” is not defined in the General Orders, the term clearly requires some determination by the officer that the fleeing individual has committed or is committing a felony. But whether an officer has sufficient cause to pursue the suspect speaks to whether the pursuit was justified, not whether it is a pursuit at all. Indeed, General Order 301.03.IV makes clear that “any member engaging in a vehicular pursuit must follow the conditions that are set forth in [GO 901.07 IV.G.2b]”, which include having “probable cause to believe the crime committed…was a felony which involved an actual or threatened attack[.]”53 Incorporating this definition into the determination of whether a pursuit occurred at all would lead to absurd results, where an officer pursuing a suspect without sufficient cause would be deemed to have been, by definition, not engaging in a pursuit at all.

Furthermore, the vehicular pursuit policy defines the situation where a police officer does not activate emergency equipment as something other than a pursuit. Again, we doubt MPD intended such a result in so defining a vehicular pursuit. Indeed, courts in Washington, D.C., and across the country have acknowledged that a police officer engages in a pursuit even when he or she does not activate his emergency equipment.

A number of jurisdictions define a pursuit as any attempt to apprehend an individual fleeing from a law enforcement officer in a motor vehicle after that individual has been told to stop. The Chicago Police Department, for example, “automatically…classify[s] as a pursuit” any instance where a department member is following an individual eluding law enforcement in their vehicle.54 That directive provides clear guidance for when an individual is “eluding” and relies, in part, on the Illinois law criminalizing flight from a police officer while in a motor vehicle. Some jurisdictions also exclude from the definition of pursuit the circumstance where: “the vehicle remains in motion complying with all relevant traffic laws except failure to yield [to the police officer].”55

We suggest that MPD adopt a similar approach and define a pursuit as an effort to apprehend the occupant of a motor vehicle who “fails or refuses to bring the motor vehicle to an immediate stop, or who flees or attempts to elude a law enforcement officer, following a law enforcement officer’s signal to bring the motor vehicle to a

53 We note that GO 301.03 erroneously points to this section as GO-RAR-901.07.V.D.2.

54 Chicago Police Department General Order G03-03-1, §§ II-III.

Such a definition would provide clear, objective parameters for when a pursuit occurs.

g. **Sufficiency of the Interviews**

In contrast to some of the other investigations we have reviewed, the involved officers here were interviewed twice. In the first interview, the officers were jointly interviewed by a MCIU detective and an IAD agent. In the second interview, the officers were interviewed by an IAD agent and were asked, in advance, to review their previous statements and certain evidence, including their BWC footage. Each officer was asked to attest to the accuracy of their previous statement and whether the evidence provided an “accurate depiction of events.” In a few instances, the IAD investigator posed a small number of follow-up and clarification questions. But these interviews were all short and largely non-substantive.

These follow-up interviews were not sufficiently detailed and did not address important discrepancies in the evidentiary record (as described above). The follow-up interview with Officer Pearson is illustrative. In that interview, Officer Pearson was first asked a series of perfunctory leading questions that asked him to re-affirm information that he had already provided. For example:

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Q: You were also afforded the opportunity to listen to OUC regarding recordings, dated May fourth, twenty eighteen, for both a call for sounds of gunshots, which you responded to as well as the accident itself that took place, is that correct?
A: Yes.

Q: And, also you were *inaudible*, afforded the opportunity to review your video recorded statement with Major Crash on May fourth as well, is that accurate?
A: Yes.

Q: The information within your statement provided to Major Crash is that an accurate description of the events that took place on May fourth, twenty eighteen at the intersection of Division Avenue and Fitch Place, Northeast?
A: Yes.

Q: Okay. Having had an opportunity to review your statement, your recorded statement as well as the OUC recordings and your Body-Worn Camera footage, after listening to the recordings itself do you recall hearing Officer David Jarboe come across the *inaudible*, come across the radio and make a comment that he had observed the operator of this red or white dirt bike at Nannie Helen Burroughs and Division, do you recall hearing that?
A: Yes.
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56 See D.C Code § 50–2201.05b(b)(1).
Officer Pearson then provided the following account:

Particularly in light of the widespread public skepticism of official accounts of Officer Pearson’s actions immediately following Mr. Price’s death, additional follow-up was critical. Such follow-up should have included asking Officer Pearson explicitly whether he intended to block Mr. Price’s path, or what his motivations were for driving into the intersection in the first place. Additional questions also should have focused on, among other things, whether Officer Pearson planned on joining the pursuit, and why his first instinct was to turn right after not seeing anyone to the left. As described above, Officer Pearson may have had credible and persuasive responses to these questions. But they were never asked. Internal investigations must fully explore points of contention that naturally arise during the course of an investigation. This practice is critical to dealing with the crescendo of skepticism about internal police investigations.

h. Review by UFRB

The UFRB did not address the classification of the case as “Unfounded.” It is clear from our review of the record that it is inaccurate to conclude that “there are no facts to support that the incident occurred.” On the topic of whether Officer Pearson used his car as a roadblock, for example, his car did ultimately “block” Mr. Price and at least one eyewitness said it looked like he was trying to “cut off” Mr. Price. While we agree that the preponderance of the evidence is that Officer Pearson did not intend to move his car in the path of Mr. Price, we do not believe it is accurate to call the allegations “Unfounded.” It was incumbent on the UFRB to carefully scrutinize the investigating agent’s recommended classification and return the case to IAD if the UFRB was dissatisfied with IAD’s investigation or the evidence that supported its conclusions.

57 GO 901.08 V.I.4.
4. **Recommendations**

Based on our review of the Price Report, the underlying evidence, and the UFRB’s review of the investigation, we provide the following recommendations for MPD’s consideration.

- IAD agents should conduct follow-up interviews with important witnesses after the agents have had the opportunity to evaluate initial interviews, BWC footage, and other evidence. This is a key issue that we identified not only in this case, but in the Young, Alston, and Carter cases, as discussed below.

- The UFRB and supervisors in IAD must more carefully scrutinize the recommendations and conclusions of the IAD investigator, and if necessary return the investigation to IAD for additional work. The IAD supervisor should periodically (weekly or bi-weekly) review the investigative file and document each review in writing. The log of reviews should be part of the completed investigations file. Again, this is a key issue that we identified not only in this case but also in the Young, Alston, and Carter cases.

- MPD should revisit and revise its classification of use of force incidents. While the current terminology has been used by the Department for a number of years, these labels are very likely to be misconstrued by the public and are not being consistently applied by IAD or the UFRB. We provide further recommendations about use of force classifications in Section IV below.

- As described in detail above, MPD should re-visit its definition of “vehicular pursuit” and establish easy to understand, objective criteria for when a pursuit occurs. The definition should not be contingent on factors such as whether the officer activates emergency equipment or whether the officer has an adequate basis to pursue the individual.

**B. The Death of D’Quan Young**

1. **Summary of Facts**

On Wednesday, May 9, 2018, at approximately 6:45 pm, Officer James Lorenzo Wilson III of the Metropolitan Police Department (“MPD”) was off duty and in civilian clothes. He was on his way to attend a cookout with four of his former MPD Academy classmates at a private home in the 2300 block of 15th Street, N.E., in

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58 Facts related to the incident are drawn from the Final Investigative Report (“Young Report”) dated July 16, 2019 unless otherwise noted.
Washington, D.C. At the time of the incident, Officer Wilson was considered a probationary MPD officer—his entry on duty date is December 27, 2016.\(^{59}\)

While driving to the cookout, Officer Wilson was contacted by one of his classmates, who asked him to pick up some soda for the cookout. Officer Wilson stopped at a 7-11, picked up the soda and continued towards his destination. According to Officer Wilson, he had never before been in the neighborhood where the reunion was being held.\(^{60}\) As he approached his destination, Officer Wilson parked his car. He then consolidated into a single bag the soda he had purchased from the 7-11 with some alcohol he had brought from home.

After parking his car, Officer Wilson began walking northbound on 15\(^{th}\) Street, on the east side of the street, in search of his destination. He later stated that, as he walked north, he noticed a group of 7-10 men near the Brentwood Recreation Center (“BRC”) and they were watching him intently. In his multiple interviews with MPD investigators, Officer Wilson described the men in various ways—at times he put the number of men at 10-15 rather than 7-10—and characterized their looks as hostile. Officer Wilson said their facial expressions signaled to him that he was unwelcome.\(^{61}\)

According to Officer Wilson, he had trouble locating his destination, in part because the house addresses were not easy to see from the sidewalk. Officer Wilson said he then attempted to phone one of his classmates, an officer, to help him locate the right house, but she did not answer the phone. After continuing northbound, Officer Wilson realized from the ascending house address numbers that he had gone too far. He reversed direction and started walking southbound on the east sidewalk of 15\(^{th}\) Street. Officer Wilson’s statements about his search for the house are corroborated by video footage from cameras operating at the BRC, which show him walking in one direction and then within moments walking in the opposite direction.

Shortly after he reversed direction, Officer Wilson was approached by D’Quan Young, a resident of the area who lived approximately a block away. According to

\(^{59}\) An MPD officer is considered in probationary status for 18 months after the date of his appointment, although in special circumstances MPD can extend the probationary period for up to a total of 36 months. GO-PER-201.07.II, attached as Appendix E. At the time of the incident, Officer Wilson had been a member of MPD for approximately 16 months.

\(^{60}\) Officer Wilson was assigned to MPD’s 7\(^{th}\) District, whose D.C. Station is approximately 5 miles and a 20-minute drive from the residence where the reunion was being held, which is in MPD’s 5\(^{th}\) District.

\(^{61}\) In one of his statements, Officer Wilson said the number of young men was 10-15, but in his initial statement he said 7-10. He returned to the 7-10 estimate in his subsequent descriptions.
Officer Wilson, he was uncertain whether Mr. Young was one of the group of men who had given him hostile stares a few minutes earlier. The video footage, which was retrieved by MPD from three closed-circuit television (“CCTV”) cameras located at the BRC, and subsequently enhanced by the Federal Bureau of Investigation (“FBI”) Laboratory, shows Mr. Young walk casually across 15th Street and approach Officer Wilson. Mr. Young’s left arm is hanging loose and his right arm is closer to his body. Officer Wilson was carrying his mobile phone in his left hand and, according to his subsequent statements, was trying for a second time to reach his classmate by phone, to no avail. Officer Wilson was still carrying the bag with the soda and alcohol in his right hand as Mr. Young approached him.

According to Officer Wilson, as Mr. Young approached, he asked, “Who you calling?” In Officer Wilson’s multiple interviews, he variously said he chose not to respond to Mr. Young, said, “What’s it to you?” or said, “None of your business.” Whatever the specific words he used, Officer Wilson intended to communicate that he had no interest in engaging with Mr. Young. According to Officer Wilson, Young then repeated the same question, or something very much like it. Officer Wilson said that he responded in a similar way as before—either by not responding at all, or saying words to the effect of, “None of your business.” The CCTV cameras do not have audio capabilities and therefore Officer Wilson’s subsequent statements to investigators constitute the only information about these verbal exchanges.
The video footage shows that as Mr. Young approached the east sidewalk of the 2300 block of 15th Street, Officer Wilson turned towards the street, presumably in response to Mr. Young’s speaking to him. Officer Wilson stepped from the sidewalk, off the curb, and into the street where Mr. Young had stopped. Officer Wilson placed the bag with the soft drinks and alcohol on the ground, crouched and then took a couple of steps back. He settled into a semi-crouch with his legs more than shoulder-width apart. On the video footage, his stance appears to be confrontational, although it could also be viewed as a defensive stance. The men were quite different in stature and likely in physical strength: Officer Wilson was 5’9”, 200 lbs.; Mr. Young was 5’7”, 130 lbs.
In any event, Officer Wilson appeared to be signaling by his body movements that he was not withdrawing but instead was standing his ground. In addition, although the enhanced video footage is blurry, it appears to show Officer Wilson tugging at his sleeves in what appears to be a further sign that he was prepared to fight with Mr. Young. At that point, Officer Wilson and Mr. Young were only a couple of feet apart. At no point is there any evidence that Officer Wilson tried to walk away or otherwise show an intention to withdraw from engaging with Mr. Young. Further, in none of his subsequent statements to investigators did Officer Wilson state that he identified himself as a police officer in an effort to encourage Mr. Young to stand down. In fact, during one of his interviews, he specifically said that he did not do so.
After they faced each other in the street for no more than a few seconds, Mr. Young stepped up on the curb and continued onto the sidewalk, followed by Officer Wilson.
Officer Wilson followed Mr. Young up on the curb and the sidewalk. The video footage then clearly shows the two men facing each other only a few feet apart. At that point, according to Officer Wilson, Mr. Young reached into his waistband and drew what was subsequently determined to be a Kai-Tee .380 caliber pistol, and said, “Be cool.” The video shows Officer Wilson taking a step forward and Mr. Young retreating, followed by Officer Wilson backing up rapidly while still facing Mr. Young.62 According to Officer Wilson, he backed up rapidly in response to Mr. Young pointing and firing his pistol at Officer Wilson. Officer Wilson said he saw the flash and felt the bullet go by.

As he retreated, Officer Wilson fired numerous rounds at Mr. Young as Young continued to back away. Officer Wilson claimed that even as Young retreated, Young continued to point his weapon at him, even though investigators subsequently found no physical or forensic evidence that Young fired more than a single shot.63 After retreating, Officer Wilson took cover behind a van parked at the curb, and peeked around the front driver’s side. By that point, Mr. Young had crossed from the sidewalk into the street and was on the ground, having been struck by Officer Wilson’s multiple shots. Officer Wilson later claimed that Young continued to point his weapon at Wilson even after Young was on the ground. Officer Wilson fired an additional shot from behind the cover of the van, and then after pausing, peeked around the front of the van again and fired a final shot.

62 The MPD investigative report stated that Officer Wilson reached for Young’s weapon in an effort to grab it. Young Report at 56. Officer Wilson did not claim that he did so in any of his interviews, and we could not discern it from the video footage, which the MPD investigator said was the basis for his finding.

63 See FBI processed video from BRC camera 14, at 2:20 to 2:25.
At about the same time as he fired this final shot, Officer Wilson heard a loud gunshot that he said led him to believe that he was being fired upon by someone other than Mr. Young. In response, Officer Wilson retreated northbound on 15th Street. In response to the gunfire, two officers from the D.C. Housing Authority Police Department (“DCHAPD”) approached Officer Wilson and ordered him to lie on the ground, unaware that he was an MPD officer. Officer Wilson complied, placed his weapon on the ground and told the DCHAPD officers that his MPD credentials were in the back pocket of his pants, which one of the officers confirmed. By that point, having also heard the gunshots, Officer Wilson’s four MPD Academy classmates emerged from their house and began securing the scene.

Almost immediately, a crowd began growing in size and volatility. Bystanders had identified Officer Wilson as a participant in the shooting and were becoming aggressive and hostile, according to numerous MPD officers. Among many MPD members who arrived at the scene was Sergeant David Jones of the 5th District. Sgt. Jones observed the situation and told Officer Wilson to get in Jones’s police cruiser to move him away from the scene. Sgt. Jones and another MPD officer drove Officer Wilson to a nearby carwash and waited there for approximately 45 minutes before returning to the scene. Neither Sgt. Jones nor Officer Wilson provided timely

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64 Other witnesses who contacted 911 reported hearing multiple gunshots from what sounded like a different weapon. In addition, Crime Scene Unit personnel recovered bullets from a weapon other than Officer Wilson’s and Mr. Young’s.
notification to MPD officials or Internal Affairs that Wilson had been involved in a shooting, as required by MPD regulations.\textsuperscript{65}

Initial emergency medical care was provided to Mr. Young by members of a Gun Recovery Unit, who were in the vicinity, as well as Officer Wilson’s colleagues who had emerged from the house in response to the gunshots. Personnel from D.C. Fire and Emergency Medical Services responded to the scene. They treated Mr. Young and brought him to the Washington Hospital Center Medstar Unit, where he was pronounced dead by emergency room staff at 7:23 pm. Mr. Young’s mother was notified of his death shortly after midnight, approximately five hours after he was pronounced dead. As mentioned above, Mr. Young was 24 years old at the time of his death.

On May 10, 2018, MPD made the required notification to the U.S. Attorney’s Office for the District of Columbia (“USAO”) for review of the incident to determine whether criminal prosecution of Officer Wilson was supported by the facts. Over a year later, on June 28, 2019, the USAO provided a declination letter, written notice that it had decided not to bring criminal charges against Officer Wilson.

2. \textbf{Summary of Investigation}

MPD’s investigation began shortly after the incident and was led by an agent in the Internal Affairs Division.\textsuperscript{66} The investigation included interviews of witnesses; video footage from the Brentwood Recreation Center cameras, which was subsequently enhanced by the FBI; a substantial volume of BWC footage of the aftermath of the shooting; forensic evidence that included recovery and analysis of shell casings recovered at the scene; medical and autopsy reports documenting the fatal wounds suffered by Mr. Young; and substantial additional evidence.

The autopsy performed two days after the incident showed that Mr. Young had suffered five gunshot wounds to various parts of his body, including wounds to his chest, his right knee, the back of his thigh, and his lower back. The autopsy was not able to determine the sequence of the wounds.

\textsuperscript{65} Sgt. Jones’ failure to provide timely notifications to the Command Information Center, the 5th District Watch Commander, and Internal Affairs, as well as his premature powering off of his body-worn camera, prompted Internal Affairs to initiate two separate investigations of him for potential policy violations.

\textsuperscript{66} The beginning of the investigation was delayed by at least 45 minutes because of the actions of Sgt. Jones in removing Officer Wilson from the scene without either of them notifying MPD authorities of an officer-involved shooting. The allegation against Sgt. Jones was substantiated and disciplinary action was taken.
Crime Scene Unit personnel took photographs, collected forensic evidence at the scene, and performed other appropriate forensic tasks. Crime Scene Unit technicians recovered 14 shell casings from the area of the sidewalk where Officer Wilson was backpedaling and firing at Mr. Young, and two additional shell casings near the front of the Ford Econoline Van behind which Officer Wilson took cover. They recovered a spent .380 caliber casing in front of 2323 15th Street, NE, which was found to be consistent with the ammunition recovered from the .380 caliber pistol that was found next to the body of Mr. Young and that matched the description provided by Officer Wilson.

Crime Scene Unit personnel also recovered a .40 caliber copper jacket bullet fragment in the street in front of 2332 15th Street that was fired from a pistol other than Wilson’s or Young’s, which was consistent with Officer Wilson’s claim that he heard shots fired in his direction after he fired the final two shots at Mr. Young. The recovery of the fragment was also consistent with calls from residents of the neighborhood who reported shots having a different sound than the multiple shots that came from Officer Wilson’s weapon.

On the day of the incident and in the days immediately following, the investigator and other Internal Affairs personnel interviewed numerous witnesses and conducted an extensive neighborhood canvass in an effort to identify additional witnesses. The witnesses included residents of the 2300 block of 15th Street and on nearby streets who heard gunshots but who did not see any part of the incident. Some of these witnesses called 911 while others called MPD’s 5th District Office, but none of the 911 or 5th District callers saw what happened between Officer Wilson and Mr. Young. Two participants in a group interview summarized below said they saw at least parts of the incident. The witnesses also included numerous law enforcement personnel who responded to the scene after the incident had ended. Among many others, these witnesses included Officer Wilson’s four MPD Academy classmates who, as noted above, responded to the sound of gunshots. None of them saw any part of what happened.

Officer Wilson was the central witness, and for some portion of his interactions with Mr. Young, the only witness with information about the words they exchanged and much of what happened between them. Two days after the incident, on May 11, the investigator conducted an initial interview during which Officer Wilson described the events from the time he arrived on 15th Street until the aftermath of his use of deadly force on Mr. Young. Then, a week after the incident, in the early morning hours of May 16, 2018, the investigator conducted a walkthrough with Officer Wilson at the scene of the incident, with Wilson again describing in detail his interactions with Mr. Young and
the fatal shooting that followed. Finally, the investigator conducted a third interview of Officer Wilson in July 2019, 14 months after the incident and shortly after receiving the declination letter from the USAO. We carefully reviewed the audiotapes and transcripts of each of these interviews.

In a single confusing and somewhat chaotic group interview on May 22, 2018, various witnesses, among other things, told the investigator:

- Officer Wilson was an undercover officer, Mr. Young surrendered to Officer Wilson, and Officer Wilson shot Mr. Young when Young was on the ground and was bleeding.

- The incident was a police buy-bust operation that “went wrong.” This witness said that Officer Wilson shot at persons other than Mr. Young and that he was “shooting at everybody” and that MPD had “jump-out” units all around the area.

- Officer Wilson drew his weapon first, and Mr. Young tried to run and was then shot several times by Officer Wilson, who continued to shoot Mr. Young after he was already on the ground.

- Mr. Young was not a threat to Officer Wilson, who the witness claimed was aggressive from the time he got out of his car. This witness further stated Officer Wilson was “mean mugging” the witness and his group, and that when Mr. Young approached him, Wilson became aggressive. The witness said that he did not see Mr. Young with a gun until Mr. Young was on the ground after he had been shot, stating that someone must have put the gun there.

Following the USAO’s June 28, 2019, decision not to prosecute, the investigator completed his investigative report, dated July 16, 2019 (Young Report).

67 “Walkthroughs” are a standard practice for incidents where officers have been involved in the death of civilians, so that the investigator can obtain a contemporaneous account of the officer who used deadly force or otherwise caused the death while it is still fresh in the officer’s memory and at the scene of the death so the investigator can more easily visualize the events that led up to it. Ideally, such a walkthrough is conducted the same day and under the same conditions as the incident. Because of the angry reactions to Officer Wilson on the date of the incident, the investigator decided to conduct the walkthrough in the early morning hours a week later to avoid attracting a crowd.

68 Audio interview (May 22, 2018) (702_0577 Interview at 2300 block of 15th ST NE.mp3).
The Young Report’s Summary and Conclusions concluded that, “The video evidence and physical evidence corroborate Officer Wilson’s account of this incident.” More specifically, as to the key interactions between Officer Wilson and Mr. Young, the Young Report found:

- “Mr. Young asked Officer Wilson who he was on the phone with, but Officer Wilson refused to provide any information to him. This agitated Mr. Young, who began to display aggressive behavior.”

- “Mr. Young and Officer Wilson both ended up on the east sidewalk of the 2300 block of 15th Street, N.E., and Mr. Young pulled a .380 caliber pistol from his waistband.”

- “Officer Wilson unsuccessfully attempted to grab Mr. Young’s pistol. Mr. Young and Officer Wilson then began backing away from each other. Mr. Young raised his pistol and fired one round at Officer Wilson, but the round did not strike him. While moving backwards, Officer Wilson drew his service weapon from his administrative holster and returned fire. Officer Wilson fired 14 rounds from his service pistol at Mr. Young. Mr. Young continued to point his pistol at Officer Wilson as he retreated. At the time he fired his service pistol, Officer Wilson did not know if any of his rounds had struck Mr. Young.”

Based on these findings, the investigation recommended that Officer Wilson’s use of force be found to be justified and within Departmental policy.

The investigation was approved by four levels of MPD personnel in the investigator’s chain of command in IAB within nine days of the completion of the report. On July 25, 2019, the Assistant Chief approved the report.

The case was submitted to the UFRB. In preparation for its consideration of the case, UFRB staff prepared a document entitled “Decision Point Analysis Matrix,” which was a detailed synopsis of the facts developed during the investigation. On August 21, 2019, the UFRB unanimously concurred with the recommendation in the Young Report that Officer Wilson’s use of force was justified and within MPD policy. Beyond its concurrence, the UFRB made no additional findings or recommendations.

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69 Young Report at 57.

70 The requirement for a Decision Point Analysis Matrix is discussed in the next section.
3. Analysis

a. Relevant Policies

MPD’s Use of Force Policy, GO 901.07, governs Officer Wilson’s actions in the encounter with Mr. Young that ended in Young’s death.\(^7\) Section V.G authorizes the use of deadly force in the following limited circumstances:

**Authorized Use of Deadly Force**

a. Defense of Life

Members may use deadly force in the performance of police duties under the following circumstances:

(1) When is it necessary and objectively reasonable; **and**

(2) To defend themselves or another from an actual or threatened attack that is imminent and could result in death or serious bodily injury; **and**

(3) When all other options have been exhausted **or** do not reasonably lend themselves to the circumstances.

(emphasis in original)\(^7\) However, MPD officers are also governed by the duty to de-escalate situations: to take all reasonable steps to avoid the use of any type of force, including deadly force. MPD’s de-escalation policy, incorporated as a central element of MPD’s use of force policy in 2016, provides:

All members who encounter a situation where the possibility of violence or resistance to lawful arrest is present, shall, if possible, first attempt to defuse the situation through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques, Members shall attempt

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\(^7\) We are not aware of any MPD policies or regulations that specifically cover uses of force by off duty officers. We could identify only one relevant MPD policy that sets forth off-duty responsibilities—SO-04-07, attached as Appendix F—and it does not explicitly address uses of force. Therefore, our analysis applies the same standards for off-duty officers as for on-duty officers.

\(^7\) MPD regulations also authorize the use of deadly force in a limited set of circumstances involving fleeing felons. GO 901.07 IV.G.1.b.
to defuse use of force situations with de-escalation techniques whenever feasible.

GO 901.07 IV.A. Indeed, consistent with the growing consensus among major police departments in the United States, the de-escalation requirement is the first principle listed under MPD’s use of force regulations. This reflects the primacy of de-escalation and its overarching applicability to situations in which the use of force may be necessary.

The UFRB’s policies and procedures, which govern its consideration of investigations of serious uses of force by the IAD, require the preparation and use of a Decision Point Analysis Matrix, which is incorporated into the record.73

b. Investigative Issues

The investigation did a generally thorough job of gathering the large amount of potentially relevant evidence. As noted above, this evidence included multiple interviews of Officer Wilson, interviews of other officers who reported to the scene, a volume of (largely irrelevant) BWC footage74 from officers who reported to the scene after the shooting, interviews of civilians who lived in the neighborhood and who called 911 or the local MPD District Office, and people who were at or around the vicinity of the incident, including friends and associates of Mr. Young.

(1) Witness Interviews

However, some additional investigation was appropriate, focusing on the people who were in and around the BRC—many of them seemingly friends and associates of Mr. Young—who claimed to the investigator that they had seen some or all of the encounter between Officer Wilson and Mr. Young. We summarized above some of the statements made in a group interview conducted on May 22, 2018, some of which were implausible on their face and some of which were contradicted by other evidence. Even so, some of the statements called for investigative follow-up, particularly those statements where the witnesses making the statement said they saw some part of the interactions between Officer Wilson and Mr. Young. These included the witness who said he saw Officer Wilson draw his gun first, and the witness who said that Mr. Young surrendered.

73 GO 901.09 V.C. 3

74 Because he was off duty, Officer Wilson was not wearing a body-worn camera, nor was he required to do so. A properly activated body-worn camera would have resolved most if not all of the remaining uncertainties about the sequence of the key interactions between Officer Wilson and Mr. Young.
Group interviews are problematic because the individuals involved take cues from each other and may be repeating what they have just heard from others rather than providing information based on their own observations. For that reason, among others, Paragraph 81c of the 2001 MOA specifically prohibited group interviews.

A review of the audiotape of the group interview makes clear the deficiencies and drawbacks of speaking to multiple witnesses at the same time. That was especially true in this case, when the support for Mr. Young among the people participating in the group interview was so strong that any witness who might have said something unfavorable to Mr. Young, or who claimed to see him as the aggressor, would have risked retaliation. We understand that isolating the members of the group and interviewing them individually at a different location and at a different time might have been challenging, but the effort should have been made to fully address and resolve their claims.

When we spoke with the investigator about this issue, he explained that trying to isolate individuals from the group at the time of the group interview was problematic. He said it could have led other members of the group to conclude that anyone he interviewed individually was cooperating with the police, thus possibly making them a target for retaliation. But the investigator acknowledged that this concern would not have precluded him from making efforts, at a time subsequent to the May 22 group interview, to contact at least some of these witnesses individually by phone or through some other means given that, with one exception, he was able to obtain names of the participants in the group interview. We believe that making such efforts would have been helpful in ensuring the completeness of the investigation.

(2) Opportunities for De-Escalation Prior to the Shooting

Based on our independent review of the evidence, we credit Officer Wilson’s claim that Mr. Young drew his weapon and shot first, though the issue is not free from doubt. The basis for crediting the claim is not only Officer Wilson’s repeated statements to that effect but also the video footage75 that shows Officer Wilson advancing towards Mr. Young and then retreating quickly.76 His retreat is consistent with reacting to Mr.

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75 FBI enhanced video processed from camera 14.

76 As previously mentioned, the Young Report states that Officer Wilson’s advance towards Mr. Young was an effort to grab Mr. Young’s pistol. In his final interview, a year after the event, Officer Wilson was asked multiple leading questions from the investigator suggesting that Wilson had reached for Mr. Young’s weapon. Despite the leading questions, Officer Wilson never agreed with the suggestion that he did so. Our review of the videotape evidence
Young’s actions in drawing and pointing his weapon, and Young firing first. Also, a careful review of the video from one of the BRC cameras shows Officer Wilson’s pistol in his hand after he starts backing away from Young. As he retreated, Officer Wilson was firing his own weapon at Mr. Young. Video footage from the BRC cameras does not clearly resolve the issue, and none of the third-party witness accounts credibly refutes Officer Wilson’s description of this sequence.

When viewed through the lens of events that occurred after both men were on the sidewalk, Officer Wilson’s use of deadly force in firing his weapon at Young on the sidewalk was justified. It was “necessary and objectively reasonable,” because he was defending himself from “an actual or threatened attack” that was imminent and could have resulted in death or serious bodily injury — i.e., the threat posed by Mr. Young’s drawing, pointing, and firing his weapon at Officer Wilson. It is somewhat less clear that Officer Wilson was justified in continuing to fire his weapon once Mr. Young was in full retreat, although there is no substantial credible evidence that contradicts Officer Wilson’s claim that Mr. Young continued to point his weapon at Officer Wilson. And a close review of the enhanced video from one of the BRC cameras appears to show that Mr. Young continued to face Officer Wilson as the two men backed away from each other.\(^\text{77}\) If that was the case, Mr. Young continued to constitute a threat that justified the use of deadly force, at least before Mr. Young moved from the sidewalk into the street.

We next turn to the question of whether Officer Wilson made efforts to de-escalate the situation, as required by MPD regulations. As an initial matter, it is clear that Officer Wilson did nothing to initiate or provoke the encounter with Mr. Young. Officer Wilson had come to the neighborhood for a cookout with his classmates, not a confrontation. He was minding his own business; his only objective was to meet up with his MPD colleagues for the cookout. Officer Wilson did not seek out Mr. Young and there is no evidence that he had any interest in engaging with Mr. Young or anyone else on the street. Mr. Young initiated the confrontation by crossing the street and asking Wilson whom he was speaking with on the phone.\(^\text{78}\) The question itself was provocative. It was, in fact, none of Mr. Young’s business, whether that is how Officer Wilson specifically responded or not.

But there is no evidence that Officer Wilson made an effort at any point to de-escalate his encounter with Mr. Young. In fact, even though Mr. Young initiated the encounter, Officer Wilson escalated it. Even at the stage of Mr. Young’s invasive initial

\(^\text{77}\) FBI enhanced video from camera 14, at 2:20-2:25.

\(^\text{78}\) FBI enhanced videos from BRC cameras 1 and 14.
question, Officer Wilson might have tried to answer the question less sharply by saying something more benign, such as that he was speaking to a friend, or to his mother. It may well have had no impact on Mr. Young but Officer Wilson’s actual response, in the moment, surely did nothing to de-escalate the confrontation. When Mr. Young asked the question a second time, and Officer Wilson provided a similar dismissive answer, the situation escalated further. This was the first potential missed opportunity for de-escalation, and it was not explored during the investigation. Officer Wilson was never asked about the possibilities for de-escalation and the Young Report did not address the issue.

This initial missed opportunity was followed by others. While some of the specifics of the subsequent interactions between Officer Wilson and Mr. Young are murky, several things are clear: Officer Wilson did not identify himself as a police officer—either when Mr. Young first addressed him, or at any time. Officer Wilson did not call for backup. He did not call 911. He took no steps to avoid the encounter or seek any potential avenue of escape. He made no effort to attempt “warning, verbal persuasion, tactical communication,” as required by MPD policy, or employ any other de-escalation technique. Officer Wilson did the opposite.

Officer Wilson walked from the sidewalk to the curb, dropped his bag, and adopted a confrontational stance towards Mr. Young. He then followed Mr. Young up on to the sidewalk instead of using the opportunity to stay in the street and move away from Mr. Young. It is possible that Mr. Young would have tried to draw and fire his weapon even if Officer Wilson had tried to retreat or move away. But Officer Wilson’s actions in confronting Mr. Young in the street and then following him on to the sidewalk substantially increased the likelihood that the confrontation would become deadly. Before they faced each other on the sidewalk, Mr. Young had not shown his gun and had not overtly threatened Officer Wilson in any way.

Officer Wilson was asked during one of his interviews why he failed to identify himself as a police officer. He said he did not want to do so because that would somehow reveal that his colleagues who lived on the block were police officers. This explanation makes little sense. Officer Wilson’s identifying himself as a police officer would have revealed nothing about his purpose for being on the block, much less that four police officers lived there. Although there is no guarantee that Wilson’s identifying himself as an MPD officer would have de-escalated the confrontation, it would have communicated to Mr. Young that the stakes for him were higher than if he were dealing with a civilian.

79 GO 901.07 IV.A.

80 Recording of investigator’s interview of Officer Wilson at 5:20 to 5:30.
The objective evidence of the interaction between Officer Wilson and Mr. Young is contained on the videotape captured by the BRC CCTV cameras. The investigator carefully reviewed the enhanced videotape from those cameras, and the report provides detailed summaries of the camera footage.

Here is the Young Report’s summary of that footage, still photos of which appear above, which describes the sequence beginning when Officer Wilson came into the street to meet Mr. Young.

- “Officer Wilson stepped off the curb and walked into the street to meet Mr. Young at the front of the Kia Van.

- Mr. Young walked towards Officer Wilson, and Officer Wilson closed the distance between them. Officer Wilson adjusted his pants and pulled them up while spreading his legs apart.

- Officer Wilson placed his bag on the ground.

- Mr. Young turned and walked eastbound onto the sidewalk.

- Officer Wilson adjusted his hands (out in front motion), and then walked eastbound onto the sidewalk parallel to Mr. Young.”

This summary and the footage itself provide the basis for questioning why Officer Wilson first stepped off the curb to meet Mr. Young in the street, and then followed Mr. Young onto the sidewalk. In the Tactical Analysis section of the report, Mr. Young is described as “display[ing] characteristics of an armed gunman while using the vehicle in front of him as cover.” We saw little or no evidence to support that speculative conclusion other than Officer Wilson’s own statements, which were subject to being shaped by his desire to justify his own actions. The fact that Mr. Young turned out to be an armed gunman does not prove that he showed those characteristics in approaching Officer Wilson. The interviews of Officer Wilson never pressed him for details that might have supported his conclusion that Mr. Young was an armed gunman. And that conclusion, whatever its basis, should not have prevented the analysis of possibilities for de-escalation at that stage of the encounter.

In the Young Report’s Summary and Conclusions, the opportunities for Officer Wilson to defuse the situation are not addressed. Indeed, the important facts that Officer Wilson came off the sidewalk to meet Mr. Young in the street, and then followed Mr. Young onto the sidewalk are not mentioned at all—rather, that important

81 Young Report at 48.
interaction is summarized as “Mr. Young and Officer Wilson both ended up on the east sidewalk.” True, but they “ended up” there because Officer Wilson followed Mr. Young. Any efforts by Officer Wilson to de-escalate the situation might well have failed, but he did nothing to test that possibility. He should have been held accountable for not doing so. And because of the importance of the de-escalation principle, the investigation should have fully explored the possibilities for de-escalation, addressed the issue in its report, and teed it up for consideration by the UFRB.

We agree that the use of deadly force by Officer Wilson—in response to Mr. Young drawing, pointing, and shooting his pistol—was justified, but we disagree with the conclusion that Officer Wilson’s actions taken as a whole were consistent with MPD policy. We believe his failure to make any effort to de-escalate the situation violated MPD’s policy, which requires de-escalation when feasible (as it was here). The investigation should have explored the de-escalation issue, and the UFRB should have addressed it. Neither of those things happened.

(3) The Final Two Shots

We were also troubled by MPD’s treatment of the final two shots Officer Wilson fired at Mr. Young from the cover of the Ford Econoline Van. The evidence falls short of fully supporting the finding that Officer Wilson needed at that point to defend himself from an imminent actual or threatened attack, or that he had exhausted other options.

By the time Officer Wilson fired those final two shots, Mr. Young was lying in the street, wounded. The investigation fully credited Officer Wilson’s claims that Mr. Young continued to pose a deadly threat at that point, even though Young was on the ground, and even though Officer Wilson had already found a way to minimize the threat by taking cover behind the van. We found not wholly convincing Officer Wilson’s claim that Mr. Young continued to pose a threat because he was allegedly pointing his weapon at Wilson while lying wounded in the street. Similarly, we did not find wholly convincing that the position of Mr. Young’s body uphill from Officer Wilson “may have appeared to elevate the position of Mr. Young’s firearm in the view of Officer Wilson.” This is a speculative conclusion not supported by objective evidence.

Officer Wilson made no claim that Mr. Young had fired more than the first shot, and the forensic evidence and post-incident examination of Mr. Young’s pistol provided no evidence that he had fired any additional shots. We believe the final two shots fired

82 Young Report at 56.

83 Young Report at 52.
by Officer Wilson were at least arguably not justified under MPD policy and should have been analyzed more critically.\textsuperscript{84} MPD might have conducted a trajectory analysis of Officer Wilson’s final two shots, which might have shed light on whether Officer Wilson’s claims about a continuing threat were credible.

We think the three issues we have highlighted in this analysis—the lack of follow-up on interviewing the neighborhood civilian witnesses, the absence of any analysis of the de-escalation issues, and the uncritical acceptance that the final two shots were justified—should have been identified and addressed during the review process within IAD and highlighted for the UFRB.

c. **UFRB Review**

As described above, the Young Report’s recommendation that the shooting was justified and within policy was accepted by the UFRB on August 21, 2019. The only document we were provided in the UFRB file, other than documentation of its unanimous conclusion, was the Decision Point Analysis Matrix required by MPD General Order 901.07 IV.G.1.b.

The Decision Point Analysis Matrix in this case is a detailed four-page summary of the investigative findings contained in the Young Report. Its content does not match its title. It does not explicitly address decision points—e.g., Officer Wilson’s decision not to identify himself as a police officer, or his decision to follow Mr. Young onto the sidewalk; it does not provide analysis that goes beyond anything addressed in the investigative report; and it is not a matrix of any kind.

A decision point analysis can be an extremely helpful analytic tool to facilitate the assessment of a use of force incident. It should serve as the basis for the UFRB to serve its critical role as an independent review body within MPD. It can serve as the basis for recommendations for modifications to policy, or additional training either for the officer(s) involved in the incident or for the entire Department, and it can be the source of instruction about appropriate police tactics in particular circumstances. That important purpose is not served by a summary document that does not contain independent analysis and does not extract from the incident relevant guidance.

That general point is illustrated in this specific case. An independent decision point analysis here would likely have highlighted the de-escalation possibilities that

\textsuperscript{84} Officer Wilson reported that after firing the final two shots, he heard multiple shots fired from a third weapon from the direction of the 2200 block of 15th Street. That claim was supported by the recovery of 40 caliber copper jacket bullet fragment in street in front of 2332 15th Street that was fired from a pistol other than Wilson’s or Young’s, as well as calls made to 911 at the time of the incident that reported a different sound from those subsequent gunshots.
were not addressed in the investigation and could have been the basis for a constructive discussion among the members of the UFRB and important guidance for the Internal Affairs Bureau.

As noted above, because of Officer Wilson’s failure to make any effort to de-escalate the situation, we disagree with MPD’s conclusion that Officer Wilson’s actions were consistent with MPD policy. Based on the current record, we would have found his use of deadly force to be justified but in violation of MPD policy’s requiring de-escalation.

4. Recommendations

Based on our review of the Final Investigative Report, the underlying evidence, and the UFRB’s review of the investigation, we provide the following recommendations for MPD’s consideration:

- IAD investigators should explore the possibilities for de-escalation in every investigation and in every interview of an officer engaged in a serious use of force.

- Whenever possible, group interviews should be avoided. If a group interview is unavoidable, the investigator should attempt to supplement the interview with subsequent individual interviews whenever possible.

- IAD supervisors should caution investigators not to use leading questions during interviews of civilian or sworn witnesses of the involved officers. That is especially important when addressing state of mind issues.  

- In serious use of force incidents, all statements from involved officers, witness officers, and civilians should be recorded, transcribed, and included in the investigative file, as required by MPD policy.

- IAD investigators should be provided guidance that the scope of their investigations is broader than the actions of the officer at the point serious or deadly force is used. The actions, tactics, and decisions of all participants in the event, from the call taker to the responding supervisors, should be assessed

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85 We made this recommendation in our 2016 report, and as a result this requirement was incorporated in MPD policy. GO 901.08 IV.D.4.a.4. But the requirement is not self-executing—it requires adequate training and oversight.

86 See GO 901.08 V.I.1.e.
against MPD policy requirements and best practices.

- Even in cases when an initial use of force is justified, investigators should carefully examine whether subsequent uses of force (in this case the final two shots) are also justified and in conformance with MPD policy.

- MPD should reinforce as part of in-service training the responsibility of officers and supervisors to report incidents of the use of force in the aftermath of a serious use of force incident. The training should emphasize the importance of timeliness, as well as incident scene and evidence preservation.

- The UFRB should keep a more detailed record of its deliberations in each case. The record should reflect the specific issues discussed by the Board and their specific findings.

- MPD should consider whether it has in place adequate policies governing what its officers can and should do when confronted with criminal activity when they are in off-duty status. Its policy on this important issue has not been updated since 2004. In particular, MPD should clarify in policy and training the full applicability of its use of force principles, including de-escalation, when MPD members are off duty.

C. The Death of Marqueese Alston

1. Summary of Facts

On June 12, 2018, members of MPD’s Seventh District Impact Team, an MPD Specialized Unit, were patrolling in the 3700 block of First Street, S.E. The team members were traveling in two marked MPD cars. Officer Ronald Koch and three other officers were assigned to Cruiser D16 (“Car #1”). Officer Caleb Demeritt and one other officer were traveling behind them in Cruiser 760 (“Car #2”).

At approximately 7:10 pm, an officer in Car #1 saw Mr. Marqueese Alston walking northbound in the 3700 block of First Street, S.E. That officer, who had received specialized training in the detection of firearms, said he observed Mr. Alston carrying something in his front pants pocket that, based on his training and experience, he suspected was a pistol. The officer alerted the other officers in Car #1, and the driver stopped and started backing up. Officer Demeritt, who was driving Car #2, observed

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87 Facts related to the incident are drawn from the Final Investigative Report (“Alston Report”) dated March 4, 2019 unless otherwise noted.
the movements of Car #1. Officer Demeritt subsequently told investigators that he believed that the officers in Car #1 “[saw] something.” He then said he observed Mr. Alston make eye contact with him and take off running. Officer Demeritt (Car #2) and Officer Koch (Car #1) simultaneously got out of their respective cars and pursued Mr. Alston on foot. Two other officers from Car #1 also pursued Mr. Alston on foot but were some distance behind the other officers. The officer who suspected Mr. Alston was carrying a pistol radioed, “Got one running” on the Seventh District’s radio channel, and stated Alston’s hand was near his “right pants.”

Officer Demeritt was slightly ahead of Officer Koch during the foot chase, which lasted approximately 12 seconds. Officer Demeritt subsequently reported that, during the foot chase, he saw Mr. Alston put his hand in his coat pocket. When the officers reached an alley near Wayne Place, Mr. Alston drew a black Ruger 9mm LC9 semi-automatic pistol from his waistband. While still running, Mr. Alston turned and fired four rounds in the direction of the officers, none of which struck them. As Mr. Alston began firing, Officer Demeritt dove to the ground in the alley. While on the ground, Officer Demeritt drew his service pistol and fired eight rounds at Mr. Alston. Nearly simultaneously, Officer Koch, who was running toward Mr. Alston but behind Officer Demeritt, fired seven rounds from his weapon at Mr. Alston. Mr. Alston was struck six times and fell to the ground. Multiple officers, including one of the other officers engaged in the foot pursuit, immediately reported “shots fired” over their MPD radios.

Immediately after the exchange of gunfire, the other four officers of the Impact Team reached the alley. Three officers, including Demeritt and Koch, approached Mr. Alston, who was on the ground and appeared to be unconscious. The officers immediately called for medical assistance. The officers then located and secured Mr. Alston’s pistol, which was on the ground several feet from Mr. Alston’s body.

In the immediate aftermath of the exchange of gunfire, a number of people in the area began to gather near the scene of the shooting, including Mr. Alston’s girlfriend. Some of the individuals appeared to be angry and agitated, yelling at the officers whom they believed had shot Mr. Alston. D.C.’s Emergency Medical Services reached the scene and pronounced Mr. Alston dead on the scene at 7:30 pm.

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88 Interview of Officer Demeritt at 2.

89 Interview of Officer Demeritt at 2.

90 Body-worn camera (“BWC”) recording of Officer Koch at 01:47.
2. **Summary of Investigation**

The investigation was led by a sergeant in IAD, who responded to the scene. MPD’s chain of command and the US Attorney’s Office for the District of Columbia (“USAO”) were promptly notified of the incident. The investigator reported that he was unable to perform a walkthrough of the scene with Officers Demeritt and Koch given its volatility. He interviewed various members of the Impact Team officers in a car in the alley where the shooting took place. Officers Demeritt and Koch were interviewed at the Seventh District several hours after the incident.

Four additional members of Internal Affairs responded to the scene and promptly performed a witness canvass, seeking eyewitnesses to the shooting. The agents interviewed a number of witnesses who were on the scene and knocked on doors in adjacent buildings. Through those efforts, the agents spoke with seven civilian witnesses and obtained statements from each of them. The accounts were largely consistent. Among those who actually saw the exchange of gunfire, three of four witnesses stated that Mr. Alston shot first. The fourth witness indicated that she “did not see Mr. Alston with a gun” and “only saw the police shooting at him.” Agents also sought surveillance footage of the incident but the only cameras in the vicinity were determined not to have been operating at the time of the incident.

Members of MPD’s Department of Forensic Services (“DFS”) also responded to the scene. DFS photographed the scene and collected forensic evidence. DFS also conducted weapons and ammunition checks at the scene, including collecting and examining the service weapons of the involved officers and assessing how many rounds were fired and whether the rounds struck any individuals or objects. DFS also recovered, among other things, four shell casings that were subsequently determined to have been fired from Mr. Alston’s pistol. DFS also recovered DNA from that pistol and concluded that there was “extremely strong support” that the DNA recovered from certain magazines matched that of Mr. Alston.

IAD personnel also reviewed and analyzed body-worn camera (“BWC”) footage from a number of the Impact Team officers. Notably, Officer Koch had failed to activate his BWC at the outset of the incident, but the default two minute “buffer,” which allows BWCs to capture footage before the camera is manually activated, allowed the chase and shooting to be fully captured, although footage captured by the buffer does not include audio. The investigator was assigned to investigate Officer Koch’s failure to activate his BWC as part of the overall investigation of the Alston shooting.

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91 July 30, 2020 Interview with the investigator.

92 EO-18-014, attached as Appendix N.
On June 13, 2018, each of the involved officers was interviewed by IAD agents. The investigator conducted an additional interview of Officer Koch on January 30, 2019, related to Officer Koch’s failure to activate his BWC.

IAD made a timely notification to the USAO, which issued a declination letter on January 2, 2019.

The Final Investigative Report (“Alston Report”) was filed on March 4, 2019, and on March 5, 2019, Officers Demeritt and Koch each completed a Use of Force Incident Report (“UFIR”).

The case was submitted to the Use of Force Review Board (“UFRB” or “Board”). In preparation for its consideration of the case, UFRB staff prepared for the Board a Decision Point Analysis Matrix, which contained a detailed synopsis of the facts developed during the investigation and set forth MPD’s policy and District of Columbia regulations concerning the use of a firearm in self-defense. On April 2, 2019, the UFRB unanimously concurred with the recommendation in the Internal Affairs investigative report that Officers Koch and Demerritt’s uses of force were justified and within MPD policy. Beyond its concurrence, the UFRB made no additional findings or recommendations.

3. **Analysis**

We agree with MPD’s ultimate conclusion that the officers’ use of force was justified and within departmental policy. That conclusion is reasonable and fully supported by the evidence. Nevertheless, we note a number of opportunities for significant improvements in MPD tactics and in IAD investigative practices.

a. **Justification for Use of Force**

As noted above, MPD’s General Order 901.07 governs a member’s use of force. It requires that “Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.”

The General Order authorizes MPD members to use deadly force:

(1) When it is necessary and objectively reasonable; and

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93 While the UFIR copies in the case file are dated March 5, 2019, the Alston Report reflects that these were completed on January 25, 2019 and January 14, 2019 respectively.

94 GO 901.07 IV.A (effective November 3, 2017); see also MOA ¶ 39.
(2) To defend themselves or another from an actual or threatened attack that is imminent and could result in death or serious bodily injury; and

(3) When all other options have been exhausted or do not reasonably lend themselves to the circumstances.95

Finally, the General Order requires the officers to issue a verbal warning before discharging a firearm “when feasible.”96

Here, BWC footage, witness statements, and physical evidence combine to support the conclusion that Officers Koch and Demeritt chased Mr. Alston into an alley where Mr. Alston pulled out a pistol and started shooting at them. Both Officers Demeritt and Koch credibly stated, in their respective interviews, that they reasonably feared for their lives at the time they drew their weapons and fired shots that killed Mr. Alston. In addition, the speed at which the encounter unfolded made it unfeasible for the officers to exhaust other options or identify themselves as officers prior to discharging their firearms.

We note that the officers do not appear to have issued any verbal commands during the pursuit. For example, officers could have identified themselves as police officers and directed Mr. Alston to stop.97 In our judgment, it is extremely unlikely that these commands would have altered the outcome here, but the policy requires it and the investigator should have asked whether any such commands were considered and why they were not provided. In addition, such audible verbal commands might have defused the anger expressed by the people who subsequently gathered at the scene after Mr. Alston was shot.

b. Rendering Medical Assistance

The same General Order also requires members, after using any force, to:

1. Conduct a visual and verbal check of the subject to ascertain whether the subject is in need of medical care.

95 GO 901.07 IV.G.

96 GO 901.07 IV.K.

97 We note that both officers were in uniform and emerged from marked vehicles.
2. Summon medical assistance immediately if a person is injured, complains of pain, or demonstrates life-threatening symptoms as established in GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).98

3. Render first aid as soon as the scene is safe.

GO 901.07 IV.C; see also MOA ¶ 40.

Here, Officer Koch stated that he “checked on” Mr. Alston and observed that he had been shot in the head after the exchange of gunfire ended and Mr. Alston was on the ground. Also, multiple officers requested medical assistance promptly after the incident. However, we saw no evidence that any officer actually checked Mr. Alston’s vital signs or otherwise attempted to render first aid, as required by subsection 3.99 Indeed, the officers’ failure to attempt to render aid to Mr. Alston was undoubtedly noticed by onlookers, which likely stoked their anger and increased the tension and volatility at the scene. And Mr. Alston’s family has accused the officers of not attempting to resuscitate Mr. Alston in a lawsuit it has filed against the District of Columbia.100 The Alston Report seems to suggest any first aid would have been futile because Mr. Alston was observed by the officers to be “unconscious” and “had a gunshot wound to the right side of the head.”101 This conclusion appears reasonable from our review of the BWC footage, but does not obviate the requirement.

c. The Pursuit

As with many police encounters, one of the key questions is why the officers initiated contact with Mr. Alston in the first place. In fact, Mr. Alston’s family has criticized the involved officers for jumping out of their cars and pursuing Mr. Alston

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98 Attached as Appendix G.

99 Officer Koch very briefly bent over Mr. Alston’s body immediately following the shooting. But he appeared to have been searching for his gun. BWC (Officer Koch) at 2:07 (immediately after the shooting, Officer Koch checks Mr. Alston’s hands and says, “He tossed the gun.”); see also Interview with Officer Koch at 3-4 (acknowledging that no one rendered first aid).

100 See Amended Complaint ¶ 17 (ECF No. 9), Kenithia Alston v. District of Columbia, et al., No. 20-cv-01515-KBJ (filed Aug. 27, 2020) (“Alston Complaint”) (“[The officers] did not check Mr. Alston’s pulse, attempt to resuscitate him, or gauge the extent of his injuries to ascertain whether he was alive.”).

101 Alston Report at 3.
“without good cause or valid basis.”102 We do not believe the reason for the initial pursuit was adequately explored in this case. In particular, the Alston Report’s account of how and why Officer Demeritt pursued Mr. Alston does not appear to be supported by the weight of the evidence. The Alston Report suggests that Officer Demeritt “joined” three other officers—each of whom believed Mr. Alston was armed—in an existing pursuit. But nearly all of the evidence suggests that Officer Demeritt was initially unaware that Mr. Alston was armed and initiated the pursuit on his own—i.e. in parallel to the three other officers. This discrepancy highlights three significant shortcomings described below.

(1) **The Alston Report’s Account of the Pursuit**

In relevant part, the Alston Report states that the pursuit of Mr. Alston began as follows:

- An officer in Car #1 alerted the other three officers in Car #1 that Mr. Alston had a handgun in his pocket.

- At this time, Officer Koch and two other officers exited Car #1 in an attempt to stop Mr. Alston. While this was occurring, Officer Demeritt and one other officer pulled up in Car #2 behind Car #1 in the 3700 block of First Street, S.E..

- Three officers from Car #1 pursued Mr. Alston on foot, while the driver of Car #1 and Officer Demeritt (the driver of Car #2) turned their vehicles around and followed the foot pursuit in their police vehicles.

- Officer Demeritt drove Car #2 eastbound into the 100 block of Wayne Place, S.E., and stopped his vehicle a short distance past the mouth of the alleyway at the south end of the east alley of the 3700 block of 1st Street.

- Officer Demeritt got out of his car, and joined the foot pursuit of Mr. Alston.103

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102 Alston Complaint at 1. ("Without any good cause or valid basis, multiple MPD Officers . . . jumped out of two vehicles, chase Marqueese into an alley, and shot him between twelve and eighteen times, killing him in broad daylight.").

103 Alston Report at 1–2.
This chronology is not consistent with other parts of the Alston Report, BWC recordings, and the statements of Officer Demeritt and the other officer in Car #2.

It is apparent from Officer Koch’s BWC recording—as well as the Alston Report’s synopsis of that recording—that Officers Koch and Demeritt got out of their respective cruisers at the same time.\textsuperscript{104} Indeed, both Officers Koch and Demeritt’s BWC recordings confirm that Officer Demeritt was leading the chase, and that Officer Demeritt reached the alley first.\textsuperscript{105} The BWC footage also confirms that, contrary to the Alston Report, neither vehicle “turned around” prior to the chase.\textsuperscript{106}

These recordings are consistent with the chronology of events in Officer Demeritt’s statement—\textit{i.e.}, he saw Car #1’s reverse lights activated, believed therefore that the officers in Car #1 saw “something,” made eye contact with Mr. Alston, and then Mr. Alston fled.\textsuperscript{107} Officer Demeritt did not mention “following the pursuit in his police vehicle” and his statements do not suggest he “joined” a pursuit.\textsuperscript{108} In fact, he stated that he did not see any of the other officers engaged in the pursuit until “after the incident.”\textsuperscript{109} Likewise, the other officer who was in Car #2 with Officer Demeritt stated that he got out of his car when he saw the officers in Car #1 leave theirs but then returned to his cruiser to secure it—suggesting that the car’s driver, Officer Demeritt, initiated a foot pursuit at the same time as the other officers. And that officer did not convey to investigators that he was aware of any reasonable basis for Officer Demeritt to believe that Mr. Alston was armed when the pursuit began.

\textsuperscript{104} BWC (Officer Koch) at 01:46; Alston Report at 31 (describing time stamp 1:46 as “Officer Koch exited the vehicle via the left rear passenger side and immediately began to run . . . . The operator of [the other] vehicle (Officer Demeritt) exited and immediately began to run. Officer Demeritt was slightly ahead of Officer Koch[.]

\textsuperscript{105} BWC (Officer Koch) at 01:47; BWC (Officer Demeritt) at 01:59.

\textsuperscript{106} See, \textit{e.g.}, BWC (officer from Car #1) at 01:58. The Alston Report repeats this erroneous fact—that Officer Demeritt’s car was facing the opposite direction—in its description of time stamp 01:46 of Officer Koch’s body worn camera footage. Alston Report at 31.

\textsuperscript{107} Interview with Officer Demeritt at 2-3; UFIR.

\textsuperscript{108} \textit{Id.}; Recorded Interview of eyewitness officer from Car #2 at 04:03 (noting the doors in both cars opened “simultaneously”).

\textsuperscript{109} Interview with Officer Demeritt at 2.
Officer Koch’s BWC (left, 7:11:39 pm) and Officer Demeritt’s BWC (right, 7:11:40 pm) show Officer Demeritt clearly exiting his car at the same time as Officer Koch and leading the pursuit of Mr. Alston.

(2) Investigative Shortcomings Related to the Pursuit

General Order 901.08 V.J requires the Final Investigative Report to include, among other things, a description of the use of force incident, a determination of whether proper police tactics were employed, and a determination of whether the force was “consistent with MPD policy and training.” The description and analysis must be accurate and complete for the Final Investigative Report to serve its purpose. General Order 901.09 V.C.1. likewise requires the UFRB to consider the events leading up to a use of force incident.

Here, while the Alston Report is, in many ways, thorough, it does not adequately address how and why Officer Demeritt joined the pursuit:

- The Summary and Conclusions states: the first officer “notified his colleagues of his observations, and the Impact Team members attempted to stop Mr. Alston.”

- The Tactical Analysis likewise states that “the officers” had “reasonable suspicion to stop” Mr. Alston based on the first officer’s observation and “[t]he Impact Team officers lawfully pursued Mr. Alston, and were justified

110 Alston Report at 7 (emphasis added).
in forcibly stopping him to further investigate the apparent weapons violation.”

- The investigator’s request for a “curriculum review” provides a chronology similar to the one described in subsection 1 above where Officer Demeritt began the pursuit in his car and then “joined the pursuit.”

The Alston Report did not address at any point the important threshold issue of whether Officer Demeritt had a factual basis for initiating the foot pursuit. Instead, it focused almost entirely on the moment of the exchange of gunfire between Mr. Alston and the officers and not sufficiently on the events leading up to it. The investigation did not focus on whether, if Officer Demeritt was unaware that Mr. Alston was carrying a pistol, his pursuit was legal and appropriate as a matter of tactics and MPD policy; whether the pursuit of Mr. Alston should have been handled differently; and whether Officer Koch should have warned him that he was pursuing an armed suspect. None of these questions were addressed or analyzed. The fact that Mr. Alston was in fact carrying a weapon does not eliminate the need for this issue to have been addressed and evaluated.

Furthermore, as described below, the interviews with the involved officers were extremely brief—all but one lasting fewer than 10 minutes. Each of the interviews occurred shortly after the incident, and IAD agents did not conduct follow-up interviews with the officers, particularly after having the opportunity to review the BWC footage. Such follow-up interviews might have provided the officers involved in the incident the opportunity to provide needed context and information relating to the questions raised above, as well as others. This additional information would have been particularly useful in this case, where there is no BWC footage that captures the events that triggered the foot pursuit.

(3) Areas for Tactical Improvement Related to the Pursuit

As noted above, the Alston Report did not include a tactical analysis that addressed whether Officer Demeritt had reason to believe Mr. Alston to be armed at the

111 Alston Report at 5 (emphasis added).

112 Attachment 6 to Alston Report.

113 See GO 901.08 V.I.d.

114 The Alston family’s lawsuit complains about this fact. See Alston Complaint ¶ 37.
initiation of the chase. Accordingly, we address two areas for tactical improvement not included in the Alston Report’s Tactical Analysis.

First, as a matter of officer safety, it is critical for officers to warn one another that a suspect is armed. Here, our review found no evidence that any of the officers in Car #1 warned Officer Demeritt and the other officer, who were in Car #2, that the individual they were pursuing might have a weapon. Nor did we find evidence that any of the officers warned the various bystanders that Mr. Alston might have a weapon. The Alston Report states that an officer from Car #1 stated over the radio, “Got one running” and that Mr. Alston’s hand was at his “right pants.” But we are unaware of any evidence that Officer Demeritt even heard this statement. This would have been an appropriate issue to raise with Officer Demeritt in a follow-up interview.

Second, it is, at minimum, an open question whether Officer Demeritt had the requisite factual basis to attempt a lawful stop of Mr. Alston. The Alston Report’s tactical analysis relies solely on the first officer’s observation of what appeared to be a pistol in Mr. Alston’s pocket to support its conclusion that “the officers had reasonable suspicion to stop and frisk him for a weapon.” The Alston Report goes on to state that “[w]hen the officers attempted to stop Mr. Alston, he immediately fled on foot. The Impact Team officers lawfully pursued Mr. Alston, and were justified in forcibly stopping him to further investigate the apparent weapons violation.”

But, as described above, this analysis is inconsistent with Officer Demeritt’s own version of events. Unlike the other members of the Impact Team, Officer Demeritt’s pursuit was not initiated to further investigate an “apparent weapons violation.” Rather, Officer Demeritt and the other officer in Car #2 acknowledged that Mr. Alston ran when they made eye contact with him. And, at some point, Mr. Alston had his hand in his pocket or near his waist. Officer Demeritt never told investigators (nor was he asked) whether he believed Mr. Alston was carrying a weapon. Indeed, the other officer in Car #2, who had a better view of Mr. Alston, specifically stated that he did not

115 A bystander can be seen in the middle of the crossfire at 1:55 of Officer Koch’s BWC recording.

116 For the six seconds of the chase for which Officer Demerrit’s body worn camera captured audio, no statements on the radio can be heard. BWC (Officer Demerrit) at 02:00-02:06.

117 Alston Report at 5 (citing Terry v. Ohio, 392 U.S. 1 (1968)).

118 Recorded Interview with officer from Car #2 at 02:22.

119 Interview with Officer Demeritt at 2.
know what, if anything, Mr. Alston was carrying. Thus, whether Officer Demeritt had sufficient cause to stop Mr. Alston prior to that point is, at least, an open question, and warranted investigation. The indisputable fact that Mr. Alston was in fact carrying a weapon did not eliminate the need to examine the state of Officer Demeritt’s knowledge at the outset of the pursuit.

As discussed in greater detail below, there is legal precedent for an officer to conduct an investigatory stop where a suspect in a high crime area flees from individuals they know to be police officers. See generally Illinois v. Wardlow, 528 U.S. 119 (2000). However, courts in the District of Columbia have suggested that the involved officer must have some level of articulable suspicion beyond the mere fact that a suspect fled. See Miles v. United States, 181 A.3d 633, 641 (D.C. 2018). But all courts (and MPD policy) agree that the officer that attempts a stop must be able to articulate the basis for his reasonable suspicion. Yet the investigators relied on Officer Koch’s basis without ever asking Officer Demeritt for his.

**Policy Revision and Training Opportunities Related to the Pursuit**

The current applicable MPD policy governing investigative stops, colloquially known as “Terry stops,” is GO-OPS-304.10. That policy does a commendable job of providing guideposts for officers on the legal basis for conducting a “stop.” The Order also, importantly, requires that “every member conducting a stop be prepared to cite the particular factors that supported the determination that reasonable suspicion existed” and provides an example of how justification might be articulated. The fact that the Alston Report here relied on a “collective” articulation of the factors that supported reasonable suspicion, and that Officer Demeritt was never specifically asked

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120 Recorded Interview with officer from Car #2 at 10:53.

121 MPD policy indicates that “[a]n individual … fleeting from an actual or possible crime scene” can contribute to an officer’s reasonable suspicion. GO-OPS-304.10 ¶ II (emphasis added), attached as Appendix H. But the policy says nothing of flight alone being dispositive for reasonable suspicion.

122 GO-OPS-304.10.

123 Terry v. Ohio, 392 U.S. 1 (1968) is the case that established the constitutionality of investigative stops by law enforcement personnel so long as the stop is based on reasonable articulable suspicion.

124 See GO-OPS-304.10.II.B.2.b.

125 GO-OPS-304.10.II.B.3.
why he pursued Mr. Alston, underscores the importance of this guidance. Clearly, it is very important for IAD investigators to analyze these issues when investigating use of force incidents.

In short, there is no transitive property of reasonable suspicion: simply because one member of a team has an adequate factual basis for reasonable suspicion does not mean that other members do if that basis is not communicated.\textsuperscript{126} This is not a hypertechnical legal splitting of hairs—this is a fundamental principle of Fourth Amendment law. MPD should consider further emphasizing this point in training and/or further policy revisions—both for officers making such stops and for IAD agents investigating such stops. MPD should also provide more precise guidance to officers regarding unprovoked flight. Officer Demeritt’s only statement related to the initiation of the pursuit—\textit{i.e.} that Mr. Alston looked at him and took off—was not sufficiently followed by further inquiry into the issue and may well have run afoul of departmental policy and legal requirements for “reasonable suspicion depending on the results of that further inquiry.”\textsuperscript{127}

We are encouraged to learn from MPD officials that MPD is considering a policy and additional training related to foot pursuits. We agree this is warranted and recommend that MPD take into consideration the issues described above. Such changes will not only ensure that pursuits conform to the requirements of the Fourth Amendment but also help to enhance public trust—given the considerable public criticism the MPD has received for so-called “jump outs.” We provide additional discussion related to potential policy changes in the Recommendations section below.

\textsuperscript{126} The reasonable suspicion inquiry begins with “what facts were known to the officer” at the time of the seizure, \textit{United States v. McKie}, 951 F.2d 399, 402 (D.C. Cir. 1991); \textit{see also United States v. Gorham}, 317 F. Supp. 3d 459, 473 (D.D.C. 2018) (refusing to “aggregate” relevant facts after the fact to find reasonable, articulable suspicion when “no actual communication or direction occurs between the officer conducting the search or seizure and the officer in possession of the information giving rise to the required reasonable suspicion”).

\textsuperscript{127} During our previous review of MPD policies and practices, MPD personnel provided inconsistent information on whether flight, without any additional indicia of criminal activity, justifies pursuit by MPD officers. At that time, it was recommended that “officers at all levels have a common understanding of the correct legal standard governing the actions of MPD officers.” 2016 Report at 87 n. 165.
d. Reporting Protocols for Use of Force Incidents

While IAD submitted a timely final report, we note that the investigation did not meet two of MPD’s policies for reporting use of force incidents.128

“Immediate” Completion of the UFIR Form. Standing Order 10-14 Part IV.V.4 states “Members shall complete the PDF Form 901-e (UFIR) immediately following all firearm discharges[,]”129 (emphasis added). The Alston Report indicates Officers Demeritt and Koch completed these forms on January 25, 2019, and January 14, 2019, respectively (although the forms in the file appeared to be dated March 4, 2019). We see no explanation in the investigative file for this discrepancy.

As a general rule, MPD members are required to complete the UFIR form “immediately following all firearm discharges” and “use of force incidents.”130 However, officers are permitted to defer completion of the UFIR until after the USAO makes a determination not to prosecute.131 If the reason for the delay here is that the officers were awaiting the USAO’s declination, that should have been explicitly noted in the Alston Report.

Transcriptions of All Interviews. GO 901.08 V.I (d) and (e)(1) require that all interviews be transcribed and audio/video recorded. It appears all of IAD’s interviews were appropriately audio recorded. But, with the exception of Officers Demeritt and Koch, none of the interviews were transcribed. Rather, a synopsis of the statement is attached to the Alston Report and the Alston Report itself provides a summary of that synopsis—in other words, the Alston Report is two or more levels removed from the statements themselves. While these summaries provide a basic overview of what occurred, they omit and/or mischaracterize relevant details.

For example, the officer in Car #2 with Officer Demeritt twice described how Mr. Alston gestured to his waistband but admitted he was unsure precisely what Mr. Alston had in his pocket. This detail does not appear in the Alston Report’s summary of the interview. In fact, that officer’s fourteen minute interview was the longest and among the most detailed of any of the officers, yet was summarized in a single paragraph. Likewise, the synopsis of the statement of the officer who saw Mr. Alston

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128 We further note that IAD made a timely notification to the USAO, which issued a declination letter on January 2, 2019.
129 Attached as Appendix I.
130 SO-10-14.IV.B.2, 3.
131 SO-10-14.IV.F.2.b.2.
carrying a gun states that: the officer “yelled ‘Stop! He has a gun!’ to Mr. Alston and made the statement ‘Get him!’ to his co-workers.”\textsuperscript{132} But the officer actually stated: “I yelled Stop. He has a gun. Get him.”\textsuperscript{133} He does not actually suggest that he was telling Mr. Alston to stop. Indeed, two of the other officers in Car #1 stated that the officer’s direction to “stop” was directed at the driver and not Mr. Alston.\textsuperscript{134} Since there is no evidence that Mr. Alston was otherwise given any verbal commands, this discrepancy is significant and could have been mitigated by the inclusion of a verbatim transcript of the interview. The creation of transcripts is important because it permits members of the Internal Affairs chain of command to more fully review and critique drafts of the investigative report, and ultimately permits more meaningful reviews of the incident by the UFRB.

e. Sufficiency of the Interviews

IAD investigators completed interviews of all of the involved officers in the hours following the incident. Also, it appears IAD completed a thorough canvass that yielded seven witness statements shortly after the incident. The interviews—particularly of the involved officers—were extraordinarily brief, especially for an incident ending in death, and did not sufficiently probe the officers’ recollections of the events. For example, Officer Demeritt’s interview on June 13 was eight minutes in total and included only approximately five minutes of substantive questioning.

The brevity of these interviews is, to an extent, understandable. The incidents had just occurred, and the IAD team had not yet had the time to evaluate the vast amount of evidence that would ultimately be collected (e.g. other witness statements, BWC footage, and physical evidence). But, in such cases, it is critical that investigators re-interview officers and witnesses to clarify discrepancies, address points of contention, and test the accounts of officers involved in the incident against the evidence.

For example, Officer Demeritt should have been more thoroughly questioned on when he concluded that Mr. Alston was carrying a firearm. The officer who saw Mr. Alston carrying a gun should have been asked to clarify whether his direction to “stop” was directed at Mr. Alston or the driver of Car #1. And Officer Koch should have been

\textsuperscript{132} PD Form 854 Statement of Officer at 1.

\textsuperscript{133} Audio Recording of Interview of Officer at 1:59.

\textsuperscript{134} PD Form 854 Statement of Officer in Car #1 at 1 (upon seeing Mr. Alston with a gun, the officer yelled to the driver of Car #1, “[S]top he he’s got a gun!”); PD Form 854 Statement of a Second Officer in Car #1 at 1 (upon seeing Mr. Alston with a gun, the officer “requested that [the driver of Car #1] stop the vehicle and back up.”).
asked why he did not warn Officer Demeritt or the bystanders when he observed an armed man running toward various uninvolved people who were in the area. Finally, no officer was sufficiently probed on why no one actually attempted to check Mr. Alston’s vital signs after he had been shot. Several of the officers noted that they observed that he had been shot in the head and that they needed to immediately secure the scene. But the BWC footage confirms that no officer spent more than a passing moment ascertaining Mr. Alston’s condition. While no signs of life are apparent from the footage, the officers should have been more carefully asked about their decisions not to do so. Even if it was not feasible to ask these questions in the hours following the incident, it was incumbent on IAD to re-interview the involved officers to get more thorough answers. Such practices ensure that MPD (and the public at large) can have full confidence in the investigative process and that all relevant issues are fully explored, even if they are sensitive and difficult, and even if they are not relevant to the ultimate issue of whether the use of force was justified.

IAD investigators should have addressed many of these same issues with the civilian witnesses—either initially or through a re-interview. Many of these witnesses were not asked, for example: (1) if they had any understanding of why the officers were chasing Mr. Alston; (2) if they heard any statements made by the officers or Mr. Alston during the incident; or (3) if they observed the officers attempting to render medical assistance to Mr. Alston.

f. Body-worn Camera Policy and Training

Like several of the cases we have reviewed, IAD’s investigation of this case uncovered a violation of MPD’s BWC policy. Here, it is clear that Officer Koch violated MPD policy by failing to activate his BWC at “the beginning of any self-initiated police action.” Indeed, pursuit of an armed suspect falls under a number of the scenarios that are to be recorded per the General Order, including: “self-initiated calls-for-service,” “all stops,” “vehicle and foot pursuits,” “suspicious activities,” and “use of force situations.”

While we believe the evidence clearly demonstrates that Officer Koch should have activated his BWC when he was alerted to the presence of an armed suspect and had several seconds of opportunity to do so, we understand the conclusion that Officer Koch should be “exonerated” for this failure. As IAD’s report concludes, the incident unfolded rapidly and, at the end of the pursuit, involved a clear threat to officer and

135 GO-SPT-302.13 ¶ V.A.3, attached as Appendix J.

136 GO-SPT-302.13 ¶ V.A.4 (a), (c), (d), (k), (l) (respectively).
bystander safety.\textsuperscript{137} Furthermore, Officer Koch ultimately activated his camera after the incident—thus preserving the two minutes of “stand-by” recording, which captured the chase and exchange of gunfire.\textsuperscript{138}

Putting this violation aside, MPD should consider changes to its training and policies to make BWC violations less common. MPD completed its rollout of BWCs in December 2016, a full 18 months before this incident, a period long enough for officers to have become accustomed to the proper use of BWCs.\textsuperscript{139} At this point, MPD should consider more severe consequences for repeat offenders of the BWC policy. Indeed, since this incident, Officer Koch has committed another BWC violation and Officer Demeritt (whose BWC was activated for this case) has had three BWC violations sustained against him. Despite his repeated violations in other cases, Officer Demeritt in each instance received the same discipline (a P.D. 750 Dereliction Report). We believe that stricter policies and progressive discipline for repeat violators could help to curb this problem.

4. Recommendations

Based on our review of the Alston Report, the underlying evidence, and the UFRB’s review of the investigation, we provide the following recommendations for MPD’s consideration:

- MPD should remind officers of the requirement that they check vital signs of people who have been subjected to uses of force, especially deadly force, whenever an officer can safely do so.

- MPD should consider revising General Order 901.08 V.J.2 to make clear that investigators should consider whether the “entirety of the incident” and not just “the [use of] force” is “consistent with MPD policy and training.”

- MPD should consider increasing the consequences for members who are repeat violators of MPD’s BWC policy.

- Finally, we recommend MPD clarify its existing policies regarding the pursuit, stop, and search for weapons of a suspect to clearly address the issue of whether

\textsuperscript{137} See GO-SPT-302.13 ¶IV.B.

\textsuperscript{138} See EO-18-014.

\textsuperscript{139} MPD, \textit{MPD and Body-Worn Cameras}, available at https://mpdc.dc.gov/page/bwc.
unprovoked flight alone is sufficient to justify a stop. During our 2016 review, we made a similar recommendation\textsuperscript{140} and MPD responded:

MPD agrees in part with this recommendation. As we discussed with the Reviewers, it is completely legal and appropriate for a law enforcement officer to pursue a person who flees from them on foot. Officers are trained that flight alone is not sufficient cause for a stop, but other properly articulated factors, such as the discarding of contraband, may form the basis for a stop. MPD does agree to revisit guidelines and/or training on the issue of foot pursuits to reinforce our policy.\textsuperscript{141}

Based on our review of the Alston Report and discussions with investigators, there is still confusion in the department on this issue. Guidance on this issue is critical, as approximately 19\% of all MPD stops are initiated based on the suspect’s actions.\textsuperscript{142}

Accordingly, we recommend that MPD mandate that unprovoked flight is insufficient on its own to justify an investigatory stop. And while an officer may consider unprovoked flight as one factor when deciding whether a stop is permissible under departmental policy, the officer also must articulate an additional basis for suspecting criminal activity. We believe such a policy is warranted for two reasons.

\textit{First}, it is an open question as to whether flight alone, when the person fleeing is in a high crime area, is sufficient to justify a stop under the Fourth Amendment. While some courts have said it is, a number of judges in the District of Columbia and

\textsuperscript{140} We recommended: “In light of [one of the 2016 cases we reviewed], judicial criticism in the related civil litigation, and confusion among MPD officers, MPD should reexamine whether, as a matter of policy, mere flight is sufficient grounds for pursuing a suspect, and for stopping him, and should provide comprehensive training on the issue.” 2016 Report at 101.

\textsuperscript{141} 2016 Report, Ex. N. at 18 (emphasis added).

\textsuperscript{142} In 2016, the D.C. Council implemented the Neighborhood Engagement Achieves Results (NEAR) Act, which requires MPD to record detailed demographic data each time they stop someone, regardless of whether the stop ends in an arrest. However, MPD did not begin compiling this data until July 22, 2019, and as of the date of this report, only data from July 22, 2019, to December 31, 2019 has been released. See Stop Data Report (Feb. 2020), available at https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Stop\%20Data\%20Report.pdf. No 2020 report has been released, nor is the raw data available on the MPD website, despite the report’s assertion that “the comprehensive data set [is] publicly available on MPD’s website.” Nevertheless, of the 63,000 stops conducted by MPD during the six-month period for which data were collected, 19\% were initiated due to the individual’s actions.
elsewhere have required officers to articulate some additional basis for the stop.\footnote{Henson v. United States, 55 A.3d 859, 869 (D.C. 2012); Miles v. United States, 181 A.3d 633 (D.C. 2018) (“Because Mr. Miles’s flight was not ‘unprovoked’ to the same extent as the defendant’s flight in Wardlow, and because there are no circumstances—beyond the flight itself—that cast an incriminating light on Mr. Miles’s flight, we conclude that Mr. Miles’s flight does not sufficiently corroborate the 911 call.”).} MPD’s policies should hold officers to a standard that is higher than the bare minimum required by the law to ensure all stops (and any seizures or arrests arising therefrom) are fully defensible as matters of law, policy, and relationships with the community.

As judges confronted with this issue have repeatedly explained, there are good and just reasons for such a requirement, far beyond the concern of simply ensuring that these stops are later deemed lawful. As Supreme Court Justice John Paul Stevens observed in a 2000 opinion, “many factors providing innocent motivations for unprovoked flight are concentrated in high crime areas,” and he suggested that “the character of the neighborhood arguably makes an inference of guilt” on the part of the fleeing person “less appropriate, rather than more so.”\footnote{Henson v. United States, 55 A.3d 859, 869 (D.C. 2012); Miles v. United States, 181 A.3d 633 (D.C. 2018) (“Because Mr. Miles’s flight was not ‘unprovoked’ to the same extent as the defendant's flight in Wardlow, and because there are no circumstances—beyond the flight itself—that cast an incriminating light on Mr. Miles’s flight, we conclude that Mr. Miles’s flight does not sufficiently corroborate the 911 call.”).} Illinois v. Wardlow, 528 U.S. 119, 139 (Stevens, J., concurring in part and dissenting in part). And courts in the District of Columbia have been even more explicit. For example, in 2007, judges in the D.C. Circuit raised the concern that courts are enforcing “the rule that, in a high-crime neighborhood, being young, male, and black creates reasonable, articulable suspicion.” United States v. Goddard, 491 F.3d 457, 468 (D.C. Cir. 2007) (Brown, J., dissenting). Judge Tatel shared those “concerns about how courts have applied Terry in high-crime minority communities.” Id. at 469 (Tatel, J., dissenting) (citation omitted).

Five years later, in 2012, the now-Chief Judge of the D.C. Court of Appeals noted that “in the District of Columbia and other urban areas[,] . . . an overly strict and formulaic application of Wardlow and its progeny could lead to unequal protection of citizens’ Fourth Amendment rights, depending upon where a person lives or frequents, and the justification of seizures that are unsupported by any actual, particularized suspicions of wrongdoing by that person,” and concluded that a “more nuanced interpretation of Wardlow necessitates not only a finding of the Wardlow dual factors of flight and a high crime area but also specific and articulable facts that a particular individual is suspected of being involved in criminal activity.” Henson v. United States, 55 A.3d 859, 872 (D.C. 2012) (Blackburne-Rigsby, J., concurring). And in 2018, the D.C. Court of Appeals explicitly recognized that in D.C., there “are myriad reasons an innocent person might run away from the police,” including fear of being shot by the police, and concluded flight does not necessarily imply consciousness of guilt. Miles v. United States, 181 A.3d 633, 641 (D.C. 2018). The Court reached that conclusion after citing a New York Times analysis of officer-involved shootings that found “the disproportionate presence of African-Americans, people with mental illnesses, and young men among the dead.” Id. at 641–42.
Second, a change in policy would represent a critical step in addressing the public perception that police-resident encounters are random and arbitrary. MPD has been criticized for years for the use of so-called “jump-outs.” Jump-outs are generally described as instances where undercover officers “jump out” of unmarked cars to stop and detain a civilian. Community members have complained that these tactics are an example of “militarized police presence in [Washington, D.C.’s] poorest neighborhoods.” While the facts of this incident do not have all of the indicia of a jump-out, Mr. Alston’s family has characterized it as such.

In a recent lawsuit against Washington, D.C. and MPD, the Alston family alleged:

The terror of MPD jump-outs is well known to residents of Ward 8. Jump-outs have been described as “DC’s scarier version of stop-and-frisk,” and a “paramilitary operation” meant to “intimidate [citizens] into submission.” MPD is infamous for its use of jump-outs, particularly in low-income areas of the city, like Ward 8. What distinguishes jump-outs from other police stops is the participation of multiple officers per car instead of the two normally involved in a patrol; all officers suddenly emerge from a car and descend upon a single suspect or group on the street, often with the goal of surprising them in order to search and potentially detain them if something illegal can be recovered. Although MPD categorically denies the continued use of jump-outs, residents report that they remain ubiquitous in certain areas of the city and document them when possible.

As members of the department have explained to the review team, there can often be law enforcement reasons for such tactics. But there can be no dispute that such tactics may jeopardize the public’s trust in the MPD by creating the impression of MPD “terrorizing” citizens. And an officer’s explanation that he chased someone only because the person ran simply reinforces these concerns.


145 Id.

146 Alston Complaint ¶ 66 (footnote omitted).
D. The Death of Eric Carter

1. Summary of Facts

On September 16, 2019, at approximately 7:00 pm, the Office of Unified Communication (“OUC”) received a series of 911 calls related to an incident at 2245 Savannah Terrace, S.E. One of the calls relayed information from Ms. Carter and reported that her son, Eric Carter, was firing a gun inside her apartment.147 Within two minutes, officers from MPD’s Seventh District responded to 2245 Savannah Terrace. The first officers on scene were met by a resident of that address, who informed the officers that his neighbor, Ms. Carter, had told him that Eric Carter was shooting inside her apartment. The witness stated to the officers that he had heard a pop, then a second pop coming from Apartment 12, where Ms. Carter lived.

MPD investigators subsequently learned that Mr. Carter was “highly agitated” and “acting irrational” that day. He reportedly had fought with Ms. Carter’s other son, Alphonso Carter, and at some point, brandished a handgun. Ms. Carter later reported to investigators that she saw Eric shoot two rounds inside the apartment. Soon thereafter, she said that Alphonso moved to the bathroom to get away from Eric. Ms. Carter said she then saw Eric shoot twice through the bathroom door. 911 recordings confirmed that several citizens called to report the sound of gunshots at 2245 Savannah Terrace. A neighbor would later state to investigators that she had heard these gunshots.

The first officer on the scene announced over the radio the information learned from the witness of shots fired from the apartment, and requested a ballistics shield be brought to the scene.148 The first officers on scene had been in the area earlier in the day in response to an earlier call, the substance of which is unclear from the case record.149 And either an officer or dispatcher stated on the radio that he believed Mr. Carter to have mental health issues.150 Officer Dennis Sfoglia heard the first officer on scene’s

147 Facts related to the incident are drawn from the Final Investigative Report (“Carter Report”) dated August 6, 2020 unless otherwise noted.

148 Ballistics shields are protection devices deployed by police and military forces, and are designed to stop or deflect bullets or other projectiles.

149 Body-worn camera (“BWC”) (first officer on scene) at 04:31.

150 See OUC (7D Radio) at 00:42. Interview of Officer at 1 (“When the call was dispatched an unknown officer told the dispatcher that the caller was a mental health consumer who called earlier.”)
request for a ballistics shield, retrieved one from district headquarters, and arrived on the scene with his partner, Officer Juwan Jefferson. Additional officers arrived at the scene, including Officer Byron Jenkins (armed with an M4 patrol rifle), Sergeant Joseph Devlin, and Sergeant Darnell Sanders.

At 2245 Savannah Terrace, a fence-enclosed walkway leads up to the exterior door of the building. The exterior door opens into two stairways—one leading up and one down toward the various apartments in the building. The door to Apartment 12 was located directly up the stairway and was visible from the exterior door.

The officers arrayed themselves on the front stoop around the exterior door. Officer Sfoglia stood on the left side of the door, holding the ballistic shield and his service pistol. Officer Jenkins was directly behind Officer Sfoglia. Officer Jefferson was on the right side of the door on one knee and partially shielded by the doorframe. Officer Roger Gordon was behind Officer Jenkins. And another officer was positioned behind all of the officers on the walkway. While initially positioned at the front door, the two first officers on scene were instructed to cover the rear of the building.

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Exterior and interior hallway of 2245 Savannah Terrace

The officers arrayed themselves on the front stoop around the exterior door. Officer Sfoglia stood on the left side of the door, holding the ballistic shield and his service pistol. Officer Jenkins was directly behind Officer Sfoglia. Officer Jefferson was on the right side of the door on one knee and partially shielded by the doorframe. Officer Roger Gordon was behind Officer Jenkins. And another officer was positioned behind all of the officers on the walkway. While initially positioned at the front door, the two first officers on scene were instructed to cover the rear of the building.

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151 BWC (Officer Sfoglia) at 2:29 & 2:49.
The officers’ positions prior to Mr. Carter exiting Apartment 12\textsuperscript{152}

The above-named officers remained in this position for approximately three minutes and discussed their tactical options and next steps. The officers then heard a

\textsuperscript{152} Civilian Video at 0:01; BWC (Sgt. Sanders) at 6:11.
gunshot, which they believed to have come from inside Apartment 12. At that time, Officer Sfoglia entered the hallway, climbed the staircase, and asked his fellow officers if they were “ready.” Officer Jenkins and Gordon followed and were positioned on (or at the top of) the stairs leading to Apartment 12. Officer Jefferson entered the building and walked down the staircase toward the lower apartments. Officer Sfoglia, while holding the ballistic shield in his left arm, kicked the door to Apartment 12 several times. The door did not open, nor did anyone in the apartment respond. Officer Sfoglia then moved to the right of the door behind the shield. Officer Sfoglia was told to stop by Sergeant Joseph Devlin and he and his fellow officers returned to their positions outside on the front stoop. Sergeant Devlin then told the dispatcher he was “declaring a barricade,” but there is no evidence that the dispatcher responded with an affirmative. The officers radioed that they believed the shots came from Apartment 12 and requested a second ballistic shield.

Less than a minute later, Officer Sfoglia stated to the other officers that he saw “someone jiggling the door” of Apartment 12. He yelled “police department” and “come out with your hands up.” After a few seconds, Mr. Carter emerged from Apartment 12 and Officer Sfoglia yelled, “gun, gun, step back, he’s got a gun.” Mr. Carter then re-entered Apartment 12. At this point, the officers were positioned on the front step and the narrow sidewalk leading up to the building. A few seconds later, Mr. Carter re-emerged from Apartment 12. An officer yelled, “He’s got a gun” to his fellow officers and, “Put your hands up” to Mr. Carter. Nearly simultaneously with the officer’s command, Mr. Carter raised his gun, took aim at the officers and fired his weapon.

153 BWC (Officer Sfoglia) at 06:07.
154 BWC (Officer Jenkins) at 08:16.
155 BWC (Sgt. Sanders) at 07:14.
156 BWC (Officer Sfoglia) at 7:39.
157 BWC (Officer Sfoglia) at 8:10.
Multiple officers returned fire. Officer Sfoglia fired two rounds, turned his back to Mr. Carter, and retreated to the parking lot. Officer Jefferson fired at least one round, turned his back to Mr. Carter, and retreated to the sidewalk outside the building. Officer Jefferson fired a total of eighteen rounds. Officer Jenkins backpedaled on the walkway and fired nineteen rounds from his M4 patrol rifle. While backpedaling, Officer Jenkins fell to the ground but continued to fire in the direction of Mr. Carter. Sergeants Sanders and Devlin also returned fire. Officer Gordon and another officer retreated towards an adjacent building and did not return fire.

Mr. Carter continued advancing towards the officers, as they fired at him. He eventually collapsed in the front walkway of 2245 Savannah Terrace. Body-worn camera (“BWC”) footage confirms that, despite the fact that multiple officers had been returning fire, Mr. Carter was still standing and pointing his gun at the officers when he came down the stairs from Apartment 12 and emerged on the front stoop of the building. Officer Sfoglia approached Mr. Carter, who was on the ground by that time, and moved Mr. Carter’s gun away from his body. Mr. Carter was immediately unresponsive and was later pronounced dead on the scene at 9:38 pm. Officer Jenkins

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158 BWC (Officer Jefferson) at 09:04.
159 BWC (Officer Jefferson) at 09:09.
retrieved the gun, walked behind a vehicle, took cover, and placed the gun on the ground next to him. The officers established a perimeter around the building and stated to one another that they were unsure if there were additional shooters in the building.

Officer Sfoglia subsequently determined that he had sustained a non-penetrating gunshot to the right front pocket of his ballistic vest. He was transported to MedStar Washington Hospital Center and treated for what the Carter Report refers to as “minor injuries.” Officer Gordon sustained a minor laceration to his elbow that was later determined to be an abrasion caused by his contact with a fence.

Following the shooting, a lieutenant from the Seventh District responded to the scene. At 7:30 pm, he called for a barricade based on his belief that a second shooter might be inside. The Emergency Response Team (“ERT”) was dispatched to the scene at 7:45 pm and later entered Apartment 12. ERT had to forcibly remove the bathroom door. When the door was removed, the officers discovered the body of Mr. Alphonso Carter on the bathroom floor. Mr. Alphonso Carter, a victim of multiple gunshot wounds, was pronounced dead on the scene at 9:35 pm.

MPD chain of command and the U.S. Attorney’s Office for the District of Columbia (“USAO”) were promptly notified of the incident. The USAO issued a declination letter on May 18, 2020.

2. Summary of Investigation

An agent in IAD led MPD’s investigation of the incident under the supervision of a lieutenant. A detective from the Homicide Branch, Major Case Squad, led the separate but related investigation into the death of Alphonso Carter.

At the time of the incident, the investigating agent had recently joined IAD and was not immediately designated as lead investigator. The preliminary investigative report was drafted by a different agent. Two other IAD agents responded to the scene and conducted a witness canvass. Other homicide detectives were also involved in interviewing witnesses. Our review did not identify any major inconsistencies among the accounts of the civilian witnesses who were interviewed. However, their accounts largely focused on what occurred prior to the shooting—i.e., that Mr. Carter

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163 Interview with Investigator (Dec. 16, 2020).
was agitated, fired his gun in the apartment, and Ms. Carter had fled to another apartment. None of the civilian witnesses saw the exchange of shots between Mr. Carter and the MPD officers. A witness who lived in a neighboring apartment stated that he saw parts of the incident through a crack of his apartment door. He told investigators that he heard officers say, “Come out with your hands up” multiple times, heard someone say, “He’s got a gun,” and then heard the exchange of gunfire. The IAD agents also interviewed seven officers and four sergeants who responded to the scene. Their accounts were generally consistent with the narrative above, and all of the officers stated unequivocally that Mr. Carter fired first. It does not appear that IAD agents interviewed the first officers on the scene (who were not involved in the exchange of gunfire).

Members of the City’s Department of Forensic Services (“DFS”) also responded to the scene. DFS personnel collected forensic evidence, and conducted weapons and ammunition checks on the scene. They recovered, among other things, the Taurus .45 ACP semi-automatic pistol used by Mr. Carter. They were unsuccessful in attempting to obtain latent prints on Mr. Carter’s weapon. DFS personnel also requested DNA testing; the results of any such testing had not been received at the time the investigation was complete and went before the Use of Force Review Board (“UFRB”). Notably, no .45 caliber shell casings were recovered in the area of the door to Apartment 12. Two shell casings were recovered outside of Apartment 12 and five shell casings were recovered inside Apartment 12. Also of note, DFS personnel recovered a bullet from the front of Officer Sfoglia’s vest that was traced to Officer Jefferson’s service pistol. Finally, reports prepared by DFS personnel noted property damage to the exterior of the building and its interior caused by the large number of bullets fired by Mr. Carter and the officers, including damage to a window and a wall in Apartment 14.164

IAD investigators reviewed and analyzed BWC footage from a number of officers on the scene. Notably, the lieutenant who declared a barricade failed to activate his body-worn camera until the time of the shooting. The investigator was assigned to investigate this violation. Another IAD agent also canvassed for CCTV footage but none could be found in the immediate area. The investigator was able to obtain two cell phone videos—one obtained by the news media and one from a public Instagram account. Both videos were taken from the parking lot across the street but had a direct line of sight to the front of 2245 Savannah Terrace. Neither video is inconsistent with the narrative above.


and Jefferson completed their UFIRs on July 16, 2020. The Final Investigative Report ("Carter Report") was completed on August 6, 2020.

The case was submitted to the UFRB. In preparation for its consideration of the case, UFRB staff prepared the Decision Point Analysis Matrix, which as in the other cases we reviewed was a detailed synopsis of the facts developed during the investigation and a summary of MPD’s policy and District of Columbia regulations concerning the use of a firearm in self-defense.

On August 26, 2020, the UFRB unanimously concurred with the recommendation in the Internal Affairs investigative report that Sergeants Devlin and Sanders and Officers Sfoglia and Jenkins’ uses of force were justified and within MPD policy. The UFRB also unanimously concurred with the recommendation in the Internal Affairs investigative report that Officer Jefferson’s use of force was justified and warranted a tactical improvement opportunity. Beyond its concurrence, the UFRB “directed all of the members that were on the scene of the incident … to attend a scene review” at MPD Academy but made no additional findings or recommendations.

3. Analysis

We agree with MPD’s ultimate conclusion that the officers’ use of force was justified and supported by the evidence. Nevertheless, we note a number of opportunities for significant improvements in tactics and investigative practices.

a. Justification for Use of Force

As set forth previously, MPD’s General Order 901.07 (effective November 3, 2017) governs a member’s use of force. In relevant part, the General Order requires that “Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.” Sec. IV.A. See also MOA ¶ 39. The General Order authorizes members to use deadly force:

(1) When it is necessary and objectively reasonable; and

(2) To defend themselves or another from an actual or threatened attack that is imminent and could result in death or serious bodily injury; and

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165 As described in our discussion of the Alston investigation, Standing Order 10-14 Part IV.V.4 states, “Members shall complete the PDF Form 901-e (UFIR) immediately following all firearm discharges[.]” Each of these officers completed their UFIR months after the incident occurred. However, officers are permitted to defer completion of the UFIR until after the USAO makes a determination not to prosecute. GO-SO-10-14.IV.F.2.b.2.
When all other options have been exhausted or do not reasonably lend themselves to the circumstances.

GO 901.07 IV.G. Finally, the General Order requires the officers to issue a verbal warning before discharging a firearm “when feasible.” ¶ IV.K.

Here, credible BWC footage, witness statements, and physical evidence support the conclusion that the involved officers provided verbal warnings. The evidence shows convincingly that Mr. Carter exited Apartment 12 with a pistol in his hand, pointed the pistol at officers, and fired at least once before the officers returned fire. Under these circumstances, the involved officers reasonably feared for their lives and were unable to otherwise de-escalate the situation prior to discharging their firearms.

**b. Tactical Errors and Deficiencies**

The Carter Report recommended, and the UFRB concurred, that all of the officers, except Officer Jefferson, acted within MPD policy. The UFRB endorsed the finding that the facts warranted a ruling that although the shooting was justified, Officer Jefferson’s actions warranted a “tactical improvement opportunity” for accidentally shooting Officer Sfoglia during the exchange of gunfire. As described further below, the Carter Report provided little explanation as to how Officer Jefferson could have avoided this potentially deadly error beyond “be[ing] sure of [his] target.” The Carter Report should have further addressed this and certain other tactical shortcomings by the responding officers, as set forth below. Indeed, best policing practices require a more thorough follow-up by the UFRB on each finding. The investigative record should include evidence that MPD officials discussed inappropriate and ill-advised tactics with the officers and implemented remedial actions. If the findings have implications for training to be provided to the involved officers, or to a broader universe of officers within MPD, those findings should be documented along with confirmation that the recommendations were implemented.

**(1) Emergency Response Team Notification**

Consistent with MPD policy and best policing practices, the officers on scene should have notified the Emergency Response Team at the outset of the incident and declared a barricade. GO-HSC-805.05 requires responding officers to take a number of steps, including notifying ERT, in the event of a “possible barricade and/or hostage

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166 The BWC footage confirms a muzzle flash coming from Carter’s pistol. See Jefferson BWC Footage at 9:04.

167 Carter Report at 56.
situation.” A barricade situation is, in turn, defined as a “[s]ituation where an individual resists being taken into custody by seeking refuge in a building … while using or threatening to use deadly force against him/herself or others, and ignoring orders to surrender.”

Under MPD policy, the first officer on the scene is required to determine whether the situation is a “possible” barricade situation. If that officer so determines, the officer must request that a district official respond to the scene, alert OUC “of the situation and advise that ERT may be needed, and evacuate as many citizens as possible.” The responding district official is then required to ascertain if a barricade situation exists and request assistance from ERT.

Furthermore, MPD policy requires the mobilization of ERT when officers determine that the armed individual is known to have mental health issues. GO-OPS-308.04.VI.F states:

> The Emergency Response Team (ERT) shall be responsible for assisting district units with hostage and barricade situations and those situations where death or serious bodily injury is imminent that involve mental health consumers in accordance with GO-HSC-805.05 (Barricade/Hostage Situations and Other Unusual Incidents).

In addition, responding officers are required to notify ERT when a “mental health consumer” escalates a police interaction “to the point where death or seriously bodily injury is imminent.”

In this case, the first officers on the scene had sufficient information to conclude that the scene was a “possible” barricade situation. They were aware that an individual was firing a gun in Apartment 12 and, in fact, immediately requested a ballistic

168 GO-HSC-805.05.A.1-3, attached as Appendix K.
169 GO-HSC-805.05.A.1.
170 GO-HSC-805.05.A.1.
171 GO-HSC-805.05.A.2.a.
172 Attached as Exhibit L.
173 GO-OPS-308.04.V.C.1.b.
shield. The first officer on scene also stated that he had been to the scene earlier that day and, thus, had reason to believe that Mr. Carter was suffering from mental health issues. At this juncture, it was critical that the officers, at a minimum, advise OUC that ERT might be necessary. Indeed, if the officers knew that Mr. Carter had mental health issues, MPD policy required them to notify ERT and also determine whether a Crisis Intervention Officer (“CIO”) should be dispatched. They did neither.

As more officers came to the scene, it was readily apparent to them that the scene was a barricade situation. The officers assembled outside the exterior door and discussed alternatives to make a forcible entry into Apartment 12. Two officers deployed a patrol rifle, which can only be deployed in “tactical” or “high-risk arrest situations,” including barricade situations. The officers confirmed over the radio that they had “sufficient units on-scene” to make an entry. And, in fact, they did try to make a forcible entry. These tactics strongly suggest the officers believed the scene to be a barricade situation from the start, yet no efforts to notify ERT were made by any of the responding officers.

After the officers tried to make entry, Sergeant Devlin radioed to the lieutenant (who was en route) that he was declaring a barricade. In doing so, Sergeant Devlin appropriately requested additional units in order to form a perimeter but made no request that ERT be notified. Instead, Sergeant Devlin radioed for a second ballistic shield. MPD policy is clear that if a barricade has been declared, ERT must be mobilized. This did not occur.

To be sure, only about five minutes passed between the request for the ballistic shield and Mr. Carter’s emerging from the apartment and firing at the officers. But our

174 Carter Report at 45.
175 We are not aware of any efforts to contact Ms. Carter, who was readily available in an adjacent apartment and could have confirmed that Mr. Carter was a mental health consumer.
176 GO-HSC-805.05.A.1.
177 GO-OPS-308.04.V.C.1.b; GO-OPS-308.04 (requiring that the first officer on the scene determine whether a Crisis Intervention Officer should be dispatched to the scene to interact with the mental health consumer. It does not appear such a request was made and IAD does not appear to have asked any of the involved officers if they considered summoning a CIO).
178 GO-RAR-901.01.V.I.F.3, attached as Exhibit M.
179 Carter Report at 46.
180 OUC (7th District) at 06:45.
review of the evidence makes clear that the officers had the opportunity to summon ERT when they initially arrived on the scene and should have done so.

(2) Tactical Formation and the Fatal Funnel

While the Carter Report refers to the officers as assembling around the exterior door in a tactical “stack” formation, the video evidence suggests their positioning could better be described as standing in what is known in policing as a “fatal funnel.”181 For example, Sergeant Sanders’ BWC shows the officers’ tactical formation in the moment Mr. Carter emerged from Apartment 12:

The tactical formation at the moment Mr. Carter emerged from Apartment 12.182

181 “Fatal funnel” is a term that refers to building-clearing operations undertaken by law enforcement or military personnel. It refers to areas such as stairwells, hallways and doorways that are generally narrow, confining areas that offer little or no cover or concealment and potentially limit the officer’s tactical options. Brian Willis, The Scale of Desirability and Fatal Funnel, Police Magazine (Oct. 15, 2010), available at https://www.policemag.com/373636/the-scale-of-desirability-and-fatal-funnel#:~:text=The%20%22fatal%20funnel%22%20is%20a,have%20to%20go%20into%20combat.

182 Sanders BWC at 9:33.
Likewise, a civilian witness’s video shows:

\[\text{The tactical formation at the moment Mr. Carter emerged from Apartment 12.}^{183}\]

The videos clearly show that a number of the officers were fully exposed in the “fatal funnel” and covered neither by the building nor by the ballistic shield. From this moment, we see several of the officers—including Officer Sfoglia and the ballistic shield that was supposed to provide cover—have to fall back as Mr. Carter begins shooting at them. In doing so, Officer Sfoglia and Officer Jefferson turned their back to the shooter and retreated through the fatal funnel. And Officer Jenkins fell down as he was backpedaling and simultaneously firing a patrol rifle.

This major tactical error likely had a number of significant consequences and reinforces our conclusion that it was critical for the officers to have attempted to summon ERT. \textit{First}, it likely contributed to Officer Jefferson’s shooting Officer Sfoglia. A proper “stack” formation is intended to mitigate the possibility of responding officers shooting one another. Here, the officers’ vulnerable formation caused both Officers Sfoglia and Jefferson to retreat through the fatal funnel\textsuperscript{184} in order to find better cover, thus exposing themselves to fire from Mr. Carter and their fellow officers. \textit{Second}, it led to excessive gunfire from unsafe shooting positions. Officer Jefferson appears to have fired eighteen rounds during the ten-second exchange of gunfire (including approximately three seconds where he had his back to the shooter) while other officers crossed into his view. Officer Jenkins, who was initially behind Officer Sfoglia (and the shield), had to backpedal away from the shooter when Officer Sfoglia changed positions.

\textsuperscript{183} Civilian Video at 00:14.

\textsuperscript{184} In this statement, Sgt. Devlin stated specifically that when Mr. Carter emerged from Apartment 12 “the officers were attempting to back out of the building away from the ‘fatal funnel’ and [he] observed Officer Sfoglia fall down the front steps and believed he had been shot.” Carter Report at 22.
and left him unprotected. As a result, Officer Jenkins fell down while firing his M4 patrol rifle. Third, the barrage of gunfire—which Officer Gordon referred to as the “OK Corral”—as the officers retreated led to at least one bullet breaking the window of Apartment 14, where a family with two young children resided.  

(3) The Attempted Breach of Apartment 12

The Carter Report’s Chronological Narrative does not specifically mention that the officers attempted to force entry into Apartment 12. Rather, the report states that after hearing a gunshot, Officer Sfoglia “approached [A]partment 12” and “kicked the door several times and received no answer.” While the narrative suggests Officer Sfoglia was trying to get someone to answer the door, video evidence and the involved officers’ statements to investigators make clear that the officers were preparing a forced entry into Apartment 12.

The officers’ tactics here were also inconsistent with best practices and reinforce the need for an ERT team to have been summoned. Officer Jenkins’ BWC footage reveals that Sergeant Sanders was beginning to give the officers instructions on positioning themselves when a gunshot was heard. The officers immediately stopped planning their approach and moved toward the door to Apartment 12. Officer Sfoglia approached the door and asked the team, “OK?” He then proceeded to kick the apartment door while Officer Jenkins and another officer remained completely exposed on the stairway.

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185 Carter Report at 15, 36 (“A multitude of bullets struck the exterior walls and front door area, and broke a window to Apartment 14.”).

186 Carter Report at 3.

187 BWC (Officer Jenkins) at 08:15.

188 BWC (Officer Jenkins) at 08:15; BWC (Officer Jefferson) at 06:26.
Officer Jenkins’ BWC shows that he was not behind Officer Sfoglia or the shield at the time of the attempted breach\textsuperscript{189}

Officer Jenkins and another officer exposed on the stairway at time of the attempted breach\textsuperscript{190}

\textsuperscript{189} BWC (Officer Jenkins) at 08:15.

\textsuperscript{190} BWC (Officer Jefferson) at 06:26.
Ultimately, Sergeant Devlin ordered the officers to fall back and they made no further efforts to force entry into Apartment 12. But it is possible, if not probable, that the officers’ attempted breach of the apartment escalated the situation and caused Mr. Carter to emerge from the apartment and start shooting. It is also not clear whether the officers had a specific plan for what to do if entry was successful. The better practice in this situation would have been to secure the scene and call immediately for ERT and a Crisis Intervention Officer.

(4) Securing the Parking Lot and Surrounding Area

As the officers waited outside the building, video footage confirms that bystanders were in or near the line of fire. Sgt. Sanders’s BWC footage shows a number of bystanders standing in the next-door building as the officers assembled outside the exterior door and Sgt. Sanders requested an additional ballistic shield. Those civilians appear to have remained outside (within a few yards of the officers) until the moment of the shooting. At 09:31 of Sergeant Sanders’s BWC footage, officers appear to be looking at these bystanders and perhaps communicating with them. Shortly before the shooting, Sergeant Devlin is overheard on a BWC asking for additional units to establish a perimeter. But it appears the civilians did not take cover until the shooting started.

Bystanders can be seen nearby

191 BWC (Sgt. Sanders) at 06:56.
192 BWC (Sgt. Sanders) at 08:23.
193 BWC (Sgt. Sanders) at 09:31 (less than two seconds before the shooting, an officer is communicating with the bystanders and they flee as the shooting begins).
194 BWC (Sgt. Sanders) at 09:31.
The two civilian videos likewise show what appears to be at least one group of individuals directly across the street, and potentially in the line of fire, filming the incident with cellphone cameras. Given the significant number of officers on the scene, these officers should have at least attempted to get these civilians out of harm’s way.

c. Investigative Shortcomings

(1) Inadequate Tactical Analysis

As described above, we found several significant tactical shortcomings in the actions of the MPD members during this incident. These shortcomings were not adequately investigated by IAD and not adequately identified and analyzed in the Carter Report and by the UFRB. Like several of the other cases that we have examined, the investigation was largely focused on the “moment of discharge.” Accordingly, the only tactical improvement recommended by the report was directed at Officer Jefferson. And that recommendation stated only that he was “responsible for ensuring no other persons were within his line of fire for each shot.”195 While we agree with this conclusion, the Carter Report did not meaningfully grapple with the set of tactical issues described above. These issues likely contributed to Officer Jefferson’s shooting Officer Sfoglia and could have contributed to whether the exchange of gunfire occurred in the first place. MPD policy and best policing practices require a more searching analysis.

In particular, MPD policy requires the Carter Report to consider whether the use of force was consistent with MPD training and whether “proper tactics were employed.”196 MPD policy also states:

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.197

In doing so, the UFRB is required to review: “(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

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195 Carter Report at 56.

196 GO 901.08 V.J.2.

197 GO 901.09 V.C.1 (emphasis added).
training; and (e) Whether the level of force used was appropriate for the incident.” 

Also, the UFRB is required to prepare a “Decision Point Matrix Analysis.”

The fact that the investigation did not meaningfully analyze the involved officers’ attempt to force entry into Apartment 12 is illustrative of this broader problem. While the officers were ultimately unsuccessful, their decision to attempt to force entry rather than wait for ERT, and the tactics employed to breach the door, should have been carefully scrutinized by IAD and the UFRB. As described above, these tactics were in several respects contrary to policy and best policing practices. These tactics also could have had consequences for the ultimate use of force. The involved officers should have been asked why they believed that they needed to breach the door immediately after they heard the gunshot—especially where the officers were already aware that there was an armed individual in the apartment who had already fired shots inside the apartment. Among the questions that should have been asked are the following:

- Whether the MPD members had formed a plan for how to clear the apartment if the door did open;
- Whether they attempted to locate Ms. Carter or other witnesses to obtain more information about who and what they might find in Apartment 12;
- Whether they were concerned that someone had just been injured;
- Whether they believed they were being shot at;
- Whether they considered whether ERT could respond in time;
- Whether they considered dispatching a Crisis Intervention Officer;
- The rationale for Sgt. Sanders initially allowing the officers to approach the door but then Sgt. Develin pulling them back and attempting to declare a barricade;
- The reason a barricade was not established when Sgt. Devlin called for one over the radio.

All of these areas of inquiry were essential to a proper assessment of the tactics employed by the officers leading up to the use of force itself.

198 GO 901.09 V.C.2.

199 GO 901.09 V.C.3.
Rather than giving these related sets of issues careful attention, the Carter Report largely glossed over them and provided potentially conflicting descriptions of the attempted breach of the Apartment 12 front door:

- In the Chronological Narrative, the Carter Report says nothing about trying to breach the door. Rather, it states that Officer Sfoglia kicked the door and did not receive an answer, and the officers then fell back to “devise strategy for entry.”

- In the Tactical Analysis, the Carter Report suggests that Officer Sfoglia’s kicking the door was either an effort to force entry or an effort to get a response from inside Apartment 12. After hearing the gunshot, the officers returned to their positions, and “continued to devise a strategy for entry.”

- Finally, in the Summary & Conclusions, the Carter Report says nothing of the attempted breach and instead states that, after the gunshot, the involved officers did nothing more than “devise a plan to secure the scene and declare a barricade to await the arrival of the Emergency Response Team.”

In short, the investigation did not determine whether the officers intended to breach the door and what their plans for doing so were. In fact, the Summary and Conclusions section does not even mention the attempted breach—a fact that may have precipitated the use of force incident in the first place. Instead, it misleadingly states that Mr. Carter emerged from Apartment 12 and fired on the officers while the officers were waiting for ERT to arrive. It was incumbent on the investigator, and the members of his chain of command who reviewed the report, to explain this clearly so the UFRB could analyze the numerous decision points leading up to the use of force. It was also incumbent on IAD supervisors and the UFRB to review the Narrative and the Tactical Analysis with a critical eye to highlight and resolve these issues. Finally, it was incumbent on the UFRB to prepare an appropriate decision point analysis that included these decisions as part of its review.

(2) Delay in Rendering Aid to Alphonso Carter

While it is unclear precisely when he died, it appears that Mr. Alphonso Carter succumbed to his injuries inside Apartment 12 before MPD was able to reach him and

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200 Carter Report at 3.

201 Carter Report at 54; see also id. at 27.

202 Carter Report at 58.

203 Carter Report at 57.
render first aid. In the aftermath of the shooting, Mr. Carter’s family criticized the MPD for not making a faster entry into Apartment 12 to save Alphonso Carter after Eric Carter had been shot and killed. In comments to the media the evening of the incident, Ms. Carter, the sister of the deceased brothers, accused the MPD of taking hours to make entry into Apartment 12 and demanded to know the time of death.\(^{204}\) Notably, Ms. Carter made similar statements to two MPD investigators (including the lead IAD investigator) on the evening of the incident. This interview was recorded but not transcribed, nor was an interview of Ms. Carter mentioned in the Carter Report. On the evening of the incident, Chief Peter Newsham informed the media that the officers responded to the incident the way they did “because they didn’t know who was still in the apartment.”\(^{205}\)

From our review of the evidence, it appears this delay was caused by two factors. First, after the shooting, MPD officers chose to not make entry and instead wait for ERT because they had reason to believe there was a second shooter in the building.\(^{206}\) Second, MPD members may have been unaware that Alphonso Carter was in Apartment 12. While a witness informed the 911 operator that Eric Carter was shooting inside Apartment 12, she did not mention Alphonso Carter being inside. And, in fact, she told that operator that no one had been shot.\(^{207}\) While Alphonso Carter called 911—begging for assistance and mentioning his brother—it does not appear that this information (or the fact that Alphonso Carter did not answer the phone when the 911 operator called back) was ever passed along to officers on the Seventh District’s radio channel.

Nor does it appear that the 911 operators attempted to call back when the first call back to Alphonso Carter went unanswered. In addition, the Carter Report suggests that the first officer on scene learned from a witness that gunshots were fired inside 2245 Savannah Terrace when he initially came on the scene.\(^{208}\) And while the witness


\(^{206}\) See, e.g. Statement of Sergeant at 21.

\(^{207}\) Carter Report at 51.

\(^{208}\) Carter Report at 2, 12.
was likely aware that Alphonso Carter was inside,\textsuperscript{209} the Carter Report does not state whether he informed the first officer on scene of this fact.

Though not related to the moment of weapons discharge, the delayed response in rendering aid to Alphonso Carter also required further investigation and analysis by IAD and the UFRB. The investigation should have attempted to ascertain whether any officers were aware that Alphonso Carter was inside and, if so, when the officers learned this information:

- Did the witness inform the first officer on scene that Alphonso Carter might be inside the apartment?
- Did the officer ask?
- When did the officers first encounter Ms. Carter, the mother of Eric and Alphonso?\textsuperscript{210}
- Did Ms. Carter tell them Alphonso Carter was inside?
- Did the officers take any steps to find Ms. Carter (who MPD knew was in a neighboring apartment) to get more information about who was in Apartment 12?
- Why was Alphonso Carter’s call to 911 not conveyed to the responding officers?

Answers to the above questions are critical to ensuring public confidence in the investigation and to providing a complete tactical analysis and assessment of potential training opportunities for both MPD members and 911 dispatchers. Even if the decision to delay entry was deemed justified by IAD, these issues should have been investigated, analyzed in the report, and discussed by the UFRB.

\textit{(3) Inadequate Inquiry into the Decision to Notify ERT}

As described above, MPD policy required the responding officers to have notified ERT when they came on the scene. But it was only after the officers heard a

\textsuperscript{209} The witness’s statement to investigators indicates that he saw Alphonso Carter going into the building and thereafter heard a pop. Another witness’s statement also suggests the first witness, and another man, may have been made aware of the fact that Eric Carter was “over there shooting Alphonso.” Witness Statement at 1.

\textsuperscript{210} The OUC indicates that after the incident, Ms. Carter was sitting in a grey sedan nearby the scene. (34:39)
gunshot and attempted to force entry that Sergeant Devlin radioed that he was declaring a barricade. And it was not until after the incident occurred that the lieutenant again declared a barricade and summoned ERT. The Carter Report and the UFRB should have carefully scrutinized these decisions, including: whether any officer did not believe the scene to be a possible barricade situation; whether other officers were aware of Mr. Carter’s mental health issues and believed him to be a danger to himself or others; whether any officers mentioned waiting for ERT to arrive after they attempted entry; whether the officers considered calling a Crisis Intervention Officer; and why Sergeant Devlin did not call for ERT after he explicitly declared a barricade.

(4) Officer Gordon’s False Form PD-42

On September 17, 2019, Officer Gordon submitted a Form PD-42 (certified by a sergeant) indicating that he had been shot by the suspect and sustained a laceration to the left elbow caused by the gunshot. The Carter Report concludes that this did not occur. In the Discrepancies and Clarifications section, the Carter Report states that IAD reviewed the BWC footage and conducted a follow-up interview with Officer Gordon and concluded, “It was determined his injury was more than likely sustained from rubbing against a wrought iron fence.”

While the Carter Report does a commendable job flagging certain potential discrepancies, the Carter Report minimizes IAD’s investigation of this important discrepancy, which relates to whether an MPD officer may have deliberately made a false statement. Indeed, the Carter Report does not mention that IAD interviewed Officer Gordon and the certifying sergeant on December 4, 2019 specifically about the false report—when both were told that an administrative investigation could be triggered by the responses to their questions. Nor does it appear that these interviews were transcribed or even summarized anywhere in the Carter Report. During Officer Gordon’s interview, the investigator summarized at some length the BWC footage that cast considerable doubt on whether Officer Gordon was shot at all. The investigator ultimately established that Officer Gordon was never in the line of fire and never told anyone on the scene that he had been shot. Officer Gordon ultimately admitted that he was mistaken and did not believe he was shot. These facts, undoubtedly, bear on Officer Gordon’s overall credibility and should have been addressed more explicitly in

211 An eyewitness officer stated that, after the attempted entry, Sergeant Devlin told the officers to fall back and that he was going to notify ERT. Carter Report at 20. But there is no indication from OUC that Sergeant Devlin called for ERT.

212 Carter Report at 33.

213 Carter Report at 52.
the Carter Report. While Officer Gordon’s statements about the incident likely did not have a significant effect on the central conclusions of the report, the issue should have been highlighted for the UFRB.

It should also be noted that the certifying sergeant admitted that she prepared the Form PD-42 (Injury or Illness Report) memorializing the injury, and attesting to having investigated it, without gathering sufficient independent information to ensure its completeness and accuracy. She stated that she was directed to make Officer Sfoglia’s Form PD-42 (the only contemporaneous account of the incident that we have from Officer Sfoglia) as “generic” as possible, without identifying who gave her that direction. Her actions (and the actions of the unnamed officials that directed her) are contrary to best practices in investigations. The entire incident should have been explored further and brought to the attention of the UFRB.

(5) Sufficiency of Officer Interviews

Unlike certain of the other cases we have reviewed, the four officers most directly involved in the use of force incident neither participated in a walkthrough nor were interviewed until after the USAO issued a declination letter, which eliminated the risk of criminal liability. Although we can infer that the officers declined to be interviewed before the risk of prosecution was eliminated, that is not explicitly stated in the report. It appears Officer Sfoglia gave a brief statement to the certifying sergeant in connection with completing his PD 42 on the date of the incident. The other involved officers were interviewed within a day of the incident and none were ever re-interviewed.

On the whole, the interviews of the subject officers were longer and more detailed than interviews in some of the other cases we have reviewed. Even so, the interviews did not probe many of the tactical concerns that were described above—instead, focusing largely on the exchange of gunfire itself. For example, no officer was asked whether or not they were aware that Alphonso Carter was in Apartment 12 prior to ERT making entry. Likewise, no officer was asked any questions about Officer Jefferson’s shooting Officer Sfoglia. We find it notable that Officer Gordon was provided stills of his BWC footage and the investigator walked him step-by-step to establish that he had not been shot. While it may not have been feasible to actually show BWC footage to certain of the officers, similar efforts were not undertaken to understand the circumstances under which Officer Sfoglia had been shot.

While investigators generally did not ask leading questions, there were several notable instances where the investigator asked leading questions or failed to follow-up on issues of particular importance. For example, the certifying sergeant admitted that the time of the incident she included on Officer Gordon’s PD-42 was not accurate and explained that a superior told her to record it as such—a seemingly deliberate choice.
The investigator then asked, “So it was a mistake?” and the sergeant agreed. Likewise, the investigator asked Officer Jefferson certain highly suggestive questions on issues that bear directly on whether Officer Jefferson complied with MPD policy, including: “Did you not have the chance to give verbal commands because of the exigency of the circumstances?” As we noted above, leading questions should be avoided whenever possible, especially when they involve suggesting an exculpatory response to officers under investigation, in this case a rationale (exigent circumstances) for not providing verbal commands.

Finally, we note that none of the statements from the officers were transcribed, even though this is an MPD requirement. And the interviews of the subject officers (Devlin, Jenkins, Sfoglia, Sanders, and Jefferson) are only summarized in the body of the Carter Report—i.e., there is not a more detailed synopsis attached to it. It is difficult and time-consuming for officials in the IAD chain of command and members of the UFRB to effectively perform their review functions if transcripts are not provided and instead they have to hunt through the audio recordings themselves.

4. Recommendations

Based on our review of the Carter Report, the underlying evidence, and the UFRB’s review of the investigation, we provide the following recommendations for MPD’s consideration:

- MPD should consider enacting or clarifying its policy related to circumstances when a barricade should be ordered and ERT (or other tactical support) should be contacted.

- MPD should review its policy on deployment of ballistics shields and consider adding requirements that when an officer requests a shield: (1) a supervisor be notified and (2) the supervisor should respond to the scene of the incident to assess the conditions and decide if ERT should be called.

- MPD should ensure that all officers are adequately trained on how to use the ballistics shield, including how the deploying officer is to handle his pistol while holding the shield and the tactical formations to be employed when a shield is being used.

- MPD should review training on how to breach a door, including training on when and how to do so, and the proper equipment to use. Training should be

214 GO 901.08 V.I
provided on each relevant breaching device before the officer is authorized to use it.

- MPD should provide tactical training on how to approach a location where entry is contemplated and there is indication that an armed subject is within the premises to be entered. The training should address being in the line of fire, stacking, the “fatal funnel” and seeking cover.

- In all serious use of force cases, the lead investigator should seek assistance from MPD Academy staff responsible for tactical and physical skills training when conducting the investigation’s tactical analysis. IAD should also consider tactical review by ERT supervisory personnel when there is an attempted high-risk entry.

- The Decision Point Analysis Matrix should provide a meaningful independent analysis of the decision points faced by all participants in the event, including, but not limited to, call takers, dispatchers, assisting officers and the officer or group of officers using force. The analysis should address not only the decisions made by the officer who used force, but the decisions made by any officer that is relevant to the use of force. Where appropriate, the analysis should identify any policy, training, equipment or tactical concerns raised by the actions of participants.

IV. Recommendations

In explaining the purpose of its Use of Force Investigations policy, MPD states:

Fair and accurate follow-up investigations of use of force incidents increase Department and community awareness of the integrity and appropriateness of decisions to use force. Use of force investigations enhance the Department’s ability to make decisions regarding the incident and to provide necessary guidance to members on appropriate levels of use of force.

This is well-stated. Rigorous use of force investigations are critical to maintaining the public trust. Such investigations provide the public with a clear message that uses of force, particularly serious uses of force, are taken seriously by the MPD. They also demonstrate that MPD will not only hold wrongdoing officers accountable but also look at the incidents with a critical eye to understand how the Department as a whole can minimize the risk of use of force incidents occurring in the first place and minimize the risk of harm to members of the public and MPD officers when they do occur.
Guided by this purpose, this report contains 28 recommendations that the Review Team developed in the course of reviewing the four 2018 and 2019 use of force cases. We begin this section with eight broad recommendations for changes to MPD policy, procedure, and practice that fall into three categories: broadening the scope of use of force investigations, increasing transparency, and improving the manner in which the results of use of force investigations are classified by the UFRB. These recommendations are intended to address many of the core policy shortcomings contained in our report that we observed across the cases we reviewed. We then bring together the 20 specific recommendations on use of force policy, training, investigations, and oversight that were made in earlier sections of the report in the context of the individual case reviews.

A. Broadening MPD’s Inquiry into Use of Force

In all four of the above cases, we found that IAD investigators and the UFRB focused almost exclusively on the moment when force was employed, and the events immediately leading up to that moment. In the Carter case, for example, the investigation’s findings focused almost entirely on whether the involved officers were justified in shooting at Mr. Carter with little to no inquiry into several fundamental issues: the officers’ tactics in attempting to breach the door; the possibility that the officers escalated the situation; the failure to alert ERT in a timely manner; and the time it took to get medical assistance to Alphonso Carter. Likewise, in the Young case, there was minimal inquiry into whether Officer Wilson took steps to de-escalate the situation. While the “moment of weapons discharge” is undoubtedly a critical part of any use of force investigation, GO 901.09 grants the UFRB a significantly broader mandate. As set forth above, it states in relevant part:

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.215

The General Order goes on to require that the UFRB review each incident for:

- Compliance with MPD policies, procedures, directives, and training;
- Whether proper tactics were used by the involved member(s);

215 GO 901.09 V.C.1 (emphasis added).
• Risk management issue(s);

• Adequacy of related MPD training; and

• Whether the level of force used was appropriate for the incident.216

Based on the four cases we examined, we found that both the UFRB and IAD are not currently fulfilling this mandate. Doing so is critical to satisfying MPD’s purpose in conducting use of force investigations. To that end, we make five recommendations.

• **Recommendation #1: IAD Should Broaden Its Investigation and Analysis of Use of Force Incidents**

MPD must ensure that IAD investigations are sufficiently comprehensive to allow the UFRB to meet its mandate.217 While, as described above, the UFRB’s mandate is broad, MPD’s policy on use of force investigations is less specific and does not ensure that IAD’s use of force investigations provide the UFRB with the range of information it needs. The use of force investigations policy states in relevant part:

> [T]he final investigative report shall include a description of the use of 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.218

While the current policy requires IAD to consider the involved officer’s tactics, we recommend that MPD revise its policy so it is clear that IAD’s investigation should mirror the areas that the UFRB is required to review. This includes investigating and presenting to the UFRB risk management issues, the adequacy of training, and analysis of the events leading up to and following the incident. In our prior work with MPD, we did not observe that the lack of congruence adversely affected the quality of IAD’s use of force investigations. Our review of these four cases demonstrates that with the passage of time, it has. Therefore, we recommend a change in MPD’s use of force investigations policy.

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216 GO 901.09 V.C.2.

217 We likewise noted in our 2016 Review that shortcomings in IAD investigations and reports “had an adverse impact on the ability of the UFRB to make informed and appropriate judgments on whether the use of force by MPD officers is consistent with MPD policies and law enforcement best practices. 2016 Report at 115-16.

218 GO 901.08 V.J.1.
• Recommendation #2: IAD Should Enhance the Training of IAD Investigators who Handle Serious Use of Force Cases

IAD investigators need to be trained on investigating and presenting the above issues to the UFRB. We noted with concern in our 2016 report that the merger of the former Force Investigations Team (“FIT”), created in 1999 by former Chief Charles H. Ramsey, into the Internal Affairs Bureau could, over time, degrade the quality of use of force investigations especially in serious use of force cases. Indeed, the first two recommendations in our 2016 report specifically addressed the degradation in quality of such investigations.

“First, we recommend that MPD restructure IAD so that it contains specialists in conducting use of force investigations. This restructuring does not require the reversal of the FIT/IAD merger, which was driven primarily by a diminishing caseload. The use of force investigative specialists can undertake non-use of force investigations, but use of force would be considered their area of expertise. They would serve as lead investigators on all serious use of force investigations. The members of this group should be officers who have demonstrated the proper attitude and who possess the necessary skills for conducting use of force investigations.

Second, we recommend providing the use of force specialists with comprehensive, specialized training similar to the training that was provided to FIT when it was formed in 1999. This training should include, among other things, instruction on how to conduct tactical analyses that evaluate the decisions that led up to the use of force, not merely the use of force itself. The training should instruct the investigators on how, as part of such a comprehensive analysis, they should identify any policy, training, or equipment issues raised by the use of force incident.”

2016 Report at 55.

There is no evidence that those recommendations were implemented. During the review team’s interviews with IAD investigators, we learned that there is no formal training or orientation for IAD investigators where the scope of a use of force investigation (or the scope of the UFRB’s review) is discussed. We recommend that IAD perform this basic training as new agents join the division.
• **Recommendation #3: The UFRB Should Conduct a More Thorough Decision Point Analysis as Part of Its Review**

The UFRB should improve its practices with respect to the “Decision Point Matrix Analysis” required by GO 901.09 V.C.3. In each of the cases we reviewed, the content of the analysis did not match its title. The documents largely provided a summary of the Final Investigative Report’s investigative conclusions. But, critically, these analyses did not carefully scrutinize the various decision points faced by the officers involved in the incident. For example, with respect to the Carter case, such an analysis might have contained, among other things, the following information:

- **The responding officers arrive on scene.** The officers appropriately decided to draw their weapons, employ a ballistic shield, and secure the area around Apartment 12. The officers appropriately ascertained whether there were additional exits to the building and posted officers at the rear of the building. The officers should have summoned ERT at this juncture. The reasons the officers did not summon ERT at this juncture was likely the result of OUC not communicating to the involved officers that Alphonso Carter had called for help from inside the apartment and the involved officers not knowing that Eric Carter had mental health issues.

- **The officers hear a gunshot from inside Apartment 12.** The officers, who were mostly facing one another while getting instructions from Sgt. Sanders, appropriately sought cover immediately. But from that point, the officers immediately entered the building and began kicking the door of Apartment 12. Unless the officers believed that there was an immediate threat to themselves or others (and we have seen no evidence of this), the officers should not have done this. The officers should have secured the scene and summoned ERT. While waiting, the officers should have further investigated who might be in Apartment 12 by seeking out neighbors, asking OUC, and speaking with one another. When Officer Sfoglia kicked the door, Sergeant Devlin appropriately ordered the officers to fall back and declared a barricade.

A decision point analysis can be an extremely helpful tool to facilitate the assessment of a use of force incident. It should serve as the basis for the UFRB to serve its critical role as an independent review body within MPD. It can also serve as the basis for recommendations for additional training either for the officer(s) involved in the incident or for the entire Department, and it can be the source of instruction about appropriate police tactics in particular circumstances. That important purpose is not served by a summary document – a slightly rewritten version of the IAD investigator’s
summary – that does not contain independent analysis and does not extract from the incident relevant guidance.219

- **Recommendation #4: The UFRB Should Provide Specific Recommendations Related to Training, Policy, and Best Practices**

  The UFRB should embrace its broad responsibilities to “recommend to the Chief of Police use of force investigative protocols, standards for use-of-force investigations, training enhancements, and policy and procedure amendments”220 and to recommend additional training for the involved officers or the MPD as a whole.221 The MOA similarly states that MPD should “authorize the UFRB to direct District supervisors to take non-disciplinary action to enable or encourage an officer to modify his or her performance.”222

  In the four cases we reviewed, the Final Report and UFRB recommended additional training for one officer. In the Carter case, the UFRB recommended a “tactical improvement opportunity” for Officer Jefferson after it was determined that he shot Officer Sfoglia in his tactical vest. Even where the UFRB does not believe a formal “tactical improvement opportunity” classification is warranted, UFRB should still make a practice of providing soft feedback and training recommendations where warranted.223 For example, in the Alston case, Officer Koch should have communicated to Officer Demerrit that he believed Mr. Alston to be armed. We do not believe Officer Koch should have been disciplined (or even re-trained) for his failure. But, he should have been reminded of this best practice. And the Academy should have been directed to incorporate this best practice in its training.

219 During the 2016 Review, we likewise recommended that the UFRB enforce the requirement of the creation of decision point analysis. We also suggested that the UFRB consider transferring the responsibility for the analysis to the IAD investigator. 2016 Report at 111 (Recommendation No. 20).

220 GO 901.09 V.C.4.

221 GO 901.09 V.E.

222 MOA ¶ 67.

223 We note that the UFRB can direct all members on the scene to attend a “scene review” at the Metropolitan Police Academy. The UFRB so directed in the Carter case. We have seen no evidence of what was discussed during this review (or whether it occurred). Regardless, we note that any kind of review would only be enhanced by the UFRB providing a detailed analysis of the decision points involved in each case and areas for improvement.
The Carter case also provides a useful illustration. In that case, it appears that none of the officers were made aware that Alphonso Carter was in Apartment 12. This information undoubtedly would have affected the officers’ decision-making with respect to making entry (both before and after the exchange of gun fire with Eric Carter). While we see no clear violations of policy or training by MPD members, it is critical that the UFRB identify breakdowns in communications, process, and tactics to MPD leadership, the Academy, and OUC (which was aware that Alphonso Carter was in need of assistance) to ensure it does not happen again. In short, each use of force investigation—especially those that involve the use of deadly force—can serve as a useful case study for MPD members and the Academy for developing and refining best practices.

- **Recommendation #5: IAD Should Designate and Train Force Investigation Specialists**

As described above, the 2016 Report recommended that MPD specially train a cohort of IAD agents to focus on investigating serious use of force cases, much like specially trained units for homicides and sexual assaults. At the time, MPD did not agree with this recommendation and, instead, indicated that all members of IAD will receive cross-training on use of force investigations and misconduct investigations. Based on the investigatory shortcomings described above, we believe MPD should reconsider.

From 1999 through 2012, MPD did have a specially trained unit for serious use of force investigations called the Force Investigation Team (“FIT”). FIT’s mandate, which expanded over time, included the review of all police-related firearms discharges, all deaths in police custody, and all officer involved suicides with a service weapon. In 2002, a second FIT team was formed to investigate other serious use of force incidents. From early 2004 through late 2007, the independent monitoring team reviewed each case investigated by the FIT teams and consistently found both units conducted “thorough and high quality investigations.”

In 2012, MPD merged FIT into IAD. Asked about the merger during the 2016 Review, MPD explained that, among other reasons, FIT’s caseload decreased considerably and it was not an effective use of resources to maintain the team. Instead, MPD explained that all IAD investigators would be cross-trained in both use of force investigations and misconduct investigations. MPD also stated that it would “document

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224 2016 Report at 19.


the core curriculum that all IAD investigators must receive upon being assigned to the unit, to include specific training on use of force investigations and ensure those training records are maintained.”227

The 2016 Report took issue with MPD’s response, noting that it was “not an attainable goal” to expect all IAD investigators to develop the skills and experience to conduct top-flight use of force investigations.228 In particular, we noted the critical importance that IAD investigators receive: “instruction on how to conduct tactical analyses that evaluate the decisions that led up to the use of force, not merely the use of force itself. The training should instruct the investigators on how, as part of such a comprehensive analysis, they should identify any policy, training, or equipment issues raised by the use of force incident.” The 2016 Report concluded that this training was necessary because IAD investigators lacked this skill and experience.

The four use of force incidents presently under review reinforce these 2016 recommendations. As noted in 2016, we do not believe that MPD must necessarily undo the merger of FIT and IAD, although that is an option MPD should definitely consider. But, at a minimum, we recommend that MPD provide intensive, specialized training to a select group of IAD investigators who can serve as the lead investigator in all serious use of force incidents.

As an initial matter, the current use of force investigation training offered to IAD investigators is insufficient, as evidenced by the decreasing quality and thoroughness of serious use of force investigations that we first observed during the 2016 Review. MPD committed, then, to documenting a “core curriculum” for IAD investigators. MPD also did not quarrel with our suggestion that IAD training include: conducting a thorough tactical analysis; reviewing the decisions that led to the use of force, not merely the use of force itself; and analyzing policy, training, and equipment issues in each incident.229 We have seen no evidence that such training has occurred and believe this lack of training had a significant influence on the investigatory shortcomings we have observed and identified.

228 2016 Report, Ex. N. at 19.
IAD investigators informed us that the primary training for new IAD investigators consists of shadowing other IAD investigators.\textsuperscript{230} This is not sufficient. Given how different each use of force incident can be and how few incidents occur each year, on-the-job training is not sufficient on its own. This is well-illustrated by the Carter investigation. The investigating agent had only been in IAD for two months when he was assigned as lead investigator to the Carter case.\textsuperscript{231} While it is clear that he is a highly credentialed investigator with nearly two decades of policing experience, two months of on-the-job training by itself is not sufficient for an IAD investigator to master the host of investigatory considerations required to conduct an effective use of force investigation—particularly an incident as complex as the Carter investigation. In addition to on-the-job training, IAD should craft training (and re-training) programs for all investigators assigned to use of force incidents that includes conducting a thorough tactical analysis; reviewing the decisions that led to the use of force, not merely the use of force itself; and analyzing policy, training, and equipment issues in each incident. We recognize that the resources required to conduct such training is considerable and the few use of force incidents that occur each year make it difficult for investigators to gain experience. As such, we recommend MPD focus on providing this training to a select group of IAD investigators.

We also recognize MPD’s concern that the relatively small number of serious use of force incidents that occur in a single year may make it difficult to justify maintaining a team devoted exclusively to investigating serious use of force incidents. If MPD chooses not to create a separate unit but instead to have force investigation specialists remain part of IAD, these specialists should take on additional responsibilities within the unit. These investigators, for example, can take a leading role in training IAD investigators—a practice commonly utilized in police departments around the country.

Finally, these investigators can also be specially trained to enhance the credibility of serious use of force incidents in the eyes of the public. To the extent their findings are made public, these investigators can develop the skills and experience to convey their findings in a manner that assures the public that the investigation was conducted fully and fairly, in their written investigative reports and in public explanations of those investigative results.

\textsuperscript{230} During the 2016 Review, investigators similarly indicated that they received no formal training on how to conduct a use of force investigation and learned by “just doing it.” 2016 Report at 52.

\textsuperscript{231} December 15, 2020 Interview with Investigator.
B. Increasing Transparency

As we discussed in the Introduction, the national spotlight has turned to the issue of police reform, and D.C. has taken several steps to increase transparency, including by creating the Police Reform Commission. But when a serious use of force incident occurs, members of the public do not generally have access to a significant body of information about the case, other than what can be found in media reports and press releases, unless a lawsuit or Freedom of Information Act request is filed. This lack of information creates tension in the relationship between the community and the police, leading to speculation and in many instances erroneous allegations of misconduct. To address this problem, we recommend two potential vehicles for informing the public about the investigations into serious uses of force, especially those ending in death.

- **Recommendation #6: The USAO Should Issue Detailed Declination Letters**

  We recommend that the U.S. Attorney’s Office for the District of Columbia (“USAO”), which currently releases brief and perfunctory declination letters whenever it declines to prosecute the officers involved in use of force incidents, prepare and issue detailed declination letters, as prosecutors in other jurisdictions do. This would provide the public with a thorough summary, from an authoritative source, of the facts of the incident, the relevant legal standards, and an explanation of why the officer(s) conduct in that case did not rise to the level of criminal conduct. We know from our 2015-16 review that the USAO prepares a detailed internal memo to justify its decision not to prosecute. It would therefore seem not to require substantial additional work to produce a document that is capable of being released to the public.

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• **Recommendation #7: MPD Should Release IAD’s Final Investigative Report and the UFRB’s Conclusions to the Public**

We recommend that MPD make its own Internal Affairs Division Final Investigative Report, as well as the document setting forth the UFRB’s conclusions, public in some form. We recognize that this raises sensitive issues for MPD, particularly given the comprehensive analysis we advise in our other recommendations. Nevertheless, at present, there is no public disclosure of the details or findings of the investigation. This information gap leads to a lack of public confidence in MPD’s investigations, and can lead to public speculation and erroneous allegations of misconduct. For example, the lawsuit filed against MPD by Mr. Alston’s family alleges that the officers moved the gun, a statement which we have found, after reviewing the video evidence from the body-worn cameras, to be demonstrably false. Furthermore, public disclosure of some form of the Final Investigative report will create powerful internal incentives for those investigations to be competently and thoroughly conducted and rigorously reviewed because there would be some public accountability for the MPD entities and personnel responsible for those matters. The release of MPD’s findings would enhance the credibility of its work, thus raising the level of the public’s trust.

C. **Improving the UFRB’s Use of Force Classifications**

MPD policy currently requires the UFRB to make two different “classifications” in reviewing use of force incidents. Although we are aware that these classification systems have existed in MPD for many years, and that they are mirrored in many other law enforcement agencies around the country, we have concluded that in many cases, including the four we have reviewed, they obscure more than they illuminate. We recommend that in each use of force review the UFRB be required to memorialize five “findings,” which are components of its analysis that are largely already required.

The Current Classification Procedures. Under the current procedure, UFRB is required to make the following findings.

The UFRB must first apply the “Section D.3 Classifications” and determine whether the allegations of use of force or other misconduct are:

- Unfounded—investigation determined there are no facts to support the incident complained of actually occurred;
- Sustained—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;
• Insufficient Facts—investigation determined there are insufficient facts to decide whether the alleged misconduct occurred; or

• Exonerated—investigation determined a preponderance of the evidence showed that the alleged conduct did occur but did not violate MPD policies, procedures, or training.\textsuperscript{233}

UFRB next must apply the “Section D.2 Classifications” to classify the actions of MPD officers involved in the incident by one of the following findings:

• Justified, Within Departmental Policy—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;

• Justified, Policy Violation—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;

• Justified, Tactical Improvement Opportunity—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

• Not Justified, Not Within Departmental Policy—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;\textsuperscript{234}

Finally, with respect to vehicle pursuits, which is relevant to the Price case, the UFRB must determine whether the pursuit was:

• Justified—classification reflects a finding in which a vehicle pursuit is determined to be within Department policy.

• Not Justified—classification reflects a finding in which a vehicle pursuit is determined to be not within Department policy.\textsuperscript{235}

\textsuperscript{233} GO 901.09 V.D.3.

\textsuperscript{234} GO 901.09 V.D.2.

\textsuperscript{235} GO 901.09 V.D.4.
The Shortcomings of the Current Classification Procedure. We believe the fundamental questions inherent in these classifications—i.e., did the alleged conduct occur, was it justified, and was it consistent with MPD policy—are correct. But the current classification system can lead to confusion and inconsistency.

First, the Section D.2 and D.3 classifications are not being used consistently and can be redundant. As drafted, it appears the UFRB must first make findings for each allegation of use of force under Section D.3 and then make a broader classification of the use of force incident as a whole under Section D.2. Thus, in the Price case, the UFRB concluded that the allegations of use of force were “unfounded” and therefore did not classify the incident under Section D.2. But in the other three cases (Alston, Carter, and Young), where there was undeniable evidence that a use of force incident occurred, UFRB did not make any findings about the use of force under Section D.3. Rather, in each case, the UFRB only classified the incident under Section D.2—finding that the officers’ actions were “justified, within departmental policy”236—but making no other findings. This violates MPD policy as written.

To use the Alston case as an illustration, in addition to finding the incident “Justified, Within departmental policy,” the UFRB should also have concluded that Officer Demeritt was “exonerated” under Section D.3 because it is clear that the use of force incident occurred but was consistent with MPD policy. While the UFRB’s conclusions in each of the cases were sufficiently clear, and making these additional findings can be somewhat redundant, MPD policy currently requires the UFRB to make findings about the allegations of use of force under Section D.3 in all cases. We believe the intention of these two policies is to have the UFRB first draw conclusions about whether the use of force occurred and, if it did, render a judgment on whether the use of force is justified and in conformance with departmental policies. We believe this is sound policy and recommend clarifications to the policy below.

Second, MPD policy does not define the term “justified” consistently. In connection with vehicle pursuits, the term means that the officer followed MPD policy.237 In connection with a use of force incident, UFRB is to determine whether the conduct was justified and whether it was consistent with MPD policy—suggesting that justified has a distinct meaning. We recommend that MPD define “justified” as “the officer’s conduct was objectively reasonable under the circumstances” and revise GO 901.09 V.D.4 accordingly.

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236 With the exception of Officer Jefferson in the Carter case, whose actions were classified as Justified, Tactical Improvement Opportunity.

237 GO 901.09 V.D.4.
Third, the Section D.3 Classifications—particularly terms like “unfounded” and “exonerated”—can easily be misconstrued by the public. This issue was well-illustrated in the Price case. The UFRB labeled the allegations as “unfounded”—i.e., there were “no facts to support that the incident occurred.” This makes little sense. The incident occurred, and Mr. Price died. As described above, there was some evidence to suggest Officers Jarboe and Gaton were engaged in a pursuit of Mr. Price. And there was some evidence to suggest that Officer Pearson used his car to block Mr. Price. It undermines the credibility of MPD’s investigation to use this label. It sends the wrong message to the Price family and the public at large. IAD and the UFRB presumably relied on this classification because the conduct did not rise to the level of “exonerated.” The term “exonerated” can similarly be misconstrued. While it is intended to mean that the officers’ conduct did not rise to the level of a policy violation, it can be interpreted by members of the public to mean that the officer is blameless. Indeed, “exonerate” is generally understood to mean to “clear or absolve from blame.”

While we propose a more significant change below, we recommend MPD, at minimum, change the classification “insufficient facts” to “not sustained.” Other departments, including the Chicago Police Department, use the term “not sustained” to refer to any circumstance where the allegation is “insufficient evidence to either prove or disprove the allegation.” This term can be used for circumstances where: (1) there is ample evidence available to investigators but that evidence is still not sufficient to meet the preponderance standard (like the Price case); or (2) there is insufficient evidence—e.g., because there was no video footage or eyewitnesses—from which investigators can draw conclusions concerning the allegations.

- Recommendation #8: MPD Should Require the UFRB to Make Five Findings in all Serious Use of Force Cases

We do not believe that major revisions to MPD policy need to be made to address these shortcomings. We recommend that MPD policy be adjusted to direct the UFRB to memorialize five “findings” in its conclusions, all of which are drawn from existing MPD policy related to the UFRB:

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239 Chicago Police Department Special Order S08-01-1, § II.F.16.
• Identify the allegations of use of force with specificity and classify them as: “Supported by the Preponderance of the Evidence” or “Not Supported by the Preponderance of the Evidence.” (GO 901.09 V.D.3)240

• Determine whether the use of force was justified—i.e., whether the actions of the officer were objectively reasonable in the circumstances. (GO 901.09 V.D.2)

• Determine whether the use of force incident (and the events surrounding it) were consistent with MPD policy. (GO 901.09 V.D.2, D.3, C.1)

• Determine whether the officer requires “tactical improvement endeavors” or more formal re-training. (GO 901.09 V.D.2, C.2)

• Provide additional recommendations related to: (1) areas for policy and training improvements; (2) risk management issues; (3) equipment concerns; (4) areas for officer improvement that do not require formal re-training. (GO 901.09 V.C.2, E.2)241

We believe each of the above findings are already within UFRB’s mandate, and the UFRB should currently be discussing each of these points. Still, we believe a clear distillation of these findings in the UFRB’s conclusions will strengthen the credibility of its conclusions and provide clear guidance to the MPD on areas for policy and training enhancements.

D. Additional Recommendations

This section re-presents the 20 recommendations discussed in the Price, Young, Alston, and Carter cases above. Although the substance of each recommendation is unchanged from the initial discussion, we have listed them in an order that begins with the recommendations of broadest applicability and ends with those that, although significant, are applicable to a narrower set of cases. For each recommendation, we have noted the cases giving rise to it.

240 For example, in the Alston case, the allegation that Officer Demerrit shot Mr. Alston would be “supported by the evidence.” And in the Price case, the allegation that Officer Pearson used his vehicle to stop Mr. Price would be “not supported by the evidence.”

241 The Chicago Police Department, for example, requires its Force Review Board to “identify specific modifications to existing policy, training, tactics, or equipment that could minimize the risk of deadly force incidents occurring and the risk of harm to officers and the public.” Chicago Police Department General Order G03-02-08 V.D.5.
• **Recommendation #9: Scope of Investigations**

IAD investigators should be provided guidance that the scope of their investigations is broader than the actions of the officer at the point serious or deadly force is used. The actions, tactics, and decisions of all participants in the event, from the call taker to the responding supervisors, should be assessed against MPD policy requirements and best practices. (Alston, Carter)

• **Recommendation #10: De-escalation**

IAD investigators should explore the possibilities for de-escalation in every investigation and in every interview of an officer engaged in a serious use of force. (Young, Carter)

• **Recommendation #11: Involvement of Academy Personnel in Tactical Review**

In all serious use of force cases, the lead investigator should seek assistance from MPD Academy staff responsible for tactical and physical skills training when conducting the investigation’s tactical analysis. IAD should also consider tactical review by ERT supervisory personnel when there is an attempted high-risk entry. (Price, Young, Alston, Carter)

• **Recommendation #12: Decision Point Analysis**

The Decision Point Analysis Matrix should provide a meaningful independent analysis of the decision points faced by all participants in the event, including, but not limited to, call takers, dispatchers, assisting officers and the officer or group of officers using force. The analysis should address not only the decisions made by the officer who used force, but the decisions made by any officer that is relevant to the use of force. Where appropriate, the analysis should identify any policy, training, equipment or tactical concerns raised by the actions of participants. (Price, Young, Alston, Carter)

• **Recommendation #13: Follow-up Interviews**

IAD agents should conduct follow-up interviews with important witnesses after the agents have had the opportunity to evaluate initial interviews, BWC footage, and other evidence. (Price, Young, Alston, Carter)

• **Recommendation #14: More Rigorous Review and Oversight of Investigations**

The UFRB and supervisors in IAD must more carefully scrutinize the recommendations and conclusions of the IAD investigator, and if necessary return the investigation to IAD for additional work. The IAD supervisor should periodically (weekly or bi-
weekly) review the investigative file and document each review in writing. The log of
reviews should be included as part of the completed investigation file. (Price, Young,
Alston, Carter)

- **Recommendation #15: No Leading Questions**

IAD supervisors should caution investigators not to use leading questions during
interviews of civilian or sworn witnesses of the involved officers. That is especially
important when addressing state of mind issues.\(^{242}\) (Young, Carter)

- **Recommendation #16: Transcription of All Interviews**

In serious use of force incidents, all statements from involved officers, witness officers,
and civilians should be recorded, transcribed, and included in the investigative file, as
required by MPD policy.\(^{243}\) (Price, Young, Alston, Carter)

- **Recommendation #17: Check Vital Signs**

MPD should remind officers of the requirement that they check vital signs of people
who have been subjected to uses of force, especially deadly force, whenever an officer
can safely do so. (Alston)

- **Recommendation #18: No Group Interviews**

Whenever possible, group interviews should be avoided. If a group interview is
unavoidable, the investigator should attempt to supplement the interview with
subsequent individual interviews whenever possible. (Young)

- **Recommendation #19: Examine All Uses of Force in Incident**

Even in cases when an initial use of force is justified, investigators should carefully
examine whether subsequent uses of force (such as the final two shots in the Young
case) are also justified and in conformance with MPD policy. (Young)

\(^{242}\) We made this recommendation in our 2016 report, and as a result this requirement was
incorporated in MPD policy. GO-901.08 IV. D 4 a (4). But the requirement is not self-
executing—it requires adequate training and oversight.

\(^{243}\) See GO 901.08 V.I.1.e.
• **Recommendation #20: Immediate Reporting**

MPD should reinforce as part of in-service training the responsibility of officers and supervisors to report incidents of the use of force immediately in the aftermath of a serious use of force incident. The training should emphasize the importance of timeliness, as well as incident scene and evidence preservation. (Young)

• **Recommendation #21: More Complete UFRB Documentation**

The UFRB should keep a more detailed record of its deliberations in each case. The record should reflect the specific issues discussed by the Board and their specific findings. (Price, Young, Alston, Carter)

• **Recommendation #22: Clarify Definition of Vehicular Pursuit**

As described in detail above, MPD should re-visit its definition of “vehicular pursuit” and establish easy to understand, objective criteria for when a pursuit occurs. The definition should not be contingent on factors such as whether the officer activates emergency equipment or whether the officer has an adequate basis to pursue the individual. (Price)

• **Recommendation #23: Clarify Responsibilities of Off-Duty Officers**

MPD should consider whether it has in place adequate policies governing what its officers can and should do when confronted with criminal activity when they are in off-duty status. Its policy on this important issue has not been updated since 2004. In particular, MPD should clarify in policy and training the full applicability of its use of force principles, including de-escalation, when MPD members are off duty. (Young)

• **Recommendation #24: Barricades**

MPD should consider enacting or clarifying its policy related to circumstances when a barricade should be ordered and ERT (or other tactical support) should be contacted. (Carter)

• **Recommendation #25: Deployment of Ballistic Shields**

MPD should review its policy on deployment of ballistics shields and consider adding requirements that when an officer requests a shield: (1) a supervisor be notified and (2) the supervisor should respond to the scene of the incident to assess the conditions and decide if ERT should be called. (Carter)
• **Recommendation #26: Training on Use of Ballistic Shields**

MPD should ensure that all officers are adequately trained on how to use the ballistics shield, including how the deploying officer is to handle his pistol while holding the shield and the tactical formations to be employed when a shield is being used. (Carter)

• **Recommendation #27: Training on Breaching Doors**

MPD should review training on how to breach a door, including training on when and how to do so, and the proper equipment to use. Training should be provided on each relevant breaching device available to the officer before the officer is authorized to use it. (Carter)

• **Recommendation #28: Dealing with Armed Subjects within Buildings**

MPD should provide and reinforce tactical training at regular intervals to relevant MPD personnel on how to approach a location where entry is contemplated and there is indication that an armed subject is within the premises to be entered. The training should address being in the line of fire, stacking, the “fatal funnel” and seeking cover. (Carter)

V. **Conclusion**

Our review over the past several months has focused on MPD’s investigations into four incidents in which the actions of MPD officers caused the deaths of Jeffrey Price, Jr., D’Quan Young, Marqueese Alston, and Eric Carter. We have been mindful throughout our review that we are not engaged in an academic or theoretical exercise, but instead a review of some of the most significant and difficult incidents MPD has dealt with over the last several years. Those incidents have had enormous impact not only (and most obviously) on the four men who died, but also on their families and friends, and the communities who mourn their loss, regardless of whether the actions of the MPD officers who caused their deaths were justified under the circumstances. Less obviously, these fatal incidents have a large and lasting impact on the officers involved in these events, on the MPD as a whole, and on the relationship between MPD and the communities it serves. These incidents have become flashpoints in the city, just as the citizen deaths at the hands of police have caused anger and turmoil in many other places in the country.

MPD owes the D.C. community and the public a robust system for investigating and reviewing uses of force. That system must ensure that appropriate policies are in place for investigating serious uses of force, that MPD investigators are adequately trained to investigate such cases, and that the review and oversight system both in the Internal Affairs Bureau and the Use of Force Review Board is demanding and rigorous.
If any policies relevant to an incident are unclear, that lack of clarity should be identified during the course of an investigation and brought to the attention of MPD officials so they can address the issue. If a set of facts presents thorny and difficult issues, IAD investigators must be adequately trained to identify those issues and thoroughly investigate them. And if an investigation fails to address the full range of issues presented by the use of deadly force, reviewing officials within IAD and the UFRB must identify those shortcomings and insist that all the relevant issues—not just those at the time that the ultimate decision to use force was made—be addressed. Those obligations exist for every investigation of serious uses of force, but they apply with even greater urgency to incidents resulting in death.

Our review of these four cases from 2018 and 2019 demonstrates that MPD has fallen short of the standards it should set for itself, and far short of the standards it achieved in prior years when it was under federal oversight (2002-08). For those six years, members of this Review Team reviewed every serious use of force investigated by MPD’s Force Investigation Team, including cases involving death. Those MPD investigations were not perfect but they consistently reached a high level of excellence, to the point that MPD became a national model for conducting and reviewing such incidents.

When we reviewed similar cases in 2015, we noted that the quality of use of force investigations had slipped to the point that we expressed concern that the dissolution of FIT and its merger into the Internal Affairs Division would further dilute the quality of investigation into serious uses of force. In the Conclusion to our January 2016 Report, we stated:

In addition, the Review Team found substantial evidence showing that the quality of serious use of force investigations has declined. MPD’s elite use of force investigations unit—FIT—has been disbanded and merged into IAD, though declining FIT caseloads over time make this reorganization decision understandable. Unfortunately, the intensive and continuing training needed to maintain high-quality use of force investigations has not occurred. The result is insufficiently trained use of force investigators who perform inadequate use of force investigations and produce unsatisfactory use of force investigative reports. Stakeholders in the process with whom we spoke—members of the UFRB, lawyers in the USAO, and members of IAD themselves—share this view. As we have described in this report, the shortcomings in Internal Affairs investigations and investigative reports have had an adverse impact on the ability of the UFRB to make informed and appropriate judgments on whether the use of force by
MPD officers is consistent with MPD policies and law enforcement best practices.\textsuperscript{244}

Unfortunately, the weaknesses identified in our 2016 report have not been remedied; indeed, they have grown substantially worse. Our review of the four 2018-2019 death cases has shown that those weaknesses persist, and that generally MPD has not recognized them and appears to resist or be unconcerned with remediying them.

At a time of crisis in American policing, when many of the causes and effects of that crisis are beyond the reach of law enforcement agencies, we recommend that MPD address the weaknesses in its system for investigating serious uses of force in a serious and committed way so that MPD’s investigations are thorough, credible, and can withstand public disclosure and examination. This will require the same level of innovation, commitment, and resources that were applied more than 20 years ago when MPD emerged as a leader in the field of investigating serious uses of force. If MPD is to meet the challenge it faces, the Department must first recognize and acknowledge the magnitude of that challenge—and the fierce urgency of meeting it.\textsuperscript{245}

March 2021

Dennis E. Nowicki
Kerr Putney
Ann Marie Doherty
Michael G. Scavelli
Emma S. Marshak

\textsuperscript{244} 2016 Report at 115.

\textsuperscript{245} In his March 15, 2021 response to our draft report, attached as Appendix O, Acting Chief Contee states that MPD agrees with all of the report’s recommendations and targets full implementation by the end of this calendar year. We are pleased that the response is so positive and constructive, and is without reservation. Needless to say, full implementation of so many important reforms will require hard work and continuing vigilance.
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Agency Comments

On February 25, 2021, we sent a draft copy of this report to the D.C. Metropolitan Police Department (MPD). MPD responded with comments on March 15, 2021. Agency comments are included here in their entirety, followed by ODCA's response.
March 15, 2021

Kathleen Patterson
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

Dear Ms. Patterson,

Thank you for providing the Metropolitan Police Department (MPD) with an opportunity to review the draft District of Columbia Auditor report, “The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019.” We recognize that we are at a critical juncture in law enforcement. With the killing of George Floyd last year and the subsequent protests for police reform and racial justice, it is more important than ever that we critically examine all aspects of the way we are interacting with our community and ensure that we have strict and comprehensive policies governing the use of force and use of force investigations. Most importantly, we must continue to ensure that our policies, training, and day-to-day operations require our officers to employ de-escalation techniques to avoid the use of force whenever possible and ensure that deadly force is only used as a last resort, when the officer or others are facing the threat of serious bodily injury or death, and there are no other reasonable options available.

We are very pleased that the draft report confirmed our findings that the uses of force in the cases reviewed were justified. However, we recognize that the loss of any life is tragic, and we must ensure that we are doing everything in our power to prevent those situations from occurring. MPD remains committed to ensuring our use of force policies and practices serve as a model for the nation, and we recognize the need to be forward-thinking on how we can continue to increase transparency and broaden the depth of our investigations. Accordingly, MPD agrees with all of the report’s recommendations and will begin working on implementation immediately. We are targeting implementation of all recommendations by the end of 2021.

We have two general comments regarding the draft. We recommend that the names of civilian witnesses be removed from the report. Disclosing the identities of civilian witnesses in a public report is neither necessary nor advisable. As you know, some witnesses may be reluctant to come forward based on fears of unwanted notoriety or possible reprisals. We see no potential negative impact to the content of the report by excluding their identities. Additionally, while we understand the need for transparency regarding the officers who were directly involved in the uses of force, we request that the names of uninvolved, witness officers and the assigned investigators be removed from the report, consistent with your 2016 report.
In closing, we would like to thank your office and The Bromwich Group for your work on this important report. As outlined above, we believe the implementation of these recommendations will further strengthen MPD’s policies and procedures regarding use of force. Please do not hesitate to contact us if you have any further questions.

Sincerely,

Robert J. Contee III
Acting Chief of Police
APPENDIX A
Regulations pertaining to the use of force by law enforcement officers are outlined in chapter six of the District of Columbia Code of Municipal Regulations (DCMR), the Fourth Amendment of the United States (U.S.) Constitution, and various other sections in the Official Code of the District of Colombia (D.C. Official Code). The DCMR provides guidance regarding a law enforcement officer’s use of force including, but not limited to, outlining the circumstances permitting appropriate levels of force and imposing restrictions on firearm discharges. The Fourth Amendment of...
the U.S. Constitution guarantees people “the right to be secure in their persons” and provides a framework in which the courts can evaluate the use of force by law enforcement officers, including the “objective reasonableness” standard established in *Graham v. Connor* 490 U.S. 386 (1989). The purpose of this order is to outline when members may use force.

II. **POLICY**

The policy of the Metropolitan Police Department (MPD) is to value and preserve the sanctity of human life at all times, especially when lawfully exercising the use of force. Therefore, MPD members 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. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to the threat faced by him, her, or others.

III. **DEFINITIONS**

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

1. **Active resistance** – physically evasive movements to defeat or deflect the member’s attempts to control a subject, including but not limited to, bracing, tensing, pushing, or verbally signaling an intention not to be taken into or retained in custody, provided that the intent to resist has been clearly manifested.

2. **Carotid artery hold (“sleeper hold” or “v hold”)** – any technique which is applied in an effort to control or disable a person by applying pressure or force to the carotid artery or the jugular vein or the sides of the neck with the intent or purpose of controlling a person’s movement or rendering a person unconscious by constricting the flow of blood to and from the brain (D.C. Official Code, § 5-125).

3. **Less lethal weapon** – any object or device deployed with the intent or purpose of nullifying a threat without causing death (e.g., rubber bullets, oleoresin capsicum spray, and tactical batons).

4. **Member** – sworn or civilian employee of MPD or MPD Reserve Corps member.

5. **Non-deadly force** – any use of force that, when employed in accordance with Department training, is neither likely nor intended to cause death or serious physical injury.

6. **Objective reasonableness** – the standard requiring the reasonableness of a particular use of force must be judged from the perspective of a reasonable member on the scene in light of the facts and circumstances confronting the member.
7. Resisted handcuffing – occurs when a person actively resists being placed in handcuffs, and the member must forcibly move the person’s wrists or arms, or physically maneuver the person’s body so that the handcuffs can be applied. The “resistance” may range from an active struggle to a person simply “locking” his or her arms to prevent their being moved to the handcuff position.

8. Serious physical injury – any injury or illness that results in admission to the hospital or that creates a substantial risk of death, serious disfigurement, loss of consciousness, disability, a broken bone, or protracted loss or impairment of the functioning of any body part or organ.

**NOTE:** Admission to the hospital must be directly associated with the use of force, and should not include treatment or hospitalization for those injuries incurred prior to the use of force (e.g., drug or alcohol use, medical conditions such as high blood pressure).

9. Serious use of force – actions by members including:
   a. All firearm discharges by a member with the exception of range and training incidents, and discharges at animals;
   b. All uses of force by a member resulting in a serious physical injury;
   c. All head strikes with an impact weapon;
   d. All uses of force by a 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;
   e. All incidents where a person receives a bite from an MPD canine;
   f. All uses of force by an MPD member involving the use of neck restraints or techniques intended to restrict a subject’s ability to breathe; and
   g. All other uses of force by a member resulting in a death.

10. Service weapon – any instrument issued or authorized by the Department that is used to control or overcome a subject, carried or kept readily available by MPD members.

11. Take down – maneuver in which a subject is forcibly brought to the ground.
12. Trachea hold ("arm bar hold" or "bar-arm hold") – any technique using the member’s arm, a long or short police baton, or a flashlight or other firm object that attempts to control or disable a person by applying force or pressure against the trachea, windpipe, or the frontal area of the neck with the purpose or intent of controlling a person's movement or rendering a person unconscious by blocking the passage of air through the windpipe. (D.C. Official Code, § 5-125.02)

13. Use of force – any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer.

a. The following actions are designated “reportable uses of force”:

   (1) Deadly force;
   (2) Serious use of force;
   (3) Use of a less-than-lethal weapon;
   (4) Any use of force indicating potential criminal conduct by a member; and
   (5) Any use of force resulting in injury or a complaint of injury or pain where the injury or pain is directly associated with a member’s use of force.

b. The following actions are designated “reportable force incidents” as long as the use of force does not result in injury or a complaint of injury or pain:

   (1) All solo or team takedowns, where there is no complaint of pain or injury; and
   (2) The drawing and pointing of a firearm at, or in the direction of, another person when no other force was used.

NOTE: Minor injury or discomfort resulting from the application and general wearing of handcuffs is not, in and of itself, considered a “reportable use of force” or a “reportable force incident”.

14. Use of force framework – an adaptation of the decision making model (Attachment A) specifically applicable to situations potentially resulting in the use of force. The use of force framework contains five categories of perceived threats and responses, all of which are fluid, dynamic, and non-sequential. The use of force framework allows officers to
determine which action or actions are objectively reasonable and proportional, given the perceived threat.

15. 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. This includes any use of force that clearly goes beyond that which an objectively reasonable officer would use in light of the circumstances under which the force was used, or any use of force which may rise to the level of a criminal act.

16. Vehicle ramming attack – form of attack in which a perpetrator deliberately rams, or attempts to ram, a motor vehicle at a crowd of people with the intent to inflict fatal injuries.

IV. REGULATIONS

A. All members who encounter a situation where the possibility of violence or resistance to lawful arrest is present, shall, if possible, first attempt to defuse the situation through advice, warning, verbal persuasion, tactical communication, or other de-escalation techniques. Members shall attempt to defuse use of force situations with de-escalation techniques whenever feasible.

B. When using force, members must be able to articulate the facts and circumstances surrounding their tactics, decision making, and the extent of force used in any given situation.

C. When any force response is employed, members shall:

1. Conduct a visual and verbal check of the subject to ascertain whether the subject is in need of medical care.

2. Summon medical assistance immediately if a person is injured, complains of pain, or demonstrates life-threatening symptoms as established in GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).

3. Render first aid as soon as the scene is safe.

D. Any excessive force by a member may subject him or her to disciplinary action and possible criminal prosecution or civil liability.

E. Use of Force Framework (Attachment B)

1. The use of force framework contains five categories of perceived threats and responses, all of which are fluid, dynamic, and non-sequential.
a. Member’s Perception of the Threat:

(1) Cooperative – the subject responds in a positive way to a member’s presence and is easily directed with verbal requests and commands. The subject who requires control or searching offers no resistance.

(2) Passive resister – the subject displays a low level of noncompliant resistance. The noncompliance is passive, and offers no physical or mechanical energy. The subject does not respond to a member’s lawful request or commands and may be argumentative.

(3) Active resister – the subject is uncooperative and will not comply with the member’s requests or comments. The subject exhibits physical and mechanical defiance, including evasive movements to defeat the member’s attempt at control, including but not limited to, bracing, tensing, pushing, or verbally signaling an intention not to be taken into or retained in custody, provided that the intent to resist has been clearly manifested.

(4) Assaultive – the subject has gone beyond the level of simple non-cooperativeness, and is actively and aggressively resisting the officer’s attempt to arrest. The subject has demonstrated a lack of concern for the member’s safety; however, the subject does not pose an immediate threat of death or serious bodily injury to the member or others.

(5) Serious injury or death – the subject poses an immediate danger of death or serious physical injury to the member or to another person, but not himself or herself. The subject’s actions demonstrate his or her intent to inflict death or serious injury upon the member or another person immediately.

b. Member’s Force Response:

(1) Cooperative controls – the least physical force response category on the use of force framework. Cooperative controls include communication skills with cooperative subjects and are often achieved by non-verbal acts such as gestures, stance, and facial expressions in accordance with Department training and standards.

(2) Contact controls – low-level mental and physical tactics to gain control and cooperation. The contact controls can
be psychologically manipulative (e.g., strong verbal persuasion) as well as physical (e.g., soft empty hand control, firm grip, and escorting), and can include additional verbal persuasion skills or waiting for backup to show strength in numbers in accordance with Department training and standards.

(3) Compliance techniques – actions [e.g., control holds, joint locks, and oleoresin capsicum (OC) spray, solo or team takedowns] that may induce pain or cause discomfort to the subject who is actively resisting until control is achieved, but will not generally cause an injury when used in accordance with Department training and standards.

(4) Defensive tactics – actions to forcibly render the subject into submission; however, these actions are not likely nor designed to cause death or serious physical injury. The purpose of defensive tactics is primarily the safety of the member and others. Examples of “defensive tactics” include the use of ASP baton strikes, chemical agents, and electronic control devices (ECDs) in accordance with Department training and standards.

(5) Deadly force – any use of force likely to cause death or serious physical injury. The primary purpose of deadly force is to neutralize a subject who poses an immediate threat of death or serious injury to the member or others; however, this does not include a subject who poses a threat solely to himself or herself. Examples include, but are not limited to, the use of a firearm or a strike to the head with a hard object.

2. In response to a perceived threat, members shall apply the proportionate and objectively reasonable force response, as outlined in the use of force framework. To ensure the force response is objectively reasonable and proportionate to the perceived threat, members shall:

a. Continuously assess the threat and develop strategies, consider their authority and Department policies, identify options and contingencies, take action and review, and gather information. This approach requires members to:

(1) Consider the seriousness of the crime, the level of threat or resistance presented by the suspect, the imminence of danger, the suspect’s mental capacity, his or her access to weapons, agency policies, and available options (e.g., calling upon members with specialized training for assistance).
(2) Initiate the proportionate and objectively reasonable force response, when feasible, to overcome resistance.

(3) Modify their level of force in relation to the amount of resistance offered by a suspect. As the subject offers less resistance, the member shall lower the amount or type of force used. Conversely, if resistance escalates, members are authorized to respond in an objectively reasonable manner.

(4) Intervene in and subsequently report any use of force incident in which they observe another member utilizing excessive force or engaging in any type of misconduct.

3. Members shall not use techniques or defensive weapons when employing force unless they have received the requisite training and the technique or weapon has been approved for use by the Department. However, members may employ force as necessary to protect the life of a civilian or member subject to the imminent threat of death or serious physical injury, when no other options are feasible, and the force is objectively reasonable and proportionate to the perceived threat.

F. Conditions that May Authorize the Use of Non-Deadly Force

1. A member’s decision to use non-deadly force shall involve one or more of the following considerations:

   a. To protect life or property;

   b. To make a lawful arrest;

   c. To prevent the escape of a person in custody;

   d. To control a situation, or subdue and restrain a resisting individual; or

   e. To effect a lawful stop of a fleeing individual.

2. A member shall use the force response that is reasonably necessary to bring the situation under control. If de-escalation tactics are not effective, the member may use an increasing level of force to overcome the level of resistance, as long as the force response remains proportionate to the perceived threat. As soon as the incident is under control, the member’s use of force response shall diminish proportionally.
G. Conditions that May Authorize the Use of Deadly Force

1. Authorized Use of Deadly Force:
   a. Defense of Life

      Members may use deadly force in the performance of police duties under the following circumstances:

      (1) When it is necessary and objectively reasonable; and

      (2) To defend themselves or another from an actual or threatened attack that is imminent and could result in death or serious bodily injury; and

      (3) When all other options have been exhausted or do not reasonably lend themselves to the circumstances.

   b. Fleeing Felon

      To apprehend a fleeing felon only when every other reasonable means of affecting the arrest or preventing the escape has been exhausted; and

      (1) The suspect fleeing poses an immediate threat of death or serious bodily harm to the member or others; or

      (2) There is probable cause to believe the crime committed or attempted was a felony that involved an actual or threatened attack that could result in death or serious bodily harm; and

         (a) There is probable cause to believe the person fleeing committed or attempted to commit the crime, and

         (b) Failure to immediately apprehend the person places a member or the public in immediate danger of death or serious bodily injury; and

         (c) The lives of innocent persons will not be endangered if deadly force is used.

2. Unauthorized Use of Deadly Force
   a. Members shall not use deadly force in any circumstance other than those outlined Part IV.G.1.
b. Members shall not utilize deadly force against subjects that only present a threat of harm to themselves.

H. Less Lethal Weapons

1. The objective of less lethal weapons is to preserve human life and prevent further escalation of force.

2. Less lethal weapons may only be used by members with the appropriate specialized training.

3. During instances of civil disobedience, members shall follow use of force procedures outlined in Department SOP-16-01 (Handling First Amendment Assemblies and Mass Demonstrations).

I. Positional Asphyxia Precautions

1. In order to avoid asphyxiation, members shall:
   a. Whenever possible, avoid tactics that may impede a subject’s ability to breathe, result in chest or throat compressions, or airway blockage.
   b. Position the individual in a manner to allow free breathing once the subject has been controlled and placed under custodial restraint using handcuffs or other authorized methods.
   c. Seek medical assistance immediately if a person appears to be having difficulty breathing or is otherwise demonstrating life-threatening symptoms. An official shall direct that alternative means to maintain custody be utilized, if appropriate.

2. Members are prohibited from:
   a. Placing a person in a prone position (i.e., lying face down) for a prolonged period of time or during transport except during exigent circumstances. Prisoners shall be carefully monitored while in a prone position as a prone position may be a contributing factor to cause a prisoner to suffocate, also referred to as positional asphyxiation.
   b. Employing unauthorized use of restraints while transporting a subject in a vehicle.
   c. Attaching handcuffs or flex-cuffs to leg restraints in such fashion that forces the legs and hands to be close to one another (i.e., “hog-tying”).

J. Neck Restraints
1. The use of neck restraints of any kind including, but not limited to, the use of “trachea holds” and “carotid artery holds” as they are defined in D.C. Official Code § 5-125.02 are not authorized use of force options and are prohibited.

NOTE: Members are reminded of the legal restrictions against certain types of neck restraints outlined in D.C. Official Code § 5-125.01, et seq. (Limitation on Chokehold), and that members who use a “trachea hold” or “carotid artery hold” may be found in violation of the law.

2. In the event that a member employs a neck restraint or chokehold of any kind, he or she shall request emergency medical services immediately.

K. Use of the Department-Issued Firearm

1. When feasible, members shall identify themselves as a police officer and issue a verbal warning before discharging a firearm.

2. No member shall discharge his or her firearm under the following circumstances:
   a. As a warning;
   b. Into a crowd;
   c. In a felony case which does not involve an actual attack, but involves a threatened attack, unless the member has reasonable cause to believe the threatened attack is imminent and could result in death or serious bodily injury;
   d. In any misdemeanor offense, unless under exceptional circumstances;
   e. Solely to protect property interests; or
   f. To stop an individual on mere suspicion of a crime simply because the individual flees.

3. Members shall not discharge their firearms either at or from a moving vehicle unless deadly force is being used against the member or another person. For purposes of this order, a moving vehicle is not considered deadly force except when it is reasonable to believe that the moving vehicle is being used to conduct a vehicle ramming attack. Members shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them.

4. No member shall draw and point a firearm at or in the direction of another person unless there is a reasonable perception of a substantial
risk that the situation may escalate to the point where deadly force would be permitted.

a. When it is determined that the use of deadly force is not necessary, as soon as practicable, firearms shall be secured or holstered.

b. Drawing and pointing a firearm at or in the direction of a person is a reportable incident and members shall notify an official in accordance with SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF: PD Forms 901-g and 901-h).

5. In accordance with GO-RAR-901.01 (Handling of Service Weapons), no member of the Department shall carry, use, or discharge any unauthorized ammunition in their issued service weapons. Members shall not obtain service ammunition from any source except through official Department channels. Members are further required to carry only the requisite amount of service ammunition as applicable to the authorized service weapon they are utilizing.

L. Carrying Prohibited Weapons

1. Members shall not:

   a. In the normal exercise of their responsibilities, carry, use or discharge any firearm or other weapon, except those issued or approved for use by the MPD under direction of the Chief of Police.

   b. Carry any Department-issued weapon prior to successfully completing Department-approved training courses directed by the Chief of Police.

   c. Carry a non-Department-issued weapon (e.g., blackjack, sap, nunchaku, kenpo stick, brass knuckle, or weighted glove).

M. Pain or Injury Associated with Handcuffing

1. Members are reminded the proper application and general wearing of handcuffs may lead to complaints of minor pain or injury (e.g., pinching of skin or scratches).

2. When a subject complains of pain or injury that is associated with the application or wearing of handcuffs, members shall notify an official.

   a. The official shall investigate the complaint or injury and document his or her findings in the PD Form 313 (Prisoner Illness/Injury Report) in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).
(1) If the investigating official determines the subject's injury or complaint of pain is exclusively the result of the application and wearing of handcuffs, no further force-related investigation or reporting is necessary.

Example: A member places handcuffs on a non-resistant subject. The subject claims the handcuffs are causing him discomfort but the official concludes the pain is due exclusively to discomfort associated with wearing handcuffs.

(2) If the investigating official determines the subject's injury or complaint of pain is not exclusively the result of the application and wearing of handcuffs or force was required to apply the handcuffs, he or she shall initiate a use of force investigation in accordance with GO-RAR-901.08 (Use of Force Investigations).

Example: The subject complains of discomfort in his right wrist. During the investigation, the arresting member tells the official he had to twist the subject's right wrist in order to place him in handcuffs. The official concludes the subject's discomfort is associated with the member's action of twisting the subject's wrist, not exclusively the discomfort associated with wearing handcuffs.

b. Investigating officials shall provide counseling and conduct an administrative investigation as appropriate for policy violations in cases where, based on the totality of circumstances, a member applied the handcuffs improperly, but the associated injury does not warrant a use of force investigation.

Example: The arresting member places handcuffs on an unresisting subject but neglects to activate the double-lock function. Since the handcuffs are not double-locked, the subject inadvertently tightens them on himself while he is transported back to the station. The tightening of the handcuffs results in a minor rash on the prisoner's right wrist. This injury is due to the wearing of handcuffs and is therefore not a reportable use of force; however, it would not have occurred if the member had applied the handcuffs properly.

N. Members are prohibited from employing any use of force technique or defensive weapon against a subject in handcuffs unless the subject is engaged in assaultive behavior as described in this order or the subject is attempting to escape police custody or resisting members’ efforts to maintain custody of the individual (e.g., the subject will not get out of the transport vehicle). In these cases, members shall limit their force responses to 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.

O. Civilian Employees of the Department

1. Civilian employees of the department are prohibited from receiving or carrying Department-issued weapons of any kind.

NOTE: Civilian employees may handle weapons when required as part of their assigned duties (e.g., civilian firearm instructors, civilian firearm examination technicians, civilian evidence technicians).

2. Civilian members shall only use force in defense of themselves or others.

P. Reporting Use of Force Incidents

1. All incidents involving a reportable use of force, as defined in Part III.13.A of this order, shall be reported in accordance with SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)]. All reportable force incidents shall be reported in accordance with SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF: PD Forms 901-g and 901-h)].

Example 1: A member uses OC Spray on a subject. This is a reportable use of force and requires the completion of a PD Form 901-e (commonly referred to as a “UFIR”) in accordance with SO-10-14.

Example 2: A member employs a takedown technique to bring a resistive subject to the ground so he or she can be placed in handcuffs. The takedown and handcuffing does not result in injury or complaint of pain or injury. The use of a takedown is a reportable force incident and requires the completion of a PD Form 901-g (commonly referred to as a “RIF”) in accordance with SO-06-06.

2. Members who are aware of a complaint regarding the use of force by another member shall notify their supervisor.

V. ATTACHMENTS

Attachment A: Decision Making Model

Attachment B: Use of Force Framework

VI. CROSS REFERENCES

A. Directives
1. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)
2. GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners)
3. GO-RAR-901.01 (Handling of Service Weapons)
4. SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF: PD Forms 901-g and 901-h)]
5. SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)]
6. SOP-16-01 (Handling First Amendment Assemblies and Mass Demonstrations)

B. D.C. Official Code

1. D.C. Official Code, § 5-125 (Limitation on Chokeholds)

Peter Newsham
Chief of Police

PN:KDO:MOC:SMM

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<tr>
<th>Amendment #</th>
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<th>Description of Change</th>
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<th>Name and Title of Authorizing Member</th>
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<td>1</td>
<td>11</td>
<td>Revised Part IV.K.2.outline format to include the previously missing letter “d”.</td>
<td>11/7/2017</td>
<td>Maureen O’Connell, Director, Policy and Standards Branch</td>
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The goal of **every** encounter is Voluntary Compliance!

Officers must continually
- Gather information and assess the threat.
- Consider authority, policy and tactics.
- Identify options and contingencies.
- Develop a strategy.
- Take action and review.

Threat Assessment Observation should include the subject’s:
- Emotional state.
- Resitive Tension.
- Early warning signs.
- Pre-attack postures or Gestures.
- Access to a Weapon.
- Apparent willingness to sustain injury.
The goal of **every** encounter is Voluntary Compliance!

Officers must continually
- Gather information and assess the threat.
- Consider authority, policy and tactics.
- Identify options and contingencies.
- Develop a strategy.
- Take action and review.

Resistance and response are dynamic. The subject’s behavior and the use of force to control it may escalate or de-escalate during any given altercation until complete control of the subject is achieved.

Immediately summon emergency medical assistance and render first aid as soon as the scene is safe.
APPENDIX B
GENERAL ORDER

DISTRICT OF COLUMBIA

Subject
Use of Force Investigations

Topic | Series | Number
--- | --- | ---
RAR | 901 | 08

Effective Date
September 13, 2017

Replaces:
GO-RAR-901.08 (Use of Force Investigations), Effective Date October 7, 2002

Related to:
GO-RAR-901.01 (Handling of Service Weapons)
SO-06-06 (Instructions for Completing the Reportable Incident Form)
SO-10-14 (Instructions for Completing the Use of Force Incident Report)
SO-12-18 (Preliminary Reports)

Rescinds:
TT-06-049-08 (Administrative Processes for Instances Involving Hand Controls), Issued June 13, 2008
GOC-10-04 [GO-RAR-901.08 (Use of Force Investigations)], Effective Date August 16, 2010
TT-01-074-14 (Internal Affairs Division Use of Force Investigative Responsibilities), Issued January 29, 2014
TT-08-019-17 (Electronic Control Device and Extended Impact Weapon Investigations), Issued August 7, 2017

I. BACKGROUND

Accurate and timely reporting of use of force incidents is essential for Department monitoring and training. Fair and accurate follow-up investigations of use of force incidents increase Department and community awareness of the integrity and appropriateness of decisions to use force. Use of force investigations enhance the Department’s ability to make decisions regarding the incident and to provide necessary guidance to members on appropriate levels of use of force.
II. POLICY

The policy of the Metropolitan Police Department (MPD) is to value and preserve the dignity of human life at all times; especially when lawfully exercising the use of force. Therefore, MPD members 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. When using force, members shall continuously reassess the perceived threat in order to select the reasonable use of force response, or one that is proportional to threat faced by him, her, or others.

Furthermore, it is the policy of the MPD to investigate all reportable use of force incidents and to ensure a thorough and impartial investigation into the decision to use force by its members.

III. DEFINITIONS

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

1. 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.

2. Duty status – the designation of a police authority category granted by the Department to a member as it relates to the permission and ability to engage in the full spectrum of authorized police duties.

3. Less lethal weapon – any object or device deployed with the intent or purpose of nullifying a threat without causing death (e.g., rubber bullets, oleoresin capsicum (OC) spray, electronic control devices (ECD), tactical batons).

4. Member – sworn or civilian employee of the MPD or MPD Reserve Corps member.

5. Objective reasonableness – the standard requiring that the reasonableness of a particular use of force must be judged from the perspective of a reasonable member on the scene in light of the facts and circumstances confronting the member.

6. Preponderance of the evidence – the standard of proof in administrative investigations in which it is more likely than not that the event occurred.

7. Probable cause – a set of facts, circumstances, or reliable information that would lead a reasonable, prudent, and cautious police officer to believe a crime has been or is about to be committed and that a certain person committed it.
8. Serious physical injury – any injury or illness that results in admission to the hospital or that creates a substantial risk of death, serious disfigurement, loss of consciousness, disability, a broken bone, or protracted loss or impairment of the functioning of any body part or organ.

**NOTE:** Admission to the hospital must be *directly associated* with the use of force, and should not include treatment or hospitalization for those injuries or illnesses incurred prior to the use of force (e.g., drug or alcohol use, medical conditions such as high blood pressure).

9. Serious use of force – actions by MPD members, including:

a. All firearm discharges by a member with the exception of range and training incidents, and discharges at animals;

b. All uses of force by a member resulting in a serious physical injury;

c. All head strikes with an impact weapon;

d. All uses of force by a 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;

e. All incidents where a person receives a bite from an MPD canine;

f. All uses of force by an MPD member involving the use of neck restraints or techniques intended to restrict a subject’s ability to breathe; and

g. All other uses of force by a member resulting in a death.

10. Use of force – any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer.

a. The following actions are designated “reportable uses of force” and require the completion of a PD Form 901e [Use of Force Incident Report (UFIR)]:

   (1) Deadly force;

   (2) Serious use of force;

   (3) Use of a less lethal weapon;
(4) Any use of force indicating potential criminal conduct by a member; and

(5) Any use of force resulting in injury or a complaint of injury or pain where the injury or pain is directly associated with a member's use of force.

b. The following actions are designated “reportable force incidents” as long as the use of force does not result in injury or a complaint of injury or pain and require the completion of a PD Form 901g [Reportable Incident Form (RIF)]:

(1) All solo or team takedowns, where there is no injury or complaint of pain or injury;

(2) The drawing and pointing of a firearm at, or in the direction of, another person when no other force was used.

NOTE: In accordance with GO-RAR-901.07 (Use of Force), minor injury or discomfort resulting from the application and general wearing of handcuffs is not, in and of itself, considered a “reportable use of force” or a “reportable force incident”.

11. 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 where there is corroborating information indicating potential criminal conduct or other serious misconduct. This includes any use of force that clearly goes beyond that which an objectively reasonable officer would use in light of the circumstances under which the force was used, or any use of force which may rise to the level of a criminal act.

IV. REGULATIONS

A. Investigative Responsibilities

1. Use of force investigations shall be conducted by the Internal Affairs Division (IAD), Criminal Investigations Division (CID), Security Officers Management Branch (SOMB), or chain of command officials, as outlined in this section.

2. The Internal Affairs Division shall be responsible for investigating the following types of incidents:

   a. All incidents involving deadly force, serious use of force, or the use of force indicating potential criminal conduct as defined in Part III of this order.
b. With the exception of discharges at an animal and firearm range and training incidents, any discharge of a service pistol; authorized off-duty pistol; duty shotgun; or duty rifle, regardless of location, by a sworn member of the following agencies:

(1) MPD;

(2) District of Columbia Housing Authority Police;

(3) Authorized, armed members of the District of Columbia Fire and Emergency Medical Services Department’s Arson Investigation Unit; and


c. Fatal and non-fatal shootings within the District of Columbia resulting from the discharge of a firearm involving any on-duty sworn active law enforcement member from an outside law enforcement agency, acting under the color of law, except for non-fatal shootings and non-fatal uses of force by members of the United States Park Police (USPP).

(1) MPD IAD shall investigate all fatal shootings and fatal uses of force by USPP.

(2) Non-fatal shootings and non-fatal uses of force by the USPP will be investigated by the USPP.

d. Fatal use of force incidents within the District of Columbia involving commissioned special police officers and armored car guards in the performance of their duties.

**NOTE:** Non-fatal use of force incidents involving special police officers that fall under the purview of SOMB will be investigated by SOMB.

e. Any use of force resulting in the death of a subject by any police officer employed by a bona-fide police agency legally empowered to operate or function within the District of Columbia.

f. All deaths while the deceased was in the custody or under the control of any member of MPD, or while the deceased was housed in any facility under the exclusive command of MPD.

g. MPD vehicular pursuits resulting in death.
h. Negligent discharges by a member while handling a weapon that has been recovered as evidence.

i. The final investigation for all use of force incidents involving ECDs and extended impact weapons, except discharges at animals and training incidents.

j. Any use of an MPD canine resulting in a bite, to include any allegations of a canine bite.

k. MPD confirmed head strikes with an impact weapon, or any other object, excluding allegations with no corroborative evidence or resulting injury.

l. Complaints of excessive force where the Internal Affairs Bureau (IAB) identifies potential criminal conduct by an MPD member:

   (1) This includes any use of force that clearly goes beyond that which an objectively reasonable officer would use in light of the circumstances under which the force was used, or any use of force that may rise to the level of a criminal act; and

   (2) This does not include complaints of illegal or improper searches, unless the search severely and negatively impacts the civil rights of any individual involved.

   NOTE: In accordance with the Neighborhood Engagement Achieves Results Act of 2015 (D.C. Law 21-125; D.C. Official Code § 5-1107), members are reminded that MPD is required to notify the Office of Police Complaints (OPC) of all external complaints received regarding sworn members. The OPC is responsible for determining whether MPD or OPC will investigate individual complaints.

m. MPD collateral misconduct directly related to an IAD use of force investigation.

n. Other investigations as directed by the Chief of Police or the Assistant Chief of the IAB.

3. The Criminal Investigations Division (CID) shall be responsible for investigating the following types of incidents in the District of Columbia:

a. With the exception of the incidents outlined in Part IV.A.2, all firearm discharges by a retired MPD member or an outside law enforcement member (active or retired) authorized to carry a concealed weapon under H.R. 218 [Law Enforcement Officers Safety Act (Title 18 U.S. Code, Section 926)];
b. MPD member suicides, regardless of the means; and

c. Any discharge of a privately owned firearm not authorized for off-duty use unless used under the color of law within the District of Columbia by a sworn member of the agencies identified in Part IV.A.2.b.

4. The SOMB shall be responsible for investigating non-fatal use of force incidents involving special police officers that fall under their purview.

NOTE: SOMB does not regulate or investigate private security working as a contractor for the federal government on federal property or armored car guards.

5. The involved member’s chain of command shall be responsible for investigating the following incidents involving MPD members:

a. All reportable use of force incidents not investigated by IAD, CID, or SOMB;

b. Firearms range and training incidents;

c. Discharges at animals; and

d. The preliminary investigation for all ECD and extended impact weapon deployments.

B. No supervisor who was involved in a use of force shall be responsible for the investigation.

C. In chain of command investigations, the commanding official may delegate responsibility for conducting the investigation to another official, as long as the official is of a higher rank than the involved member.

D. The standard of review in a criminal investigation is probable cause. The standard of review in an administrative investigation is a preponderance of the evidence.

E. IAD shall reserve the right and have the authority to assume control of the investigation of any force-related incident.

F. Investigating officials, regardless of the type of investigation (e.g., IAD, chain of command) shall review relevant body-worn camera (BWC) recordings and document findings during the course of an investigation in accordance with GO-SPT-302.13 (Body-Worn Camera Program).

G. In the event that a civilian member of the Department uses force during the performance of his or her official duties, the member shall immediately report
the force to an on duty official assigned to his or her element, and the incident shall be investigated in accordance with MPD policies and procedures.

H. 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).

I. The Collective Bargaining Agreement between MPD and the Fraternal Order of Police shall not be superseded by this order.

V. PROCEDURES

A. Members Involved in a Use of Force Incident

1. In accordance with GO-RAR-901.07 (Use of Force), when members use force they shall:

   a. Conduct a visual and verbal check of the subject to ascertain whether the subject is in need of medical care.

   b. Summon medical assistance immediately if a person is injured, complains of pain, or demonstrates life-threatening symptoms in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).

   c. Render first aid as soon as the scene is safe.

B. Notification and Reporting of Use of Force Incidents

1. In accordance with GO-RAR-901.07 (Use of Force), members shall intervene and subsequently report any use of force incident in which they observe another member using excessive force or engaging in any type of misconduct.

2. After an incident involving a “reportable use of force” as defined by Part III.10.a of this order, members shall immediately notify a supervisor and prepare the associated reports in accordance with SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)].

3. After an incident involving a “reportable force incident”, as defined by Part III.10.b of this order, members shall prepare the associated reports in accordance with SO-06-06 [Instructions for Completing the Reportable Incident Form (RIF:PD Form 901-g and 901-h)].
C. Initiating Use of Force Investigations

1. Supervisors of higher rank than the reporting member shall respond to all use of force incidents (i.e., reportable uses of force and reportable force incidents).

   a. Supervisors shall be guided by Part IV.A to determine which unit (i.e., IAD, CID, SOMB, or the member’s organizational element) is responsible for conducting the investigation, when required, and make notifications accordingly.

   b. Watch commanders shall respond to the scene of all serious uses of force, all uses of force indicating potential criminal conduct, and all ECD and extended impact weapon deployments.

      (1) For all ECD and extended impact weapon deployments, prior to the end of their shift, watch commanders shall obtain incident summary (IS) numbers and email a completed PD Form 901b (Preliminary Report Form – Use of Force Incidents) along with any supporting documentation (e.g., Arrest Report, Incident Report) to iad.adminbox@dc.gov with carbon copies (cc) to the involved member’s chain of command officials, to include the official’s administrative captain.

      (2) The IAD shall be responsible for conducting the final investigation of all deployments of ECDs and extended impact weapons.

   c. District watch commanders or appropriate element supervisors shall ensure the Office of Unified Communications (OUC) and Command Information Center (CIC) are notified of all reportable use of force incidents.

D. Investigation of Use of Force Incidents within the District of Columbia

1. Rights of Members Involved in Use of Force Incidents

   a. In all cases involving deadly force, serious use of force, or any force indicating potential criminal conduct, the involved members shall not be compelled to make a statement (including interviews that are recorded by video or audio) until one of the following occurs:

      (1) The United States Attorney’s Office (USAO) has issued a written declination; or
(2) The element watch commander receives approval from the on-call IAD manager (lieutenant or above) to issue a reverse garrity warning.

b. In accordance with GO-SPT-302.13 (Body-Worn Camera Program), members shall be permitted to view the use of force incident from their body-worn camera prior to making a statement, except in the case of a police shooting. Pursuant to the Body-Worn Camera Program Amendment Act of 2015, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.

c. Members may consult with their own attorney prior to providing a statement in cases involving deadly force, serious use of force, or any force indicating potential criminal conduct.

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

a. The notified supervisor shall:

   (1) Ensure the scene is maintained and preserved.

   (2) Ensure witness canvasses are conducted.

   (3) Provide the assistance of district personnel to IAD members conducting the investigation, as necessary.

b. The watch commander on the scene of a serious use of force shall ensure:

   (1) All members involved in, or witness to, the force incident deactivate their BWCs as soon as the scene is secure.

   (2) All members’ BWCs and Department-issued cell phones are collected and turned over to the ranking IAD member as soon as he or she arrives on the scene.

   (3) If a member is injured and must leave the scene to seek medical care, that the member’s BWC and Department-issued cell phones are taken and handled in accordance with this order.

3. Response to Incidents Not Involving Deadly Force, Serious Force, or Force Indicating Potential Criminal Conduct
a. All reportable uses of force not investigated by IAD, CID, or SOMB shall be investigated by the involved member’s chain of command.

b. Upon determination that a reportable use of force is to be investigated by the involved member’s chain of command, the notified supervisor shall:

   (1) Notify the watch commander.

   (2) Conduct the initial investigation, including notifying any other relevant investigate personnel (e.g., CID, IAD, or SOMB).

   (3) Request incident summary (IS) numbers from the Personnel Performance Management System (PPMS) prior to the end of the shift.

   (4) Direct the member to complete the PD Form 901-e in accordance with SO-10-14 (Instructions for Completing the Use of Force Incident Report) or the PD Form 901-g (Reportable Incident Form) in accordance with SO-06-06 (Instructions for Completing the Reportable Incident Form) and all other relevant reports.

   (5) Collect and furnish all initial documentation and forward it to the watch commander.

   (6) Interview and photograph any person on whom force was used.

   (7) Ensure that photographs of injuries to involved members and subjects are documented.

c. Watch commanders shall:

   (1) Receive all initial documentation from the notified supervisor and conduct the preliminary investigation.

   (2) If applicable, prepare the PD Form 901-b (Preliminary Report Form) in accordance with SO-12-18 (Preliminary Reports) and forward to the involved member’s chain of command officials, to include the official’s administrative captain.

   (3) Attach copies of the PD Form 901-b, 901-e, and other applicable documentation to the PD Form 150 (Tour of Duty Supervisor’s Report).
4. Interviewing Complainants, Members, and Witnesses involved in Use of Force Incidents
   a. When conducting use of force investigations, investigators shall ensure:
      (1) Whenever practicable and appropriate, complainants and witnesses are interviewed at sites and times convenient for them (e.g., residences or places of business).
      (2) Members involved in use of force incidents are sequestered until they are interviewed by a member of IAD or by appropriate supervisory personnel.
      (3) All complainants and witnesses, including MPD members, are interviewed separately.
      (4) Leading questions are avoided to the maximum extent possible.
      (5) Supervisors of the involved members are notified, as appropriate.
      (6) All appropriate MPD members, including supervisors, are interviewed.
      (7) All appropriate evidence is collected, preserved, documented and analyzed, including canvassing the scene to locate witnesses and obtaining complainant medical records, where appropriate.
      (8) Any inconsistencies in member, complainant, and witness interview statements gathered during the investigation are identified and reported in writing.

5. Investigation of Offenses Leading Up to a Serious Use of Force Incident
   a. When applicable, a CID official shall designate a lead investigator for the crime that led up to the use of force.
   b. CID 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.
   c. CID 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.
d. Members from the Department of Forensic Science/Crime Scene Investigations Division (DFS/CSID) will respond and be responsible for evidentiary crime scene processing.

e. The DFS/CSID evidence technician handling the scene shall be required to coordinate all evidentiary information with IAD throughout the duration of the investigation.

E. Use of Force Incidents Outside of the District of Columbia

1. In incidents where a member is involved in a use of deadly force, a serious use of force, or a use of force indicating potential criminal conduct outside of the District of Columbia, whether on or off duty:

   a. The member shall immediately notify the watch commander of his or her element through the CIC.

   b. After receiving notification from his or her assigned member, the watch commander shall notify IAD via the CIC.

   c. An IAD investigator shall respond to the scene immediately.

   d. The jurisdiction of occurrence will maintain primary responsibility for the criminal investigation.

   e. IAD shall initiate a concurrent administrative investigation and shall work closely with the investigators from the originating police jurisdiction.

2. In incidents where a member is involved in a use of force other than deadly force, serious force, or force indicating potential criminal conduct outside of the District of Columbia, whether on or off duty:

   a. Members shall make the required notifications in accordance with Part V.E.1 of this order.

   b. An official from the involved member’s organizational element shall respond to the scene.

   c. In such cases, the appropriate law enforcement authority of the jurisdiction of occurrence will handle all criminal investigations.

   d. IAD shall only conduct a policy review in this circumstance.
F. Use of Force Incidents Indicating Potential Criminal Conduct

1. IAD shall consult with the USAO about incidents of serious use of force, deadly force, use of force indicating potential criminal conduct, and in-custody deaths involving an MPD member.

2. The USAO or relevant prosecuting authority will make the determination as to whether criminal wrongdoing is present in any use of force incident for allegations referred to them.

3. When evidence of criminal wrongdoing is determined, IAD shall:
   a. Coordinate prosecutorial needs between the USAO or other appropriate prosecuting entity and the affected element or investigative unit.
   b. Serve as a liaison with other applicable law enforcement agencies.

G. In-Custody Deaths

1. When a member becomes aware of a possible in-custody death, the initial responsibilities of the member 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 Department custody shall be reported immediately to both the IAD and the CID.

3. In cases involving in-custody deaths, CID shall respond to the scene immediately and be responsible for completing the PD Form 120 (Death Report) and an Incident Report.

4. IAD shall consult with the USAO about in-custody deaths and shall be responsible for conducting the investigation.

H. Determination of Duty Status of Involved Members

Determination as to the duty status members involved in use of force incidents shall be made pursuant to GO-RAR-901.11 (Force-Related Duty Status Determination).

I. Internal Affairs Division Investigations

1. IAD investigators shall:
   a. Respond to the scene of the incident, except for ECD and extended impact weapon deployments, and assume responsibility for the investigation.
NOTE: IAD investigators are not required to respond to the scene of ECD and extended impact weapon deployments, but they are responsible for completing the final investigation in accordance with this order.

b. Ensure BWCs and Department-issued cell phones from all members involved in, or witness to, the force incident have been collected from the watch commander as soon as the scene is secure, and ensure:

(1) The related recordings are immediately uploaded into Evidence.com;

(2) Recordings are labeled and categorized in accordance with GO-SPT-302.13 (Body-Worn Camera Program); and

(3) BWCs and Department-issued cell phones are transferred to an official in the members’ unit for return to members prior to their next shift.

c. When interviewing complainants, members, and witnesses involved in a use of force incident, comply with the provisions outlined in Part V.D.4 of this order.

d. Record by audio or video in conformance with applicable laws and MPD directives the interviews of subjects, involved members, and material witnesses. If a subject or non-member witness refuses to be recorded, then a written narrative of the statement shall be prepared to be signed by the witness.

e. For the following incidents, ensure that all recorded statements are transcribed and included in the investigative file:

(1) Fatal uses of force;

(2) Police shootings resulting in injury;

(3) Cases where identified misconduct will likely result in an adverse action hearing;

(4) In-custody deaths;

(5) Vehicle pursuits resulting in a fatality; and

(6) Any other cases as determined by the commanding official of IAD.

f. Prior to being relieved from duty:
(1) Submit a preliminary report to the Assistant Chief of IAB.

(2) Prepare a transmittal document for the Mayor of the District of Columbia from the Chief of Police describing the circumstances of any accidental or performance-of-duty firearm discharge.

g. Handle all arrests of police officers related to use of force investigations.

h. Notify and consult with the USAO within 24 hours or the next business day.

i. Continue to pursue any investigative leads and collaborate with the USAO or relevant prosecuting authority while the matter is under review.

j. After receiving a Letter of Declination from the USAO or upon the conclusion of a criminal prosecution (absent special circumstances that must be documented), complete a final investigative report with conclusions and recommendations by the assigned deadline.

J. Final Use of Force Investigative Report Contents

1. For both IAD and chain of command investigations, the final investigative report shall include a description of the use of 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.

2. The proposed findings shall include a determination of whether the force was consistent with MPD policy and training, a determination as to whether proper tactics were employed, and a determination as to whether alternative levels of force were reasonably available.

3. Use of force incidents shall be classified by one of the following findings:

a. **Justified, Within Department Policy** – a use of force is determined to be justified, and during the course of the incident the subject member did not violate Department policy.

b. **Justified, Policy Violation** – a use of force is determined to be justified, but during the course of the incident the subject member violated Department policy.
c. **Justified, Tactical Improvement Opportunity** – a use of force is determined to be justified, and during the course of the incident no Department violations occurred. However, the investigation revealed tactical errors that could be addressed through non-disciplinary and tactical improvement endeavors.

d. **Not Justified, Not within Department Policy** – a use of force is determined to be not justified, and during the course of the incident the subject member violated a Department policy.

4. Allegations of excessive force or misconduct shall be classified by one of the following findings:

a. **Unfounded** – there are no facts to support that the incident occurred.

b. **Sustained** – the 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** – there is a lack of evidence to make a decision as to whether or not the alleged misconduct occurred.

d. **Exonerated** – a preponderance of the evidence shows that the alleged conduct did occur, but did not violate MPD policies, procedures, or training.

**VI. ROLES AND RESPONSIBILITIES**

A. Watch commanders shall ensure:

1. The IAD is immediately notified of any incident involving deadly force, serious use of force, or use of force indicating potential criminal conduct through the CIC.

2. All reportable uses of force and reportable force incidents are reported in writing to the IAB and IS numbers are obtained prior to the end of the shift.

B. Commanding officials shall ensure:

1. IAB 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 element level.

2. All applicable routine administrative follow-up duties regarding involved officers are carried out. Administrative duties include but are not limited to:
a. Completion of necessary event reports;
b. Issuing and updating the PD Form 77 (Notice of Revocation of Police Powers), as appropriate;
c. Adherence to the Medical Services Division and Employee Assistance Program follow-up;
d. Completing the PD Form 42 (Illness/Injury Report) certification, if applicable;
e. Completing the PD Form 43 (Report of Damage to or Loss of District Government Property) certification, if applicable;
f. Service weapon replacement;
g. Processing of the injured/arrested person (if applicable); and
h. Providing guard details.

3. Use of force investigations are completed and submitted by their assigned due dates.

C. The Commanding Official of the Metropolitan Police Academy shall ensure:
   1. Use of force training is provided to all sworn members on a semi-annual basis.
   2. Use of force training is provided to cell block technicians, to include hand controls and defensive tactics, no less than once every two years.

D. The Director of the MPD Office of the Chief Information Officer shall ensure that all computer related communications (e.g., MDC terminals) concerning a serious use-of-force incident are immediately provided to IAD.

E. The Commanding Official of IAD shall:
   1. Ensure a transmittal document is prepared for the Mayor describing the circumstances of any negligent or performance-of-duty firearm discharge.
   2. Maintain a repository of completed preliminary and final investigative reports in accordance with the Department’s records retention schedule.

F. The Assistant Chief of IAB shall:
   1. Ensure IS numbers are disseminated for all reported incidents.
2. Ensure that the relevant data for use of force incidents is entered into PPMS.

3. In instances of a negligent or performance of duty firearm discharge, serious use of force, or any use of force indicating potential criminal conduct by a member, forward the preliminary report to the Chief of Police, within 24 hours of occurrence.

G. The Chief of Police shall, in instances involving a negligent or performance of duty firearm discharge, serious uses of force, or any use of force indicating potential criminal conduct by a member, forward a transmittal to the Mayor of the District of Columbia.

H. The DFS/CSID will forward immediately a duplicate copy of all reports, communications, diagrams, lab results, and other related information of a serious use of force incident to IAD.

I. The Director of the OUC will ensure that duplicates of all related radio communication tapes of a serious use-of-force incident are provided to IAD.

VII. CROSS REFERENCES

A. GO-PER-302.13 (Body-Worn Camera Program)
B. GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners)
D. GO-RAR-901.07 (Use of Force)
E. GO-RAR-901.09 (Use of Force Review Board)
F. GO-RAR-901.11 (Force-Related Duty Status Determination)
G. SO-06-06 (Instructions for Completing the Reportable Incident Form)
H. SO-10-14 (Instructions for Completing the Use of Force Incident Report)
I. SO-12-18 (Preliminary Reports)
J. H.R. 218 [Law Enforcement Officers Safety Act (Title 18 U.S. Code, Section 926)]

Peter Newsham
Chief of Police

PN:KDO:MOC:JC
APPENDIX C
I. BACKGROUND

The purpose of this general order is to establish the Use of Force Review Board. The Use of Force Review Board focuses primarily 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 or equivalent level. The Internal Affairs Division, 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 Internal Affairs Division, 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:


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 – 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 Internal Affairs Division; 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 Internal Affairs Division 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:

1. Ensure all use of force investigations are assigned deadlines and completed in accordance with GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004).

2. Forward cases to the Use of Force Review Board at his or her discretion.

V. PROCEDURES

A. Organization

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

   a. One Assistant Chief selected by the Chief of Police, who shall serve as the Chairperson of the Board;


   c. Commanding Official, Criminal Investigations Division, Investigative Services Bureau;

   d. Commanding Official, Metropolitan Police Academy;

   e. One Commander or Inspector— who is assigned to the Patrol Services Bureau (PSB);

   (1) The Assistant Chief, PSB, shall determine the rotation schedule for commanders and inspectors to serve on the Board;
(2) Each commander/inspector shall serve on the Board for at least one (1) year;

f. Commanding Official, Recruiting Division; and

g. Commanding Official, Court Liaison Division.

2. The Use of Force Review Board shall also include the following non-voting members:

a. The Executive Director, Office of Police Complaints; and

b. One 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 Chief of Police.

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)].
9. The Chairperson shall be responsible for conducting an orientation for any newly appointed Board members. The orientation shall consist of topics including, but not limited to, a review of the MPD policies governing the Use of Force Review Board, the roles of responsibilities of Board members and IAD, and a general overview of Board operations.

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. As part of the review process, the Use of Force Review Board shall prepare a "Decision Point Matrix Analysis". This analysis shall be incorporated into the record.

4. 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** – 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** – 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** – 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** – 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** – investigation determined there are no facts to support the incident complained of actually occurred;

   b. **Sustained** – 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** – investigation determined there are insufficient facts to decide whether the alleged misconduct occurred; or

   d. **Exonerated** – 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 UFRB shall determine the findings for vehicle pursuits as defined below.

   a. **Justified** – classification reflects a finding in which a vehicle pursuit is determined to be within Department policy.
b. Not Justified – classification reflects a finding in which a vehicle pursuit is determined to be not within Department 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 Internal Affairs Division, reassign the case to the Internal Affairs Division for investigation, return the case to the Internal Affairs Division for follow up, or return the case to the investigating unit for appropriate action.

6. Any case returned to the Internal Affairs Division 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 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 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, 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 Division (DRD), Corporate Support Bureau to determine the appropriate level of discipline.

4. When the DRD receives notice of recommended discipline from the Use of Force Review Board, the Director, DRD, 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. If, at any time during the review process, the Board determines an IAD
use of force investigation to be inadequate or lacking in quality or timeliness, the Chairperson shall notify the commanding official, IAD and Assistant Chief, Internal Affairs Bureau.

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 Internal Affairs Division and notify the Assistant Chief, Internal Affairs Bureau, regarding any cases that are at risk of missing the 90-day deadline outlined in 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. Provide all pertinent reports, records, and evidence to be considered.

   f. 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.

   g. Ensure that relevant and appropriate MPD directives and/or lesson plans are available for review by Board members at the Board hearings.

   h. Prepare a summary of the Board proceedings including documenting conclusions that outline findings and recommendations.

   i. Prepare memoranda for MPD units as appropriate to transmit Board findings and recommendations.

   j. Notify the subject members and their supervisors and commanding officials of Board decisions.
k. Maintain records reflecting the adverse and corrective actions taken by the Board in response to Board decisions and recommendations.

l. Assist with the preparation of the annual reports of the Board.

m. Maintain complete historical records of Board actions including agendas, decision point matrices, meeting summaries, correspondence, and annual reports.

n. 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.

G. Office of Risk Management (ORM)

1. The Office of Risk Management shall conduct periodic audits to review the timeliness of cases pending submission to the Use of Force Review Board.

2. The primary purpose of these periodic audits shall be to identify and document cases at risk of missing the 90-day deadline outlined in GO-PER-201.22 (Fire and Police Disciplinary Action Procedure Act of 2004).

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)

Cathy L. Lanier
Chief of Police

CLL:PAB:MOC:DMH
APPENDIX D
I. BACKGROUND

When a member of the Metropolitan Police Department is engaged in a vehicular pursuit, the overriding responsibilities are the protection of human life and property. This order is designed to establish guidelines for members to follow that best protect the lives and property of all persons while member(s) are engaged in a pursuit situation.

II. POLICY

The policy of the Metropolitan Police Department is that members who initiate a pursuit shall exercise caution and operate their vehicle in a safe manner while engaged in the vehicular pursuit. As the vehicular pursuit progresses, members and officials shall continually evaluate and assess the actual conditions of the pursuit in deciding whether to continue or discontinue the vehicular pursuit.

III. DEFINITIONS

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

1. Emergency Vehicle - a Department vehicle equipped with the operable emergency warning devices listed below:
   a. Marked vehicles that have identifiable Department logos and are equipped with a siren and a beacon light mounted on the roof;
   b. Unmarked vehicles that do not have any identifiable markings, but are equipped with a siren and a portable emergency beacon light.
2. Vehicular Pursuit – an attempt by a member of this Department to apprehend a fleeing felon while in an authorized emergency vehicle with all emergency warning devices activated.

   a. Hot pursuit is a pursuit that occurs within the District of Columbia.

   b. Fresh pursuit is a hot pursuit that crosses the boundaries of the District of Columbia and enters into Maryland, Virginia or another jurisdiction.

3. Primary Unit – the first police unit that initiates a pursuit or any unit that assumes control of the pursuit.

4. Secondary Unit – the police unit that becomes involved as a backup to the primary unit.

5. Probable Cause - A set of facts, circumstances, and reliable information that would lead a reasonable and prudent officer to believe a certain crime has been committed and that a certain person committed the crime.

6. Reasonable Cause – A combination of specific facts and circumstances that would justify a reasonable officer to believe that a certain person had committed, is committing, or is about to commit a criminal act; more than a hunch or mere speculation but less than probable cause necessary to arrest; sometimes referred to as reasonable suspicion.

IV. RULES

Any member engaging in a vehicular pursuit must follow the conditions that are set forth under Part V, Section D-2, "Fleeing Felon," of GO-RAR-901.07 (Use of Force), as described below: (CALEA 41.2.2. a & i)

A. Members may use deadly force to apprehend a fleeing felon ONLY when every other reasonable means of affecting the arrest or preventing the escape have been exhausted AND,

1. The suspect fleeing poses an immediate threat of death or serious bodily harm to the member or others; OR (CALEA 1.3.2)

2. There is probable cause to believe the crime committed or attempted was a felony which involved an actual or threatened attack which resulted, or could have resulted, in death or serious bodily harm; and
a. There is probable cause to believe the person fleeing committed, or attempted to commit, the crime; AND

b. Failure to immediately apprehend the person places a member, or the public in immediate danger of death or serious bodily injury; AND

c. The lives of innocent people will not be endangered if the fleeing felon is pursued.

3. Warning to Subject

When feasible, members shall identify themselves as police officers and issue a warning before discharging a firearm.

B. Members involved in a vehicular pursuit of a suspect shall not intentionally cause physical contact between their vehicle and the fleeing vehicle, nor shall the member attempt to force the vehicle into another object or off the roadway. (CALEA 41.2.2.g)

C. Members are prohibited from firing shots at, or from, a moving vehicle, unless deadly force is being used against them or another person, or intentionally placing themselves in a position to be in front of an on-coming vehicle where the use of deadly force would likely be the outcome. See, GO–RAR– 901.07 (Use of Force).

D. Members shall immediately notify the dispatcher and discontinue the pursuit when unsafe conditions exist or it becomes apparent that the vehicular pursuit could result in an accident, property damage or injury to citizens. (CALEA 41.2.2.h)

E. Members shall immediately terminate a pursuit when ordered by a Department official. (CALEA 41.2.2.h)

F. Members are prohibited from pursuing a vehicle for the purpose of affecting a stop for a traffic violation.

V. REGULATIONS

A. The initiation of a pursuit must be based on the conditions cited in Part IV, Rules, Section A, 1 & 2 of this order. Members shall weigh whether the immediate danger the pursuit presents to the member(s) and the public is less than the immediate or potential danger the suspect presents to the public should the suspect remain at large. (CALEA 41.2.2.a)
B. A member who is pursuing a fleeing felon shall: (CALEA 41.2.2.b)
   1. Immediately notify the dispatcher; and
   2. Maintain constant communications with the dispatcher as the pursuit progresses.

C. Members, in both the primary and secondary unit, shall maintain a safe distance between their vehicle and the fleeing vehicle, to ensure that there is enough reaction time, should the fleeing vehicle suddenly turn or brake. (CALEA 41.2.2.b & c)

D. Members shall comply with the following traffic regulations when engaged in a vehicular pursuit:
   1. When approaching an intersection controlled by electric signal devices:
      a. Stop before entering the intersection when facing a red signal;
      b. Slow to the maximum legal speed limit when a green signal or a flashing yellow signal is displayed; and
      c. Stop before entering an intersection where four-way pedestrian walk signals are displayed.
   2. When approaching an intersection controlled by a stop sign, the operator of the vehicle shall stop before entering the intersection.
   3. When approaching an uncontrolled intersection or an intersection controlled by yield signs:
      a. Slow to the maximum legal speed limit before entering the intersection, and
      b. Comply with all other requirements applicable to uncontrolled intersections or intersections controlled by yield signs.

E. Only the PRIMARY and SECONDARY units are permitted to engage in a pursuit, unless the dispatcher or Watch Commander allows additional units to assist in the pursuit.

F. Members are prohibited from engaging in pursuits when a civilian, e.g. a Ride-Along, is in the patrol vehicle or when transporting a prisoner. (GO-OPS-204.04 (Ride-Along Program) and GO–PCA-502.01 (Transportation of Prisoners).
G. The use of roadblocks is strictly prohibited. (CALEA 61.3.4)

H. If a suspect is apprehended outside of the District of Columbia, e.g. in Maryland or Virginia, the suspect must FIRST be taken before a court in that jurisdiction, prior to being extradited to the District of Columbia.

I. When a fleeing subject has committed an offense for which a vehicular pursuit is not authorized, the member shall:

1. Provide a description of the vehicle and attempt to obtain the tag number;

2. Attempt to obtain a description of the operator;

3. Contact the dispatcher and request that he/she broadcast a lookout to surrounding jurisdictions to which the fleeing offender may be proceeding; and

4. Conduct an investigation of the incident and obtain a warrant so that the offender can be apprehended and prosecuted.

J. When a fleeing subject has committed an offense for which a vehicular pursuit is not authorized, members are permitted to pursue suspects on foot or on a mountain bike.

VI. PROCEDURAL GUIDELINES

A. Responsibilities of Members of the Department in Vehicular Pursuit (CALEA 41.2.2)

1. Once a vehicular pursuit has been initiated in compliance with the provisions of this order, members who are engaged in the pursuit shall observe the following procedures: (CALEA 41.2.2-B)

   a. As the PRIMARY UNIT:

      (1) Immediately notify the dispatcher;

      (2) Activate all emergency equipment; and

      (3) TURN ON THE HEADLIGHTS regardless of the time of day.

   b. Members operating a 10-4 unit shall open BOTH FRONT WINDOWS and in a 10-99 unit the DRIVER’S FRONT
c. The PRIMARY UNIT shall provide the dispatcher with:

(1) Their unit number;

(2) The suspected criminal violation(s) and location;

(3) The suspect's direction of travel and vehicle information;

(4) The number of occupants and their description, if possible; and

(5) Notification when the pursuit is entering another jurisdiction.

d. The SECONDARY UNIT shall back-up the PRIMARY PURSUIT VEHICLE and refrain from using airtime, except for emergencies. In cases involving accidents, the SECONDARY UNIT will disengage from the pursuit to provide medical assistance and/or to take reports of any injuries and/or property damage. (CALEA 41.2.2.c)

2. When involved in a pursuit, the PRIMARY PURSUIT UNIT shall use the WAIL POSITION on the electronic siren selector and the SECONDARY PURSUIT UNIT shall use the YELP POSITION.

3. Department vehicles shall be operated as emergency vehicles, when engaged in hot and fresh pursuits. Members shall not operate Department vehicles at speeds where they cannot control the vehicle, thereby endangering lives.

4. The dispatcher shall control all communications on the channel where the pursuit is being conducted and radio transmissions shall be confined to those units involved in the pursuit.

5. If airborne assistance becomes available, the helicopter shall only assist the primary and secondary units with the fleeing vehicle’s direction of travel; both units shall continue the pursuit until it is terminated.

6. Members operating any of the below listed Department vehicles may initiate and continue a vehicular pursuit, until a marked unit joins the pursuit, at which time, the operators of the below listed vehicles shall immediately discontinue their participation: (CALEA 41.2.2. d)
a. A motorcycle equipped as an authorized emergency vehicle;

b. A patrol wagon that is not transporting prisoners;

c. An unmarked sedan equipped with emergency devices; and

d. Sport Utility Vehicle (SUV).

7. The above vehicles shall continue to monitor the pursuit and proceed to the termination point, with appropriate authorization, to process any necessary reports and arrests.

8. Members who are not in uniform and/or are in unmarked vehicles, without grill or portable lights, and/or sirens, may take enforcement action only in the case of a violation that is set forth under Part IV, A of this directive and after requesting the assistance of a marked cruiser. Once the marked cruiser has arrived on the scene the member shall discontinue the pursuit.

9. A vehicular pursuit shall be continually assessed to determine whether it should be continued, taking into account the associated risk it presents to the member and the public. A decision to continue or terminate a pursuit may be made by the primary pursuit unit, the monitoring field supervisor or the Watch Commander. This does not replace the obligation to adhere to a lawful order given by an official. (41.2.2.a & h)

10. Conditions under which a vehicular pursuit shall be terminated include, but are not limited to, the following: (CALEA 41.2.2.a & h)

a. When it becomes apparent that the vehicular pursuit could lead to unnecessary property damage, injury to citizen(s) or member(s) of the Department; or

b. The pursuit is in close proximity to school(s) and hospital(s) and other locations with high pedestrian or vehicular activity; or

c. When the distance between the pursuing member and the violator's vehicle is so great that the pursuing member loses sight of the violator and it becomes futile to continue the pursuit; or

d. The violator is identified so that a warrant can be obtained for his/her arrest, and failure to apprehend does not pose an immediate threat of death or serious injury to another person; or
f. When the time of day and locations are heavy with vehicular and pedestrian traffic.

11. When it is apparent that a vehicular pursuit should be terminated, the member shall notify the dispatcher and broadcast the suspect’s direction and method of travel. If known, a description of the suspect, a lookout for the vehicle, including the tag number and its description shall be included in the broadcast. The member shall prepare any necessary reports.

B. Fresh Pursuit Laws

1. Pursuit of an offender who has committed a felony, to a surrounding jurisdiction is legal pursuant to the policy of this order. Because the consequences of fresh pursuit could be grave, and in some cases irreversible, it is imperative that all members have a clear and thorough understanding of their legal position while engaged in fresh pursuit.

   a. The D.C. Official Code, § 23, Sections 901 through 903, provides that a police officer from another jurisdiction may enter the District of Columbia in fresh pursuit, in order to arrest a person "on the grounds that he/she is believed to have committed a felony" in the pursuing officer's State. The pursuing officer has the same authority to arrest the person and hold him/her in custody as an MPD member. The arrested person must be taken before a judge of the D.C. Superior Court, without unnecessary delay, for a hearing to determine the lawfulness of the arrest.

   b. The Code of Maryland § 2–305 (Authority of officers of other states to arrest in this State), provides that a police officer may enter Maryland in fresh pursuit in order to arrest a person "on the grounds that he/she is believed to have committed a felony" in the pursuing officer's State (or the District of Columbia), and the pursuing member has the same power to arrest the person and hold him/her in custody as a Maryland officer. The arrested person must be taken before a county circuit judge without unnecessary delay for a hearing to determine the lawfulness of the arrest.

   c. The Code of Virginia § 19.2-79 (Arrest by officers of other states of the United States), provides that a police officer may enter Virginia in close/fresh pursuit in order to arrest a person "on the ground that he/she has committed a felony" in the pursuing officer's state or the District of Columbia. The pursuing
officer has the same power to arrest that person and hold him/her in custody as a Virginia officer. The arrested person must be taken before a judge of a general district court, or the circuit court of the county or city where the arrest was made, without unnecessary delay, for a hearing to determine the lawfulness of the arrest.

NOTE: The Office of the Attorney General, Commonwealth of Virginia, interprets the code provision "has committed" to mean that an officer need only have reasonable grounds or probable cause to suspect, rather than actual knowledge that a felony has been committed.

2. When a pursuit enters another jurisdiction (e.g. Maryland or Virginia), the pursuing member shall notify the dispatcher and request authorization from the Watch Commander to proceed into the adjoining jurisdiction. If authorization is granted, the member shall:

a. As soon as possible, allow the pursuing unit from the outside jurisdiction to assume responsibility for the chase and discontinue the pursuit. De-activate all emergency warning devices and continue to monitor the pursuit, via the radio dispatcher, and proceed to the termination point to identify the suspect and the vehicle;

b. If the situation culminates in the apprehension of a fleeing felon, the initiating MPD member shall place the suspect in the custody of the officer from the outside jurisdiction as a Fugitive from Justice and inform that officer of the crime the suspect will be charged with in the District of Columbia and the intent of the District of Columbia to request extradition of the suspect.

3. If a felon wants to voluntarily return to the District of Columbia, he/she shall be taken before a judge of the local court or a justice of the peace by the arresting officer from the outside jurisdiction for the purpose of executing a waiver.

4. When the felon does not want to return voluntarily, members shall place the felon in the custody of the officer from the outside jurisdiction and apply for a warrant in the District of Columbia.

5. UNDER NO CIRCUMSTANCES shall a felon who was apprehended in Virginia, Maryland or any other state be returned to the District of Columbia without being processed through the criminal justice system.
of the state where he/she was apprehended, in accordance with the legal procedures applicable to that jurisdiction.

6. Upon apprehension of the suspect, the MPD member shall contact the United States Attorney's Office in the District of Columbia to begin the extradition process. Once authorization has been granted, members shall notify the holding agency of the outside jurisdiction with the following information:

a. Prepare a Teletype message to be forwarded to the arresting jurisdiction, including the name and description of the defendant, date, charge, and authorization (issued by the Assistant United States Attorney) to hold the defendant; and

b. Provide the United States Attorney's Office in the District of Columbia with the arrest affidavit. Upon approval of the warrant, the United States Attorney's Office will handle all further matters concerning the return of the wanted person(s).

C. Fresh Pursuit into the District of Columbia from Outside Jurisdictions (CALEA 41.2.2.i)

1. A duly sworn officer from another jurisdiction (e.g., Maryland or Virginia) is permitted to enter the District of Columbia in fresh pursuit and to continue the pursuit of an offender in order to arrest him/her on the grounds that he/she is believed to have committed a felony in the jurisdiction where the pursuit began. However, there is no authorization under the District of Columbia Code for an officer from another jurisdiction to affect an arrest within the District of Columbia for a misdemeanor offense.

a. In cases where a suspect being pursued by an officer from an outside jurisdiction is apprehended, the vehicle operator and/or suspect may be charged with any violations committed in the District of Columbia, regardless of other actions taken in the case.

b. Members of this Department who respond to a scene to assist an officer from an outside jurisdiction, at the end of a pursuit and discover that the crime for which the suspect was pursued was not a felony shall:

   (1) Assist the officer from the outside jurisdiction. This may include, but is not limited to, initiating a contact or conducting a stop and frisk, whichever is appropriate for the situation.
(2) If, after conducting a contact or stop and frisk, the member still does not have grounds to arrest the suspect for a felony or a probable cause misdemeanor, the suspect shall be permitted to leave.

(3) Under no circumstances shall a person arrested in the District of Columbia, whether by a member of this Department or an officer of another jurisdiction, be permitted to be removed from this jurisdiction without being extradited through the Court of the District of Columbia in accordance with the D.C. Official Code.

2. An operator of a Department vehicle shall not participate in a vehicular pursuit initiated by other law enforcement agencies operating within the District of Columbia or a vehicular pursuit initiated by officers of outside jurisdictions, which enter or terminate in the District.

D. Responsibilities of the Public Safety Communications Center (CALEA 41.2.2 - e)

1. The Director, Public Safety Communications Center, shall:
   a. Ensure that the policy and procedures outlined in this directive are followed by members assigned to the center;
   b. Forward training recommendations, through channels, to the Director, Institute of Police Science; and
   c. Forward policy recommendations, through channels, to the Senior Executive Director, Office of Organizational Development.

2. The Communications Supervisor shall:
   a. Ensure that the provisions of this order and the Division’s policies were followed in situations involving a vehicular pursuit;
      (1) Identify any training needs;
      (2) Determine whether any modifications need to be made to this order and/or the Communications Center policy; and
      (3) Submit any training or policy recommendations to the communications center director.
b. Monitor fresh pursuit situations;

c. Obtain complaint system (CS) numbers for all vehicular pursuits involving Department vehicles from the Office of Internal Affairs; and

d. Ensure that a copy of the tape-recorded radio transmission involving a vehicular pursuit is forwarded to the Office of Professional Responsibility within twenty-four hours of the incident.

3. The Communications Dispatcher shall:

a. Have authority to control and coordinate a vehicular pursuit, by assigning the radio channel to be used by the primary and secondary units. All radio transmissions on the designated channel shall be confined to the units assigned by the dispatcher to participate in the vehicular pursuit.

b. Upon notification from a mobile unit that a vehicular pursuit has been initiated;

(1) Identify and give priority to the primary pursuit and secondary pursuit units,

(2) Immediately notify a Communications Division supervisor,

(3) As soon as possible, identify a field supervisor of the organizational element to which the pursuit vehicles are assigned to monitor the pursuit,

(4) Record all incoming information relating to the pursuit and perform relevant records and vehicle checks in an attempt to identify the owner and/or the violator,

(5) Assign no more than three Department vehicles to handle a pursuit: the primary and secondary units, and a field supervisor,

(6) Ascertain whether a helicopter is available to respond, and

(7) Notify other mobile units, as necessary, of the pursuit in progress.
c. Voice a command to the affect that no other vehicles shall participate in the pursuit, unless specifically authorized to do so by the Watch Commander, when the primary and secondary units have been assigned to a pursuit.

d. In fresh pursuit situations, a Communications supervisor shall monitor the pursuit and the radio dispatcher shall be responsible for notifying the dispatcher of the adjacent jurisdiction that the pursuit has crossed their boundary, and for maintaining liaison, via the Police Mutual Aid Radio System (PMARS), with any jurisdiction that is involved or may become involved.

e. Take the following steps when a member of a law enforcement agency, other than this Department, initiates a vehicular pursuit;

(1) Advise mobile units, as appropriate, of the general direction and progress of the pursuit, as well as any other pertinent information; and

(2) When the pursuit terminates in the District of Columbia, designate two mobile units and one supervisory vehicle to respond to the termination point for the purpose of assisting the pursuing member; and

(3) Broadcast the necessary lookout information to assist other mobile units in locating the vehicle and/or possible suspects when a pursued vehicle is lost.

E. The Field Supervisor shall: (CALEA 41.2.2. f)

1. Immediately begin monitoring a vehicular pursuit involving a member of their assigned organizational element;

2. Determine whether the pursuit was initiated in accordance with the provisions of this order;

3. Approve or disapprove pursuits that enter into another jurisdiction and ensure that units are in compliance with inter-jurisdictional pursuit agreements and the law;

4. Continuously monitor radio transmissions to determine whether the pursuit should be continued or terminated;

5. Approve the assignment of additional backup units to assist the primary and secondary units and secure the location where the pursuit
terminates, in order to assist with the preliminary investigation, in the event the incident turns into a foot pursuit;

6. Respond to all scenes where injury and property damage occur as a result of the vehicular pursuit;

7. Conduct an administrative review with the members involved in the pursuit as soon as practical at the end of each pursuit to: (CALEA 41.2.2. j)
   a. Determine whether the pursuit was conducted in compliance with this order;
   b. Identify any pursuit patterns or trends that indicate training needs; and
   c. Determine whether any modifications need to be made to the policy herein.

8. Notify the Watch Commander of the circumstances involved in the vehicular pursuit as soon as practical.

9. Ensure that PD Form 845 (Vehicular Pursuit Report) is completed by all involved members prior to the end of their tour and submit the completed report to the Watch Commander.

F. The Watch Commander shall:

1. Review the Vehicular Pursuit Report, to confirm that the provisions of this order were followed. Attach the report to the PD Form 150 (Watch Commander’s Report.) When vehicular pursuits result in accidents with injuries or property damage, copies of all reports shall be forwarded through channels to the Office of General Counsel.

2. Review any recommendations submitted by the field supervisor regarding the vehicular pursuit; and
   a. Forward any recommendations concerning training, through channels, to the Director, Institute of Police Science, or
   b. Forward any recommended policy modifications, through channels, to the Senior Executive Director, Office of Organizational Development.
G. The Director, Institute of Police Science shall:

1. Receive and review training recommendations resulting from vehicular pursuit incidents and investigations.

2. Incorporate appropriate training recommendations into Department training curricula.

3. Conduct a documented annual analysis, in consultation with the Senior Executive Director, Office of Organizational Development, to assess Department training and/or policy needs relative to vehicular pursuit situations. (CALEA 41.2.2)

H. The Commanding Officer shall:

1. Ensure that members comply with the policy and procedures outlined in this order.

2. Assign a non-involved element official, the rank of Captain or above, to conduct an investigation into the facts and circumstances surrounding ALL vehicular pursuits involving MPD vehicles.

I. Office of Internal Affairs shall:

1. Assign complaint system (CS) numbers to vehicular pursuit incidents and provide those numbers to the Communications supervisor or requesting official.

2. Monitor and/or investigate a vehicular pursuit involving a fatality, in conjunction with the Major Crash Unit.

3. Prepare an annual report relating the findings of Department vehicular pursuit investigations.

J. Major Crash Unit

The Major Crash Unit shall investigate vehicular pursuits involving fatalities, in conjunction with the Office of Internal Affairs.
VII. CROSS REFERENCES

1. District of Columbia Municipal Regulations, Title 6A, Police Personnel, Chapter 2, Section 207
2. General Order 901.7, Use of Force
3. General Order 302.5, Radio Communications
4. General Order 302.1, Calls for Police Services

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

Attachments

CHR:NAJ:MAR:pas
METROPOLITAN POLICE DEPARTMENT
VEHICULAR PURSUIT REPORT

_________________________ (Organizational Element)

GENERAL INFORMATION

Date___________________

Time___________________

Vehicular pursuit was initiated at _______________________________________
(Location)

Nature of pursuit___________________________________________________

Vehicular pursuit terminated at _________________________________________
(Location)

____________________________________________________________________

AUTHORIZATION

Dispatcher Notified  __YES  Authorization __YES  __Primary Unit
___NO    ___NO  __Secondary Unit
_Other

By Whom_______________________

_____________________________________________________________________________________

VEHICLE OPERATION

__________________________  Vehicle Headlights On     __YES
(MPD Vehicle Operated/Unit Call Sign)                  __ NO

Emergency Equipment Activated __YES
___NO

Vehicle Windows Down  __YES
___NO

____________________________________________________________________

SAFETY

Accident involved __YES __NO

CCN #___________(Attach copy of report)

Injuries __Yes __NO    MPD Member __YES __NO
(Watch Injured Person Names Below)

Witnesses __YES __NO
(List witness names below)

________________________________________
________________________________________
________________________________________

Use of Force __YES __ NO
(if yes, list type of Force Used)

_____________________________________

Reporting Officer Name/Badge Number
(Print Name)
APPENDIX E
The probationary period is an extension of the sworn police officer selection process during which the probationary officer is observed and evaluated by officials in order to determine if a permanent appointment will be granted. The probationary period provides the Metropolitan Police Department (MPD) the opportunity to train officers with respect to job tasks, conduct, observance of rules and regulations, attendance, and other job responsibilities. It provides probationary officers the opportunity to demonstrate their abilities through actual on-the-job performance and supervisors the opportunity to guide probationary officers in the successful performance of their duties.

The purpose of this general order is to establish the policy and procedures for the probationary period that each probationary officer must meet in order to obtain a permanent appointment with the Department.

II. POLICY

It is the policy of the MPD to provide a probationary period for sworn officers of 18 months from the date of initial appointment. Pursuant to the District Personnel Manual, this probationary period may be extended for up to 36 months. The probationary period will serve as an introductory period to determine if the officer has the necessary skill set and suitability to become an officer and be granted a permanent appointment.
III. DEFINITIONS

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

1. Duty status – designation of a category granted by the Department to a member as it relates to the permission and ability to engage in the full spectrum of authorized policing duties (e.g., limited duty, non-contact).

2. Probationary officer – officer who has not yet completed the probationary period and been granted a permanent appointment to the MPD.

3. Probationary officer medical evaluation – examination to screen for controlled substances and to determine the condition of a probationary officer’s mental health, medical health, and physical fitness.

4. Probationary period – time period, of at least 18 months, following initial appointment in which a probationary officer performs his or her duties while obtaining the necessary training and experience to determine his or her fitness for serving as a police officer.

5. Probationary Review Board – board comprised of the MPA commanding official (committee chairperson), Field Training Program (FTP) Coordinator, and the FTP district coordinators (captains) from each police district. The Probationary Review Board shall make a recommendation to the Chief of Police concerning the retention or termination of the probationary police officer.

6. Probationary Review Panel – panel established by the Executive Director of the Professional Development Bureau or a designee who, in concert with MPA, reviews the job performance of probationary officers during the probationary period in order to recommend a permanent appointment or further review by the Probationary Review Board. The panel consists of three field training sergeants.

7. Suitability – quality or state of being acceptable for MPD employment with respect to conduct, job performance, and fitness.
IV. REGULATIONS

A. Satisfactory completion of the probationary period shall be a prerequisite to a permanent appointment as an MPD police officer.

B. The probationary period shall include an initial training program, a field training program, a period of service, and a recommendation from the Probationary Review Panel to the Probationary Review Board regarding the suitability of the member for a permanent appointment.

C. All probationary officers shall be subject to the probationary review process outlined in this order.

D. Probationary officers shall be subject to all District of Columbia laws, rules and regulations, MPD rules and regulations, and the MPD standards of conduct governing sworn MPD employees.

E. The Chief of Police may terminate a probationary officer in accordance with applicable District of Columbia laws, rules, and regulations at any time during the probationary period, including during any authorized extension of the period.

F. The administration of the Probationary Review Panel and the Probationary Review Board shall be the responsibility of the Metropolitan Police Academy, in concert with the Patrol Chiefs.

G. Probationary period records shall be retained by the Human Resources Management Division of the Professional Development Bureau in accordance with the Department’s records retention schedule.

V. PROCEDURES

A. Probationary Period Length

1. Each probationary officer shall satisfactorily complete a probationary period of 18 months following the date of appointment, which may be extended up to 36 months for members who spend accruable time in a less than full duty status, or fail to successfully complete probationary training requirements.

2. The probationary period shall be extended in increments of full workdays in each of the following circumstances:

   a. For each workday a probationary officer is unable to perform the full range of police duties of the position to which
assigned, including, but not limited to, periods of limited duty, extended sick leave or non-contact status;

b. Based on the written recommendation of the Director of the Human Resource Management Division for failure to successfully complete probationary training; or

c. Based on a written recommendation of the probationary review panel.

B. Probationary Review Panel Process

1. The Executive Director of the Professional Development Bureau, or designee, shall:

a. Establish Probationary Review Panels for the purpose of reviewing the records of each probationary officer and recommending to the Probationary Review Board whether or not the officer should be granted a permanent appointment upon completion of the probationary period. The Probationary Review Board shall then make a recommendation to the Chief of Police concerning the retention or termination of the probationary police officer.

b. Approve the scenario questions the panel asks the probationary officers.

c. Ensure each Probationary Review Panel has at least three sergeants serving on the panel.

2. Each probationary officer shall be evaluated by a Probationary Review Panel no earlier than the 14th month, and in no case, later than the 16th month following appointment to the MPD and the Probationary Review Board no later than the 18th month following their appointment to the MPD, unless the probationary period has been extended in accordance with this general order, in which case the probationary officer shall be evaluated no later than the last day of the extension period.

3. In order to be evaluated by a panel, a probationary officer shall:

a. Be in a full-duty status;

b. Have successfully completed the probationary officer medical evaluation;
c. Been certified by their respective district for individual patrol duties; and

d. Have completed his or her community project or beat book, and provide any other documents as requested by the Probationary Review Panel.

4. The employment recommendation of the Probationary Review Panel shall be based on an interview of the probationary officer and a review of the following records:

   a. Unit personnel folder;

   b. Two professional writing samples that were written after the conclusion of the FTO program;

   c. Recommendation of the commanding official of the assigned element;

   d. Written notice from the Director of the Medical Services Division stating that the probationary officer has successfully completed the probationary officer medical evaluation and controlled substance screening;

   e. Possession of all department-issued equipment;

   f. Background check by Internal Affairs Bureau and the Disciplinary Review Division;

   g. History of annual or sick leave abuse; and

   h. Any other information related to the suitability of the probationary officer to carry out police officers duties as deemed pertinent by the panel.

5. The Probationary Review Panel, following the interview and review of a probationary officer, shall recommend to the Probationary Review Board, that the officer:

   a. Return to the Probationary Review Panel, correcting any deficiencies noted;

   b. Be given a permanent appointment; or

   c. Have his or her employment further reviewed by the Probationary Review Board.
6. The Probationary Review Board shall:
   a. Review the recommendations forwarded by the Probationary Review Panel and make a recommendation regarding the suitability of the probationary officer for permanent employment or prepare final recommendation for termination, as appropriate, to the Chief of Police.

   1) The Probationary Review Board may request probationary officers correct any deficiencies noted or reappear before a Probationary Review Panel.

7. The Probationary Review Board may recommend terminating the employment of a probationary officer based on one or more of the following circumstances:
   a. The officer failed to demonstrate the knowledge and skills required to perform the essential duties of a police officer.
   b. The officer has engaged in conduct that indicates that the officer is unable or unfit to perform the duties of police officer, including, but not limited to, conduct that would have disqualified the officer for appointment.
   c. The officer failed to obtain a recommendation for a permanent appointment after his or her third appearance before the Probationary Review Panel.

8. The Human Resource Management Division (HRMD) shall notify probationary officers, in writing, of the successful completion of their probationary period.

VI. ROLES AND RESPONSIBILITIES

A. During the 13th month, probationary officers shall contact Medical Services Branch to schedule their Probationary Officer Medical Evaluation.

B. Supervisory officials shall closely monitor the job performance and conduct of probationary officers and bring, through the chain of command, to the attention of the commanding official, all matters of concern, whether related to job performance or conduct, that could potentially affect the length of a probationary officer's probationary period or result in termination of employment.
C. Commanding officials shall:

1. Ensure that probationary officers are provided the required field training, including an evaluation as to whether certified to patrol alone.

2. Forward a certification memo to Human Resource Management Division containing the leave usage of the probationary officers after 14 months. The memo should be made to the attention of the “Probationary Review Panel”.

3. Provide sufficient staffing to allow panels to be convened as directed by the Executive Director of the Professional Development Bureau or a designee.

D. The Director of the Metropolitan Police Academy shall:

1. Ensure that all probationary officers are tracked during their probationary period to ensure they are reviewed appropriately;

2. Ensure all Probationary Review Boards and Panels are held, with recommendations forwarded prior to the expiration of each probationary police officer’s period of probation; and

3. Ensure that complete Probationary Review Panel and Probationary Review Board files are forwarded to the Human Resource Management Division.

E. The Director of the Human Resource Management Division shall:

1. Ensure the duty status of probationary officers is tracked.

2. Coordinate the results of the probationary panel, physical, and Internal Affairs Bureau and Disciplinary Review Branch checks.

3. Provide the above information to Patrol Services (i.e., North and South) and the MPA.

Peter Newsham
Chief of Police

PN:KDO:MOC:JC
APPENDIX F
DISTRICT OF COLUMBIA

I. BACKGROUND

Under District of Columbia laws and regulations, members of the Metropolitan Police Department are required to carry their badge, identification card and service firearm at all times, and "held to be always on duty."

Title 6A DCMR (Police Manual), Section 206.1, has been amended by the Off-Duty Service Firearm Authorization Amendment Act. The amended section now reads as follows:

"A member of the force, when off duty any place in the District of Columbia, shall carry his or her badge and identification card and service firearm except in his or her residence and as the Chief of Police may designate."

The new amendment authorizes the Chief of Police to prescribe those circumstances when an off-duty member of the force is excused from carrying his or her authorized service firearm when off-duty in the District of Columbia.

This directive is not intended to overly restrict a member’s ability to carry his/her issued service firearm or authorized off-duty firearm while off-duty in the District of Columbia. If a member chooses to carry an authorized firearm while off-duty, he/she must do so in compliance with existing District and state laws and Department guidelines.

II. POLICY

The policy of the Metropolitan Police Department is to recognize that there are some off-duty situations where carrying a weapon may prove unnecessary or imprudent. Some of these situations include attendance at religious services, events where in-house, armed security is present, engaging in athletic activities, or attending social functions where officers may consume alcohol and their weapons cannot be secured in accordance with department policy. Exempting off-duty officers from the
requirement that they be armed at all times while in the District will provide them with opportunities to comfortably engage in family, religious, and social activities where the presence of firearms may be ill-advised.

While it is desirable that members have a broad range of discretion in determining for themselves when such situations exist, this directive provides guidance intended to ensure consistent application of this policy.

III. DEFINITIONS

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

Police Powers – the authority granted to a sworn police officer by the Metropolitan Police Department in accordance with applicable law to enforce the law, make arrests, and carry and/or use authorized service weapons.

IV. RULES

A. While in an off-duty status, members traveling to and from the District of Columbia and carrying their Department-issued or authorized off-duty firearm, shall ensure that they are in compliance with all applicable rules, regulations and laws of the jurisdiction in which they are traveling.

B. Unarmed, off-duty members, shall take the appropriate police actions when they observe a crime or situation that requires police service, giving due regard to their personal safety and the safety of innocent bystanders.

1. Shall not take direct police action as a Metropolitan Police Officer unless such action can be taken safely without use of force or the endangerment of others. Such members shall inform the Public Safety Communications Center (Communications) prior to engaging in any direct police action where it is practical to do so.

2. Shall immediately report all crimes including felonies in progress and crimes against persons to the Public Safety Communications Center by telephone or police radio when available.

3. Who witness a felony in progress or a crime against a person shall remain on the scene until an on-duty officer arrives.

C. In the event of an incident requiring police action, members in a off-duty status shall cooperate fully with on-duty officers who respond and shall advise the on-duty officers of his or her presence and duty status as soon as practicable.
D. When a sworn member is off-duty and is not carrying a firearm on his/her person, all firearms shall be secured in accordance with G.O. RAR 901.01 (Handling of Service Weapons). No service firearms are to be stored in a vehicle or placed in the custody of any person not a member of the Department.

E. All members shall carry their badge and identification card at all times while in the District of Columbia, even if they are not carrying a firearm.

F. Members who choose to carry a firearm while off-duty shall carry the weapon on their person at all times, or leave the weapon properly secured at their home.

G. Off-duty members shall not carry their authorized firearm:

1. When consuming, planning to consume, or likely to consume an alcoholic beverage. This applies to both the member’s issued service firearm and an authorized off-duty firearm.

2. To any public or private event, function, religious gathering, or business or entertainment establishment, and remove the weapon from their person to store, “check,” or otherwise place in the custody of another party outside of their direct control.

V. PROCEDURAL GUIDELINES

A. Police Responsibilities of the Unarmed Member

1. Although the exercise of police authority by unarmed members is restricted, the responsibility of an involved member is to take proper action befitting a member of the Department in any situation involving any criminal conduct or requiring prompt governmental action. Members shall act responsibly so as to bring credit upon the Department and their profession. In all situations, members shall conduct themselves in a manner that is mindful of their own safety as well as the safety of those around them.

2. When directed to comply with an on-duty officer, off-duty members shall utilize the tentative recognition signal as described in GO-OPS-308.13 (Casual Clothes Units). At one time in this situation shall the off-duty officer make any further attempt to identify himself or herself until after the situation has stabilized. No furtive movements toward gathering a badge or identification folder from within their clothing shall be made.
3. If a member witnesses or is involved in an incident or event while off-duty that requires police attention, the member shall be aware and/or take notes, if applicable, of the circumstances surrounding the incident, i.e., any look-outs, witnesses, etc., and sharing that information with appropriate responding authorities. The members shall further relay any pertinent information to the Public Safety Communications Center as soon as practicable, if applicable.

4. When a member is involved or witnessed an incident while off-duty and required a police response, the off-duty member shall cooperate with responding officers in the preparation of required reports and the identification of suspects and shall make corresponding entries in his/her memorandum notebook promptly after attendance at the activity for further reference as may be needed.

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

*This Special Order supersedes any provision in any other Department directive that is contrary or inconsistent and shall remain in effect until rescinded or incorporated into another directive.

CHR:NMJ:MAR:njg
APPENDIX G
I. POLICY

It is the policy of the Metropolitan Police Department (MPD) to provide prisoners who have sustained an injury or report an illness with timely medical care to ensure their safety and well being.

II. DEFINITIONS

1. Central Cellblock (CCB) – area designated within MPD Headquarters where prisoners are fingerprinted, photographed, and detained pending arraignment. This facility is operated and maintained by the District of Columbia (D.C.) Department of Corrections (DOC).

3. Station Cellblock – area designated within police stations where prisoners are fingerprinted, photographed, and detained pending arraignment.

4. Member – sworn or civilian MPD employee or MPD Reserve Corps member.

5. Official – member of the MPD the rank of sergeant or above or the civilian equivalent.

6. Papering – initial presentation of a member’s case to the prosecuting attorney.

7. Prisoner – person who has been arrested and is being held, transported, treated, booked, or otherwise detained pending arraignment, release, adjudication, transfer to another facility, or is otherwise being processed.

8. Security Risk Prisoner - a prisoner who poses a threat to him/herself, the facility in which he/she is being held, or to others with whom the prisoner may come into contact.

III. REGULATIONS

A. Members shall transport prisoners who complain of illness or injury to a hospital in accordance with the procedures outlined in this order.

B. Members shall prepare a PD Form 313 (Arrestee’s Injury/Illness Report) as soon as possible after a prisoner complains of illness or injury.

C. Members shall not delay transporting a prisoner to a hospital in order to complete a PD Form 313.

D. Members shall remain alert and keep prisoners under physical control and in view at all times.

1. Members shall physically hold onto prisoners while escorting them from one location to another within a hospital, including to or from a treatment room, until they have been secured.

2. Members shall make every effort to ensure prisoners remain secured at all times to prevent escape. At a minimum, one leg or arm shall be secured to a fixed object except at the
request of the hospital staff under exigent circumstances when restraint would impede medical treatment.

E. While in the hospital, members shall not allow prisoners to:

1. Have visitors without the approval of their watch commander;

2. Watch television; or

3. Use the telephone.

F. Watch commanders shall determine if seriously injured or ill suspects at hospitals need to be placed under arrest or placed under guard (e.g., a suspect at the hospital whose condition is terminal or incapacitated does not need to be arrested and guarded).

G. Members shall contact their watch commander if the hospital staff gives any directions or orders that contradict this order.

IV. PROCEDURES

A. Need for Medical Treatment

Members shall immediately notify an official and request appropriate medical assistance when they become aware that a prisoner is injured or reporting an illness.

1. Members who suspect, observe, or have knowledge that an individual has swallowed drugs shall immediately contact the Office of Unified Communication (OUC) to request an ambulance transport for the individual to the nearest hospital.

a. Members shall not attempt to retrieve items swallowed by individuals.

b. In cases of drug ingestion where no medical treatment is recommended by the hospital and the prisoner is medically cleared, the prisoner shall be considered “AT RISK” when placed in a holding cell and observed no less than every ten (10) minutes.
2. Members shall leave any medical identification on the individual (e.g., Life Alert, medical alert identification bracelets or devices).

3. An official shall respond to all scenes or to a station cellblock to interview prisoners that are complaining of injury and/or illness or who have visible injuries.

4. The official shall ensure that a PD Form 313 is prepared in conjunction with the interview.
   a. The same complaint number obtained for the arrest report shall be utilized when preparing the PD Form 313.
   b. If the illness or injury is the result of the arrest, the official shall ensure that the PD Form 313 is completed by a non-involved member.
   c. Sufficient information shall be entered on the PD Form 313 to indicate clearly to the hospital staff the need for treatment or examination. The information shall include a notation of all cuts, bruises, or other injuries visible to the member at the time the person was arrested, as well as the results of the examination by the doctor.

5. A District Reserve Crime Scene Search Officer (RCSSO) shall be contacted by the investigating official to respond to the scene to photograph the injured prisoner when there are visible injuries and/or other visible evidence (e.g. torn clothing) and:
   a. The injury is a result of police action (e.g., use of force).
   b. The arrestee claims to have been a victim of police use of force.
   c. A third party claims the arrestee was a victim of police use of force.
   d. The injury occurs while the arrestee is in police custody.
e. The arrestee is admitted to a hospital due to the injury.

f. Any instance in which the watch commander determines photographs are necessary based upon the circumstances.

g. In those instances when the watch commander determines photographs are unnecessary, he or she shall note that determination and justification in the narrative section of the PD Form 313.

6. In the event that medical evaluation is necessary prior to the RCSSO’s arrival, the RCSSO shall be directed to the hospital where the individual was transported.

7. In a non-emergency medical care situation, a member assigned to the station cellblock shall contact the OUC for a transport vehicle. Adult prisoners shall be transported in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners) to the closest emergency room facility from the district in which the prisoner is housed.

8. If life threatening conditions exist, D.C. Fire and Emergency Medical Services (FEMS) shall be notified immediately and requested to respond to the location or the station cellblock.

   a. A member assigned to the station cellblock shall notify the OUC to request a transport vehicle to escort the ambulance to the hospital.

   b. If the ambulance crew arrives before the transport vehicle, and it is determined that the ambulance must depart immediately, an official shall assign a member to ride in the ambulance.

   c. It will be the determination of FEMS staff as to what hospital they will transport the prisoner.

9. A prisoner who has been taken to the hospital for medical treatment and returned to the station and who again complains of being ill shall be returned to the hospital for further examination and treatment. A separate and complete PD Form 313, using the original complaint number for each such report, shall be made for each medical examination and
treatment given a prisoner (i.e., one PD Form 313 shall be completed per hospital visit).

10. If an individual who is in custody dies, members shall immediately notify an official who shall notify the Internal Affairs Bureau who shall conduct an in-custody death investigation.

B. Prisoner Transports to Emergency Facilities

1. Members shall notify hospital security of the arrival of the prisoner.

2. Prisoners shall be handcuffed during the transport. Leg restraints may be used at the discretion of the member.

3. For safety reasons, members shall always attach leg restraints from the side of the prisoner.

4. Transportation of the prisoner to the hospital shall be conducted by two members, unless exigent circumstances exist. Security-risk prisoners shall always be transported by two members.

   a. Whenever a member transports a prisoner of the opposite sex, the member shall notify the dispatcher of the beginning mileage and location before departure.

   b. At the conclusion of the transport, the member shall notify the dispatcher of the ending mileage and location.

   c. Any prolonged stops or delays during the transport shall be voiced to the dispatcher.

5. In the event that any prisoner is transported in an ambulance, one member shall ride inside the ambulance while another member follows the ambulance.

   a. Any deviation from this policy shall require approval from the watch commander.

   b. The watch commander who authorizes a departure from this policy shall be responsible for documenting
the circumstances on the PD Form 150 (Watch Commander Report).

6. Members shall notify the watch commander if a prisoner is transported to a hospital outside of MPD’s jurisdiction.

7. When prisoners are transported to a hospital outside of MPD’s jurisdiction, the watch commander shall:

a. Establish guard details for all warrant and felony arrests. Guard details **shall not** be established for misdemeanor arrests except for misdemeanor warrant or domestic violence cases.

b. If the prisoner committed a crime of violence, contact the OUC to advise the local law enforcement agency where the hospital is located that an MPD prisoner is in the hospital in their jurisdiction.

c. Consult with the local law enforcement agency concerning the guarding of the prisoner.

C. Admission of Prisoners to Emergency Facilities

1. A prisoner transported to the hospital with a PD Form 313 shall be taken to the emergency room for processing, examination, and treatment.

2. The transporting members shall immediately notify the district watch commander that the prisoner has been admitted for his or her injuries or illness, and the watch commander shall ensure a guard detail is established in accordance with Part IV.D of this order.

3. In the event that the prisoner has not been photographed and fingerprinted, the watch commander shall:

   a. Notify the CCB to complete the fingerprinting process.

   b. Ensure that the CCB receives a copy of the PD Form 163 (Arrest/Prosecution Report).

   c. Record the name of the member contacted at CCB on the PD Form 150.
NOTE: The CCB is primarily responsible for fingerprinting all hospital cases when a prisoner is admitted to the hospital.

4. The watch commander shall query the member to determine if the prisoner can elect to forfeit collateral or receive citation release in accordance with MPD policy including, but not limited to, GO-PCA-502.06 (Citation Release Program).

5. In the event that the case against a hospitalized prisoner has been papered:
   a. The papering member shall notify a Court Liaison Division (CLD) official and an official in his or her command of the hospital information prior to checking out of court.
   b. A CLD official shall petition the court for a commitment order for the arrested subject.
   c. Once the CLD official has obtained the commitment order, he or she shall notify CCB that the commitment order has been issued by the court and that the prisoner has been remanded to CCB custody.

D. Guard Details

1. Guard Detail Transfers to the CCB
   a. A member shall notify his or her supervisor in cases where:
      (1) A prisoner’s hospital visit is expected to last more than two hours and MPD has completed processing/questioning the prisoner; or
      (2) The prisoner is admitted to the hospital.
   b. The supervisor shall contact the CCB on (202) 727-4222 and request that DOC assume responsibility for the guard detail.
   c. The supervisor shall ensure that the PD Form 163, PD Form 313 and all other required documents are delivered to the CCB to facilitate the transfer of the guard detail. CCB will not begin the transfer of
custody without first receiving the PD Form 163, PD Form 313 and all other required documents.

d. Supervisors shall notify the CIC that a request was made for the CCB to facilitate the transfer of the guard detail and provide the following:

(1) Date and time of arrest;
(2) Name of defendant;
(3) Arrest number, CCN and charge;
(4) Hospital and room number;
(5) Name of CCB member notified; and
(6) Time that the request was made.

e. Should DOC state that they are unable to relieve the detail, or that there is an expected delay in responding, the watch commander shall notify the Field Commander.

2. Guard Details Handled by MPD

The following procedures outline MPD responsibilities for conducting a guard detail while awaiting transfer of a guard detail to DOC.

a. Guard details shall be a two member detail unless otherwise directed by the watch commander.

(1) Consideration shall be given to the nature of the arresting charge, incapacitation, the medical or psychological condition of the prisoner, and the likelihood of escape from police custody.

(2) The watch commander shall make efforts to staff the hospital detail with members of the Patrol Support Team (PST) during the evening and midnight shifts. The watch commander shall coordinate with the CIC and the Field Commander as to the availability of PST members.
b. Security-risk prisoners and violent prisoners shall be guarded by two members unless the prisoner is incapacitated, unconscious, or heavily medicated in which case the watch commander shall use his or her discretion to reduce the detail to one member.

   (1) The watch commander shall include the reason for the reduction in the detail from two members to one member on the PD Form 150 and inform the oncoming watch commander of the reason.

   (2) It shall be the responsibility of the oncoming watch commander to query the member on guard detail to evaluate the prisoner’s condition and determine if his or her condition has changed requiring additional detail staffing.

c. Every effort shall be made to have at least one member of the guard detail be of the same sex as the prisoner.

d. At the beginning of each shift:

   (1) Members reporting as relief for the detail shall contact the members they are relieving in-person.

   (2) Both incoming and outgoing members shall make bed checks of the prisoner under guard.

      (a) Each prisoner shall be identified by name and the charges on which he or she is being held.

      (b) Special information concerning the prisoner shall be relayed to the incoming members.

      (c) The incoming members shall then be responsible for the prisoner until relieved in the same manner at the expiration of their shift.
e. Members on guard detail at hospitals shall not leave their post at the expiration of their shift until properly relieved.

f. Whenever possible, members who are guarding a prisoner shall be notified over the radio that they have been relieved of a guard detail. In the event that members receive a telephone message from their official advising them that they are relieved, they shall not be considered officially relieved until personally returning the telephone call to that district and verifying the order from the same official.

g. Members detailed to guard prisoners at hospitals shall exercise every precaution to prevent the escape of such prisoners.

(1) Members shall ensure that at least one arm or leg is secured to a fixed object at all times.

(2) At no time shall the prisoner be left alone without a member in attendance or in view, except under exigent circumstances. This includes those times when the prisoner may need to use the restroom. Members shall ensure the restroom door is open while in use.

(3) Members shall check the restroom, prior to the prisoner’s use of it, to:

   (a) Ensure there is nothing the prisoner could use as a weapon or a potential escape device.

   (b) Ensure there is no window or other passage through which the prisoner could escape.

   (c) Ensure the prisoner is in full view and cannot lock the bathroom door from the inside.

h. Should it become necessary for members to leave the immediate vicinity of the room for any purpose, it shall be their duty, and they shall be held personally
responsible, for seeing that all measures are taken to prevent the escape of any prisoner.

i. If for any reason during a guard detail, a member must be relieved before their relief is scheduled to report, the member shall notify his or her official and the official shall make arrangements for their relief.

j. Members shall retain and wear their service weapon while detailed to guard prisoners at any hospital.

k. Members shall avoid socializing with prisoners at any time.

l. Members shall prevent unauthorized contact and access to prisoners.

m. Members on guard detail shall follow up on the medical status of prisoners under guard in order to determine when the prisoner may be released from the hospital.

n. Members shall remain in communication with their respective officials to advise them as to the treatment and pending return of the prisoner back to the District.

o. Members shall ensure that they retrieve their handcuffs, and leg restraints if used, when they are relieved from a guard detail.

3. Release of Guard Details

When a prisoner’s case is “no-papered”, a member shall contact the Court Liaison Division (CLD) to verify that all charges are “no-papered” prior to releasing the detail.

E. Juveniles

1. Juveniles injured or in need of medical treatment shall be transported to Children’s Hospital. This information shall be noted on the PD Form 150.

2. Members shall guard juveniles in accordance with the provisions in Part IV.D.2 of this order.
3. Misdemeanor Offense

a. Members shall place juveniles, who are charged with misdemeanor offenses and admitted to the hospital, under guard detail until their identity is verified by Automated Fingerprint Identification System Section (AFIS).

b. Members shall immediately notify the Juvenile Processing Center (JPC) that the juvenile is being admitted to the hospital.

c. A member at the JPC shall:

   (1) Document the juvenile arrest in the Hospital Log Book.

   (2) Respond to the hospital to photograph and fingerprint the juvenile, as soon as possible.

   (3) Submit the fingerprints to AFIS for identification.

d. Members, in coordination with the JPC, shall take reasonable means to identify the juvenile.

e. Members on guard detail shall notify the JPC of the juvenile’s status at the beginning of each shift until the juvenile’s identity has been verified by AFIS.

f. Members shall complete a PD Form 379 (Delinquency Report) and a PD Form 252 (Supplement Report) upon positive identification of the juvenile.

g. Members of the JPC may release the juvenile at the hospital and discontinue the guard detail if:

   (1) The parent or guardian is present;

   (2) The arrestee is for a nonviolent misdemeanor; and

   (3) The juvenile has been identified and it has been determined that there is no other reason to seek detention.
h. Members of the JPC shall serve the parent or guardian with a PD Form 694 (Notice to Appear in Family Court, Office of the Attorney General).

i. Members shall use the same release conditions as they would if the juvenile was brought to the JPC.

j. Members shall be released from guard detail upon the full execution of the PD Form 694 by the JPC.

4. Felony Offenses

a. Members shall place juveniles charged with a felony offense and admitted to the hospital under guard detail.

b. Members shall immediately notify the JPC that the juvenile is being admitted to the hospital.

c. A member at the JPC shall:
   (1) Document the juvenile arrest in the Hospital Log Book.
   (2) Respond to the hospital to photograph and fingerprint the juvenile, prior to the end of the shift.
   (3) Submit the fingerprints to AFIS for identification.

d. Members on guard detail shall notify the JPC of the juvenile’s status at the beginning of each shift.

e. Arresting members shall paper the case on the next day that court hearings are held in cases where the juvenile cannot be identified.
   (1) Members shall complete the papering process in the same manner as if the juvenile were in the JPC.
   (2) Members shall identify the juvenile as “John or Jane Doe” on the PD Form 379 and PD Form 252.
f. A member of the JPC shall respond to the hospital and serve the release order or notice on the juvenile and the guard detail shall be lifted if the court decides to release the juvenile.

g. A member of the JPC shall notify the watch commander of the unit maintaining the guard detail if the court decides to detain the juvenile. The Department of Youth Rehabilitation Services (DYRS) will take over the guard detail.

h. DYRS personnel will present a copy of the detention order and proper government identification to the member when they assume the guard detail. DYRS will assume the guard detail until the juvenile is transported to the DYRS.

V. ROLES AND RESPONSIBILITIES

A. Roll call officials shall:

1. Query the check-off sergeant of the previous shift to determine if any hospital details exist.

2. Upon being notified that a hospital detail exists, query the check-off sergeant to provide information concerning the location, room number, charges, and information about the prisoner.

3. Ensure that DOC has been notified of the two hour mark for relieving MPD guard details.

4. Contact the guard detail to ensure:

   a. The detail is set in accordance with MPD policy and procedure including this order (e.g. handcuffed prisoner, adequate security detail).

   b. An updated decision on the detail is made on each shift along with meeting any staffing needs.

   c. Breaks and relief are arranged as needed for a single member detail.

   d. Risk of escape is minimized.
e. Member safety issues are addressed by providing specifics of the case (e.g., charge history, violent tendencies, family issues).

5. Staff the detail and denote the detail information next to the member’s name on the daily roll call sheet.

6. Ensure that the members on the detail are relieved in a timely manner by the members who are beginning the next shift.

7. Contact and advise the watch commander of the guard detail status.

B. Watch Commanders shall:

1. Contact the DOC when a commitment order is issued to relieve the Department of the hospital detail. This notification shall be recorded on the PD Form 150.

2. Notify the Field Commander should DOC state they are unable to relieve the detail or when there is an expected delay in responding.

   **NOTE:** Should DOC state they are unable to relieve the detail, or there is an expected delay in responding, the watch commander shall notify the Field Commander who in turn shall contact DOC and, if not resolved, the Mayor’s Command Center.

3. Ensure that a transport is sent to the hospital for prisoner discharge, when applicable.

4. Upon being notified of a prisoner who shows indications of a recent wound or injury, initiate an immediate investigation into how the injury was sustained.

   a. A summary of this preliminary investigation shall then be entered in the “Supervisory Official’s Report” section on the PD Form 313.

   b. Completion of this report shall in no way delay transporting the prisoner to a hospital.

5. Manage suspected use of force cases in accordance with MPD policy and procedures including, but not limited to, GO-RAR-901.08 (Use of Force Investigations).
VI. CROSS REFERENCES

A. D.C. Official Code, Section 23-1331.04 Crime of Violence

B. GO-PCA-502.01 (Transportation and Searches of Prisoners)

C. GO-PCA-502.06 (Citation Release Program)

D. GO-RAR-901.08 (Use of Force Investigations)

Cathy L. Lanier
Chief of Police
APPENDIX H
GENERAL ORDER

DISTRICT OF COLUMBIA

I. PURPOSE

The purpose of this order is to establish policies and procedures governing field contacts, stops, protective pat downs, and searches that may occur during a stop. Policies and procedures concerning arrests and searches connected with arrests are covered in other directives. This order is intended to promote public safety and to safeguard members of the Department from injury, while ensuring that invasions of individual privacy are held to a minimum.

II. PROCEDURES

A. Field Contacts

1. Field contacts may be initiated at any time by members. No evidence of any crime is needed to initiate a field contact, and the encounter may be terminated at any time by either party.

2. Since a field contact involves solely the voluntary cooperativeness of an individual who is free not to respond and to leave, the standard for a field contact does not require probable cause, reasonable suspicion, or any other specific indication of criminal activity.

3. Members may initiate a field contact for any legitimate, police-related purpose including to question potential witnesses observed near the scene of a crime who may have knowledge relevant to the investigation. Field contacts shall not be conducted in a hostile or aggressive manner, or as a
means of harassing an individual or attempting to coerce an individual to leave an area merely because he or she is “hanging around” or loitering.

4. Initiating a Field Contact

Members may initiate a field contact with an individual in any place the member has a right to be. This applies to all public space. It is difficult to define precisely other places where members have a right to be. Generally, they may include:

a. Areas of government-owned or possessed property normally open to officers and the public;

b. Places intended for public use, or normally exposed to public view;

c. Places to which the member has been admitted with the consent of an individual empowered to give such consent;

d. Places to which the member may be admitted pursuant to a court order (e.g., an arrest or search warrant);

e. Places where the circumstances require an immediate law enforcement presence to protect life, well-being, or property; and

f. Places in which the member may make a lawful warrantless arrest.

5. Conducting Field Contacts

a. When engaging in a field contact, members shall not detain an individual in any manner against their will, nor conduct a protective pat down. Members may not require the individual to answer questions or respond in any way to the member if they choose not to do so. Members may not use force or coercion to require individuals to stop or to respond.

b. Members must constantly keep in mind that the distinction between a field contact and a stop depends on whether, under the particular circumstances, an individual could reasonably perceive that he or she is not free to leave the member’s presence. Therefore, members shall take special care to act in as restrained and courteous a manner as possible.

c. Members should avoid short responses that could be misunderstood or requests that sound like commands. Members should phrase verbal requests, whenever possible, with optional words and phrases such as “may” or “would you mind”.

d. The duration of a field contact should be as brief as possible. Frequently, the success, or failure, of conducting a meaningful field contact will depend upon the member’s ability to put individuals at
ease and establish rapport.

e. If, during a field contact, individuals ask whether they must respond, or give the impression of feeling compelled to respond, members shall immediately inform them of their right to refuse or leave.

f. Where individuals refuse or cease to cooperate during a field contact, they must be permitted to go on their way unless, based on the totality of the circumstances as described in Part II.B, the field contact is escalated to a stop. The refusal to cooperate (or silence) cannot, absent other factors, be used as the basis to escalate the encounter into a stop.

g. Members shall bear in mind that individuals are not required to possess, or have on their person, any means of identification, nor, absent unusual circumstances, can individuals be required to account for their presence in a public place.

B. Stops

1. Basis for a Stop

If a member has reasonable suspicion that an individual has committed, is committing, or is about to commit any crime, the member has the authority to stop the individual for the purpose of determining whether or not probable cause exists to arrest. The member may exercise that authority in any place in which he or she has a legal right to be.

2. Reasonable Suspicion

The term reasonable suspicion necessitates a minimal level of objective justification for making the stop. Although reasonable suspicion is not capable of precise definition, it is more than a hunch or mere speculation but less than the probable cause necessary to arrest. Members shall consider the totality of the circumstances and base reasonable suspicion on their training and experience. The following list contains some of the factors that may be considered in determining whether reasonable suspicion exists:

a. Stopped Individual’s Characteristics:

An individual may generally fit the description of an individual wanted for a known offense. The individual may seem to be suffering from a recent injury related to a known offense, fatigued from running, overly nervous, under the influence of alcohol or drugs, or other factors may exist that tie the individual to an offense.

b. Stopped Individual’s Actions:

An individual may be fleeing from an actual or possible crime scene, hiding, discarding possible items of evidence, be in the area
of a known offense soon after its commission or in an area known for the type of criminal activity on which the suspicion is based, or be in an area during a time of day during which criminal activity of the kind suspected might usually occur (e.g., a late hour when it would be unusual for individuals to be in a certain area).

c. Demeanor during a Field Contact:

During a field contact an individual may respond to inquiries with evasive, suspicious, or incriminating replies or may be excessively tentative or nervous.

d. Police Training and Experience:

A member may have experience in investigating a particular kind of criminal activity and recognize an individual’s conduct as consistent with a pattern or modus operandi generally followed in particular criminal offenses.

e. Information Obtained from Witnesses or Informants:

An investigating member may base his or her suspicion upon information supplied by civilian witnesses or police informants deemed reliable, either by virtue of their character or by information provided that has been corroborated by the member. Anonymous tips shall be considered in combination with the totality of the circumstances to justify a stop. Based upon an anonymous tip, members may respond to a location and observe the suspect to see if the tip is credible or reliable. Members must then use their own observations of the suspect to determine whether they have the reasonable suspicion necessary to conduct a stop.

f. Information Obtained from Law Enforcement Sources:

(1) The member may recognize an individual as having an arrest or conviction record or know of an individual by reputation.

(2) The member may rely on reasonable suspicion developed by another officer, including one from another police agency, and on sources of police information such as lookouts, flyers, and teletype messages.

(3) The member may have other information that may tend to tie an individual to a crime that would justify a stop. For example, an individual may occupy a wanted vehicle or be in a premise that is the target of a search warrant. In instances of this type, the member shall conduct a stop to determine if sufficient probable cause exists to make an arrest.
3. Citing Justification for a Stop

Every member conducting a stop must be prepared to cite the particular factors that supported the determination that reasonable suspicion existed. The record of the stop shall contain all factors relied on, whether or not they are specifically described in Part II.B.2.

Example: In the early morning hours, a member on patrol receives a broadcast that a homicide has just occurred at a particular location. A general physical description of the suspect is given, and he is said to be wearing a dark jacket. Soon afterwards, in the vicinity of the homicide, the member observes a man generally fitting the physical description but not wearing a dark jacket. Under these circumstances a stop is proper and the member’s reasonable suspicion is justified based on the individual’s characteristics, the area of the stop, and the type of crime under investigation.

4. Police Conduct during a Stop

In determining whether a stop is reasonable and lawful, every phase must be conducted in a reasonable manner.

a. Duration of a Stop

(1) An individual may be stopped at or near the origination of the stop for a reasonable time.

(2) Members shall stop an individual for only the length of time required to obtain the information necessary for the investigation.

(3) The length of the stop must be reasonable and will be evaluated on the particular facts, but caution dictates moving quickly so as to avoid the stop becoming more like an arrest.

(4) When a stop occurs over an extended period of time, officers shall articulate the justification for the length of the stop in the records management system (RMS) report.

b. Explanation to Stopped Individual

(1) Members shall act with restraint and courtesy.

(2) Members shall identify themselves as a law enforcement officer as soon as practicable after making a stop.

(3) Prior to release, members shall give the individual a general explanation of the purpose of the stop. If an arrest is made, members shall also provide the reason for their arrest.
(4) The record of the stop shall briefly note that the member gave the individual an explanation for the stop, and the nature of that explanation.

c. Rights of Stopped Individuals

(1) The member may direct questions to the stopped individual for the purpose of obtaining their name, address, and an explanation concerning their presence and conduct.

(2) The stopped individual shall not be compelled to answer questions or produce identification for examination by the member.

d. Refusal to Cooperate

Neither refusal to answer questions nor to produce identification by itself establishes probable cause to arrest. However, such refusal may be considered, along with other factors, as an element contributing to probable cause if, under the circumstances, an innocent individual could reasonably be expected not to refuse.

5. Initiating a Stop

Members shall use the least coercive means necessary to conduct a stop. The least coercive means, depending on the circumstances, may be a verbal request, an order, or the use of physical force.

6. Use of Physical Force

a. Members may use only such force as is reasonably necessary to carry out the authority granted by this order and GO-RAR-901.07 (Use of Force).

b. If the member is attacked or circumstances exist that create probable cause to arrest, the member may use the amount of force necessary, in accordance with GO-RAR-901.07 (Use of Force), to defend him or herself or make an arrest.

7. Stopping Potential Witnesses under Exigent Circumstances

a. A stop of a potential witness is authorized only in exigent circumstances (i.e., a person suspected to be an eyewitness to a recently committed “crime of violence” as defined in D.C. Official Code § 23-1331(4)). (See Part III.1, “Definitions”).

b. In such exigent circumstances, a member responding to the scene of a crime may briefly stop a potential witness to “freeze” the situation for only the length of time necessary to obtain identification and an account of the circumstances from the person.
NOTE: Interviews with willing witnesses are authorized under the field contact section in Part II.A.3.

C. Protective Pat Downs

1. Basis for a Protective Pat Down

A member may pat down a stopped individual if the member has reasonable suspicion that the individual is carrying a concealed weapon or dangerous instrument and that a pat down is necessary to self-protect or protect others. The protective pat down may be conducted at any time during the stop, so long as reasonable suspicion to conduct the pat down exists.

2. Reasonable Suspicion to Support a Protective Pat Down

a. Reasonable suspicion to support a pat down is more than a vague hunch and less than probable cause. If, under the circumstances, a reasonably prudent law enforcement officer would be warranted in believing his or her safety or that of other individuals is in danger because the individual may be carrying a weapon or dangerous instrument, a pat down is justified.

b. Members shall consider the totality of the circumstances and base reasonable suspicion to support a pat down on their training and experience. The following list contains some of the factors that may be considered in determining whether reasonable suspicion to support a pat down exists:

(1) Individual’s Characteristics:

A stopped individual’s clothes may bulge in a manner suggesting the presence of an object capable of inflicting injury. His or her behavioral characteristics, like demeanor, may suggest the possibility that the individual may be carrying a weapon.

(2) Individual’s Actions:

A stopped individual may have made a movement as if to hide a weapon when approached, appear nervous during the course of the stop, use threatening words or actions, be in an area known for criminal activity or be so isolated that witnesses to an attack would be unlikely, or occur at a time of day when an attack is more difficult to defend or more likely to occur (e.g., during a period of darkness or during a time of day that is consistent with a serious or violent crime pattern).
(3) Prior Knowledge:

The member may know that a stopped individual has an arrest or conviction record for weapons or other potentially violent offenses, or a reputation in the community for carrying weapons or for aggressive behavior.

c. An anonymous tip that an individual has engaged in or is about to engage in criminal conduct is **not sufficient** to justify a protective pat down without independent evidence of criminal activity apart from the anonymous tip. Based upon an anonymous tip, members may respond to a location and observe the suspect to see if the tip is credible or reliable. Members must then use their own observations of the suspect to determine whether they have the reasonable suspicion necessary to conduct a stop and protective pat down.

3. Citing Justification for Protective Pat Down

a. Every member conducting a protective pat down must be prepared to cite the specific factors that supported his or her determination that reasonable suspicion existed to support the pat down.

b. The RMS record of the protective pat down shall contain all factors relied upon to establish reasonable suspicion.

4. Protective Pat Down Procedure

a. A protective pat down authorized under this order shall be limited to seeking possible weapons or dangerous instruments.

b. The authority to pat an individual down shall not be used to conduct full searches designed to produce evidence or other incriminating material. Full searches of individuals conducted without adequate probable cause to arrest are illegal and are specifically prohibited by this order.

c. Protective pat down procedures are as follows:

   (1) If the individual is carrying an item immediately separable from his or her person, such as a purse, shopping bag, or briefcase, it shall be taken from him or her.

   (a) The member shall not search inside the object but shall place it at a safe distance out of the individual’s reach for the duration of the stop.

   (b) If something occurs during the stop that makes the member reasonably suspect the possibility of harm should he or she return an unsearched item without first inspecting it, he or she may briefly inspect the
contents in order to determine if the item contains a weapon or other dangerous objects.

(c) The member must be able to articulate the factors justifying an inspection of the contents of the item, and shall note such factors in the RMS report.

(2) The member shall first pat down the area of the individual's body or clothing most likely to contain a concealed weapon or dangerous instrument. Outer clothing may be opened to allow a pat down of shirts and trousers to determine adequately if a weapon is concealed under the outer clothing.

(3) The member shall not reach inside the individual's clothing or pockets during a pat down, unless the member feels something that may reasonably constitute a weapon or dangerous instrument.

(a) In such event, the officer may reach inside that portion of the individual's clothing to uncover the article that was felt.

(b) Although objects such as change, envelopes, and other papers may be detected as a result of the protective pat down, members have no authority to require their removal prior to an arrest because they are not likely to constitute, or be used as, weapons or dangerous instruments.

(4) A member may also take steps to secure those areas that the stopped individual would reasonably reach during the detention if the member reasonably suspects that the individual might obtain an object from such an area and attempt to harm the member.

(5) If, during the course of a protective pat down, the member feels an object and believes that it could be used to harm him or her or others, the member may take whatever action is necessary to examine the object and to secure it for the duration of the detention.

Example: While approaching a suspect, a member observes him thrust his hand into his left front pants pocket, and withdraw it. The suspect is asked for identification, and says he has none. The member runs his or her hand over the pants pocket and feels a soft lump. The member's actions to this point are proper. However, if the member then reaches into the pocket to recover the object, this action is improper, since the member could not, from these facts, reasonably believe the soft lump was a dangerous weapon or instrument.
5. Discovery of Weapon Lawfully Possessed

If a protective pat down discloses a weapon, the possession of which is licensed or otherwise lawful, the member shall secure it out of the individual’s reach for the duration of the stop. Ammunition may be removed from any firearm, and the weapon and ammunition returned in a manner that ensures the member’s safety.

6. Discovery of Incriminating Evidence

a. If, while conducting a protective pat down, a member feels an object that he or she reasonably believes to be a weapon or dangerous instrument, he or she may reach in and remove it.

   (1) If, while in the process of removing what is believed to be a weapon, the member discovers other items that are contraband, instrumentalities, or evidence of a crime, he or she may lawfully seize the items.

   (2) These items may be considered in determining whether probable cause exists to arrest the individual. If, as a result, an arrest is made, a search incident to arrest is proper.

b. Nothing in the preceding paragraph authorizes searches for incriminating evidence without probable cause. Members shall at all times understand that the authority to conduct a protective pat down is limited.

7. Situations may occur where the member possesses sufficient information from an individual, informant, or otherwise that simultaneously provides reasonable suspicion for a stop and a reasonable belief that the individual to be stopped is armed.

a. In such a situation, a protective pat down is justified immediately upon confronting the individual. If the member reasonably believes he or she knows the location of the weapon, he or she may immediately reach inside the individual’s clothes or pockets to remove the weapon without conducting a protective pat down.

   Example: A member is informed that an individual is sitting in the front passenger seat of a specific automobile with a pistol in his waistband. The member approaches the car and observes an individual generally fitting the description sitting in the front seat passenger side. The member immediately reaches into the waistband of the man’s trousers and recovers a pistol.

D. Searches Conducted during a Stop

1. A member may conduct a search during a stop when proper legal justification for the search exists. The search may be conducted at any time during the stop, so long as legal justification to conduct the search exists.
2. Searches conducted during a stop shall be conducted pursuant to GO-SPT-602.01 (Vehicle Searches and Inventories) and GO-PCA-702.03 (Search Warrants) and documented pursuant to Attachment B. Post-arrest searches are not subject to NEAR Act documentation requirements but shall be conducted and documented in accordance with Department policies and procedures.

3. Consent Searches

A member may conduct a search based upon valid consent of the individual whose person or property is being searched. The Fourth Amendment requires that consent to a search not be coerced, by explicit or implicit means, by implied threat, or covert force.

4. Probable Cause Vehicle Searches

A member may conduct a warrantless vehicle search based upon probable cause to believe that contraband is in a moveable (i.e., operable) vehicle in a public area (e.g., public space, place commonly used for vehicular movement, shopping center, parking lot).

   a. This includes any closed container, locked or unlocked, that could conceal the item to be seized. Pursuant to Carroll v. U.S. 267 U.S. 132 (1925) there is no requirement of exigent circumstances to justify a warrantless search.

   b. Once established, authority to search the vehicle remains even if a suspect is removed from the vehicle and kept nearby.

5. Protective Vehicle Searches

A member may conduct a limited protective search of the passenger compartment of a lawfully stopped vehicle for concealed weapons or dangerous instruments.

   a. Pursuant to Michigan v. Long, 463 U.S. 1032 (1983), a cursory vehicle search, also known as a vehicle frisk, is limited to places in the interior passenger compartment in which a quickly accessible weapon could be placed or hidden.

   b. A closed container found in the passenger compartment may be opened and checked for weapons as long as the contents of the container are immediately accessible to vehicle occupants (i.e., the container opened quickly without breakage).

6. Searches Conducted with a Warrant

A member may conduct a search pursuant to a valid search warrant granted by a judge or magistrate based upon probable cause. Search warrant procedures can be found in GO-PCA-702.03 (Search Warrants).
E. Record Keeping

1. Members may maintain records of field contacts, consistent with the rules set forth in Attachment A (Documenting Field Contacts). Documenting contacts is optional unless required by an official.

2. Members shall maintain records of all stops consistent with the rules set forth in Attachment B (Documenting Stops).

3. Members shall enter all RMS reports prior to the end of their shift.

4. Reviewing officials shall review all RMS reports for conformity with this order, including ensuring that officers are documenting the factors that supported the determination that reasonable suspicion was present.

III. DEFINITIONS

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

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Crime of violence</td>
<td>The term “crime of violence” means aggravated assault; act of terrorism; arson; assault on a police officer (felony); assault with a dangerous weapon; assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse; assault with significant bodily injury; assault with intent to commit any other offense; burglary; carjacking; armed carjacking; child sexual abuse; cruelty to children in the first degree; extortion or blackmail accompanied by threats of violence; gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation; kidnapping; malicious disfigurement; manslaughter; manufacture or possession of a weapon of mass destruction; mayhem; murder; robbery; sexual abuse in the first, second, or third degrees; use, dissemination, or detonation of a weapon of mass destruction; or an attempt, solicitation, or conspiracy to commit any of the foregoing offenses. [D.C. Official Code § 23-1331(4)]</td>
</tr>
<tr>
<td>2. Field contact</td>
<td>Conduct by a member which places the member in face-to-face communication with an individual under circumstances in which the individual is free not to respond and to leave.</td>
</tr>
<tr>
<td>3. Probable cause</td>
<td>Set of facts, circumstances, or reliable information that would lead a reasonable and prudent police officer to believe that a crime has been committed, or is about to be committed, and that a certain person committed it.</td>
</tr>
</tbody>
</table>
### Protective pat down
Limited protective search for concealed weapons or dangerous instruments. A pat down, also known as a frisk, consists of patting an individual’s outer clothing to determine the presence of weapons and other dangerous objects. Pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), members have authority to conduct a limited search of a person for weapons during some stops. Reasonable suspicion for a stop does not automatically provide the basis for a pat down. For such a pat down to be reasonable and constitutional under the Fourth Amendment, the preceding stop of the individual’s person must be lawful and the police must have an objectively reasonable basis to believe that the individual is armed and dangerous.

### Reasonable
Fair, proper, or moderate under the circumstances. Determining whether a member has behaved reasonably is an objective standard whereby the court will consider the circumstances, not the intent of the actor.

### Reasonable suspicion
Minimal level of objective justification for making a stop. Although reasonable suspicion is not capable of precise definition, it is more than a hunch or mere speculation but less than probable cause.

### Search
Examination of a person’s body, property or other area which would reasonably be considered private for the purpose of finding evidence of a crime. Under the Fourth Amendment of the United States Constitution, any search of a person or premises (including a vehicle), and any seizure of tangible property, must be reasonable. Generally, members must obtain a search warrant when conducting a search, though exceptions to the search warrant requirement exist.

### Seizure
Act of taking possession of a person or property by the legal process.

### Stop
Temporary investigative detention of a person for the purpose of determining whether probable cause exists to make an arrest. A stop is a seizure of an individual’s person and occurs whenever an officer uses his or her authority to compel a person to halt, remain in a certain place, or to perform an act (such as walking to a nearby location where the member can use a radio or telephone). If a person is under a reasonable impression that he or she is not free to leave the member’s presence, a stop has occurred.

### ATTACHMENTS
Attachment A: Documenting Field Contacts
Attachment B: Documenting Stops

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Peter Newsham  
Chief of Police

PN:KDO:MOC:SMM
Documenting Field Contacts

I. Members may maintain records of field contacts, consistent with the following rules:

A. Documenting contacts is optional unless required by an official.

B. Members shall be mindful that use of the “field contact” card [PD Form 76 (Contact Card)] during a contact may be interpreted as coercive by some individuals. Consequently, if a determination is made before or during a contact to record information, the individual should promptly be informed that the “field contact” card is strictly for internal use by this Department, not available to the public, and does not signify or imply an arrest circumstance or involvement in criminal activity.

C. Members shall enter “field contact” cards in RMS prior to the end of their shift.

D. Access to the “field contact” card shall be restricted to direct law enforcement uses only, and any accessing by sworn personnel not normally charged with, or responsible for, investigations shall be challenged.

E. “Field contact” cards shall be maintained for a minimum of four years from the date of their execution unless they are subject to a litigation hold.
I. D.C. Act 21-356 “Neighborhood Engagement Achieves Results Amendment Act of 2016” (NEAR Act), D.C. Official Code § 5-113, requires information collection specific to police stops and protective pat downs. Members shall be mindful of these reporting requirements when conducting stops in such a way that they are able to document all required information during the completion of their RMS reports. The purpose of this attachment is to expand upon existing Department reporting requirements to ensure compliance with the provisions of the NEAR Act.

II. In all cases, members shall use the instructions provided in this attachment in addition to all other Department RMS reporting requirements.

III. Members **shall** maintain records of **all** stops consistent with the following rules:

A. For the purposes of NEAR Act data collection and this order:

1. **All** arrests are also considered stops.

2. NEAR Act data collection requirements apply to all stopped individuals. Members shall fully document each individual stopped.

3. Required documentation varies by the circumstances of the stop.

   a. Stops that are resolved using a Notice of Infraction (NOI) shall be referred to in this order as “NOI stops”. This also includes stops resulting in notices of violation (NOV).

   b. **All** other stops shall be referred to as “stops”.

B. The “field contact” card [PD Form 76 (Contact Card)] **shall not** be used to document stops of any kind.

C. **All** NOI stops shall be documented according to the following procedures.

   1. **All** NOI stops shall be conducted by body-worn camera (BWC)-equipped members. In cases where the serious nature of an offense justifies a member not equipped with a BWC to conduct the stop, he or she shall request that a BWC-equipped member respond to the scene. In such cases, the member conducting the stop shall also record the details of the stop, including a justification of the circumstances, in RMS.

   2. For the purposes of documenting stopped individuals’ gender, race, ethnicity, and date of birth, members shall conduct a direct inquiry by stating, “Per the NEAR Act, as passed by the Council of the District of Columbia, we are required to ask for your gender, race, ethnicity, and date of birth.” Members shall record the demographic information as reported by the stopped individual.
In cases where an official government identification card is presented by the stopped individual, members can use available information (e.g., sex) from the identification card. In cases where the stopped individual refuses to report their demographic information, members shall select “unknown.”

MPD uses adjusted categories and definitions provided by the United States Census Bureau for race and ethnicity. They define race as a person’s self-identification with one or more social groups according to the following descriptions.

**Asian (A)** – Person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

**Black or African American (B)** – Person having origins in any of the Black racial groups of Africa.

**Hispanic (H)** – Person of Hispanic or Latino ethnicity.

**Multiple (M)** – Person who identifies with multiple races.

**American Indian or Alaska Native (N)** – Person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

**Native Hawaiian or Other Pacific Islander (P)** – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**Unknown (U)** – A person who identifies as a race or ethnicity that is not captured by RMS or refuses to provide their ethnicity.

**White (W)** – A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

3. **All** NOI stops resolved with a warning, where no other law enforcement action was taken, shall be documented by issuing a warning NOI or NOV as appropriate.

   a. Verbal warnings **shall not** be issued. Pursuant to GO-SPT-303.01 (Traffic Enforcement), verbal warnings shall only be given under extreme circumstances (e.g., receipt of a radio assignment requiring immediate response, motorist was en route to a hospital for emergency treatment of a sick or injured passenger).
occasion that a verbal warning is issued, members shall document the details of the stop, including a justification of the extreme circumstances, in RMS using an “incident” card.

b. When issuing the warning NOI, members shall indicate the reason for the stop by stating, “You were stopped because (specific violation indicated here)”.

4. **All** NOI stops resulting only in issuance of an NOI, where no other law enforcement action was taken, shall be documented solely through issuance of the NOI.

a. Members shall indicate the reason for the stop by stating, “You were stopped because (specific violation indicated here)” and document the reason for the stop on the NOI in the “RFS Code” field. One RFS Code shall be selected and based upon the reason that the stop originated, regardless of any other outcomes of the stop.

b. Members shall indicate the approximate duration of the stop on the NOI in the “Approx. Duration of stop” field. Stop duration is approximate and measured in minutes; only covering the time in which the actual stop took place (e.g., not time spent on field contacts, arrests, or booking).
5. **All** stops resulting only in the issuance of an NOV, where no other law enforcement action was taken, shall be documented solely through issuance of the NOV using the “Notes” section as indicated below. Members shall submit a scanned copy of the NOV to the Strategic Change Division Adminbox.

The “Notes” section of the NOV shall include:
- **Reason for the stop**
- **Approximate duration of the stop**
- **Race of the stopped subject**
- **Sex of the stopped subject**

D. **All** stops shall be documented according to the following procedures.

1. **All** stops regardless of the outcome of the event require a Central Complaint Number (CCN). For each event, members shall select “Yes” in response to “Was a Stop Involved?” to indicate that a stop occurred. This selection prompts all data collection fields necessary to document stops. RMS fields capture stop data requirements as indicated in this attachment.

2. Members shall be mindful of the time that subjects are no longer considered stopped. The stop ends when the subject is either free to leave or probable cause has been established for an arrest. Stop duration shall be captured for each individual who is stopped and is approximate and measured in minutes; only covering the time in which the actual stop took place (e.g., not time spent on field contacts, arrests, or booking).
3. Reports involving stops shall be properly classified and list at least one selection from the “What was the reason for the stop?” field.

4. NEAR Act data collection requirements apply to all stopped individuals. Members shall fully document each individual stopped using a person card.
   a. For the purposes of documenting stopped individuals’ gender, race, ethnicity, and date of birth, members shall conduct a direct inquiry by stating, “Per the NEAR Act, as passed by the Council of the District of Columbia, we are required to ask for your gender, race, ethnicity, and date of birth.” Members shall record the demographic information as reported by the stopped individual.
   b. Members may document individuals who were present during the stop but not considered stopped using the “witness” person card.

5. Documenting Pat Downs and Searches
   a. When documenting searches in RMS, members shall differentiate between searches that occur as a result of a stop and searches that result from an arrest. Searches occurring during the stop shall be documented by selecting “Yes” in response to one or both of these questions:
      (1) “Was this PERSON patted down and/or searched as a result of the stop (prior to arrest)?”
      (2) “Was this person’s PROPERTY patted down and/or searched as a result of the stop (prior to arrest)?”
   b. Multiple searches can be entered on each type of search by selecting “+ Search Type.”
   c. Post-arrest searches are not subject to NEAR Act requirements and shall be documented in the “arrest” card.
6. Classifying Stops

a. **All** stops not involving an offense or arrest shall be documented using an "incident" card, and "Yes" in response to "Was a Stop Involved?" shall be selected to indicate that a stop occurred.

   (1) If there is no other incident type, "Stop" shall be selected.

   **Example:** An individual is stopped and questioned about suspicious activity witnessed by the member. The individual is released without further action. This stop shall be documented using an "incident" card and the stop shall be documented by selecting “Yes” in response to “Was a Stop Involved?” to indicate that a stop occurred.

   (2) If there is an appropriate incident type that can be selected other than “Stop” (e.g., “Family Disturbance”), that value shall be selected.

   **Example:** An individual at the scene of a family disturbance call is stopped and patted down. The individual is released without further action. The “incident” card shall be classified “Family Disturbance” and the stop shall be documented by selecting “Yes” in response to “Was a Stop Involved?” to indicate that a stop occurred.

b. **All** stops involving an offense or arrest shall be documented using an "offense" or "arrest" card(s), and "Yes" in response to "Was a Stop Involved?" shall be selected to indicate that a stop occurred.

   (1) The "offense" and "arrest" card(s) shall be classified according to the applicable offense(s).

   **Example:** An individual at the scene of a robbery call is stopped and patted down. The individual is arrested. The arrest shall be documented using the "arrest" card classified according to the applicable offense(s), and the stop shall be documented by selecting “Yes” in response to “Was a Stop Involved?” to indicate that a stop occurred.

c. In cases where an NOI or NOV was also issued, the “NOI or NOV Issued” check box under “Incident Statistics” shall be marked.

7. Members conducting a stop must be prepared to cite the particular factors that supported the determination that reasonable suspicion was present. Members shall use the “Internal Narrative” section of the report to describe the circumstances of the stop and an articulation of the officer’s reasonable suspicion. The record of the stop shall contain all factors relied upon for this justification. The “Internal Narrative” shall also briefly note that the
member gave the person an explanation for the stop and the nature of that explanation.

E. BWC Categorization

Members shall use the BWC categorization instructions provided in the below chart in addition to all other Department BWC requirements in accordance with GO-SPT-302.13 (Body Worn Camera Program).

<table>
<thead>
<tr>
<th>BWC Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Stop</td>
<td>All vehicle stops resulting in notice of infraction (NOI) and notice of violation (NOV) stops pursuant to this order and vehicle stops that do not result in an arrest.</td>
</tr>
<tr>
<td>Contact/Stop</td>
<td>All contacts and non-vehicle stops not resulting in an arrest and non-vehicle stops resulting in issuance of an NOV.</td>
</tr>
</tbody>
</table>

1. Members shall select the BWC category that corresponds to the most serious offense.

2. For stops resulting in an NOI or NOV, members shall enter the NOI or NOV number in the ID field in evidence.com. In cases of multiple NOIs or NOVs, only one NOI or NOV number shall be entered.
APPENDIX I
I. BACKGROUND

To protect citizens and members, the Metropolitan Police Department (MPD) remains committed to documenting and investigating member’s use of force incidents. This Special Order explains the procedures for completing the PD Form 901-e [Use of Force Incident Report (UFIR)] and the PD Form 901-f (UFIR, Subject Supplement) (Attachments A and B).

II. DEFINITIONS

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

1. Contact Controls – Includes, but are not limited to, hand control procedures, firm grip, escort, and control holds.

2. Cooperative Controls – Includes, but are not limited to, verbal persuasion.

3. FIB Manager – Member of the Internal Affairs Bureau, Force Investigation Branch (FIB) who is the rank of Lieutenant or above and is authorized to issue Reverse-Garrity warnings to members when they decline to complete a PD Form 901-e (UFIR).
4. Member – Sworn or civilian MPD employee or MPD Reserve Corps member.

5. Resisted Handcuffing – Occurs when a person actively resists being placed in handcuffs and the member must use contact controls in order to forcibly move the person’s wrists or arms, or to physically maneuver the person’s body so that the handcuffs can be applied. The “resistance” may range from an active struggle to a person simply “locking” his/her arms to prevent their being moved to the handcuff position.

6. Serious Use of Force – Lethal and less than lethal actions by members including:
   a. All firearm discharges by a member with the exception of range and training incidents, and discharges at animals;
   b. All uses of force by a member resulting in a broken bone or an injury requiring admission to a hospital;
      
      NOTE: The hospitalization must be directly associated with the use of force, and should not include treatment or hospitalization for those injuries incurred prior to the use of force (e.g., drug or alcohol use, medical conditions such as high blood pressure).
   c. All head strikes with an impact weapon;
   d. All uses of force by a 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;
   e. All incidents where a person receives a bite from an MPD canine; and
   f. All other uses of force by a member resulting in a death.

7. Unresisted Handcuffing – (Also referred to as “submissive” handcuffing) occurs when a person complies with a member’s verbal instructions and/or passively allows the member to move his/her arms to a position behind the back in order to apply the handcuffs. In an unresisted/submissive handcuffing situation, the member may use either cooperative and/or contact controls to apply the handcuffs.

8. Use of Force Incident 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.

III. REGULATIONS

A. All sworn, civilian and Reserve Corps members of the MPD are subject to, and shall act in accordance with, the provisions in this order.

B. Only those managers assigned to the Internal Affairs Bureau, Force Investigation Branch (FIB) (the rank of Lieutenant or above) shall authorize the issuance of Reverse-Garrity warnings to members who decline to complete the PD Form 901-e (UFIR).

IV. PROCEDURES

A. Members shall immediately notify an official following any use of force.

B. Use of the PD Form 901-e (UFIR)

1. Members shall notify the Watch Commander of incidents involving contact controls or resisted handcuffing in which there is no report of injury or pain by the subject.

   a. The Watch Commander shall determine if it is necessary for the member to complete a PD Form 901-e (UFIR).

   b. If the Watch Commander determines a PD Form 901-e (UFIR) does not need to be completed, the Watch Commander shall:

      (1) Note the incident on the PD Form 150 (Watch Commander’s Report); and

      (2) Attach a copy of the respective PD Form 163 (Arrest/Prosecution Report).

      **NOTE:** A notification to the Force Investigative Branch is not necessary in these incidents.

2. Members shall complete the PD Form 901-e (UFIR) immediately following all use of force incidents except for cooperative controls and incidents described in Part IV.B.1, unless there has been a resulting injury, or the subject complains of pain following the use of force.

3. Members shall **not** complete the PD Form 901-e (UFIR) in "unresisted handcuffing" situations as defined in this order unless there has been a resulting injury, or the subject complains of pain.
4. Members shall complete the PD Form 901-e (UFIR) immediately following all firearm discharges, including negligent discharges (except for discharges that occur during range and training incidents).

5. Members shall complete one (1) PD Form 901-f (UFIR, Subject Supplement) for each additional person on whom force was used.

6. Regardless of the level of force used, if a person claims to be injured OR if an injury is observed, members must notify a supervisor immediately, and prepare a PD Form 901-e.

C. Members must be able to articulate in specific detail the facts and circumstances surrounding the force used in any given situation.

D. Members who are the subject of an allegation of excessive force, but who have not engaged in any use of force against the subject, shall immediately notify an official to respond to the scene in order to document the incident as a citizen complaint, and investigate the incident accordingly.

E. Members who engage in a use of force incident requiring the completion of a PD Form 901-e (UFIR), but fail to notify an official and complete the form as outlined in this directive, shall be subject to disciplinary action.

F. Supervisory Officials shall:

1. Upon being notified that a member has used force, immediately respond to the scene of the incident in accordance with GO-RAR-901.08 (Use of Force Investigations).

2. When a member declines to complete the PD Form 901-e (UFIR) immediately following a use of force, take the following actions:

   a. For a Serious Use of Force Incident or a “Use of Force Incident Indicating Potential Criminal Conduct by a Member” as defined in Part II:

      (1) Ensure that the FIB is notified in accordance with GO-RAR-901.08 (Use of Force Investigations).

      (2) Do not compel or order the subject member to make a statement, or complete the PD Form 901-e (UFIR).

   NOTE: In these cases, the FIB shall be responsible for ensuring that a PD Form 901-e (UFIR) is voluntarily completed, or ensuring that the PD Form 901-e (UFIR) is
completed following a written declination from the United States Attorney’s Office (USAO).

b. For All Other Use of Force incidents requiring completion of a PD Form 901-e (UFIR):

(1) Notify the element Watch Commander to respond to the scene.

(2) Do not compel, or order the subject member to make a statement, or complete the PD Form 901-e (UFIR) until one of the following occurs:

(a) The member requests a Reverse-Garrity and the element Watch Commander receives approval by the FIB on-call manager (Lieutenant or above) to authorize a Reverse-Garrity warning; or

(b) The USAO has issued a written criminal declination.

3. Within one (1) hour of learning of the use of force incident, notify the Internal Affairs Bureau (IAB) to obtain incident summary (IS) tracking numbers according to the following:

a. IAB can be notified directly during normal weekday business hours (from 0700 – 1900); or

b. During non-business hours (from 1900 – 0700), notify the on-call FIB Investigator. The FIB Investigator may be contacted through the Command Information Center (CIC).

4. Review and sign the completed PD Form 901-e (UFIR).

5. Prior to the end of the tour of duty, forward the signed, completed PD Form 901-e (UFIR) to the member’s Watch Commander.

6. When approving a charge of assault on a police officer (APO), ensure that the report narratives describe in detail the facts and circumstances surrounding the incident and subsequent arrest, to include specifically indicating whether or not force was used during the arrest. If force was used, the authorizing official shall ensure that the UFIR is completed, if required.

G. The Watch Commander shall:
1. Determine if it is necessary to respond to the scene of the use of force incidents. If the Watch Commander determines it is necessary to respond to the scene but is unavailable, he/she shall designate a management official (lieutenant or above) to respond to the scene in his/her place.

2. Upon receiving a PD Form 901-e (UFIR):
   a. Ensure the member has completely filled out the form;
   b. Ensure the form has been reviewed and signed by the supervisory official; and
   c. Review the PD Forms 163 (Prosecution Report), 251 (Incident-Based Event Report), 252 (Supplement Report), 901-b (Preliminary Report Form - Use of Force Incidents), 901-e (UFIR), and, if required, 313 (Arrestee Illness or Injury Report), to ensure that the use of force is reported accurately and completely, and that all information concerning the arrest is consistent in all reports. Where there are discrepancies between the reports, the Watch Commander shall make a further inquiry into the matter and, if necessary, return the reports to the originating officer and/or official for corrections, clarification, and review before final approval.

3. Prior to the end of the tour of duty, sign the completed PD Form 901-e (UFIR), and either fax or email the form to the FIB Commanding Officer.

4. Forward the original copy of the signed PD Form 901-e (UFIR), through channels, to the FIB Commanding Officer.

5. If the member refuses to complete a PD Form 901-e (UFIR) following a use of force:
   a. For a Serious Use of Force Incident or a “Use of Force Incident Indicating Potential Criminal Conduct by a Member,” ensure that the FIB is notified in accordance with GO-RAR-901.08 (Use of Force Investigations).

   **NOTE:** In these cases, the FIB shall be responsible for ensuring that a PD Form 901-e (UFIR) is voluntarily completed, or that the PD Form 901-e (UFIR) is completed following a written declination from the USAO.

   b. For all other use of force incidents requiring completion of a PD Form 901-e (UFIR):
(1) Upon notification that a member has declined to complete the PD Form 901-e (UFIR) immediately following a use of force, respond to the scene.

(2) Contact the CIC and request that the on-call FIB investigator be paged.

(3) Provide the CIC with a telephone number and location where they can be contacted.

(4) When contacted by the FIB investigator, provide a detailed summary of the incident.

(5) If an FIB manager authorizes the issuance of a Reverse-Garrity warning:

Issue a Reverse-Garrity warning to the member.

NOTE: Sample Reverse-Garrity Warning Language for use of force incidents:

“The PD Form 901-e concerns administrative matters relating to the official business of the MPD. This form is not intended for the purpose of instituting a criminal prosecution against you. During the course of completing the form, even if you disclose criminal conduct, neither self-incriminating statements nor the fruits of any self-incriminating statements will be used against you in any criminal proceeding.

Since this is an administrative matter and any self-incriminating information you disclose will not be used against you in a court of law, you are required to fill out the form fully and truthfully. General Order 201.26 (Duties, Responsibilities and Conduct of Members of the Department), states in part, ‘members shall respond truthfully when questioned by supervisory officers about matters relating to official business of the police department...’. Failure to fill out the form will result in disciplinary action.”

(6) If the FIB manager does not authorize the issuance of a Reverse-Garrity warning:
(a) Prior to being relieved from duty, complete the PD Form 901-b which is required before IAB can submit to the USAO.

(b) Complete each item, and ensure the following information is included in the template:

i. Summary of the event, and member information;

ii. Documentation whether the member provided, or declined to provide, a statement/interview;

iii. Interviews with the first official on the scene, and the first member on the scene;

iv. Interviews with all non-subject members who were involved in the incident;

v. Interviews with all civilian eyewitnesses;

vi. As applicable, a completed PD Form 313, to include the portion filled out by the hospital physician, and a copy of the PD Form 42 (Injury or Illness Report);

vii. Documentation of injuries to the defendant (e.g. photographs);

viii. Documentation of defendant’s statements, remarks, or complaints of misconduct; and

ix. All arrest paperwork, to include the PD Forms 163, 251, 252 and/or 854 (Investigative File Report).

(7) Forward the completed PD Form 901-b through channels, to the Assistant Chief, IAB with a copy to the involved member’s chain of command officials, to include the member’s Administrative Captain.

H. Element Commanders/Directors shall ensure that all members under their command comply with the requirements of this Special Order.
I. The FIB Commanding Officer shall ensure that hard copies of completed PD Forms 901-e (UFIR) and 901-f (UFIR, Subject Supplement) are maintained in a centralized file in the FIB Office.

V. PROVISION

Where the provisions in this directive are in conflict with directives previously issued, the provisions in this directive shall prevail.

VI. CROSS REFERENCE

GO-RAR-901.08 (Use of Force Investigations)

VII. ATTACHMENTS

1. Attachment A: PD Form 901-e (Use of Force Incident Report)

2. Attachment B: PD Form 901-f (Use of Force Incident Report, Subject Supplement)

Cathy L. Lanier
Chief of Police

CLL:PH:MOC:CC:JC
# Use of Force Incident Report (UFIR)

## A. Reporting Officer

<table>
<thead>
<tr>
<th>CS Number</th>
<th>Last Name</th>
<th>First Name</th>
<th>MI</th>
<th>Rank</th>
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<tbody>
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<thead>
<tr>
<th>CAD No.</th>
<th>Element</th>
<th>Assignment</th>
<th>PSA</th>
<th>Sex</th>
<th>Race</th>
<th>Height</th>
</tr>
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<tbody>
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<thead>
<tr>
<th>Weight</th>
<th>Appointment Date</th>
<th>Duty Status (Check One)</th>
<th>Uniform (Check One)</th>
<th>DOB</th>
</tr>
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<tbody>
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<table>
<thead>
<tr>
<th>Supv. Notified</th>
<th>Date</th>
<th>Time</th>
<th>Supervisor Notified Last Name</th>
<th>First Name</th>
<th>MI</th>
<th>Rank</th>
<th>CAD No.</th>
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</tbody>
</table>

**Officer Injured or Complaint of Pain** (If Yes, Complete Officer Injury Section)

- **Yes**: [ ]
- **No**: [ ]

### Observations

- **None**: [ ]
- **Abrasions**: [ ]
- **Bruising**: [ ]
- **Lacerations**: [ ]
- **Stab Wound**: [ ]

### Complaints

- **None**: [ ]
- **Burning**: [ ]
- **Numbness**: [ ]
- **Complaint of Pain, No Visible Injuries**: [ ]
- **Difficulty Breathing**: [ ]

**Body Diagrams (Indicate Injury)**

- **Gun Shot Wound**: [ ]
- **Unconscious**: [ ]
- **Other (Specify)**: [ ]

**Photos Taken**

- **Yes**: [ ]
- **No**: [ ]

## B. Event Information

<table>
<thead>
<tr>
<th>Incident Date</th>
<th>Incident Time</th>
<th>Date of Report</th>
<th>Time of Report</th>
<th>IV. CCN</th>
<th>V. District</th>
<th>VI. PSA</th>
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</tbody>
</table>

### Location of Incident

- **Yes**: [ ]
- **No**: [ ]

**Lighting Conditions**: [ ]

**Ground Conditions**: [ ]

## C. Force Information

### Type of Force Used

- **Hands**: [ ]
- **Feet-Kick**: [ ]
- **Firm Grip**: [ ]
- **Control Holds**: [ ]
- **Joint Locks**: [ ]
- **Pressure Points**: [ ]
- **Fists**: [ ]
- **Takedown – Solo**: [ ]
- **Takedown – Team**: [ ]
- **OC Spray**: [ ]
- **First Aid Rendered**: [ ]

### Handgun Information

- **Pointed at Person**: [ ]
- **Discharged**: [ ]

### Firearm Information

<table>
<thead>
<tr>
<th>Firearm Type</th>
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</thead>
<tbody>
<tr>
<td>Handgun</td>
</tr>
<tr>
<td>Shotgun (Certified)</td>
</tr>
</tbody>
</table>

### Other Force Used

- **Mountain Bike Slide Takedown (Certified)**: [ ]
- **Canine**: [ ]

**Other Force Used**: [ ]

---

SO-10-14 [Instructions for Completing the Use of Force Incident Report (UFIR: PD Forms 901-e and 901-f)]
Attachment A
PD 901-e
Revised 3/28/06
## D. SUBJECT INFORMATION

**TOTAL NUMBER OF SUBJECTS ON WHOM FORCE WAS USED:**

(COMPLETE PD 901-f FOR EACH ADDITIONAL SUBJECT)

<table>
<thead>
<tr>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>MI</th>
<th>SSN</th>
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<thead>
<tr>
<th>ADDRESS</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
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<tr>
<th>PHONE</th>
<th>EMPLOYMENT/SCHOOL</th>
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<th>SEX</th>
<th>RACE</th>
<th>HEIGHT</th>
<th>WEIGHT</th>
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**SUBJECT INJURED OR COMPLAINT OF PAIN**

(If yes, complete Subject Injury Section and PD-313)

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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</table>

**SUBJECT ACTION (CHECK ONE)**

- [ ] COMPLIANT
- [ ] ASSAULTIVE (PHYSICAL INJURY)
- [ ] ASSAULTIVE (SERIOUS PHYSICAL INJURY / DEATH)
- [ ] RESISTANT (PASSIVE)
- [ ] RESISTANT (ACTIVE)
- [ ] AMBULANCE NO:

**SUBJECT ACTIVITY (CHECK ALL THAT APPLY)**

- [ ] APO
- [ ] ATTEMPT ARREST
- [ ] ADW
- [ ] ALCOHOL
- [ ] BARRICADE
- [ ] CROWD CONTROL
- [ ] DISORDERLY CONDUCT
- [ ] DEMONSTRATION
- [ ] DEFENDING AN ASSAULT
- [ ] DOMESTIC VIOLENCE
- [ ] DRUGS
- [ ] DUI
- [ ] HOSTAGE
- [ ] LANDLORD/TENANT DISPUTE
- [ ] SUICIDE ATTEMPT
- [ ] TRANSPORTING
- [ ] TRAFFIC STOP
- [ ] OTHER (SPECIFY BELOW)

**OTHER SUBJECT ACTIVITY:**

- [ ] DISCHARGED

**SUBJECT WEAPON INFORMATION**

<table>
<thead>
<tr>
<th>WEAPON</th>
<th>FIREARM</th>
<th>BLUNT WEAPON</th>
<th>EDGED WEAPON</th>
<th>OTHER WEAPON</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
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<th>RECOVERED</th>
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<tr>
<td></td>
<td>YES</td>
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**SUBJECT INJURY**

<table>
<thead>
<tr>
<th>OBSERVATIONS</th>
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<tr>
<th>COMPLAINTS</th>
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</table>

<table>
<thead>
<tr>
<th>AMBULANCE NO:</th>
<th>PHOTOS TAKEN</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>
E. OTHER OFFICER FORCE INFORMATION

Did any other members use force during this incident?  
☐ Yes ☐ No ☐ Unknown  
(If yes, list below. Use addtl. sheets if necessary)

<table>
<thead>
<tr>
<th>CAD NUMBER</th>
<th>LAST NAME</th>
<th>FIRST NAME</th>
<th>MI</th>
<th>RANK</th>
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<table>
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</table>

F. PROPERTY DAMAGE

Was property damaged as a result of the use of force?  
☐ Yes ☐ No  
If yes, describe below

G. OFFICER NARRATIVE

H. REVIEW

XVI. Officer signature  
XVII. Date

Supervisor signature  
Date

Watch commander signature  
Date
## A. SUBJECT INFORMATION

<table>
<thead>
<tr>
<th>CS NUMBER: ___________________________</th>
<th>DATE OF INCIDENT: ___________________________</th>
<th>SUBJECT _______ OF ______ (TOTAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAST NAME: __________________________</td>
<td>FIRST NAME: ________________________________</td>
<td>MI</td>
</tr>
<tr>
<td>ADDRESS: ____________________________</td>
<td>CITY: ____________________________</td>
<td>STATE</td>
</tr>
<tr>
<td>PHONE: ______________________________</td>
<td>EMPLOYMENT/SCHOOL: ____________________________</td>
<td></td>
</tr>
<tr>
<td>DOB: ________________________________</td>
<td>SEX: __________________</td>
<td>RACE: __________________</td>
</tr>
<tr>
<td>SUBJECT INJURED OR COMPLAINT OF PAIN (IF YES, COMPLETE INJURY SECTION INJURY BELOW)</td>
<td>NO</td>
<td>YES</td>
</tr>
</tbody>
</table>

### SUBJECT ACTION (CHECK ONE)

- COMPLIANT
- RESISTANT (PASSIVE)
- RESISTANT (ACTIVE)
- ASSAULTIVE (PHYSICAL INJURY)
- ASSAULTIVE (SERIOUS PHYSICAL INJURY / DEATH)

### SUBJECT ACTIVITY (CHECK ALL THAT APPLY)

- APO
- ATTEMPT ARREST
- ADW
- ALCOHOL
- BARRICADE
- CROWD CONTROL
- DISORDERLY CONDUCT
- DEMONSTRATION
- DEFENDING AN ASSAULT
- DOMESTIC VIOLENCE
- DRUGS
- DUI
- HOSTAGE
- LANDLORD/TENANT DISPUTE
- SUICIDE ATTEMPT
- TRANSPORTING
- TRAFFIC STOP
- OTHER (SPECIFY BELOW)

**OTHER SUBJECT ACTIVITY:**

### WEAPON INFORMATION

<table>
<thead>
<tr>
<th>WEAPON</th>
<th>FIREARM</th>
<th>BLUNT WEAPON</th>
<th>EDGED WEAPON</th>
<th>OTHER WEAPON</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>NO</td>
<td>YES</td>
<td>NO</td>
<td>YES</td>
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</table>

**TYPE:**

<table>
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<tr>
<th>RECOVERED</th>
<th>RECOVERY LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>YES</td>
<td>NO</td>
</tr>
</tbody>
</table>

**RECOVERY LOCATION:**

**DISCHARGED:**

<table>
<thead>
<tr>
<th>DISCHARGED</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>YES</td>
<td>NO</td>
</tr>
<tr>
<td>OBSERVATIONS</td>
<td>SUBJECT INJURY</td>
</tr>
<tr>
<td>--------------</td>
<td>---------------</td>
</tr>
<tr>
<td>NONE</td>
<td>GUN SHOT WOUND</td>
</tr>
<tr>
<td>ABRASIONS</td>
<td>UNCONSCIOUS</td>
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<tr>
<td>BRUISING</td>
<td>OTHER (SPECIFY)</td>
</tr>
<tr>
<td>LACERATIONS</td>
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<tr>
<td>STAB WOUND</td>
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<thead>
<tr>
<th>COMPLAINTS</th>
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</thead>
<tbody>
<tr>
<td>NONE</td>
<td>BURNING</td>
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<tr>
<td>NUMBNESS</td>
<td>OTHER (SPECIFY)</td>
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</tr>
<tr>
<td>COMPLAINT OF PAIN,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NO VISIBLE INJURIES</td>
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<td></td>
</tr>
<tr>
<td>DIFFICULTY BREATHING</td>
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</tbody>
</table>

AMBULANCE NO: [ ]

PHOTOS TAKEN [ ] YES  [ ] NO

B. REVIEW

OFFICER SIGNATURE

DATE

SUPERVISOR SIGNATURE

DATE

WATCH COMMANDER SIGNATURE

DATE
APPENDIX J
I. BACKGROUND

The use of body-worn cameras (BWCs) by law enforcement has proven effective in reducing violent confrontations, uses of force, and complaints against officers. The purpose of this order is to outline the policy and procedures for the use of BWCs by members of the Metropolitan Police Department (MPD).

II. POLICY

It is the policy of the MPD to use BWCs to further the mission of the Department, promote public trust, and enhance service to the community by accurately
documenting events, actions, conditions, and statements made during citizen encounters, traffic stops, arrests, and other incidents, and to help ensure officer and public safety.

III. DEFINITIONS

1. Body-worn camera (BWC) – camera system with secured internal memory for storage of recorded audio and video that is designed to be worn on the clothing of or otherwise secured to a person.

2. BWC Unit Coordinators – members the rank of lieutenant or above who are designated by their commander to assist with the implementation and use of BWCs within their district or element by providing assistance and guidance to members who are assigned BWCs.

3. Central complaint number (CCN) – unique eight-digit number that the Office of Unified Communications (OUC) issues to MPD members upon request when recording events via an incident or offense report, arrest, or other type of event. The first two digits of the CCN correspond to the last two digits of the year in which the report is being taken.

4. Digital evidence – BWC files, including photographs, audio recordings, and video footage, captured by a BWC and stored digitally.

5. Docking station – hardware connected to MPD’s network that is designed to offload recordings from the BWC.

6. Metadata – descriptors that identify the time, date, location, badge number linked to the creation of the record, and officer interaction/offense categorization of BWC recordings.

7. Member – sworn MPD employee or MPD Reserve Corps member.

8. MPD BWC Program Director – member who is designated by the Chief of Police to oversee the body-worn camera program. The MPD BWC Program Director may be contacted at bwc.project@dc.gov.

9. Official – sworn member the rank of sergeant or above.

10. Operational readiness – an operational and charged BWC with any data from the previous shift uploaded to an MPD-approved storage database.

11. School-based events – student or school-related crimes and incidents that involve students and occur on private, public, or charter school
grounds or within close proximity to schools. School-based events do not include safe passage assignments, non-critical contacts with students, or mediations of minor incidents.

12. Subject – an individual who is not an on-duty law enforcement officer at the time of the BWC recording and who has been recorded by a BWC.

IV. REGULATIONS

A. Prior to being issued a BWC, members shall successfully complete MPD BWC training relating to this policy as well as for the activation, use, annotation, and uploading of data.

B. Members shall follow existing officer safety policies when conducting enforcement stops as outlined in Department policies and procedures. Member safety shall be the primary consideration when contacting citizens or conducting vehicle stops, not the ability to record an event.

NOTE: Members are reminded that their BWC will “beep” twice every two minutes to remind them that their camera is activated. Members are cautioned that they should turn the “beep” volume down in situations when it may compromise their safety.

C. Members shall:

1. Mount their BWCs at the beginning of their shift in one of the methods approved by the Department (Attachment A) using only the MPD-issued mounting equipment.

2. Wear the BWC for the entire shift.

D. During their shift, members shall maintain their BWC in a constant state of operational readiness.

E. When practicable, members shall inform contact subjects that they are being recorded at the beginning of the contact (e.g., “Ma’am/Sir, I am advising you that our interaction is being recorded.”)

F. In accordance with GO-SPT-304.18 (Language Access Program), members shall ensure that they provide language access services to all limited and non-English proficient (LEP/NEP) persons in a timely and effective manner. Members shall provide LEP/NEP persons with a MPD Body Worn Camera Recording Notice (Attachment B) in the appropriate language at the beginning of the BWC recording when practicable.

NOTE: MPD Body-Worn Camera Recording Notices are available in the
following languages: Amharic, Chinese, French, Korean, Spanish, and Vietnamese.

G. The viewing of BWC recordings at the scene of an incident is prohibited.

1. Requests by subjects of BWC recordings shall be handled in accordance with Part V.F of this order.

2. Requests by all other members of the public shall be referred to the Freedom of Information Act (FOIA) Office.

H. Members shall be aware that all recordings associated with BWCs are the sole property of MPD.

I. Members shall only use MPD-issued BWCs.

J. Members shall only use BWCs while they are on-duty and working in an official law enforcement capacity.

K. Overtime and Outside Employment

1. Members working police-related outside employment or Department-sanctioned overtime (e.g., reimbursable details or nightlife deployments) shall wear their BWCs.

2. Members who are wearing BWCs for either police-related outside employment or Department-sanctioned overtime:
   
a. May take their BWCs home on the shift prior to their assignment.

b. Shall notify the on-duty watch commander that they are taking their BWC home.

   NOTE: Members who are working police-related outside employment or Department-sanctioned overtime are not entitled to any additional compensation for retrieving, wearing, or returning their BWCs.

3. The watch commander shall document members who take home their BWCs on the PD Form 150 (Tour of Duty Supervisor’s Report).

L. Members shall not:

1. Remove, dismantle, or tamper with any hardware or software component or part associated with BWCs or related applications.

2. Destroy, disseminate, edit, alter, modify, tamper with, or otherwise use BWC recordings without the written permission of the Chief of Police. Members who tamper with BWC recordings may be subject to criminal investigation and prosecution.
3. Copy or download a BWC recording without written approval of an official. Members shall only share BWC recordings for official law enforcement purposes.

4. Delete any BWC recordings except as specified in Part V.C of this order (i.e., accidental recordings).

5. Record, view, download, or convert any BWC recording for personal use.

6. Use any other member's assigned BWC. If members inadvertently use any other member’s assigned BWC, they shall notify an official immediately and send an email to bwc.project@dc.gov.

7. Use MPD-issued BWCs while off-duty or take their BWCs home unless a member is working outside employment or Department-sanctioned overtime; see Part IV.K.

8. Record on private space unless present for a lawful purpose.

9. Record personal activity.

10. Record conversations of members without their knowledge during routine, non-enforcement related activities.

11. Record gratuitous or obscene images, such as the effects of extreme violence or injury, unless necessary for evidentiary documentation.

12. Record a particular person based solely on the person’s race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibility, homelessness status, physical disability status, matriculation, or political affiliation.

13. Record in places where a reasonable expectation of privacy exists, such as locker rooms or restrooms, unless the activation is required for the performance of official duties.

14. Intentionally or willingly record confidential informants or undercover members.

15. Use any other electronic device or other means to intentionally interfere with the capability of the BWC.

16. Post recordings to any social media site.

17. End a recording based solely on a citizen’s request unless the citizen wishes to provide an anonymous tip. In cases where the citizen continues to request that a recording be turned off, and the member cannot resolve the issue, the member shall request that an official respond to the scene to assist.
18. View recordings for anything other than official law enforcement purposes.

M. Members shall only store BWC recordings on MPD-approved storage databases. Members shall ensure all BWC data is uploaded at the end of their shift, and when necessary, during their shift, to ensure storage capacity of their BWC is not exceeded.

N. Members are reminded that BWC recordings do not replace field reports or other required documentation.

O. Members shall ensure they turn in their BWC prior to or at the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use, except as provided in Part IV.K of this order.

P. Members who are in a less than full duty status for more than 30 days shall turn in their cameras to their BWC Unit Coordinator for reassignment in accordance with Part VI.D.3 of this order.

Q. When reviewing BWC recordings, in accordance with GO-PER-120.21 (Disciplinary Procedures and Processes), members shall immediately notify officials upon observing, or becoming aware of, an alleged violation of Department policies, laws, rules, regulations, or directives.

V. PROCEDURES

A. BWC-Equipped Members

1. Members shall be responsible for the use and maintenance of their assigned BWC at all times.

2. Prior to deployment, members shall:

   a. Inspect and test their BWCs to ensure that they are operational and functioning properly. Upon inspection and testing, or at any time during their shift:

      (1) If a BWC is lost, damaged or inoperable, members shall immediately notify a sergeant, who shall complete a PD Form 43 (Loss or Damage to District Government Property), and notify the MPD BWC Program Director.
(2) If a BWC is lost, malfunctioning, or inoperable, members shall notify their watch commander and contact the MPD Help Desk for assistance. If a replacement BWC is not immediately available, the watch commander shall document the member’s name and CAD number in the PD Form 150 (Tour of Duty Supervisors Report) and notify the BWC Unit Coordinator who shall be responsible for making sure a replacement is provided within two business days.

(3) If a member needs replacement accessories due to loss or damage (e.g., replacement cord), he or she may contact their BWC Unit Coordinator for a replacement.

b. Ensure they begin their shift with a fully charged BWC that does not contain data from a prior shift.

c. Notify the OUC that they are BWC-equipped over the radio.

d. Certify on their PD Form 775 (Daily Vehicle Inspection Report) that they are equipped with a BWC and document whether a recording was made for each run during their shift.

3. Members, including primary, secondary, and assisting members, shall start their BWC recordings as soon as a call is initiated via radio or communication from OUC on their mobile data computer (MDC), or at the beginning of any self-initiated police action.

4. In addition, members shall activate their BWCs for the following events:

a. All dispatched and self-initiated calls-for-service;

b. All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil;

**NOTE:** Members are **not** required to record non-investigatory contacts (e.g., business checks).

c. All stops (i.e., traffic, pedestrian, and bicycle) and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks);

d. Vehicle and foot pursuits;

e. All traffic crash scenes;
f. Any incident or traffic crash in which the member is involved;
g. DUI and consumption of marijuana investigations;
h. High-risk encounters (e.g., barricade situations, active shooter situations);
i. Tactical activities, to include canine, Emergency Response Team, and Civil Defense Unit deployments;
j. Encounters with mental health consumers;
k. Suspicious activities;
l. Use of force situations;
m. Arrests;
n. Encounters requiring the advising of Miranda rights;
o. All transports of prisoners and citizens;
p. Any of the following searches of a person or property:
   (1) Consent searches;
   (2) Warrantless searches;
   (3) Vehicle searches;
   (4) Searches conducted incident to arrest;
   (5) Inventory searches;
   (6) Cursory searches;
   (7) Probable cause searches;
   (8) Execution of search or arrest warrants;
   (9) Field searches;
   (10) Full-custody searches; and
   (11) Strip or squat searches;
q. Hospital guard details as outlined in Part V.A.9.b of this order;
r. During the initial inventorying of seized money or any high value property;

s. During school-based events as defined in Part III.11 of this order as well as other encounters with juveniles during events defined in this section;

t. During First Amendment assemblies in accordance with Part V.A.7 of this order;

u. While assisting other law enforcement agencies (e.g., United States Park Police, District of Columbia Housing Authority Police) in handling incidents outlined in this section;

v. While interacting with citizens inside a police facility (e.g., station personnel providing police services or information); and

w. Any incident that a member deems appropriate to activate the BWC in accordance with this order or upon direction from an official.

5. Members may use BWCs to record initial interviews of victims, complainants and witnesses.

6. Traffic Posts

While assigned to traffic posts, members shall only activate their BWCs for the events listed in Part V.A.4 of this order.

7. First Amendment Assemblies

a. Members shall activate their BWC when responding to a First Amendment assembly in accordance with Part V.A.4 of this order.

b. In accordance with D.C. Official Code § 5-333.09, members shall not record First Amendment assemblies for the purpose of identifying and recording the presence of individual participants who are not engaged in unlawful conduct.

c. Members shall ensure BWC recordings of First Amendment assemblies, whether planned or spontaneous, are recorded in compliance with the law and MPD policy including SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).
d. Members shall ensure BWC recordings of First Amendment assemblies are preserved and retained in accordance with this order and Appendix N, “Records Retention,” of SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations).

e. Members shall ensure their recordings of First Amendment assemblies are categorized as “First Amendment Assembly” in the MPD-approved storage database.

8. Intrafamily, Sexual Assault, and Stalking Incidents and Offenses

a. Intrafamily Incidents and Offenses – members who respond to intrafamily incidents and offenses as outlined in GO-OPS-304.11 (Intrafamily Offenses) shall continue their BWC recording but make every effort to provide the victim privacy such that they do not record any discussions between the On-Call Advocacy Program (OCAP) advocate and the victim, regardless of whether the conversation is in-person or over the phone. Members shall position themselves in such a way as to afford the victim as much privacy as possible.

b. Sexual Assault Incidents and Offenses – members who initially respond to allegations of sexual assault shall continue their BWC recording but are reminded that, in accordance with GO-OPS-304.06 (Adult Sexual Assault Investigations), they shall ask only the necessary questions to enable them to determine the type of crime, and to obtain the required information for a lookout broadcast. Members shall not question the victim in detail about the offense.

c. Members are reminded, and may inform the victim or others present at the scene, that BWC recordings taken inside a personal residence or related to an incident involving domestic violence, stalking, or sexual assault will be withheld from release to the public.

9. Medical Facilities, Ambulances, and Patient Privacy

a. Members shall record ambulance transports when they are present for law enforcement purposes.

b. Members are reminded that they shall only activate their cameras in hospitals and other medical facilities for the events listed in Part V.A.4 of this order, including hospital guard details.
c. Members shall not record in the common areas of medical facilities except when recording an event as required by Part V.A.4 of this order.

d. When recording in hospitals or other medical or psychiatric facilities, members shall be careful to avoid, when possible, recording persons other than the suspect, complainant, and witnesses.

e. When members are in hospitals or medical facilities pursuant to Part V.A.4, they shall continue to record and make every effort to provide patients with privacy such that they do not record patients during medical or psychological treatment or evaluations by a clinician or similar medical professional. Members shall position themselves in such a way as to afford the patients as much privacy as possible.

10. Members equipped with BWCs who are on the scene of an incident and are not the primary reporting member shall inform the reporting member of their BWC recording so that the primary member may record this information in his or her report.

a. The reporting members shall place the notation “BWC Activated” at the beginning of their non-public narrative in accordance with Part V.A.12 of this order.

b. The member with the BWC shall categorize the recording in accordance with Part V.B of this order.

11. Deactivation of BWCs

a. Once activated in accordance with this order, members shall not deactivate their BWC until/unless:

(1) They have notified the dispatcher of their assignment’s disposition, and they have cleared the assignment or, in the case of arrest, have transferred custody of the arrestee to another member.

(2) Their involvement in the citizen contact or detention has concluded.

(3) They receive an order from a higher-ranking member. In such cases, members shall document the order and the name of the official in their associated incident or arrest reports and on the BWC when practicable.
(4) The search requiring activation as outlined in Part V.A.4.p of this order has concluded, and the member believes he or she will have no further interaction with the person or property.

(5) A pursuit has been terminated, and the member has returned to service through the dispatcher.

(6) In the event of a prolonged crime scene or an incident during which time they need to take a break (e.g., restroom break). In those cases, members shall contact the dispatcher to request a break and later document in the non-public narrative section of all related reports or their notebook the interruption of the BWC recording.

b. In accordance with Part V.A.4.w, when members activate their BWCs and such activation was not required by policy, and the circumstances do not require continued recordings, they may use their discretion when deciding to deactivate their BWC.

c. After members deactivate their BWCs, they shall be aware that it is their responsibility to ensure they reactivate their BWC should the circumstances require it, even if the subsequent recording is being made for the same event.

d. In the event that a member must immediately respond to an event that requires his or her BWC to remain activated (i.e., the BWC recording never ceases between back-to-back events), the member shall enter the CCNs corresponding to both events in the BWC ID field in accordance with Part V.B of this order.

12. Reporting Requirements

a. **Prior to the end of their shift,** members who are assigned BWCs shall:

(1) Document activation of the BWC device **at the beginning** of their non-public narrative on Field Contact Reports, Incident and Offense Reports, Traffic Crash Reports, and Arrest Reports in the Records Management System (RMS), as well as on PD Forms 42 (Injury or Illness Report), PD Forms 43, PD Forms 61D (Violation Citations) and notices of infraction (NOIs).

   (a) The notation at the beginning of the narrative of associated reports shall be “**BWC Activated.**"
(b) The member’s last name, first name, and CAD number only need to be recorded if different from the reporting member listed on the report.

(2) Document in the non-public narrative section of all related reports or their notebook any delay or failure to activate their BWC and any interruption of a BWC recording required by this order.

(3) For search warrants, pre-planned arrest warrant executions, and forcible entries, label and categorize in accordance with Part V.G. Label and categorize all other recordings in accordance with Part V.B. of this order.

(4) Upload recorded data to the storage database.

(5) Charge their camera in an MPD-approved BWC docking station.

B. Labeling and Categorization of BWC Recordings

1. BWC Title Field

Members shall add a title – IN ALL CAPS – to each of their BWC recordings in the following format:

a. Start date of recording (formatted as the year first (4 digits), followed by the month and day) - type of event - address (including the quadrant) (e.g., 20150220 - MISSING PERSON - 1751 M ST NW)

b. In cases where MPD is responding to an event being handled by another agency, the member should add the name of the other agency to the end of the title (e.g., 20150220 - MISSING PERSON - 1751 M ST NW - US CAPITOL POLICE).

2. BWC ID Field

a. Members shall enter the 8-digit CCN in the ID field (with no hyphens or dashes and without the word “CCN”).

b. If no CCN numbers were drawn for the event, the member shall:

(1) Enter the NOI or notice of violation (NOV) number in the ID field when applicable; or

(2) Type “NA” in the ID field rather than leaving the field blank to include events handled by a specialized
investigative unit or a non-MPD agency where no CCNs have yet been requested.

c. All members who are assigned BWCs, to include those who are working as transport officers and members assigned to the station (e.g., cellblock, front desk), shall ensure that their BWC recordings are labeled and categorized appropriately **to include up to two CCNs** in the “ID” field separated by commas.

   (1) For example, a transport member assigned a BWC who transports two arrestees, one arrested for Simple Assault, and another arrested in a separate incident for Theft I, must enter both related CCNs, separated by a comma.

   (2) In the event that there are more than two CCNs associated with a recording, members shall enter the CCNs for the most serious offenses.

d. Members are reminded that they shall limit discussions regarding other cases while in the presence of a BWC to the greatest extent possible. However, when another case is discussed, the recording member shall ensure the relevant CCNs are included in the “ID” field of the recording.

3. **Member BWC Categories**

   a. Members shall ensure all of their recordings are associated with at least one category and the most relevant category that applies from the priority list below is chosen.

   b. Members shall not use any category other than those listed below.

   c. Members shall select the BWC category corresponding to the most serious offense. The categories for use by members, listed in order of seriousness, are:

      (1) **“For Supervisory Review”**

         (a) The “For Supervisory Review” category applies to any recording that needs review by an official and possible extended retention due to one or more of the following circumstances:

            (i) The member is injured or another member is injured or killed during the performance of their duties;
(ii) There is any use of force by the recording member or another member;

(iii) The member is involved in an incident that results in a fatality including, but not limited to, in-custody deaths and crashes or vehicular pursuits resulting in a fatality; or

(iv) The member has reason to believe that the event may result in a complaint or the recording may be of use in a future court proceeding.

(b) When a member categorizes a recording as “For Supervisory Review,” the member shall notify his or her supervisor prior to the end of his or her shift.

(c) A supervisor shall review the recording within 24 hours in accordance with Part VI.A.5 of this order.

(2) “Murder / Manslaughter”

(3) “First and Second Degree Sexual Assault”

(4) “All Other Sexual Offenses”

(5) “Death Report / Suicide”

(6) “Crime Involving a Public Official - Felony”

(7) “Crime Involving a Public Official - Misdemeanor”

(8) “All Other Felonies”

(9) “Search or Arrest Warrant / Forcible Entry”

(10) “All Other Misdemeanors”

(11) “First Amendment Assembly”

(12) “Incident, No Arrest”

(13) “Contact/Stop/Civil Enforcement” – includes:
(i) All contacts initiated pursuant to a law enforcement investigation, whether criminal or civil (e.g., issuance of NOV); and

(ii) All stops (i.e., traffic, pedestrian, and bicycle), and frisks as defined in GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks).

(14) **BWC Testing** – includes recordings taken by members to ensure their BWCs are operating properly.

4. Only BWC Unit Coordinators, the MPD BWC Program Director, or members assigned to the Court Liaison Division (CLD), the Office of Risk Management (ORM), or the FOIA Office shall record notes about BWC recordings.

C. Accidental Recordings

1. In the event of an accidental activation of their BWC where the resulting recording has no investigative or evidentiary value, members may submit a deletion request to their administrative captain through their sergeant who shall forward the same to the MPD BWC Program Director at bwc.project@dc.gov for review and tracking.

2. Members shall ensure the request contains sufficient information (e.g., date, time, member CAD number) to locate the recording.

3. The MPD BWC Program Director shall review accidental recordings and determine whether or not the recording had an official purpose. If the recording had no official purpose, the administrative captain or MPD BWC Program Director shall document this in the recording notes and delete the recording. An audit log on the history of every recording will be maintained in the storage database.

D. Access and Review

1. **Pursuant to the Body-Worn Camera Program Amendment Act of 2015**, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.

2. In all other cases, members may view their BWC recordings and BWC recordings that have been shared with them to assist in accurate report writing, testifying in court, for training purposes, and debriefing. Members may also view their recorded data when they are the subject of criminal or administrative investigations in accordance with Part V.E of this order.
3. Recordings shall not be routinely or randomly viewed by officials for the sole purpose of enforcing policy violations observed on the recordings.

4. Members may only share recordings with other MPD members who have accounts on the MPD-approved storage database. Under no circumstances shall members share recordings with any non-MPD persons or members who do not have an account.

5. Only members the rank of sergeant and above, civilian equivalents, Internal Affairs Bureau (IAB) investigators, or FOIA specialists may download BWC recordings for investigations or authorized administrative purposes.

6. The United States Attorney’s Office (USAO), the Office of Police Complaints (OPC), and the Office of the Attorney General (OAG) staff have their own accounts to the storage database; therefore, MPD members shall not share or download BWC recordings for these organizations.

E. Investigative Reviews and Member Access

1. Members who are conducting criminal investigations (e.g., investigators/detectives, members assigned to Major Crash Unit, Criminal Research Specialists) shall:
   a. Review and re-categorize the recordings related to their investigations after making a determination of whether the BWC recordings are of evidentiary value. (See Part V.H of this order for retention categories).
   b. Document their reviews of BWC recordings in the final investigative packet.

2. Uses of Force, In-custody Deaths, Serious Misconduct and Criminal and Administrative Investigations
   a. Upon receipt of allegations of serious misconduct, as defined in GO-PER-120.23 (Serious Misconduct Investigations), that occur during their shift, watch commanders shall review BWC recordings as soon as possible, but in all cases prior to the end of their shift.
   b. When obtaining Incident Summary (IS) numbers, whether by completing a PD-901c (Request for Incident Summary Numbers) or providing information to IAD for documentation in
Personnel Performance Management System (PPMS), officials shall document or provide the following:

1. Whether the subject member was wearing a BWC at the time of the incident.
2. Whether the incident or allegation was in reference to, or involved the use or non-use of, a BWC.
3. If any other members at the scene of the alleged incident were wearing BWCs.

c. Officials shall ensure the narrative of the PD-901c and PPMS includes:

1. The notation “BWC On-Scene” in the beginning of the narrative when any member on the scene had a BWC assigned to them.
2. A listing of each member, including the subject member, present at the incident, and documentation of each member’s CAD number, whether that member was equipped with a BWC, and whether the BWC was activated.

d. In the event of a serious use of force or in-custody death, the element watch commander shall ensure, and the responding IAD member shall verify, that all related BWC recordings are uploaded to the storage database as soon as possible.

e. IAD members shall restrict access to BWC recordings related to criminal or sensitive allegations.

f. Officials or IAD members preparing preliminary reports shall indicate if BWCs were present and who was equipped with the cameras by name and CAD number.

g. When conducting internal or administrative investigations of incidents where BWCs are present, investigating officials shall:

1. View all available BWC footage as part of their investigation.
2. Add a category [i.e., “Internal Affairs / Office of Police Complaints Investigation” and/or “Internal Investigations (e.g., Chain of Command Misconduct)”] to the recordings related to their investigations after making a
determination of whether the BWC recordings are of evidentiary value. (See Part V.H of this order for retention categories).

NOTE: Members are reminded of the importance of retaining the original category to ensure that evidence is maintained in accordance with retention requirements.

(3) Certify and document that the facts as stated in their investigative findings are consistent with available BWC footage and that any discrepancies between subject, complainant, or witness statements and the BWC footage are noted and addressed.

h. When completing final internal investigations, officials shall also include the following information in the “Biographical Section” and any other sections of the investigation as appropriate:

(1) A listing of each member and their CAD number, including the subject member, present at the incident;

(2) Documentation of whether each member was equipped with a BWC, and whether the BWC was activated.

i. If for any reason, it is discovered that a member has violated this order regarding the use or activation of a BWC, investigating officials shall initiate a separate investigation to include creation of independent IS numbers to document the policy violation related to the BWC. In addition, investigating officials shall include these new IS numbers in the “Discrepancy Section” of the original investigative report, if one exists, in which the policy violation was discovered.

j. Prior to approving administrative investigations, all reviewing officials, to include the members of any relevant review boards (e.g., Crash Review Board, Use of Force Review Board) shall ensure the investigative findings are consistent with BWC footage and any discrepancies are noted and addressed.

3. Member Access

a. Pursuant to the Body-Worn Camera Program Amendment Act of 2015, members involved in a police shooting shall not review their BWC recordings, or other members’ recordings, related to the case.
b. In all other cases, members who are involved in a serious use of force, in-custody death, or are the subject of a criminal investigation may view their BWC recording related to the incident prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit provided that:

(1) The member is in receipt of a declination from the prosecuting authority or after a Reverse Garrity Warning is issued; and

(2) The recording is viewed at the IAD or at a location approved by an IAD official.

c. Members who are the subject of an administrative investigation may view their BWC recording prior to completing and submitting any required reports and being interviewed by the appropriate investigative unit.

F. Requests for BWC Recordings by Subjects

1. The subject of a BWC recording, his or her legal representative, or the subject’s parent or legal guardian if the subject is a minor, may request to schedule a time to view the BWC recording at the police district where the incident occurred.

2. Members shall be aware that subjects may request to view BWC recordings online or at the district station.

   a. Subjects may submit requests for recordings online at http://mpdc.dc.gov/page/body-worn-camera-citizen-viewing-process or by submitting a Request to Review Body-Worn Camera Recording (see Attachment C).

   b. Members who receive requests to view BWC recordings by subjects or their representatives at the district station shall immediately notify their district’s BWC Unit Coordinator, in writing, and forward requests to the MPD FOIA Office at mpd.foia@dc.gov.

3. The assigned MPD FOIA specialist shall conduct a privacy review of the video and determine if the un-redacted BWC recording violates the individual privacy rights of any other subjects of the recording and shall notify the BWC Unit Coordinator if the recording or a portion of the recording is eligible for viewing.
4. Upon notification from the FOIA Office that a recording is eligible for viewing, the BWC Unit Coordinator shall review the recording and confirm that the viewing of the recording would not compromise the safety of any other subject.

5. The BWC Unit Coordinator shall notify the subject whether the recording is available for viewing.

   a. In cases where the recording is available, the BWC Unit Coordinator shall schedule a suitable time for the subject, his or her legal representative, or the subject’s parent or legal guardian to view the recording under the following conditions:

      (1) The subject, his or her legal representative, or the subject’s parent or legal guardian if the subject is a minor shall provide a valid government-issued photographic identification [e.g., a driver’s license, passport, green card (U.S. Permanent Resident Card) or military identification].

         a. A subject’s legal representative shall be required to provide the signed retainer or notarized document authorizing the attorney to view the BWC recording;

         b. A subject’s parent shall be required to provide a birth certificate for the subject; or

         c. A subject’s legal guardian shall be required to provide a certificate of legal guardianship of the subject.

      (2) The subject, his or her legal representative, or the subject’s parent or legal guardian must sign the PD Form 99-B (Consent to View Body-Worn Camera Recording) (Attachment D) prior to viewing the recording.

      (3) The viewing must occur in the presence of the BWC Unit Coordinator.

      (4) **Under no circumstances** shall the subject, his or her legal representative, or the subject’s parent or legal guardian:

         (a) Be allowed to use any recording device to make a copy of the BWC recording.
(b) Be provided a copy of the recording. Subjects, or their representatives, may contact the FOIA Office to request copies of the recording.

b. Subject Complaints

A subject shall have the right to file a complaint at any time during the BWC review process. Members are reminded that all citizen complaints shall be handled in accordance with MPD policy including GO-PER-120.25 (Processing Citizen Complaints).

(1) The BWC Unit Coordinator shall document his or her review of the recording with the requestor when making his or her recommendation on the PD Form 99-A (Citizen Feedback Form – Supervisor Review).

(2) If the BWC Unit Coordinator is unable to locate the requested recording related to the complaint, he or she shall notify IAD of the subject’s request to view the recording and of his or her negative search results when requesting IS numbers.

**NOTE:** BWC Unit Coordinators are reminded that most BWC recordings will be available for review by complainants for 90 calendar days from the date of the incident.

(3) Notwithstanding the provisions of this order, a complainant’s request to view a BWC recording prior to initiating a complaint is **voluntary.** Whether or not the complainant chooses to request to view the recording shall not be considered by members of the Department if the complainant chooses to proceed with the complaint.

G. Warrants and Forcible Entries

1. Absent exigent circumstances, the execution of all search warrants, pre-planned arrest warrants, and when practical, forcible entries being served in elements where BWCs are deployed shall have a BWC member in attendance with the BWC activated prior to making entry.

2. For the execution of search warrants, arrest warrants, and/or forcible entries related to an underlying criminal offense with pre-existing CCNs, members shall:
a. Select the BWC category corresponding to the most serious underlying criminal offense; and

b. Label their BWC recording with up to two pre-existing CCNs in the “ID” field separated by commas. In the event that there are more than two CCNs associated with a recording, members shall enter the CCNs for the most serious offenses.

3. For the execution of warrants and/or forcible entries in cases without pre-existing CCNs, members shall:

a. Categorize the recording as “Search or Arrest Warrant/Forcible Entry”; and

b. Label their recording with the CCN obtained for the execution of the warrant and/or forcible entry.

H. Retention

1. Members shall ensure that BWC recordings are retained and accessible on the BWC database for a period of 90 calendar days unless they are categorized as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Murder / Manslaughter</td>
<td>65 Years</td>
</tr>
<tr>
<td>2. First and Second Degree Sexual Assault</td>
<td>15 Years</td>
</tr>
<tr>
<td>3. All Other Sexual Offenses</td>
<td>10 Years</td>
</tr>
<tr>
<td>4. Death Report / Suicide</td>
<td>10 Years</td>
</tr>
<tr>
<td>5. Internal Affairs / Office of Police Complaints Investigation</td>
<td>10 Years</td>
</tr>
<tr>
<td>6. Crime Involving a Public Official Felony</td>
<td>9 Years</td>
</tr>
<tr>
<td>7. Crime Involving a Public Official Misdemeanor</td>
<td>6 Years</td>
</tr>
<tr>
<td>8. All Other Felonies</td>
<td>6 Years</td>
</tr>
<tr>
<td>9. Search or Arrest Warrant / Forcible Entry</td>
<td>6 Years</td>
</tr>
<tr>
<td>10. Internal Investigations (e.g., Chain of Command Misconduct)</td>
<td>5 Years</td>
</tr>
<tr>
<td>11. First Amendment Assembly</td>
<td>3 Years</td>
</tr>
<tr>
<td>12. All Other Misdemeanors</td>
<td>3 Years</td>
</tr>
<tr>
<td>13. For Supervisory Review</td>
<td>90 Days</td>
</tr>
<tr>
<td></td>
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<td>---</td>
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</tr>
<tr>
<td>14. Incident, No Arrest</td>
<td>90 Days</td>
</tr>
<tr>
<td>15. Contact / Stop / Civil Enforcement</td>
<td>90 Days</td>
</tr>
<tr>
<td>16. No-Papered Arrest*</td>
<td>90 Days</td>
</tr>
<tr>
<td>17. BWC Testing</td>
<td>90 Days</td>
</tr>
<tr>
<td>18. Recruit Training</td>
<td>90 Days</td>
</tr>
<tr>
<td>19. FOIA</td>
<td>Indefinite</td>
</tr>
<tr>
<td>20. FOIA/Civil Litigation Hold</td>
<td>Indefinite</td>
</tr>
<tr>
<td>21. Juvenile Victim [Youth and Family Services Division (YFSD) ONLY]</td>
<td>Indefinite</td>
</tr>
<tr>
<td>22. Pending Warrant / Papered Case / Ongoing Criminal Investigation</td>
<td>Indefinite</td>
</tr>
<tr>
<td>23. Redacted</td>
<td>Indefinite</td>
</tr>
<tr>
<td>24. Training</td>
<td>Indefinite</td>
</tr>
</tbody>
</table>

*NOTE: The “No-Papered Arrest” category shall be added for both misdemeanor and felony offenses in accordance with Part VI.I of this order.

2. Members assigned to YFSD shall ensure that BWC recordings categorized as “Juvenile Victim [Youth and Family Services Division (YFSD) ONLY]” are retained in accordance with each case’s applicable statute of limitations.

3. Members shall ensure all other BWC recordings with an “indefinite” retention period are retained until all related criminal proceedings, claims, litigation, litigation holds, complaints, or related incidents are resolved, after which time they will be expunged.

4. Members shall ensure that digital evidence captured by BWCs are treated as official records and handled pursuant to existing Department policies and procedures including, but not limited to, SO-06-03
I. BWC Recordings Used in Training

1. Members are encouraged to notify their officials of any recordings that may be of value for Department-wide training purposes.

   a. Members recommending the use of a BWC recording for Department-wide training purposes shall submit the request through the chain of command to the Commanding Official, Metropolitan Police Academy (MPA) for approval.

   b. Prior to approving the use of a BWC recording for Department-wide training, the Commanding Official, MPA, shall:

      (1) Take into consideration the identity of the persons involved, the sensitivity of the incident, and the benefit of using the file versus other means.

      (2) Confirm with the MPD Privacy Officer that appropriate redactions are made to recordings prior to them being used in training.

   c. The Commanding Official, MPA, shall ensure that recordings authorized for training are categorized as “Training” in the MPD-approved storage database.

2. When reviewing BWC recordings, officials are encouraged to identify recordings that can serve as guidance on how to handle particular incidents or events as well as recordings where constructive feedback may be appropriate. Identified recordings may be reviewed with assigned members, to include during roll call, to discuss tactical decision-making and/or to improve officer safety.

   a. Officials shall ensure they notify their district/element commanding official through the chain of command prior to reviewing the recording with members.

   b. Officials shall notify the watch commander following the BWC review to include providing the associated CCN, name of the recording member, and date of recording for inclusion on the PD Form 150 (Tour of Duty Supervisor’s Report).
VI. ROLES AND RESPONSIBILITIES

A. Sergeants shall:

1. Ensure cameras are not issued to members who have not received MPD BWC training.

2. At the beginning of each shift:
   a. Ensure members are equipped with fully-charged, functioning BWCs, and have the appropriate mounting equipment to support the BWC.
   b. Inspect each member who is issued a BWC to ensure that it is being worn correctly and functioning.
   c. Ensure digital evidence recorded from previous shifts has been uploaded prior to issuing BWCs.
   d. When notified of a damaged or inoperable BWC, ensure a PD Form 43 is completed, and any damaged or malfunctioning equipment is returned to the MPD BWC Program Director for repair or replacement.

3. Track and manage the assignment of the cameras daily.

4. Ensure members who are deployed with BWCs are noted on the roll call and deployment statistical sheets, and that the number of members with BWCs is called into the CIC each shift.

5. In accordance with Part V.B.3.c.(1) of this order, review and re-categorize all recordings categorized as “For Supervisory Review.”

6. Conduct regular inspections during check-off to ensure members have recorded required events and are categorizing their BWC recordings appropriately.

7. Ensure members turn in their BWCs prior to the end of their shift and store BWC devices in designated, secured storage locations at MPD facilities when devices are not in use.

B. Check-off sergeants who have BWC-assigned members on their shift shall ensure they complete the PD Form 1000 (MPD BWC Check-off Form) (Attachment E) prior to the end of their shift and submit the completed form to their watch commander.
C. Watch Commanders shall:

1. Ensure that members who are assigned BWCs are certifying in their PD Form 775 that they are equipped with a BWC and documenting whether a recording was made for each run during their shift.

2. Submit completed PD Forms 1000 along with their PD Forms 150 (Tour of Duty Supervisor’s Report).

3. If notified that a BWC is lost, malfunctioning, or inoperable, and a replacement is not immediately available, document the member’s name and CAD number in the PD Form 150 (Tour of Duty Supervisors Report) and notify the BWC Unit Coordinator who shall be responsible for making sure a replacement is provided within two business days.

D. BWC Unit Coordinators shall:

1. Provide assistance and technical support to members in their assigned units who have BWCs.

2. Ensure members with malfunctioning or inoperable BWCs receive a replacement BWC within two business days of being notified of the malfunction.

3. Handle the reassignment of BWCs for members in a less than full duty status for more than 30 days to include notifying the MPD BWC Program Director, Telecommunications, and the Equipment and Supply Branch of the reassignment.

4. Conduct periodic reviews of BWC recordings to ensure that members are recording mandatory events as outlined in this order.

5. Based on the BWC assignment information provided by the Equipment and Supply Branch on a quarterly basis, conduct reconciliation and ensure any incorrect BWC assignment information is corrected and that the Equipment and Supply Branch is notified.

6. Review and respond to the MPD Privacy Officer’s quarterly report of storage database users for their specific element.

E. District/Element Commanding Officials shall:

1. Ensure all members have been properly trained on all related BWC directives to include the activation, use, annotation, and uploading of data, prior to being issued a BWC, in accordance with Part IV.A of this order.
2. Ensure that daily reviews of the recordings for that district are tagged and properly notated and assigned for corrective action by the next working day of the officer.

F. The MPD BWC Program Director shall:

1. Serve as the designated custodian of records for all BWC recordings.
2. Serve as the system administrator of any BWC software applications.
3. Be responsible for approving, coordinating, and managing all external requests for BWC recordings, including those from other law enforcement agencies.
4. Monitor recordings that are about to reach the end of their retention period.
5. Monitor the deletion of all accidental recordings.
6. Ensure BWC recordings are secured and retained as outlined in this order.
7. Ensure that metadata is retained by the Department for no less than five years.
8. Work with the MPD Property Officer and Office of the Chief Information Officer to ensure all recordings are stored in an MPD-approved storage database.
9. Assist in the coordination of all internal and external communications regarding BWC policies.
10. Serve as the primary point of contact with the BWC vendor.

G. The Commanding Official of the Equipment and Supply Branch shall:

1. Be responsible for the distribution and replacement of BWCs.
2. Provide BWC Unit Coordinators a listing of all assigned BWCs on a quarterly basis for reconciliation.

H. The Director of the FOIA Office shall ensure requests for BWC recordings and information from the public are received and processed in accordance with GO-SPT-204.05 (Freedom of Information Act Requests) and D.C. Official Code § 2-531.
I. The Commanding Official of the CLD shall ensure BWC recordings of papered cases and no-papered arrests are categorized appropriately (i.e., “Warrant/Papered Arrest/Ongoing Criminal Investigation” or “No Papered Arrest”).

1. If a felony case is not papered, the “No Papered Arrest” category shall be added in addition to the previous felony category.

2. If a misdemeanor case is not papered, the “No Papered Arrest” category shall be added in addition to the previous misdemeanor category.

J. The Commanding Official of the Office of Risk Management shall:

1. Notify the MPD BWC Program Director to retain BWC recordings associated with pending claims.

2. Ensure periodic audits are conducted of BWC recordings including audits consistent with the Body-Worn Camera Program Amendment Act of 2015. Audits shall include:
   a. Member performance, training, and equipment needs.
   b. Consistency between written reports and recordings.
   c. The impact of BWCs on the number and type of citizen complaints filed with the Department.
   d. The impact of BWCs on the number of use of force incidents.
   e. The total number of contacts between police and the public.
   f. Maintaining proper and secure access to shared or retained BWC recordings.
   g. Compliance with this order.

K. The MPD Privacy Officer shall:

1. Work with the Director of the Office of Risk Management on periodic audits to ensure:
   a. Recordings do not violate the privacy of citizens or members and adhere to the required policy.
   b. External and internal subscribers to MPD’s BWC storage site are validated.
2. Coordinate annual reviews of BWC recordings with “indefinite” retention periods to ensure they are still subject to being retained.

3. Monitor the BWC vendor’s privacy practices.

4. Assist with drafting memorandums of understanding (MOUs) with outside agencies that want access to BWC recordings.

5. Conduct periodic audits to confirm that the proper protection of individuals’ privacy rights have been afforded in accordance with the *Body-Worn Camera Program Amendment Act of 2015*.

L. The Chief Technology Officer, MPD Office of the Chief Technology Officer, shall ensure:

1. BWC equipment malfunctions and failures are documented and repairs are requested in a timely manner.

2. Docking stations are installed and maintained.

3. A tiered support response is coordinated to assist sergeants with fixing more complex camera and docking station issues.

4. All members and approved staff from other agencies have accounts to the storage database.

M. The Commanding Official of the MPA shall assist in coordinating training for members who will be assigned cameras.

VII. CROSS REFERENCES

A. GO-PER-120.21 (Disciplinary Procedures and Processes)

B. GO-PER-120.23 (Serious Misconduct Investigations)

C. GO-PER-120.25 (Processing Citizen Complaints).

D. GO-SPT-204.05 (Freedom of Information Act Requests)

E. GO-OPS-304.06 (Adult Sexual Assault Investigations)

F. GO-OPS-304.10 (Police-Citizen Contacts, Stops, and Frisks)

G. GO-OPS-304.11 (Intrafamily Offenses)

H. GO-SPT-304.18 (Language Access Program)
I. GO-SPT-401.01 (Field Reporting System)

J. SO-06-03 [Records Retention and Evidence Preservation (Millicent Allewelt Act of 2004)]

K. SOP-11-01 (Handling First Amendment Assemblies and Mass Demonstrations)

L. D. C. Official Code § 2-531 (Freedom of Information, Public Policy)

VIII. ATTACHMENTS

1. Attachment A: TASER BWC, Approved Wearing Methods

2. Attachment B: MPD Body-Worn Camera Recording Notice

3. Attachment C: Request to Review Body-Worn Camera Recording

4. Attachment D: PD Form 99-B (Consent to View Body-Worn Camera Recording)

5. Attachment E: PD Form 1000 (MPD BWC Check-off Form)

Cathy L. Lanier
Chief of Police
TASER BWC Approved Wearing Methods

TASER AXON Body 2 Camera

The AXON Body 2 Camera has the camera (audio and video) and the battery in the same device.

Directions for Wearing the AXON Body 2 Camera

1. The top part of the AXON Body 1 Camera is where the Power Button is located. The serial number is located on the bottom of the camera.

2. The Axon Body 2 camera shall be mounted on the member’s chest so that the top of the camera is not above the collarbone, the bottom is not below the sternum, and the sides are between the shoulders.

3. The Axon Body 2 camera is designed to work with the new Axon RapidLock mounting system. The RapidLock mounting system consists of the attachment piece (called the key) on the camera and the various mounting options including the attachment receiver (called the lock). To engage the Axon RapidLock, insert the key of the camera into the lock of the mount and turn it 90 degrees counterclockwise (when you are looking straight at the mount). To release the camera from the mount, turn the camera 90 degrees clockwise.

   The various mounts that use this system can be used with a wide variety uniforms, and holds the camera to your shirt, patrol vest, jacket, or belt.

4. The Axon Body 2 camera may be mounted utilizing a magnetic mount or a Z-clip.

   a. Magnetic Mount – The magnetic mount is intended to be used with cold-weather gear. This mount is made up of two pieces: the exterior plate, which is mated to the BWC, and the interior plate. As a general guideline, the interior plate should be placed between the jacket liner and shell so that the interior plate and exterior plate are as close to one another as possible, compressing the shell only.
b. Z-clip – Rotate the z-clip so it fits with your shirt style. Please note that the z-clip is the same for both men and women, but its use differs. To use it with a woman’s shirt, it should be held right-side up. For men, the z-clip should be spun 180 degrees. Place the Axon Body 2 camera into the clip and rotate it upright, locking the Axon Body 2 camera into the clip.

**TASER AXON Body 1 Camera**

The AXON Body 1 Camera has the camera (audio and video) and the battery in the same device.

**Directions for Wearing the AXON Body 1 Camera**

1. The top part of the AXON Body 1 Camera is where the Power Button is located. The serial number is located on the back and bottom of the camera.

![AXON Body 1 Camera](image)

2. The Axon Body 1 camera shall be mounted on the member’s chest so that the top of the camera is not above the collarbone, the bottom is not below the sternum, and the sides are between the shoulders.

3. There are two mounts to the AXON Body 1 Camera; the camera comes with an S-clip case that slides over your shirt button to lock into place, and there is also a holster that slides onto your pocket. Directions for the S-clip are slightly different for men’s versus women’s shirts:

   For men’s shirts:
   
   a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the top.
   b. Slide the right-hand side of the case between two buttons toward the top of the shirt. Push the right side of the shirt into the clip in the back. This part of the clip will be left outside the shirt.
   c. Next, tuck the left side of the case under the shirt, and push the left side of the shirt into the clip in the back.
   d. Slide the case down to snap over the shirt button. The case will lock in place.

   For women’s shirts:
a. Snap the camera into its case if it is not already attached. The straight edge of the clip will be at the bottom.

b. Slide the left-hand side of the case between two buttons toward the top of the shirt. Push the left side of the shirt into the clip in the back. This part of the clip will be left outside the shirt.

c. Next, tuck the right side of the case under the shirt, and push the right side of the shirt into the clip in the back.

d. Slide the case down to snap over the shirt button. The case will lock in place.

**TASER AXON Flex**

The AXON Flex Camera has two components: a smaller camera and a separate battery from which you operate the camera, called a Controller. The Flex Camera is linked to the Controller by a thin cable.

**Directions for Wearing the AXON Flex Camera**

The Controller functions as the battery and the device used to turn the camera on/off, adjusting the volume, etc. The Controller looks like the AXON Body Camera, but has no lens on the front.

1. The top part of the Controller is where the Power Button is located. The speaker is on the smaller camera. The serial number is located on the back of the Controller, not the camera.

2. The Flex Camera must attach to the Controller in order to power up and record properly. The square end of the cable attaches to the bottom of the camera, and the other end of the cable to the top of the Controller.
3. The Controller can be stored in your pocket as is or in a holster attached to your belt. To attach to a belt, secure the Controller in its holster, ensuring the top of the camera aligns with the lever on the top of the case that toggles back and forth to expose the cable port. Next, slide the metal clip that came with the holster into the back of the holster to secure to your belt.

**Directions for Mounting the AXON Flex Camera**

There are several mounts for the Flex Camera, each clipped on using a strong magnet. The magnetic clip allows rotation of the camera up and down to adjust the angle after it has been connected to the mount.

The three mounts that MPD will be utilizing are the Collar Mount, the Low-Rider Headband and the Oakley Glasses Mount. The mounts should always be worn so that the Flex Camera is on the side that the officer wears his/her firearm.

**Collar Mount**

There are two magnetic clips to hold the collar mount to your shirt collar, one for each side of the collar. Each clip features a set of teeth on one side and a ring on the other; the sides with the teeth are magnetically attracted to each other.

To use the collar mount:
1. Place the collar mount around the back of your neck.

2. Snap the teeth to the inside of the collar on the side of the shirt where the camera will not be mounted and attach the closed ring to the other side.

3. On the other side of the shirt, where the camera clip will be worn, snap the teeth to the inside of the inside of the shirt and attach the open ring to the other side.

4. Snap the camera into the open ring, with the lens facing forward.

5. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.

6. Plug the other side of the cable into the Controller.

**Low-Rider Headband Mount**

There are two sizes of the headband mount: regular and large.

To use the headband mount:

1. Slip the headband behind your head.

2. Snap the camera into the open ring, with the lens facing forward.

3. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.

4. Plug the other side of the cable into the Controller.

**Oakley Eyewear Mount**

1. Select whether you want to have sunglasses or clear glasses on.
2. Slip the glasses on your head.

3. Snap the camera into the open ring, with the lens facing forward.

4. Connect the camera/Controller cable to the bottom of the camera. Ensure that the cable does not obstruct the motion of your head. If the cable is exposed down a good portion of your back, hide it under your shirt.

5. Plug the other side of the cable into the Controller.
Please be advised that our interaction is being video recorded with my camera.
REQUEST TO REVIEW BODY-WORN CAMERA RECORDING

I am requesting to view a body worn camera recording or recording. I am the subject of the recording, the subject’s legal representative, or the subject’s parent or legal guardian if the subject is a minor. I understand that to view the recording I must be the only individual in the recording except officers of the Metropolitan Police Department (MPD) or other law enforcement agencies. I agree to view the recording in the presence of an MPD official.

My identity will be checked again when I return to view the recording to confirm I am the same person who made the request. I will not bring any recording device to duplicate the video or audio. I understand that I will not receive a copy of the recording. If I want to request a copy of the recording, I need to contact the MPD Freedom of Information Act (FOIA) Office (http://mpdc.dc.gov/page/open-government-and-foia-mpdc). Body worn camera recordings are considered law enforcement records and are the property of MPD.

The recording occurred at least 48 hours ago (to ensure the recording is uploaded into the MPD storage database).

<table>
<thead>
<tr>
<th>PART I: REQUESTER INFORMATION</th>
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<tbody>
<tr>
<td>1. Requester’s Name:</td>
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<td>3. Requester’s E-mail Address:</td>
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<tr>
<td>4. CHECK ONE: (If you are unable to specify one of these, then you will be unable to view the recording)</td>
</tr>
<tr>
<td>I am the Subject of the Recording</td>
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<tr>
<th>PART II: INCIDENT INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. Central Complaint Number (CCN):</td>
</tr>
<tr>
<td>5. Location of Incident:</td>
</tr>
<tr>
<td>6. Date of Incident:</td>
</tr>
<tr>
<td>12. Time of Incident:</td>
</tr>
<tr>
<td>13. Name(s) and Badge Number(s) of Officer(s) with Body Worn Cameras:</td>
</tr>
<tr>
<td>14. Description of Incident:</td>
</tr>
<tr>
<td>15. Please provide a description of yourself and the clothes you were wearing at the time of the incident (This is needed for identification purposes and to ensure you are the subject of the recording):</td>
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<tr>
<th>PART III: SIGNATURE</th>
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<tbody>
<tr>
<td>15. Printed Name and Signature of Requester Date of Request</td>
</tr>
<tr>
<td>In order to establish your eligibility to view the requested recording, MPD will need to establish your identity and/or relationship to the subject of the recording. See Identification Requirements attached to this form.</td>
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<tr>
<th>PART IV: MPD USE ONLY</th>
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<tbody>
<tr>
<td>16. Received by (print name): 17.ID/Proof of Relationship</td>
</tr>
<tr>
<td>18. Signature:</td>
</tr>
<tr>
<td>19. Date Received:</td>
</tr>
<tr>
<td>Scan and e-mail the request to <a href="mailto:mpd.foia@dc.gov">mpd.foia@dc.gov</a> and District BWC Coordinator within 24 hours of receipt.</td>
</tr>
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</table>
Identification Requirements

In order to establish your eligibility to view the requested recording, MPD will need to establish your identity and/or relationship to the subject of the recording. The following documents are required to establish the identity of:

Subject of Recording
- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification)

Legal Representative
- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Signed retainer agreement or notarized document authorizing the attorney to view the BWC recording.

Parent
- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Birth certificate of the subject

Legal Guardian
- Valid government-issued photographic identification (e.g., a driver's license, passport, U.S. Permanent Resident Card or military identification); AND
- Certificate of legal guardianship of the subject
CONSENT TO VIEW BODY-WORN CAMERA RECORDING

I hereby request to view the below referenced body-worn camera recording. I am the subject of this recording, or I am the subject’s legal representative, parent, or legal guardian (if the subject is a minor). I understand that I will be required to provide proof of my identity, by showing my government-issued photographic identification (e.g., driver’s license, passport, green card [U.S Permanent Resident Card] or military identification), to ensure that I am the individual who initially requested to view this recording.

I will not be able to view recordings that contain images or other identifying information of other people, with the exception of Metropolitan Police Department (MPD) or other non-federal law enforcement agencies. Further, I may only be able to view portions of the entire recording in order to protect the identity of others in the recording.

If a personal residence is shown in the recording, I will only be able to view the recording if it is my personal residence.

I understand that I must view the recording in the presence of an MPD official, and that I may not use any recording device to duplicate or record the video or audio. I will not receive a copy of the recording as it is considered a law enforcement record, and, as such, it is the property of MPD.

I understand that if I want a copy of the recording, I will need to request a copy of the recording in person or by contacting MPD’s Freedom of Information Act Office online at https://foia.dc.gov/palMain.aspx.

By signing this form, I am indicating that I am the subject of the recording, the subject’s legal representative, or the subjects’ parent or legal guardian (if the subject is a minor); and I have read this form and agree to the statements set forth herein.

<table>
<thead>
<tr>
<th>PART I: SUBJECT’S INFORMATION</th>
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<tbody>
<tr>
<td>1. Subject’s Name</td>
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<tr>
<td>2. Name of Subject’s legal representative or the subjects’ parent or legal guardian if the subject is a minor:</td>
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<th>PART II: SIGNATURE</th>
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<tr>
<td>3. Signature of Subject/Legal Representative/Guardian Date</td>
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<th>PART III: MPD USE ONLY</th>
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<tr>
<td>4. Received by (print name):</td>
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<td>5. CCN#</td>
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<td>6. Receiving Member’s CAD:</td>
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<td>7. Type of ID provided:</td>
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<td>8. Signature:</td>
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<td>9. Date Received:</td>
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Scan and e-mail the consent to mpd.foia@dc.gov and District BWC Coordinator within 24 hours of receipt.
PD Form 1000 - MPD BWC Check-off Form

(1) District:  
(2) Check-off Official:  
(3) Check-off Official CAD ID:  

(4) Date:  
(5) Shift:  

(6) # Officers on Shift:  
(7) # Assigned BWC:  
(8) # BWCs Deployed on Shift:  
NOTE: Officers shall have at least one BWC recording per run. If they do not, the official shall initiate an investigation in accordance with GO-SPT-302.13 (Body-Worn Camera Program).

CHECK-OFF OFFICIAL CERTIFICATION
Check-off officials shall complete this certification section for all members who completed their shift (i.e., members who have checked-off).

(9) I certify that all BWC-assigned officers took recordings for all runs:  
NOTE: If no, complete table (11) below  

(10) I certify that all reports are completed and approved in accordance with GO-SPT-401.01 (Field Reporting System):  

(11) BWC Officers who did not take a video for all runs:

<table>
<thead>
<tr>
<th>Officer Name</th>
<th>Officer CAD ID</th>
<th>Number of Runs</th>
<th>Number of BWC Videos</th>
<th>Notes</th>
<th>119 Taken?</th>
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GO-SPT-302.13 (Body-Worn Camera Program)  
Attachment E  
PD Form 1000 (MPD BWC Check-off Form)  
March 11, 2016
APPENDIX K
I. BACKGROUND

Members of the Metropolitan Police Department (MPD) respond to varying calls for service, some routine while others are extremely dangerous. The response to these calls is one of the most challenging and demanding situations for law enforcement officers. In some situations officers are confronted with individuals who have little or no regard for human life, including their own. Additionally, an individual in these circumstances may not be in complete control of his/her mental faculties.

First responders must rely on their training, use extreme caution and think tactically in an attempt to accurately assess the situation and take the proper course of action.

The purpose of this order is to establish policy and procedures to be followed by members of the Department at the scene of barricade/hostage situations, active shooter situations, acts of terrorism or any other unusual incidents.

II. POLICY

It is the policy of the MPD to resolve hostage, barricade and other unusual incidents by preserving the lives of hostages, the public, and the police while apprehending the involved suspect(s) swiftly and safely.
III. DEFINITIONS

A. For the purpose of this order, the following terms shall have the meanings designated:

1. Active shooter – One (1) or more subjects who participate in a random or systematic shooting spree or other acts of violence capable of causing mass casualties. The overriding object of the active shooter is mass murder, rather than other criminal conduct, such as robbery, or kidnapping.

2. Barricade Situation – Situation where an individual resists being taken into custody by seeking refuge in a building or other protected area, while using or threatening to use deadly force against him/herself or others, and ignoring orders to surrender.

3. Contact Team – Team of officers assembled from those first arriving on the scene. The number of officers assembled would be based on the size of the building to be entered and the intelligence immediately available on the scene. However, due to tactical considerations there should be a minimum of two (2) officers on the contact team.

4. Crisis Negotiators – Specially trained personnel who negotiate with individuals who refuse to surrender.

5. Emergency Response Team (ERT) – Team comprised of tactical and negotiation teams and support staff assigned or detailed to the Homeland Security Bureau, Special Operations Division (SOD).

6. Incident Commander (IC) – Member responsible for the management of all operations at the incident site, including the development and implementation of strategy, approval of orders, and release of resources. Generally, the Incident Commander will be the ranking member on the scene of the incident.

7. Incident Command System (ICS) – Methodical tool used for the command, control, and coordination of emergency responses of all sizes. See GO-HSC-800.02 (Incident Command System) and SOP-06-02 (Incident Command System).

8. Perimeter – Defined area. In major incidents there are three (3) perimeters:

   a. Inner – Danger area, closest to the event location. This area, staffed by patrol personnel initially, will be controlled by ERT
personnel upon their arrival.

b. Middle – Area reserved for support personnel.

c. Outer – Area considered safe for the media/press and general public and is always located behind police lines.

9. Rescue Team – Team of officers assembled from those officers arriving on the scene after the initial contact team has been established. The number of officers assembled would be based on the size of the building to be entered and the intelligence immediately available on the scene. However, due to tactical considerations there should be a minimum of twelve (12) officers on the rescue team.

10. Senior SOD Official – SOD Commander, or in his/her absence, the SOD Watch Commander, or in his/her absence, the highest-ranking official assigned to ERT. The senior SOD official will usually relieve the incident commander upon his/her arrival at the scene.

11. Terrorism – The use or threat of violence to intimidate or cause panic, especially as a means of affecting political conduct.

12. Unusual Incident – Unplanned event with the potential for personal injury and/or property damage. The event can be the result of natural or man-made situations that affect a substantial number of persons, and require police action. This includes any event with large crowds with indications that some individuals may become unruly or uncooperative as well as active shooter situations.

IV. PROCEDURES

A. Barricade/Hostage Situations:

1. The first member on the scene of a possible barricade and/or hostage situation shall:

   a. Take a position that affords protective cover.

   b. Fire only at a visible target that is at the moment placing human life in imminent danger.

   \[\text{NOTE:} \text{ Gunfire by a barricaded subject in the direction of officers who are adequately covered does not justify the return of gunfire).}\]

   c. Request a district official respond to the scene.
d. Request further uniformed assistance to ensure all potential escape routes are covered.

e. Inform Office of Unified Communications (OUC) of the situation and advise that ERT may be needed.

f. Evacuate as many citizens as possible, provided the evacuation does not place the member or the citizen(s) in danger.

g. Brief the district official once he/she arrives on the scene.

2. The first official on the scene of a possible barricade and/or hostage situation shall ascertain if a barricade and/or hostage situation exists and, if so, notify the District Watch Commander and with his/her concurrence.

a. Notify OUC, advise a barricade has been declared and request the assistance of ERT.

b. Establish an inner perimeter.

c. Restrict vehicular and pedestrian traffic in the inner perimeter.

d. Establish a location for the Command Post.

e. Assume the position of Incident Commander (IC).

f. Identify and formulate a contact team.

3. The District Watch Commander on the scene of a possible barricade and/or hostage situation shall:

a. Respond to the command post and assume the position of the IC.

b. Notify the OUC he/she has assumed the position of the IC and request a notification be made to the Field Commander.

c. Assess the situation and ensure:

(1) The subject is contained.

(2) The inner perimeter is secure.

(3) All those who can safely be evacuated have been and
those with pertinent information related to the incident are taken to the command post.

(4) The locations of the containment team and the command post are strategically and tactically sound (relocate if necessary).

**NOTE:** The command post should be located in the general vicinity of the event but out of the line of fire and upwind of the event location.

(5) The contact team has been identified.

(6) A radios zone is designated for the event.

(7) A staging area for the Fire and Emergency Medical Services Department (FEMS) has been identified.

(8) A detective is requested to respond the Command Post.

(9) A safe staging area for the media has been identified.

d. Notify OUC and request FEMS respond to the staging area.

e. Establish a middle and outer perimeter (manpower permitting).

f. Ensure all activities are recorded on the appropriate ICS forms and an ICS command structure has been established. [See GO-HSC-800.02]

g. Debrief the senior SOD official of the situation(s) and transfer the position of IC to this official.

B. Active Shooter

While containment and security are the primary objectives in most barricade situations, in an active shooter situation, a member’s primary and immediate objective is to stop the active shooter.

Members shall be mindful any situation could escalate without warning to an active shooter situation. Conversely, an active shooter situation could de-escalate to a barricade situation.

1. The first member on the scene of an active shooter situation shall:
a. Voice a priority over the radio and advise the dispatcher and other units an active shooter situation exists.

b. Request the MPD Active Shooter Program be implemented.

c. Attempt to engage the suspect(s).

NOTE: An organized contact team will consist of a minimum of five (5) active shooter trained members. However, circumstances may dictate immediate action by fewer members. Entry and attempts to engage should be made by no less than two (2) active shooter trained members. However, this order does not preclude nor prevent a member from engaging a suspect absent back-up and/or training.

d. Prioritize his/her actions to:

   (1) Stop the active shooter (this **must** be done first).

   (2) Provide medical assistance.

   (3) Rescue the victims.

   (4) Preserve the crime scene.

   **NOTE:** While it is important to provide medical treatment to the wounded, under these unique circumstances members must first stop the actions of the shooter.

2. The first official on the scene of an active shooter shall:

   a. Establish an inner perimeter.

   b. Restrict vehicular and pedestrian traffic in the inner perimeter.

   c. Establish a location for the command post.

   d. Assume the position of Incident Commander (IC).

   e. Identify and formulate a contact team.

3. The contact team shall:

   a. Go in immediate pursuit of the active shooter.
b. Focus on making contact as soon as possible and stop the active shooter by:

   (1) Containment;

   (2) Arrest; or

   (3) Use of force, to include the use of lethal force.

   NOTE: In the event the contact team contains the suspect and no immediate lethal force is required, members shall be guided by the contents of this order as it relates to barricade situations.

4. Responsibilities of the Rescue Team

The Rescue Team shall:

a. Be formed of secondary responders as designated by the IC or his/her designee.

b. Facilitate the safe removal and evacuation of innocent and injured persons.

   NOTE: Rescue team members should remember that uninjured victims may nonetheless be in shock, or paralyzed with fear, and may not respond to regular verbal commands.

c. Remain constantly vigilant as the rapidly changing dynamics of the incident may put them in contact with the suspect.

   NOTE: If an SOD member assigned to ERT, the Special Events Branch, or the Canine Unit is on either the contact team or the rescue team, he/she will assume the role of team leader.

   NOTE: If either team encounters a suspected explosive device, members shall be guided by their training provided by the Explosive Ordnance Unit of SOD provided during in-service training and GO-HSC-805.04 (Bomb Threats and Explosive Devices).

C. Acts of Terrorism

Terrorism is not defined by a specific act (e.g. mass shooting, bombing), but more by the intended result of instilling fear, intimidation, causing casualties.
and property damage. Terrorist acts may be perpetrated by lone assailant or by groups. Some acts of terrorism may be obvious while others are less defined and won’t rise to the level of terrorism until after the event has been thoroughly reviewed.

1. The first member on the scene of a threat of or terrorist event shall:
   a. Ascertain the validity of the call.
   b. Request an official to respond, if it is apparent a threat of or terrorist event did occur.
   c. Notify the OUC and request additional assistance and notifications are made to the:
      (1) SOD Watch Commander; and
      (2) Joint Terrorism Task Force (JTTF).
   d. Establish a perimeter of nine-hundred (900) feet as outlined in GO-HSC-805.04 (Bomb Threats and Explosive Devices) if possible.
   e. Assist in the evacuation of the perimeter and prohibit access to the perimeter once established.
   f. Put on any personal protective equipment (PPE) applicable to the incident.

2. The first official on the scene of a threat of or terrorist event shall:
   a. Establish an inner perimeter.
   b. Restrict vehicular and pedestrian traffic in the inner perimeter.
   c. Establish a location for the Command Post.
   d. Assume the position of Incident Commander.

   NOTE: In instances of threats of or acts of terrorism, the Federal Bureau of Investigation may eventually become the lead agency. This designation does not mitigate or minimize the responsibilities of the MPD.
D. Special Operations Division

1. SOD shall assume eventual command of all barricades, active shooter incidents and threats of or actual terrorist events.

   NOTE: The eventuality of command will not occur for events which are terminated prior to the arrival of SOD unless a determination is made by the Commander, SOD, the Watch Commander, SOD or the senior ranking SOD official.

2. The senior ranking SOD official shall:
   a. Confer with the IC, assess the situation and ascertain if a SOD deployment is needed.
      (1) If SOD is not needed, the senior ranking SOD official shall remain on the scene to assist and advise the IC.
      (2) If SOD is needed, the senior ranking SOD official shall:
         a) Ensure notifications are made to the necessary branches within SOD and advise the preferred direction of travel and staging area locations.
         b) Ensure the Commander, SOD, the Watch Commander, SOD, and the CIC are notified.
         c) Assume the roll of Operations Chief within the ICS command structure.
         d) Analyze, evaluate and adjust if necessary:
            (i) The deployment of personnel;
            (ii) The location of the command post;
            (iii) The size of the perimeter;
            (iv) The locations of staging areas;
            (v) The traffic plan; and
            (vi) The adequacy of the established radio frequency for the event.
3) Upon the arrival of additional SOD assets, assume the position of the IC.

4) Ensure all activities are recorded on the appropriate ICS forms and an ICS command structure has been established. [See GO-HSC-800.02 (The Incident Command System)]

5) Ensure an after action report is prepared and forwarded through channels no later than five (5) days following the event.

E. Responsibilities of Commanding Officials

Commanding officials shall respond to events enumerated in this order and ensure all provisions contained in this order are followed.

V. CROSS REFERENCES

A. GO-HSC-800.02 (The Incident Command System)

B. GO-HSC-805.04 (Bomb Threats and Explosive Devices)

C. SOP 06-02 (Incident Command System)

Cathy L. Lanier
Chief of Police

CLL:PH:MOC:CC
APPENDIX L
I. PURPOSE

The purpose of this order is to establish the policy and procedures for the processing and disposition of suspected mental health consumers coming into contact with members of this Department.

II. POLICY

The policy of the Metropolitan Police Department (MPD) is to handle calls for service involving suspected mental health consumers in a manner which reflects sensitivity to the needs and rights of the persons involved, and to work cooperatively with the Department of Behavioral Health (DBH) (formerly the Department of Mental Health) and other appropriate public and private institutions to provide citizens of the District of Columbia with effective mental health services.
III. DEFINITIONS

For the purpose of this order, the following terms shall have the meanings designated:

1. Crisis Intervention Coordinator – Sworn member the rank of Captain designated by their District Commander to manage the day-to-day administrative and operational needs of the Crisis Intervention Officer Initiative within his or her assigned district.

2. Crisis Intervention Officer (CIO) – Sworn member who has successfully completed the Department’s crisis intervention training course.

3. Field Search – See GO-PCA-502.01 (Transportation of Prisoners) for the definition.

4. Juvenile – Person under 18 years of age.

5. Mental Health Consumer – Person who a member reasonably believes is suffering from a mental illness.

6. Mental Illness – Disorder in thought or mood so substantial that it impairs judgment, behavior, perception of reality, or the ability to cope with the ordinary demands of life.

7. Professional Resources – Resources available to the MPD including mental health professionals, emergency medical facilities, psychiatric institutes, and detoxification centers that accept Department referrals.

8. Restraining Devices – Equipment used to restrain the movement of a subject (e.g., handcuffs, flex-cuffs, leg restraints, restraint straps).

9. Voluntary and Involuntary Detentions – Provisions within the D.C. Official Code (Title 21, Chapter 5) which the MPD uses for detaining persons requiring professional psychological intervention.

IV. REGULATIONS

A. Members shall transport mental health consumers who are in MPD custody and who complain of illness or injury to a hospital in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization for Prisoners).

B. If a Form FD-12 (Application for Emergency Hospitalization by a Physician, Officer or Agent of the D.C. Department of Human Services or
an Officer Authorized to Make Arrests) (Attachment A) is initiated by another agency, that agency will be responsible for remaining with the mental health consumer.

C. Members shall use handcuffs on **all** mental health consumers, regardless of age, who are being transported for mental health services in an MPD vehicle. Handcuffs and any other restraining devices shall be used in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).

D. Members shall not transport persons to the Comprehensive Psychiatric Emergency Program (CPEP) who appear to be intoxicated or under the influence of drugs but who do **not** appear to be mental health consumers. Members shall handle intoxicated persons in accordance with GO-PCA-501.03 (Handling Intoxicated Persons) and shall contact the D.C. Fire and Emergency Medical Services (FEMS) if the person needs medical attention.

E. Members who are trained to be a CIO shall not receive additional compensation.

V. PROCEDURES

A. Deployment of Crisis Intervention Officers

1. Members trained as CIOs shall go in service at the beginning of each shift and advise the dispatcher and i-Mobile, if applicable, that they are Crisis Intervention Officer trained.

2. Office of Unified Communication (OUC) dispatchers may refer to the list of trained members for dispatch or may request a CIO over the radio for assignment.

3. CIOs shall respond to calls or incidents involving confirmed or suspected mental health consumers in crisis when available.

4. CIOs may handle calls for service outside their assigned patrol district with the approval of the District Watch Commander and/or the Field Commander.

B. Interaction with Adult Mental Health Consumers

1. The first member on the scene involving an interaction with a mental health consumer shall:

   a. **When possible, establish verbal control.**
b. Determine the facts and circumstances of the incident.

c. If not a CIO:

(1) Determine if one is needed.

(2) If a CIO is not needed or not available, the member shall handle the incident in accordance with this order and applicable MPD policies and procedures and complete the PD Form 251 C (Crisis Intervention Tracking Form) (Attachment B)

NOTE: Mental health consumers may display conduct that is irrational, unpredictable, or threatening. They may not receive or comprehend commands or other forms of communication in the manner that members may expect. They often do not respond to authoritative persons or the display of force.

2. If the member is not crisis intervention trained and determines a CIO is needed, he/she shall request through the OUC that a CIO respond.

a. Should a CIO be available to respond, the CIO shall:

(1) Assist the first member on the scene with conducting a dialogue with the mental health consumer.

(2) Assume responsibility for the assignment and complete all applicable reports, including but not limited to the PD Form 251-C.

b. If a CIO is not available, the first member on the scene shall handle the incident in accordance with this order and applicable MPD policies and procedures and complete the PD Form 251-C.

3. In determining the most appropriate action to take members shall:

a. Consider the information provided by professional resource persons, family members, friends, and the reporting person.

b. Consider the use of professional or medical crisis intervention personnel, if available, when making a detention decision.

c. Determine what, if any, on-going threat potential the subject poses to himself or herself, or others.
d. This threat potential may necessitate an involuntary detention procedure rather than allowing the subject to go with the family or friends for voluntary treatment.

4. Members may contact the DBH Mobile Crisis Service at 1-888-793-4357 (1-888-7-WE HELP) for guidance.

C. Voluntary and Non-voluntary Transport to Comprehensive Psychiatric Emergency Program (CPEP)

1. If a member believes an interaction with a mental health consumer has escalated to the point where death or serious bodily injury is imminent, the member shall:

   a. Take appropriate police action.

   b. Contact an official for barricade/hostage situations where Emergency Response Team response may be appropriate.

2. In all other cases, a member who reasonably believes that an adult individual is mentally ill and poses a danger or threat of danger to himself or herself or others, shall transport the individual without delay to the Comprehensive Psychiatric Emergency Program (CPEP) located in Building 14 on the grounds of the former DC General Hospital.

3. All adults being transported to CPEP for mental observation in a Department vehicle shall be field searched by the member and handcuffed prior to being placed in a vehicle.

   a. Weapons, or other items which could be used to inflict injury, shall be removed and properly recorded on the property book at the assigned organization element of the transporting member.

   b. All other personal property of the person being transported shall accompany the person and turned over to CPEP staff.

4. If an adult who shows no signs of being a danger to himself or herself or others voluntarily agrees to go to CPEP:

   a. An adult family member should first arrange transportation. If the family member can not arrange transportation, the transportation can be by a Department vehicle. If the individual is injured, transportation should be by ambulance to the closest appropriate hospital. Members may determine
whether handcuffs and other restraining devices are appropriate in the event that they ride in the ambulance.

b. Prepare a field report with the classification "Sick Person to the Hospital".

5. If the adult does not voluntarily agree to go to CPEP, the member shall:

a. Transport the adult mental health consumer, using handcuffs and, if necessary, additional restraining devices, to CPEP on the grounds of the former DC General Hospital, Building 14.

b. If the suspected mental health consumer is violent, but not under arrest, request a transport wagon with two members to assist in transporting the individual.

c. Execute a Form FD-12 outlining the circumstances for the detention and provide this form to the staff of the facility.

(1) The information entered on the Form FD-12 shall describe the specific behaviors or statements of the mental health consumer which led the member initiating the emergency hospitalization to believe that the person was in imminent danger of harming himself or herself or others.

(2) Members may consult with the staff at CPEP for assistance with completing the Form FD-12.

(3) Members initiating an FD-12 shall be responsible for transporting the mental health consumer’s property.

(a) In the event that the mental health consumer’s property would be classified as an encampment, the member shall contact the Office of Neighborhood Engagement through the Mayor’s Command Center to handle the property.

(b) In all cases, when a FD-12 is initiated by another agency, the initiating agency will be responsible for transporting the property. In the event that the agency member does not have access to a vehicle, the MPD member shall transport the agency member who will maintain responsibility for the property.
d. Prepare a field report with the classification “Sick Person to the Hospital”.

e. Upon obtaining a Central Complaint Number (CCN) for the field report, provide the Teletype Unit with the name of the mental health consumer.

D. Arrests

1. In determining whether an arrest is warranted for a mental health consumer, the member shall use reasonable judgment in making a determination of probable cause. Members shall take into account any factors that mitigate against making an arrest.

2. The member shall obtain approval from the Watch Commander for detaining the adult in lieu of arrest.

3. When transporting an adult suspect who is a mental health consumer, members shall:

a. In addition to the requirements of this order, transport suspected mental health consumers under arrest in accordance with GO-PCA-502.01 (Transportation and Searches of Prisoners).

b. Use caution when transporting suspected mental health consumers due to the potential threat of destructive and/or dangerous behavior to themselves and/or the members.

c. Notify the receiving agency of any known medical problems and potential security hazards the prisoner presents.

d. Accompany subjects who are restrained and transported by ambulance to the treatment facility if requested by FEMS or the subject is violent or under arrest.

4. When a member arrests a suspected mental health consumer and:

a. Court is not in session or the person is a threat, the arresting member shall:

   (1) Prepare a field report citing the appropriate offense and document that the arrested person was transported for mental observation to CPEP.
(2) Prepare a Form FD-12 and attach a copy to the field report.

(3) Indicate on the PD Form 163 and Van Sheet, “AT-RISK/Mental Health Consumer”.

(4) Obtain from their watch commander a PD Form 311 (Notification of Intent to Discharge).

**NOTE:** This form requests that the watch commander be notified by CPEP prior to the release of a person against whom criminal charges have been placed. This will permit the arresting unit to respond and take custody of the person if the case has not yet been presented to the court.

(5) Should it be determined by the CPEP staff that there is no cause to hold the arrested person for further evaluation, transport the arrested person, using handcuffs and, if necessary, additional restraining devices to the Central Cellblock for detention and presentment to court.

(6) Should the arrested person be held at the CPEP for further evaluation, respond to court on the next court business day and present the case in the same manner as other hospitalized police prisoners.

**NOTE:** The court will determine whether the arrested person should be detained for the purpose of evaluating mental competency.

b. When court is in session and the person is **not** a threat, the arresting member shall:

(1) Prepare a field report citing the appropriate offense.

(2) Ensure the arrested person is booked and processed at the Central Cellblock, prior to presentment at court.

**NOTE:** The court will determine the need for the arrested person to undergo mental observation prior to case adjudication. No Form FD-12 is required.
E. Incidents at a Secure Mental Health Facility

1. Members who are required to enter secure areas of mental health facilities shall secure their firearms in the provided gun lockers and retain the locker key until retrieving their weapon unless exigent circumstances or other factors necessitate that they keep their weapons with them.

2. Members only needing to interview facility personnel may conduct such interviews in a non-secure area on the facility grounds, and shall not be required to surrender their firearm.

3. Members responding to the facility for complaints of criminal offenses shall conduct a preliminary investigation and complete a field report as required.

4. Members shall not normally remove patients from the facility during the preliminary investigation.

5. The decision to arrest a patient and remove him or her from the facility shall be made by the member’s watch commander.

6. Members serving warrants on patients at a secure mental health facility shall:
   a. Serve such warrants during a time of day that would allow for the processing and arraignment of the individual so the Department is not required to house or hold the individual overnight.
   b. Contact the facility administrator prior to responding to the facility to ensure the patient has received any required medication and is prepared for removal prior to the member’s arrival.

F. Referrals and Calls for Assistance from Other Agencies

1. Assisting Agents of the DBH
   a. Members dispatched to assist the DBH agents shall remain with the agents until such time:
      (1) The DBH agent states that he or she no longer needs assistance;
(2) The member determines that the person being interviewed presents no danger to the agents, at which time the member shall return to service; or

(3) The member determines that the person being interviewed requires an emergency, psychiatric evaluation, and the member is needed to assist in the transportation to the CPEP.

NOTE: Individuals who present no danger should be transported by the DBH agent.

b. When transport services are provided by MPD, from a location at which a DBH agent is present:

(1) The DBH agent will be responsible for:

   (a) Executing a Superior Court Form FD (12) - 826

   (b) Meeting the member on-site at CPEP or the hospital.

   (c) Transporting the mental health consumer’s property unless the DBH agent does not have access to a vehicle in which case the member shall transport the DBH agent and the property. In such cases, the DBH agent will maintain responsibility for the property.

(2) Members shall:

   (a) Complete a field report with the classification “Sick Person to the Hospital”.

   (b) Use handcuffs and, if necessary, additional restraining devices if necessary on the mental health consumer.

   c. Members shall notify the Teletype Unit of the person’s name and the location from which removed.

2. When responding to a request for assistance from an agency other than DBH (e.g., D.C. Public Schools), members shall:

   a. Coordinate with the CIO, if necessary.
b. Notify the DBH Mobile Crisis Service at 1-888-793-4357 (1-888-7-WE HELP) and/or Child and Adolescent Mobile Psychiatric Services (ChAMPS).

G. Guarding Prisoners at Comprehensive Psychiatric Emergency Program (CPEP)/Psychiatric Institute of Washington (PIW)

1. Members **shall** guard prisoners at CPEP/PIW who meet the following criteria:
   a. Prisoners charged with violent felony crimes against persons.
   b. Prisoners charged with domestic violence.
   c. Prisoners arrested on a bench warrant.

2. Members **shall not** guard prisoners at CPEP/PIW who meet the following criteria:
   a. Prisoners charged with a misdemeanor offense or traffic offense.
   b. Prisoners charged with a felony property crime.

3. Members with questions concerning guarding a prisoner at CPEP/PIW who has been charged with an offense other than those listed in Part V.G.1. of this order shall contact their watch commander for further guidance.

4. Members shall guard prisoners in accordance with GO-PCA-502.07 (Medical Treatment and Hospitalization of Prisoners).

5. Watch Commanders shall complete a PD Form 311 (Hospital Discharge and Psychiatric Review Notice) (Attachment C) when a prisoner is admitted to CPEP/PIW but is **not** placed under guard.

H. Attempted Suicides

1. Members responding to the scene of an attempted suicide shall safeguard any medicine bottles or containers that appear to have been taken internally by the patient.

2. Members shall turn over any evidence to the investigator responding to the hospital or to the member handling the case.
I. Juveniles

1. Members who encounter a juvenile who poses a threat or danger to himself or herself or others due to limited mental capacity shall:

   a. Notify the juvenile’s parent or legal guardian and document the notification in the narrative of the field report;

   b. Notify Child and Adolescent Mobile Psychiatric Service (ChAMPS); and

   **NOTE:** ChAMPS is a mobile emergency service for children experiencing an emotional or mental health crisis in the District of Columbia. ChAMPS provides in-home assistance when appropriate or arranges temporary placement in a respite home or other emergency setting as needed. ChAMPS also will assess whether a child's behavior poses a danger, requiring possible psychiatric inpatient hospitalization.

   c. Request an ambulance to transport the juvenile to the closest mental health facility:

      (1) The Psychiatric Institute of Washington (PIW), at 4228 Wisconsin Avenue, N.W.; or

      (2) The Children's National Medical Center (CNMC) Emergency Room, at 111 Michigan Avenue, N.W..

   d. Juveniles who require a medical screening exam or medical treatment (e.g., overdose, laceration, intoxication or altered mental status) will be transported by the ambulance crew to the closest appropriate emergency room that has pediatric capabilities (e.g., Children’s National Medical, Georgetown University Hospital, CNMC UMC, or Howard University Hospital).

   e. If an ambulance crew refuses to transport the juvenile, MPD members shall transport the juvenile to the closest mental health facility.

2. If the juvenile is combative or the ambulance crew requests that a member ride in the ambulance, the member shall ensure that the juvenile is handcuffed and properly restrained and that one member rides in the ambulance and one member follows the ambulance to the facility.
3. In cases initiated by another D.C. agency or ChAMPS, the other agency will be responsible for completing the FD12.

4. Members who encounter a student at school who is 18 years of age or older and who poses a threat or danger to himself/herself or others due to limited mental capacity shall request an ambulance to transport the student to PIW.

5. Members requiring assistance shall contact the DBH Access Help-Line at 1-888-793-4357 or ChAMPS at 202-481-1440.

   NOTE: Both services are available twenty-four hours a day, seven days a week.

6. Members shall complete a PD Form 251-C for calls for service involving juvenile mental health consumers.

VI. ROLES AND RESPONSIBILITIES

A. Crisis Intervention Coordinators shall:

1. Provide managerial oversight for the Crisis Intervention Officer Initiative.

2. Prepare the monthly status/activity report which is to include:
   a. Calls for service with date, time and location;
   b. Self-initiated calls with date, time and location;
   c. Any injuries with date, time and location; and
   d. Brief summary of any significant cases.

3. Attend the monthly Crisis Intervention Coordinator meeting.

B. District officials shall:

1. When receiving a call for service at a location where there is a violent mental health consumer:
   a. Immediately respond to the designated location, assume command, and determine if Emergency Response Team (ERT) notification is necessary.
   b. Remain at the scene until relieved by the Watch Commander or senior ERT official.
c. Notify DBH at 1-888-793-4357 in cases where the services of DBH may be useful in defusing a potentially dangerous situation involving a suspected mental health consumer.

C. Watch commanders shall:

1. After roll call, ensure the Command Information Center (CIC) is supplied the names, CAD numbers and assignments of each CIO for that shift and include this information on the daily deployment schedules.

2. Ensure copies of the PD Form 251-C are forwarded to the Crisis Intervention Coordinator prior to the end of the shift.

3. Ensure any approved involuntary detentions (i.e., FD-12s) are documented on the PD Form 150 (Tour of Duty Supervisor’s Report).

D. The Commanding Official, Metropolitan Police Academy, shall maintain an updated list of members who have successfully received training and shall ensure the list is provided to the Command Information Center (CIC) and the Office of Unified Communication (OUC) whenever it is updated.

E. The Commanding Official, CIC, shall maintain a current list of those members trained as CIOs and shall ensure the list is easily accessible to assist in the deployment of CIOs.

F. The Emergency Response Team (ERT) shall be responsible for assisting district units with hostage and barricade situations and those situations where death or serious bodily injury is imminent that involve mental health consumers in accordance with GO-HSC-805.05 (Barricade/Hostage Situations and Other Unusual Incidents).

VII. CROSS REFERENCES

A. GO-PCA-502.01 (Transportation and Searches of Prisoners)

B. GO-PCA-502.07 (Medical Treatment and Hospitalization for Prisoners)

C. GO-HSC-805.05 (Barricade/Hostage Situation and Other Unusual Incidents)

D. D.C. Official Code § 21-501 (Hospitalization of the Mentally Ill)

E. D.C. Official Code § 21-521 (Detention of persons believed to be mentally ill; transportation and application to hospital)
VIII. ATTACHMENTS

1. Attachment A: FD Form 12 (Application for Emergency Hospitalization by a Physician or Psychologist of the Person, Officer, or Agent of D.C. Department of Human Services or an Officer to Make Arrests)

2. Attachment B: PD Form 251-C (Crisis Intervention Tracking Form)

3. Attachment C: PD Form 311 (Hospital Discharge and Psychiatric Review Notice)

Cathy L. Lanier
Chief of Police

CLL:PAB:MOC:AWS:JC
TO: Administrator, ____________________________ Hospital
  ____________________________ state

☐ PHYSICIAN OR PSYCHOLOGIST OF THE PERSON: That I am a physician _____ or qualified psychologist _____ (check one); that I am not related by blood or marriage to the alleged mentally ill person; that I am not financially interested in the hospital in which said person is to be detained; that the statements are based on my personal observation and examination of said person not more than 72 hours prior to the making of this application, and further [CHECK APPROPRIATE BOX (1) OR (2) BELOW].

☐ 1. That I am licensed under the laws of the District of Columbia; that I am not professionally or officially connected with the hospital in which said person is to be detained; and having reason to believe

☐ 2. That I am employed by the United States or District of Columbia; and having reason to believe

☐ OFFICER OR AGENT, DHS That I am a duly accredited officer or agent of the Department of Human Services of the District of Columbia; and having reason to believe

☐ POLICE That I am an officer authorized to make arrests in the District of Columbia; and having reason to believe that

(Name, address, and age of person to be hospitalized)

is mentally ill and, because of such illness, is likely to injure self and/or others if not immediately detained, hereby make application under the provisions of Title 21, § 521, D.C. Code, for the admission of said person to the above-named hospital for emergency observation and diagnosis, and request that said person be examined by a psychiatrist or qualified psychologist on duty for said hospital.

(1) STATE CIRCUMSTANCES UNDER WHICH PERSON WAS TAKEN INTO CUSTODY (Use reverse side if needed)

(2) STATE FACTS WHICH LEAD YOU TO BELIEVE PERSON IS MENTALLY ILL (Use reverse side if needed)

(3) STATE FACTS WHICH LEAD YOU TO BELIEVE PERSON IS LIKELY TO INJURE SELF AND/OR OTHERS AS A RESULT OF MENTAL ILLNESS (Use reverse side if needed)

Date

Signature and Rank or Professional Title of Applicant

Business Address (Precinct or Service)

Telephone Number
**Summary (Nature of Event and Outcome/Action Taken):**

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*Please attach copy of PD-251*

**Resource Information**

- **Department of Mental Health (DMH) 24 Hour Access Help-Line**
  - Phone: 1 (888) 793-4357
  - TDD Access Helpline: 202-561-7000

- **Children & Adolescent Mobile Psychiatric Services (CHAMPS)**
  - Direct: (202) 481-1450
  - DMH Access Help-Line (Above)

- **Adult Mobile Crisis Services**
  - Direct: (202) 673-9300
  - DMH Access Help-Line (Above)

- **Comprehensive Psychiatric Emergency Program (CPEP)**
  - Direct: (202) 673-9319
  - DC General Hospital Compound • 1905 E St. SE, Building #14

- **DMH Homeless Outreach Program**
  - Direct: 202-671-0388
  - 64 New York Avenue, NE

**Common Psychiatric Medications:**

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<th>Mood Disorders</th>
<th>Anxiety Disorders</th>
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<td>Clozaril</td>
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**GO-308.04 (Processing Persons...Mental Illness)**

**Attachment B**

**PD Form 251-C (Crisis Intervention Officer (CIO) Tracking Form)**

**February 09, 2015**
OMETROPOLITAN POLICE DEPARTMENT

Hospital Discharge and Psychiatric Review Notice

____________________________

TO: Administrator, ________________________________________________________________ Hospital

NAME OF HOSPITAL

I, ____________________________________________________, hereby request notification of any

NAME OF WATCH COMMANDER

hospital plan to discharge or otherwise release to the community ____________________________________

NAME OF PRISONER

who was admitted to your hospital on ________________________ after being criminally charged by

DATE

this department.

I am also requesting the disclosure of information regarding whether the patient’s mental condition
would permit him to be brought to court for a hearing. The disclosure of this information is necessary
for law enforcement purposes, under (b)(7) of the Privacy Act, 5 U.S.C., Section 552a, to assure the
continued custody of this person and assure the availability of this person for court appearances.

__________________________________
WATCH COMMANDER SIGNATURE

__________________________________
UNIT/PHONE NUMBER
GENERAL ORDER

DISTRICT OF COLUMBIA

I. BACKGROUND

The use of authorized service weapons by members in the performance of duty is regulated by GO-RAR-901.07 (Use of Force). This directive is designed to cover the requirements for the safe handling and use of firearms and other service weapons in those circumstances where the weapon is not being engaged in the use of force for a police purpose. These circumstances include prescribed training; authorized on-duty and off-duty weapons; handling and securing of weapons; authorized practice; and unintentional discharge of weapons. This directive does not apply to the lawful use or possession of privately-owned firearms not authorized by the Metropolitan Police Department, such as antique guns in a gun collection.

II. POLICY

The policy of the Metropolitan Police Department (MPD) is to ensure that members carry and use only authorized weapons and ammunition and are trained in the proper use, security, and handling of firearms when acting, on duty or off duty, in their capacity as police officers. The policy of MPD also requires that:

1. The discharge of any firearm by a member of the MPD, whether on duty or off duty, shall be reported immediately. (CALEA 1.3.6-a)

2. Subject to the exceptions enumerated in Section II.3, below, every firearm discharge by a member, whether occurring on- or off-duty, using an authorized or unauthorized firearm, shall be investigated thoroughly and objectively.

3. Absent extraordinary circumstances, the MPD will not investigate a member's firearm discharge if that discharge:
a. Occurred during authorized firearm training and did not result in injury, property damage, or any allegation of misconduct against the member; or

b. Occurred during the member’s lawful recreational activities (e.g., hunting), using a legally registered, privately owned firearm, as long as each of the following elements has been met:

(1) The discharge occurred outside the District of Columbia;

(2) The member was not acting in his or her capacity as an MPD officer;

(3) The discharge did not result in injury, property damage, or any allegation of misconduct;

(4) The weapon involved was not a service weapon and

   (a) The weapon is not the subject of an allegation that the weapon was (i) illegal; (ii) unlawfully altered or modified; or (iii) used to fire illegal ammunition; and

   (b) The member’s use of weapon did not result in injury, property damage, or any allegation of misconduct against a member.

4. Members are expected to comply with all relevant local and Federal laws and regulations when handling and using privately-owned firearms for purposes not related to their duties as a police officer.

III. DEFINITIONS

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

1. Authorized – Department-sanctioned for on-duty or off-duty use.

2. Exchange – Whenever a Department-issued service weapon is temporarily or permanently replaced.

3. Firearm – Any Department-issued service pistol or authorized off-duty service pistol, as well as weapons such as other pistols, rifles, shotguns, revolvers, handguns, or machine guns.

4. Firearms Instructor – A member of the Department who has: (1) attended all required courses in weaponry, (2) been certified as a weapons instructor, and (3) been given the authority to monitor proficiency at the firing range.
5. Functional Firing – The un-scored firing of fifty (50) rounds of ammunition to test the proper functioning of a new, re-issued or exchanged weapon.

6. Non-Deadly Force – Any use of force that is neither likely nor intended to cause death or serious physical injury.


8. Pistol – Any firearm originally designed to be fired by use of a single hand or with a barrel less than 12 inches in length.

9. Privately Owned Firearms – Firearms other than those issued by the Department or authorized by the Department for off-duty police use. Privately owned firearms include those firearms lawfully possessed under the laws of an officer’s place of residence.

10. Serious Use of Force – Lethal and less-lethal actions by MPD officers including:

   a. All firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals;

   b. All uses of force by an MPD officer 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 officer 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;

   e. All other uses of force by an MPD officer resulting in a death; and

   f. All incidents where a person receives a bite from an MPD canine.

11. Service Ammunition – Any ammunition issued or authorized by the Department.
12. Service Weapon – Any instrument issued or authorized by the Department, used offensively or defensively to control or overcome a police subject, carried or kept readily available by MPD members, including:
   a. Firearm (e.g., pistol or handgun);
   b. Aerosol chemical dispenser (e.g., OC Spray);
   c. Baton or ASP;
   d. Tear gas; or
   e. Any other specialty weapon issued to the Emergency Response Team.

13. Shotgun – Any Department-issued shotgun; may be described as a “regular” shotgun or a “folding-stock” shotgun, each requiring distinctive training and certification.

14. 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 or complaint of pain.

IV. RULES

A. No member shall draw and point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to the point where lethal force would be permitted. When it is determined that the use of lethal force is not necessary, as soon as practicable, the firearm shall be secured or holstered.

B. Members shall not:

   1. Possess any unauthorized firearm for on-duty or off-duty use in the District of Columbia. All firearms must have proper authorization and permits;

   2. Individually obtain service ammunition from any source except through the Firearms Training and Tactics Unit, Metropolitan Police Academy (MPA);

   3. Carry any more, nor any less, than the requisite amount of service ammunition applicable to their authorized service pistol:

      a. While on duty, three (3) fully loaded magazines and one round in the chamber; and

      b. While off duty, at least one (1) fully loaded magazine and one round in the chamber.

NOTE: Members approved to carry a revolver must have the cylinder fully charged;
4. Leave any issued or authorized firearm unattended in any automobile or other location that is readily accessible to other individuals;

5. Store firearms at home where they may be visible and/or accessible to children and other persons; or

6. Play or toy with firearms.

V. REGULATIONS

A. Use and Discharge of Firearms

1. Except for qualification, target practice or competition on an approved range, members shall not use any Department-issued firearm, authorized off-duty pistol or service weapon, on duty or off duty, unless in conformity with the Department’s Use of Force policy as prescribed by GO-RAR-901.07 (Use of Force). In cases of fresh pursuit, members shall use firearms in conformity with GO-OPS-301.03 (Operation of Emergency Vehicles, Fresh Pursuit, and Vehicular Pursuit).

2. While in an off-duty status, members traveling to and from the District of Columbia and carrying their Department-issued or authorized off-duty pistol, shall ensure that they are in compliance with all applicable rules, regulations and laws of the jurisdiction in which they are traveling.

3. Whenever a member’s authorized firearm is discharged, the member shall:
   a. Preserve the firearm in the exact condition it was in immediately following the discharge;
   b. Not open the action and/or chamber a round, remove or load another magazine in the well of the service weapon;
   c. Not operate the actions on rifles or shotguns (although the safety may be set if it is necessary to handle the weapon); and
   d. Surrender the firearm in its holster as directed by a member of the Force Investigation Team (FIT) or an official (of a higher rank) on the scene.

B. Handling of Firearms

1. Members shall not:
   a. Handle firearms in an unsafe manner by playing or toying with their weapon;
   b. Display their firearms unnecessarily (e.g., removing the pistol from the holster to show a friend, etc.);
c. Use or carry ammunition in any assigned Department-issued service firearm, or authorized off-duty firearm that is not issued by the Department, except that members may purchase and use ammunition for training purposes at an approved range;

d. Disassemble the Glock 9mm semi-automatic pistol or perform any maintenance on the weapon, except fieldstripping for cleaning;

   NOTE: Only certified Armorers assigned to the MPD Range are authorized to perform any other maintenance on the weapons.

e. Alter a service firearm in any manner (e.g., mark, engrave, color, change grips, etc.); or

f. Use or carry any unauthorized weapon on their service weapon, including but not limited to the following:

   (1) Grip adapters not issued or authorized by the Department;

   (2) Extended magazines floor plates; and

   (3) Lasers or flashlights.

2. Questions regarding authorized equipment shall be directed to the MPD Armorer.

3. If it is determined that a member is carrying or using unauthorized equipment on his or her service weapon in violation of this order, an official shall direct the member to report to the MPD Armorer’s Office for the immediate removal of the unauthorized equipment and may subject the member to disciplinary action.

C. Authorized Off-Duty Service Firearms

Members shall consult GO-RAR-901.02 (Wearing of Personal, Non-Issued Pistols and Holsters) for regulations and procedures pertaining to the carrying of off-duty service firearms.
D. Qualification

1. All members, including members on limited duty or sick leave who retain their service pistols, shall qualify with their service pistol and authorized off-duty firearm every six (6) months.

   a. Members shall be required to qualify at least once during the period between January 1st through June 30th and at least once during the period July 1st through December 31st. The proficiency test itself does not count as a semi-annual qualification.

   b. Members who have their firearm returned to them after being cleared to return to full duty status, shall report to the MPD Range for qualification within twenty-four (24) hours, or the next business day.
2. Commanding officers shall ensure that all members of their command who are authorized to carry a Department service pistol are in compliance with the biannual qualification requirements.

3. Any member failing to report for qualification as designated above shall, upon due notice from the MPD Range Officer, have his/her police powers revoked until properly qualified, and shall be subject to adverse action.

4. Penalties for failure to report for training shall be administered as follows:
   a. A member’s first instance of an unjustified lateness or no-show for weapons training within a twelve (12) month period shall result in a recommendation to his/her commanding officer for corrective action by the issuance of a PD Form 750 (Dereliction Report).
   b. An officer’s second instance of an unjustified lateness or no-show for weapons training within a twelve (12) month period shall result in a recommendation to the commanding officer for corrective action by the issuance of a Letter of Prejudice or an Official Reprimand.
   c. Each subsequent instance of unjustified lateness or no-show for weapons training within a twelve (12) month period shall result in a recommendation to the Department Disciplinary Review Officer that the member be cited for adverse action.
   d. In determining the appropriate penalty for a member’s violation, the investigating official shall consider the totality of the circumstances surrounding the violation, including but not limited to, the following:
      (1) The reason for the tardiness or failure to appear, and
      (2) The number of previous instances of tardiness and failure to appear.
   e. Any unjustified lateness or no-show which results in a member failing to be re-certified with his / her issued service pistol during the current re-certification phase will result in a recommendation to the Professional Development Bureau (PDB), Human Resource Management Division (HRMD), Disciplinary Review Branch (DRB) that the member be cited for adverse action.

5. Should an MPD member fail to qualify with his/her issued service pistol, a PD Form 77 (Notice of Revocation of Police Powers) shall be served on the member immediately by the MPD Range Officer.

6. The member’s service weapon shall be surrendered immediately to the MPD Range Officer.

7. In the event that the member has driven a marked vehicle to the MPD Range, the MPD Range Officer shall contact the member’s unit and arrangements shall be made to have the member and the vehicle transported back to his/her unit.

Revised 8/05/10
8. The member shall respond to the MPD Range on his/her next tour of duty, to qualify or receive remedial training, as may be directed by the MPD Range Officer.

9. Once the member has successfully completed retraining and has qualified, the MPD Range Officer shall restore his/her police powers and the member's service weapon shall be returned.

10. Members authorized to carry an off-duty pistol who fail to qualify with their issued service pistol or their off-duty pistol shall have their authority to wear an off-duty weapon canceled immediately by the MPD Range Officer who shall serve the member with a PD Form 228 (Cancellation of Authority to Wear Off-Duty Non-Issued Pistol). (CALEA 26.1.1)

11. As directed by the MPD Range Officer, the member shall be scheduled for remedial training or re-testing.

12. Once a member has qualified with his or her off-duty weapon, the member shall be re-issued a PD Form 227 (Certification to Wear Off-Duty Non-Issued Pistol).

13. After a maximum of forty (40) hours of training, should a member fail to successfully complete retraining, the Manager, Specialized Training, MPA, shall direct the member to the Medical Services Division (MSD) for an evaluation to determine if a medical problem is prohibiting the member's successful completion of re-training.

(a) Should the MSD evaluation show no such problem, the member will be afforded an additional forty (40) hours of re-training.

(b) A member's failure to successfully complete the forty (40) hour post-MSD re-training process shall result in the member being recommended for termination. (CALEA 52.1.8)

14. A member returning to full duty status from an extended absence shall re-qualify under the following guidelines (CALEA 1.3.11-c):

a. Members who are absent from full duty status for more than thirty (30) days shall submit their service pistols to the MPD Armorer at the Firearms Training and Tactics Unit, MPA, for safekeeping, except under the following circumstances:

(1) When the MSD places a person on limited duty and determines that there is no medical reason to take the pistol, the member has the option to decide whether or not to keep the service pistol.
(2) If the member chooses to keep the pistol, he/she shall make an appointment with the MPD Range within seventy-two (72) hours to take a proficiency test consisting of a fifty-two (52) round course of fire. A minimum score of forty-three (43) is required to demonstrate proficiency.

(3) If the member passes the proficiency test, he/she may keep the pistol during the period of limited duty imposed by the MSD, provided the member is able to meet the provisions stated in Section V. D. 1.a-b of this order.

(4) If the member chooses not to keep the pistol during the limited duty period or if the member fails to pass the proficiency test, the member shall turn the weapon in to the MPD Armorer at the MPA.

(5) The MPA shall document the above actions and provide written notification to the member and the member's command.

b. Members returning to full duty status following an absence greater than thirty (30) days but less than one-hundred eighty (180) days, shall be required to re-qualify on the range with their service weapon and any off-duty weapon.

c. Members returning to full duty status following an absence of one-hundred eighty (180) consecutive days or more shall complete a cognitive pretest in the firearms area and shall re-qualify on the MPD Range. Immediately upon returning to duty, the member shall:

(1) Contact his or her administrative section to schedule a date to attend the MPD Indoor Range.

(2) Report to the MPD Range to receive his/her cognitive pre-testing prior to firing. Upon completion of the pre-testing, the member will receive training, if necessary, in any area(s) failed. Re-training time will vary according to the number of areas failed.

d. Upon successfully completing the cognitive portion, the member returning to full duty status will be required to qualify with his/her issued service weapon and, if applicable, authorized off-duty weapon.

e. Should a member returning to full duty status fail to qualify with his/her issued service weapon or authorized off-duty weapon,
he/she shall receive a minimum of eight (8) hours of marksmanship re-training.

f. Should a member returning to full duty status fail to satisfactorily complete either the cognitive or performance pre-testing the first day he/she reports to the MPD Range, a PD Form 77 shall be served by the MPD Range Officer, revoking the member's police powers, until both re-training programs have been successfully completed.

g. Should a member fail to satisfactorily complete either the cognitive or performance areas of remedial re-training within forty (40) hours of training, the Manager, Specialized Training, shall direct the member to the MSD for evaluation to determine if a medical problem is prohibiting successful completion of re-training.

h. Should the MSD evaluation show no medical problem, the member shall be afforded forty (40) hours of re-training in the necessary areas. Failure to successfully complete the forty (40) hour post-MSD re-training process shall result in the member being recommended for termination. (CALEA 52.1.8)

VI. PROCEDURAL GUIDELINES

A. Response to Incidents Involving a Serious Use of Force or a Use of Force Indicating Potential Criminal Conduct

1. The Force Investigation Team shall be responsible for investigating all incidents involving Serious Use of Force or the Use of Force Indicating Potential Criminal Conduct pursuant to GO RAR-901.08 (Use of Force Investigations).

2. The Criminal Investigations Division shall be responsible for investigating the offense leading up to the use of force, where applicable.

B. Response to Firearm Discharges Not Involving a Serious Use of Force

1. The member's chain of command (officials of higher rank than the involved member) shall be responsible for the investigation of all use of force incidents not involving a Serious Use of Force or a Use of Force
Indicating Potential Criminal Conduct pursuant to GO RAR- 901.08 (Use of Force Investigations).

2. The Criminal Investigations Division shall be responsible for investigating the underlying offense leading up to the use of force, where applicable.

C. Weapon Malfunctions

It is imperative that members of the Department utilize safe and properly functioning service weapons.

1. When a service weapon malfunctions during a member's intent to fire, the weapon shall be taken out of service and the MPD Armorer or an MPD Firearms Examiner shall evaluate the functioning of the weapon as soon as possible.

2. The MPD Armorer shall subject the firearms of members who are involved in an unintentional discharge to inspection.

3. If a member's weapon malfunctions during a use of force encounter or during regular firearms qualification, the weapon shall be presented to the MPD Armorer before being placed back in service. The weapon will be evaluated by the MPD Armorer to determine if it was a weapon malfunction or a shooter-induced error.

4. Following the evaluation, the MPD Armorer or Firearms Examiner shall document in writing whether the weapon had an inherent mechanical malfunction, or if the malfunction was member-induced or due to poor maintenance.

D. Obtaining Replacement Service Weapons (CALEA 17.5.2)

1. In all circumstances where a member's service weapon is taken, the member shall be given a receipt [e.g., PD Form 84 (Clothing and Equipment Property Receipt)].

2. Members may require a temporary replacement service weapon in particular circumstances (e.g., weapon malfunction, officer-involved shooting).

3. Upon authorization from their supervisor, members shall respond to the Command Information Center (CIC) to obtain a temporary replacement service weapon.

4. A supervisor from the CIC shall receive authorization prior to issuing a temporary replacement service weapon as follows:
a. In those incidents under investigation by the FIT, authorization shall be obtained by a supervisor from the FIT.

b. In all other incidents, authorization shall be obtained from the involved member’s commanding officer or his/her designee.

5. The member’s supervisor shall contact the MPD Armorer’s Office to arrange for a permanent replacement service weapon.

6. The MPD Armorer shall issue a permanent replacement service weapon only upon appropriate authorization from the appropriate Bureau Chief/Director.

7. Upon proper authorization, the MPD Armorer will:
   a. Issue the member a new weapon;
   b. Conduct a function fire;
   c. Issue the member a property receipt for any temporary service weapon being turned into the MPD Armorer’s Office; and
   d. Return any temporary service weapons to the Forensic Science Services Division.

E. Handling and Using Shotguns

1. When a Shotgun May Be Used:

   Members shall deploy their shotguns only in extraordinary circumstances, such as tactical situations or high-risk arrest situations when it is anticipated that they may confront a suspect or group of suspects who may be possibly armed with a firearm. A member shall not deploy his or her shotgun when confronting a suspect or group of suspects who are armed with weapons other than firearms (e.g., blunt objects, knives), unless the weapon is capable of causing mass casualties (e.g., explosive vest, incendiary device). The decision to remove a shotgun rifle from a vehicle shall be based primarily upon the danger posed by the confronted person(s). Such examples may include, but are not limited to, the following situations:

   a. Major criminal incidents (including barricade/hostage situations);
   b. Service of high-risk warrants;
   c. Any situation where the official in charge of the operation deems the shotgun to be necessary, so long as the decision is based on the guidelines set forth in this order.

2. In situations that initially required the deployment of a shotgun, members shall continuously reassess the circumstances to determine whether or not the continued deployment of a shotgun is still necessary. Once the member determines the circumstances no longer warrant the deployment of a shotgun, he or she shall secure the shotgun in his or vehicle.

3. Shotgun Certification
There are two separate certification training programs: certification in the use of a regular shotgun and certification in the use of a folding-stock shotgun. Only members who are trained and certified shall use the shotgun for which they are certified, although it is recognized that under exigent circumstances it may become necessary for a non-certified member to take control of a shotgun for safekeeping and/or to protect lives.

a. Members who use shotguns shall be certified annually.

b. At the option of element commanders/directors, members of their command may be designated for certification with either the regular or folding-stock shotgun as determined by the duties and responsibilities of the positions held.

4. Handling and Care of Shotguns

a. All properly certified members, upon being assigned a shotgun, shall be responsible for the proper and safe inspection of the functionality of the weapon prior to assuming responsibility for the weapon.

b. Members, upon being relieved from duty or termination of the assignment requiring the weapon, shall turn in the shotgun to an official for inspection.

c. Any defect or deficiency found as a result of the inspection shall be brought to the immediate attention of the official responsible for the shotguns or, in his/her absence, an official on duty.

d. When carrying regular or folding-stock shotguns in a vehicle not equipped with a mount, members shall take the following precautionary measures:

(1) The weapon shall be loaded with only four shells in the magazine tube;

(2) The chamber shall be empty;

(3) The safety shall be in the “safe” position;

(4) The action shall be closed; and

(5) The weapon shall be in its case and placed in the trunk of the vehicle until needed.
e. Members shall observe all proper safety procedures when loading and unloading a shotgun.

f. Shotguns shall be cleaned only by members who are currently certified to use the particular kind of shotgun, using official Department cleaning kits maintained at each unit with shotguns.

g. The MPD Armorer shall be responsible for repairing all issued shotguns and returning repaired shotguns to the assigned unit.

5. Storage of Shotguns

Shotguns shall always be stored in the designated storage area of the assigned organizational element.

a. The storage area must be capable of being secured and shall be locked at all times unless entered by an official.

b. The accessibility of keys or combinations to locks to storage areas shall be determined by the respective commanding officers/directors. They shall not be made available to members below the rank of Sergeant.

c. Shotguns shall always be stored unloaded with the action open.

6. Supervisory and Command Responsibilities

a. Commanding officers/directors shall control and ensure maximum accountability for the shotguns, ammunition, and accessories assigned to their command, including the following:

(1) Designate an official of his/her command to be the official responsible for the shotguns;

(2) Designate members who may become shotgun certified under the guidelines for optional certification;

(3) Designate and maintain a safe and secure shotgun storage area at the unit facility;

(4) Forward all requests for shotguns and accessories to the Commander/Director, MPA; and

(5) Ensure that certification for members is updated and that current certification information is readily available to officials at all times.
b. The unit official who has been designated to have responsibility over the shotguns shall:

(1) Ensure that a Shotgun Logbook is maintained;

(2) Ensure that the shotguns are cleaned as needed;

(3) Inspect all the shotguns periodically for defects and/or damage;

(4) Ensure that weapons in need of repair are transported in a safe manner to the MPD Armorer; and

(5) Ensure that shotgun cleaning kits are obtained from the Firearms Training and Tactics Unit, MPA.

c. Supervisors shall be primarily responsible for:

(1) Inspecting each shotgun before it is issued and after it is turned in.

(2) Issuing, storing and logging of shotguns, shotgun ammunition, and accessories.

(3) Completing certification of the Shotgun Log.

(4) Upon discovering a defect/deficiency in a shotgun, the supervisor shall determine if the weapon is safe to be assigned or if another weapon should be assigned.

d. The Commander/Director, MPA, shall be responsible for:

(1) Training and certification of all members in the proper handling and use of shotguns;

(2) Maintaining current training and certification records of all members certified in the use of shotguns;

(3) Forwarding shotgun training and certification information to the concerned member's commanding officer on a timely basis;

(4) Maintaining a complete inventory of all shotguns and accessories purchased by the department;

(5) Based on proper authorization, issuing shotguns and accessories to the requesting unit;
(6) Ensuring that the MPD Armorer inspects all Department shotguns on an annual basis; and

(7) Ensuring that old shotgun ammunition is replaced on a one-for-one basis during the annual replacement period for the patrol districts and other elements.

F. Handling and Using Patrol Rifles Assigned to Police Districts

1. Patrol Rifle Qualifications
   a. Each Commanding Officer may designate one or more members of his/her command for patrol rifle qualification consistent with the duties and responsibilities of the member.
   b. Each member selected for patrol rifle qualification shall be in a full-duty status.
   c. In order to carry and use a patrol rifle, a member shall:
      (1) Successfully complete a minimum of forty (40) hours of patrol rifle qualification training;
      (2) Successfully complete, at least annually, a minimum of eight (8) hours of patrol rifle re-qualification training; and

      NOTE: Under exigent circumstances it may become necessary for a non-qualified member to take control of a patrol rifle for safekeeping and/or to protect lives.

2. Patrol Rifle Issuance
   a. Each patrol rifle shall be issued to a member only by the Commanding Officer or designee and only to a full-duty member who has met all qualification and re-qualification requirements.
   b. The Commanding Officer shall designate one or more element members, the rank of Sergeant or above, who are patrol rifle-qualified, to serve as a Patrol Rifle Liaison Official, who shall be responsible for all assigned patrol rifles, ammunition, and accessories on his/her assigned tour of duty.
   c. When issuing a qualified member a patrol rifle, the Patrol Rifle Liaison Official shall:
      (1) Verify that the member has met all applicable patrol rifle qualification and re-qualification requirements;
(2) Record the following information in the Patrol Rifle Logbook:

(a) Rifle Department identification number;

(b) Rifle serial number;

(c) Name and rank of member to whom the rifle is issued;

(d) Badge number of the member to whom the rifle is issued;

(e) Date of most recent qualification or re-qualification of the member;

(f) Number of magazines issued;

(g) Number of magazines returned;

(h) Number of rounds issued;

(i) Number of rounds returned;

(j) Name of official issuing the weapon;

(k) Name of official receiving the weapon; and

(l) Any damage; and

(3) Ensure that the roll call sheet indicates that the member has been issued a patrol rifle and fax the roll call sheet promptly to the CIC.

3. Patrol Rifle Use

Members shall deploy their patrol rifles only in extraordinary circumstances, such as tactical situations or high-risk arrest situations when it is anticipated that they may confront a suspect or group of suspects who may be possibly armed with a firearm. A member shall not deploy his or her patrol rifle when confronting a suspect or group of suspects who are armed with weapons other than firearms (e.g., blunt objects, knives), unless the weapon is capable of causing mass casualties (e.g., explosive vest, incendiary device). The decision to remove a patrol rifle from a vehicle shall be based primarily upon the danger posed by the confronted person(s). Such examples may include, but are not limited to, the following situations:

a. Major criminal incidents (including barricade/hostage situations);

b. Active shooter scenarios;
c. Any situation in which the official in charge of the operation deems the patrol rifle to be necessary, consistent with the guidelines set forth in this order.

4. In situations that initially required the deployment of a patrol rifle, members shall continuously reassess the circumstances to determine whether or not the continued deployment of a patrol rifle is still necessary. Once the member determines the circumstances no longer warrant the deployment of a patrol rifle, he or she shall secure the patrol rifle in his or her vehicle.

5. Patrol Rifle Transport

a. When transporting a patrol rifle in an MPD vehicle:

(1) The vehicle must contain an approved vehicle locking device that is designed for and capable of securing the rifle in and to the vehicle. The locking device must:

(a) Prevent the theft of the rifle;
(b) Prevent unauthorized use of the rifle; and
(c) Be authorized by the Director, Metropolitan Police Academy or designee.

(2) The member, prior to placing the weapon in the locking device, shall conduct a safety check to ensure the rifle is in the following condition:

(a) The chamber is empty;
(b) The bolt is forward;
(c) The selector lever is set on “safe”; and
(d) A fully loaded magazine is inserted into the well of the weapon.

b. A member who must exit a vehicle that contains a patrol rifle shall:

(1) Ensure the weapon is secured in the locking device in the condition required in Section F.4.a above and the vehicle is secured (i.e., locked doors and closed windows); or

(2) Keep the rifle with him/her on his/her person.

6. Patrol Rifle Handling

a. Each member, upon being issued a patrol rifle, shall:

(1) Be responsible for the proper and safe inspection of the firearm prior to assuming responsibility for the rifle;
(2) Not alter, modify, or add any after-market equipment to the rifle;

(3) Observe all required safety procedures when cleaning, carrying, loading, unloading, and transporting the rifle; and

(4) Use the rifle, in all circumstances, in accordance with this order, GO-RAR-901.07 (Use of Force), and GO-RAR-901.08 (Use of Force Investigations).

b. Only the MPD Armorer shall repair, alter, adjust (excluding sight adjustment), and add a non-issued accessory to a patrol rifle.

c. When deploying the patrol rifle, the member shall:

   (1) When no immediate threat is present, carry the rifle in “condition two” as follows:

       (a) Chamber empty;

       (b) Bolt forward;

       (c) Selector lever on “safe”; and

       (d) Fully charged magazine in the well of the rifle; and

   (2) When an immediate threat is present, or conditions escalate to the point of where an immediate threat may be present, charge the rifle.

d. Each member issued a patrol rifle, upon being relieved from duty or completing the authorized carrying time period, shall return the rifle to the element for storage.

7. Patrol Rifle Storage

   a. Patrol Rifles shall be secured at the assigned element only in the storage area designated and approved by the Commanding Officer.

   b. The Commanding Officer shall determine the member(s), the rank of Sergeant or above, who shall possess the key(s) or combination required to enter the designated storage area.

   c. The storage area shall be locked at all times, unless entered by a member the rank of Sergeant or above.
d. When a member returns the patrol rifle to the element for storage, the member shall ensure that the rifle is:

1. Unloaded;
2. In a safe condition; and
3. The chamber is empty.

e. If a patrol rifle has been deployed during inclement conditions (for example, muddy, rainy, and/or snowy conditions), the member shall clean the rifle prior to turning it in.

f. The Patrol Rifle Liaison Official who receives the patrol rifle from the member shall:

1. Ensure the rifle is stored in “rack-safe” condition as follows:
   
   a. There is no magazine in the well of the weapon;
   b. The chamber is empty;
   c. The hammer is in the forward position;
   d. The selector lever is set to the “fire” position; and
   
   NOTE: This position is necessary because when the hammer is forward, the trigger has been pulled to take the pressure off the springs. The selector lever will not move from the “fire” position to the “safe” position.
   e. The dust cover is in the closed position.

2. Ensure that the patrol rifle ammunition is processed and stored as follows:

   a. The ammunition shall remain in the original box until issued;
   b. Any issued ammunition that has been removed from the original box shall be stored in the patrol rifle magazine;
   c. Under no circumstances shall loose ammunition be stored other than in the appropriate magazine(s);
(d) Any magazine that is stored while charged shall be unloaded every quarter and the ammunition loaded into an alternative magazine;

(e) When rotating ammunition, each round shall be inspected to note any damage or defect; and

(f) Defective round(s) shall not be reloaded into a magazine, but shall be properly and safely transported to the Firearms Training and Tactics Unit, MPA, for disposal.

8. Supervisory and Command Responsibilities

a. The Patrol Rifle Liaison Official shall:

(1) Ensure that the Patrol Rifle Logbook is properly maintained;

(2) Ensure that each member issued a patrol rifle has met all the applicable qualifications and re-qualification requirement;

(3) Conduct a weekly inventory of all element patrol rifles, ammunition, and accessories;

(4) Conduct a weekly inspection of all element patrol rifles for defects and/or damage;

(5) Ensure that any patrol rifle that requires repair is transported in a safe manner to the MPD Armorer;

(6) Ensure that all element patrol rifles are inspected at least annually by the MPD Armorer;

(7) Upon suspecting damage to, or a deficiency in, a patrol rifle, remove the rifle from inventory and ensure the proper and safe transport to the MPD Armorer; and

(8) When damage to, or a deficiency in, a patrol rifle can be attributed to a member, conduct a proper investigation to determine accountability, ensuring that all required forms are properly completed, including the:

(a) Incident Summary Sheet (UN 938); and

(b) Report of Damage to or Loss of District Government Property (PD Form 43).
b. The Commanding Officer shall:

(1) Ensure the proper control and accountability procedures for all issued patrol rifles, ammunition, and accessories are implemented, followed, and documented;

(2) Select the member(s) who may become patrol rifle qualified;

(3) Designate one or more element members, the rank of Sergeant or above, who are patrol rifle-qualified, to be a Patrol Rifle Liaison Official;

(4) Designate and ensure the proper maintenance of a safe and secure element patrol rifle storage area;

(5) Forward all requests for patrol rifles, ammunition, and accessories to the Commander/Director, MPA; and

(6) Ensure that each patrol rifle-qualified member re-qualifies annually and that the qualification information is on file and accessible to members the rank of Sergeant and above at all times.

c. The Director, MPA, shall:

(1) Ensure the proper qualification and re-qualification of members selected to be authorized to carry and use patrol rifles;

(2) Ensure that up-to-date accurate patrol rifle qualification and re-qualification records are maintained;

(3) Ensure the proper maintenance of a complete inventory of all patrol rifle, ammunition, and accessories purchased by the MPD;

(4) Issue patrol rifles, ammunition, and accessories to the requesting element with the approval of the Chief of Police or his/her designee;

(5) Ensure that the MPD Armorer inspects each MPD patrol rifle at least annually;

(6) Determine the rotation schedule for the patrol rifle ammunition; and
(7) Ensure that patrol rifle ammunition to be rotated out is replaced on a one-for-one basis according to the annual rotation schedule.

d. The Chief of Police or designee shall determine the number of patrol rifles to be assigned to an element.

G. Undercover Weapons

1. Members in undercover assignments shall comply with all applicable provisions of this order and the Use of Force policy of the MPD.

2. Members in undercover assignments shall be guided by Standard Operating Procedures promulgated by the Investigative Services Bureau for requests and approval for undercover equipment, control records, and issuance by the MPD Range Officer.

H. Procedures for Bringing Service Weapons Aboard Aircraft

1. Federal regulations limit the instances where members may carry a service weapon on their person aboard commercial aircraft. Only when there is an official need to have the firearms accessible during the flight, in order to perform official duties (i.e., transporting a prisoner), shall members carry a service weapon on their person aboard a commercial aircraft. Otherwise, the service weapon shall be secured and transported in the member’s baggage.

2. Members shall comply with Federal Aviation Administration (FAA), airport authority, and MPD procedures as to advance notification and verification pursuant to GO RAR-901.10 (Carrying Weapons and Transporting Prisoners Aboard Aircraft).

3. Members transporting a prisoner aboard a commercial aircraft shall also adhere to the provisions for FAA-required training and for coordination with the Fugitive Unit as outlined in GO RAR-901.10 as may be applicable.

I. Procedures Where Dangerous Animals Are Involved

1. When encountering dangerous animals, a member may discharge a weapon to destroy an animal only when that animal poses a threat to the member or others. Shooting of animals is not considered a Serious Use of Force and shall be investigated by the member’s Element Commander or Director as prescribed in GO RAR-901.08.

2. The MPD Game Warden and/or the District of Columbia Animal Control Agency are the only agents who may authorize the destruction of an animal that is so badly injured that humaneness requires it to be relieved from further suffering.
J. Target Practice

Officers may use their service pistol for target practice or competition on an approved range provided that the range is licensed by the jurisdiction where it is located.

K. Firearms Training

The Commander/Director, MPA, shall ensure that:

1. Each member is issued copies of, and is instructed on, the Department's Use of Force policy prior to being authorized to carry Department-issued firearms;

2. Members shall receive in-service training on the Department’s Use of Force policy at least bi-annually; (CALEA 1.3.11 and 1.3.12)

3. Members receive documented proficiency training only from weapons instructors that are certified by the MPD; (CALEA 1.2.11-a&b)

4. Members demonstrate proficiency with all weapons authorized for use; and

5. Members undergo remedial training when there is a failure to qualify. (CALEA 1.3.11-c)

VII. CROSS REFERENCES

A. Directives

1. GO OPS-301.03 (Operation of Emergency Vehicles, Fresh Pursuit and Vehicular Pursuit)

2. GO RAR-901.02 (Wearing of Personal, Non-Issued Revolvers and Holsters)

3. GO RAR-901.04 (Oleoresin Capsicum Spray Dispensers)

4. GO RAR-901.07 (Use of Force)

5. GO RAR-901.08 (Use of Force Investigations)

6. GO RAR-901.09 (Use of Force Review Board)

7. GO RAR-901.10 (Carrying Weapons and Transporting Prisoners Aboard Aircraft)
B. Forms

1. PD Form 43 (Report of Damage or Loss of DC Government Property)
2. PD Form 77 (Notice of Revocation of Police Powers)
3. PD Form 84 (Clothing and Equipment Property Receipt)
4. PD Form 177-B (Request to Obtain Off-Duty Pistol)
5. PD Form 219 (Application for Firearms Registration Certificate)
6. PD Form 228 (Cancellation of Authority to Wear Off-Duty Non-Issued Pistol).
7. PD Form 750 (Dereliction Report)
8. PD Form 901 (Use of Force Incident Report).

[Signature]
Cathy L. Lanier
Chief of Police

CLL:JAE:JGW:pc
APPENDIX N
EXECUTIVE ORDER

DISTRICT OF COLUMBIA

Body worn camera (BWC)-equipped members shall ensure that their BWC is turned on and in standby mode at all times when it is not activated so that the pre-recording buffer captures all activity that occurs in the two minutes prior to activation. Members may deactivate standby mode when briefly engaging in personal matters (e.g., restroom or lactation breaks, entering a locker room where other members may be undressed, or employment-related conversations with a union representative).

Peter Newsham
Chief of Police

PN:KDO:MOC:SMM
APPENDIX O
March 15, 2021

Kathleen Patterson
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

Dear Ms. Patterson,

Thank you for providing the Metropolitan Police Department (MPD) with an opportunity to review the draft District of Columbia Auditor report, “The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019.” We recognize that we are at a critical juncture in law enforcement. With the killing of George Floyd last year and the subsequent protests for police reform and racial justice, it is more important than ever that we critically examine all aspects of the way we are interacting with our community and ensure that we have strict and comprehensive policies governing the use of force and use of force investigations. Most importantly, we must continue to ensure that our policies, training, and day-to-day operations require our officers to employ de-escalation techniques to avoid the use of force whenever possible and ensure that deadly force is only used as a last resort, when the officer or others are facing the threat of serious bodily injury or death, and there are no other reasonable options available.

We are very pleased that the draft report confirmed our findings that the uses of force in the cases reviewed were justified. However, we recognize that the loss of any life is tragic, and we must ensure that we are doing everything in our power to prevent those situations from occurring. MPD remains committed to ensuring our use of force policies and practices serve as a model for the nation, and we recognize the need to be forward-thinking on how we can continue to increase transparency and broaden the depth of our investigations. Accordingly, MPD agrees with all of the report’s recommendations and will begin working on implementation immediately. We are targeting implementation of all recommendations by the end of 2021.

We have two general comments regarding the draft. We recommend that the names of civilian witnesses be removed from the report. Disclosing the identities of civilian witnesses in a public report is neither necessary nor advisable. As you know, some witnesses may be reluctant to come forward based on fears of unwanted notoriety or possible reprisals. We see no potential negative impact to the content of the report by excluding their identities. Additionally, while we understand the need for transparency by excluding the officers who were directly involved in the uses of force, we request that the names of uninvolved, witness officers and the assigned investigators be removed from the report, consistent with your 2016 report.
In closing, we would like to thank your office and The Bromwich Group for your work on this important report. As outlined above, we believe the implementation of these recommendations will further strengthen MPD’s policies and procedures regarding use of force. Please do not hesitate to contact us if you have any further questions.

Sincerely,

Robert J. Contee III  
Acting Chief of Police
About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

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