

MESA POLICE DEPARTMENT


USE OF FORCE REVIEW

THE PATH TO IMPLEMENTING BEST PRACTICES

A Comparative Analysis of Departmental Use of Force Policies, Training
and Operational Protocols Measured Against Recommended Best Practices



**POLICE LINE DO NOT
LINEA DE LA POLICIA**

The background of the slide is a dark blue, semi-transparent American flag. The stars and stripes are visible but muted, creating a textured, patterned effect behind the white text.

Law enforcement agencies face the unfortunate reality that some individuals will fail to comply with officer commands and will impede officer efforts, sometimes threatening public order and safety. Officers are therefore given the authority to use force in some circumstances. This authority is a serious responsibility that must be exercised judiciously and with conscious respect for human life, dignity, and liberty. (American Law Institute, 2017)

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CHIEF'S MESSAGE

Chief of Police Ken Cost



The Mesa Police Department has a tradition of self-evaluation and innovative thinking. We know that the world is constantly changing and policing must evolve to better serve our community. Change is a reality. We embrace change, and we do so with one goal in mind, to be “Leaders in Public Safety.” Being a leader requires courage, commitment, determination, and transparency. As members of the Mesa Police Department, we are all sworn to uphold the law and to protect those we serve. Part of process improvement is to engage in continuous evaluation of our policies, training and procedures.

In 2018, the Mesa Police Department partnered with the Police Executive Research Forum (PERF) to review every policy related to discipline and use of force. The Use of Force Review and Implementation Committee was tasked with reviewing each PERF recommendation. The project took almost two years to complete, and I am proud to present the results of their hard work. This process has strengthened our partnership with our community and helped to maintain the Mesa Police Department’s goal of being “Leaders in Public Safety.”

I would like to thank the community members, executive staff, and the project team for their hard work and commitment to this project. I am grateful to the community that we serve and the tremendous support that we receive from both our city leaders and our citizens. Lastly, I am thankful for the men and women of the Mesa Police Department who strive each day to be their very best and work as One Team, and uphold the privilege and honor of being a member of the Mesa Police Department.

Sincerely,

Ken Cost

Chief of Police, Mesa Police Department



CHIEF'S MESSAGE

Assistant Chief Lee Rankin

In August 2018, the Mesa Police Department (MPD) commissioned the Police Executive Research Forum (PERF) to assess the department's use of force policies, procedures, training, and tactics. PERF reviewed departmental policies and training regarding use of force as well as all use of force related data.

In addition, the department requested a review of its policies related to internal investigations of critical incidents. The Mesa Police Department hired the Police Assessment Resource Center (PARC) to conduct the audit.

John McMahon & Associates, as well as former Maricopa County Attorney Rick Romley, were tasked with reviewing specific MPD use of force cases and providing recommendations.

By August 2019, all recommendations from each of the assessment organizations were compiled for review and implementation. There was a total of sixty-six use of force recommendations that could be categorized in one of five sub-sets, which were identified as pillars. These pillars consist of policy, training, supervision, discipline, and administration.

A Use of Force Review and Implementation Committee (Committee) was assembled with community leaders and residents, police practitioners and subject matter experts, risk managers and academics. The Committee spent nine months meticulously evaluating each of the recommendations and provided feedback and direction. The executive staff and staff attorney reviewed the recommendations, feedback, and direction, and either accepted, rejected, or modified the recommendation. Once approved, the recommendation was incorporated into policy, training, and operating procedure. The implementation was then audited for compliance.

As the Chair of the Use of Force Review and Implementation Committee, I am proud of the work accomplished throughout this two-year process. Not only were the committee members engaged, but every segment of the department has demonstrated their commitment to implementing the use of force recommendations.

I would like to extend my personal thanks to everyone who participated in this process. The changes that have been implemented could not have been accomplished without your help. What you have accomplished will ensure that our officers and citizens remain safe. The Mesa Police Department is a learning organization, and we will always work hand in hand to meet the needs of the community we serve.

Sincerely,

Lee Rankin
Assistant Chief of Police, Mesa Police Department
Use of Force Review and Implementation Chairperson

ACKNOWLEDGEMENTS

We are grateful to the members of the Use of Force Review and Implementation Committee. Their dedication to the process and the outcome cannot be overstated. Countless hours were invested in the success of the project. Our appreciation is extended to our members:

Ms. Kina Harding, Attorney and Community Member
Mr. Andy Keeler, Community Member
Ms. Lynn Runyan, Community Member
Mark Tompert, Community Member
Reverend Ozetta Kirby, Community Member
Pastor Betty McGee, Community Member
Reverend Dr. Helen Hunter, Community Member
Pastor Andre Miller, Community Member
Ms. Lubna Tabassum, MPD Professional Staff
Dr. Michael Scott, Professor - Arizona State University
Dr. William Terrill, Professor - Arizona State University
Dr. Charles Katz, Professor - Arizona State University
Detective Britney Brimhall, Policy Management & Accreditation Unit
Lieutenant Scott Martin, Policy Management & Accreditation Unit
Lieutenant Aaron Spicer, Professional Standards Unit
Lieutenant Jason Coon, Professional Standards Unit
Sergeant Charles Trapani, Patrol
Officer Lee Coking, Office of the Chief
Commander Michael Bellows, Training Division
Commander Timothy Walker, Training Division
Lieutenant Jason Redwing, Homicide
Sergeant Gregory Love, Homicide
Sergeant Glenn Pearson, Labor
Officer Will Biascoechea, Labor
Commander Michael Beaton, Special Operations
Mr. Geoff Balon, MPD Staff Attorney
Ms. Elizabeth Wiltrout, Risk Management
Deanna Medrano, Office of the Chief
Mr. Jeffrey Wojnar, Project Manager
Assistant Chief Lee Rankin, Chairperson

Special acknowledgment to Chrystal Richardson, Managing Partner of CE Wilson Consulting, and Project Manager Jeffrey Wojnar. This was a daunting, yet critical project that required the skill, professionalism and expertise delivered by Ms. Richardson and Mr. Wojnar. The Mesa Police Department is grateful for their role in ensuring the success of this project.

EXECUTIVE SUMMARY

Project Charter

The Mesa Police Department (MPD) aims to serve its community by employing industry best practices. The objective of the project will be to conduct a fact-based evaluation on a collection of recommendations for best practices of use of force protocols. The evaluation, alongside each recommendation, will consider relevant policy, training, procedural changes related to internal investigations and implementation requirements. Guidance, including feedback and direction, will be provided by the committee for each recommendation. A final decision to implement a recommendation into current policy or procedures will be obtained from the Chief of Police.

Developing the Structure

The sixty-six recommendations affected every division in the organization, thus adding to the complexity of managing expectations, overcoming operational challenges, and ensuring a reasonable timeline for completion. To guarantee the success of the project, the Mesa Police Department contracted a dedicated project manager. The project manager, Mr. Jeffrey Wojnar, was given broad authority to lead, oversee, direct and report project achievement to the executive staff. Mr. Wojnar reported directly to the Investigations Bureau Chief, Assistant Chief Lee Rankin. This ensured that as the project moved forward; the team was keenly aware it had executive support. Furthermore, it was understood that the project manager was the voice of the executive staff and was able to immediately address project challenges. This arrangement proved extremely useful in keeping the project on task.

Project management included the development of a single repository to associate and organize all pertinent information relative to each recommendation. The repository provided functionality to display a recommendation together with its relevant collateral information including, but not limited to, current policy and training documents. The repository identified tasks, subordinate tasks, task assignment and timelines. The repository represented feedback based on committee review. It also tracked status of a recommendation as it navigated through the evaluation process.

Once the repository was created and the recommendations were segmented, policy personnel gathered supporting data to include policies, lesson plans and industry standards related to the recommendations. The supporting documents were uploaded into the segmented recommendation as a package for the assigned subject matter expert to consider.

Each of the sixty-six recommendations were then grouped within the five pillars of policy, training, supervision, discipline, and administration. Departmental subject matter experts were then identified and assigned to each recommendation.

Community Leaders

The Mesa Police Department leads eleven active and robust community forums, which have been established to open the lines of communication between the residents of Mesa and the police department, in order to focus on public safety issues and partner with community leaders in developing solutions to multi-faceted community concerns. The forums are critical to the police department in addressing cultural and quality of life issues that transcend ethnic, cultural, religious, and geographic barriers to increase the quality of life for all citizens.

As the department created the Use of Force Review and Implementation Committee, it sought to combine the strengths of department subject matter experts with the strengths of our residents and academic professionals. Members of the community forums were contacted and informed of the creation of the Use of Force Review and Implementation Committee and were asked to commit their time and energy to evaluate the recommendations. Prospective members were advised that as a committee member they would:

- Evaluate each recommendation in terms of policy and training implications. They would assist in a comprehensive analysis and would engage in a thorough discussion and determine potential unintended consequences if the recommendation were implemented.
- Only consider recommendations supported by evidence-based research.
- Understand that the committee process would be extensive, and members would meet every other Wednesday 8:00-10:00 a.m. at police headquarters beginning September 11, 2019 and ending April 29, 2020.
- Know that the process would be structured to ensure committee members remain on task and have a true voice on final recommendations.
- Understand that lead evaluators would be provided with recommendations in advance, and their team would work on the recommendations for presentation to the full committee. The committee would hear presentations on four recommendations per session. The committee would then discuss the recommendations, examine the analysis, and determine suitability for adoption into policy and training.
- Know that a separate Chief's Panel would meet every four weeks to review and consider committee recommendations. The Chief would approve recommendations considering the proposed guidance.

The department received immediate response from community members who were interested in contributing to the committee. Given the stringent requirements, we were pleased with the cross section of community leaders and professionals who were committed to the process. A total of twelve community members were selected to assist in the review process.

Project Phases

The project was organized into two phases: evaluation and implementation phases. The final decisions reached for each of the recommendations by the Chief's Panel concluded the evaluation phase. For almost all the recommendations, the final guidance presented to the Chief's Panel by the Use of Force Review and Implementation Committee was approved. Once approved, the implementation phase began ensuring the approved changes were incorporated into the day-to-day operations and policing services within the community.

Summary

The end goal has resulted in vast improvements to the department's use of force policies, discipline policies and immediate review of critical incidents, not only from a legal perspective, but from a training and policy perspective. Today, the department conducts concurrent investigations of all critical incidents and use of force application is distinctly defined. Discipline is also clearly defined and codified as to set expectations for all our members.

BACKGROUND

In 2014, the President’s Task Force on 21st Century Policing was created to address a rising concern over police use of force. The imagery depicted on social media and on the nightly news challenged both the community and law enforcement professionals to consider police application of force. A panel of subject matter experts, law enforcement professionals, community leaders, academics and faith-based leaders considered the complex societal challenges faced by the police when deciding to use force. The task force developed six pillars as a roadmap to comprehensive police reform, which included; Pillar 1 - Building Trust and Legitimacy, Pillar 2 - Policy and Oversight, Pillar 3 - Technology and Social Media, Pillar 4 - Community Policing and Crime Reduction, Pillar 5 - Training and Education and Pillar 6 - Officer Wellness and Safety (President’s Task Force on 21st Century Policing, 2015). Organizations were challenged with implementing reform that would better serve their community.

The Mesa Police Department took up the President’s Task Force challenge and immediately implemented needed reform. The Mesa Police Department was one of the largest police departments to deploy body worn cameras to its officers, implemented de-escalation tactics and expanded Crisis Intervention Training to officers to appropriately interact with individuals suffering from a mental health crisis.

These reform measures did not eliminate all cases where the application of force was subsequently deemed unacceptable. As a result, the department once again engaged third party organizations to examine the department’s policies, training protocols and lesson plans to identify areas for improvement. The final reports from the Police Executive Research Forum (PERF) and the Police Assessment Resource Center (PARC) are included in Appendix A and Appendix B respectively.

In the subsequent pages, you will learn about these organizations, their work, and the department’s enormous efforts to implement the recommendations submitted by these two reviewing organizations.



VISION

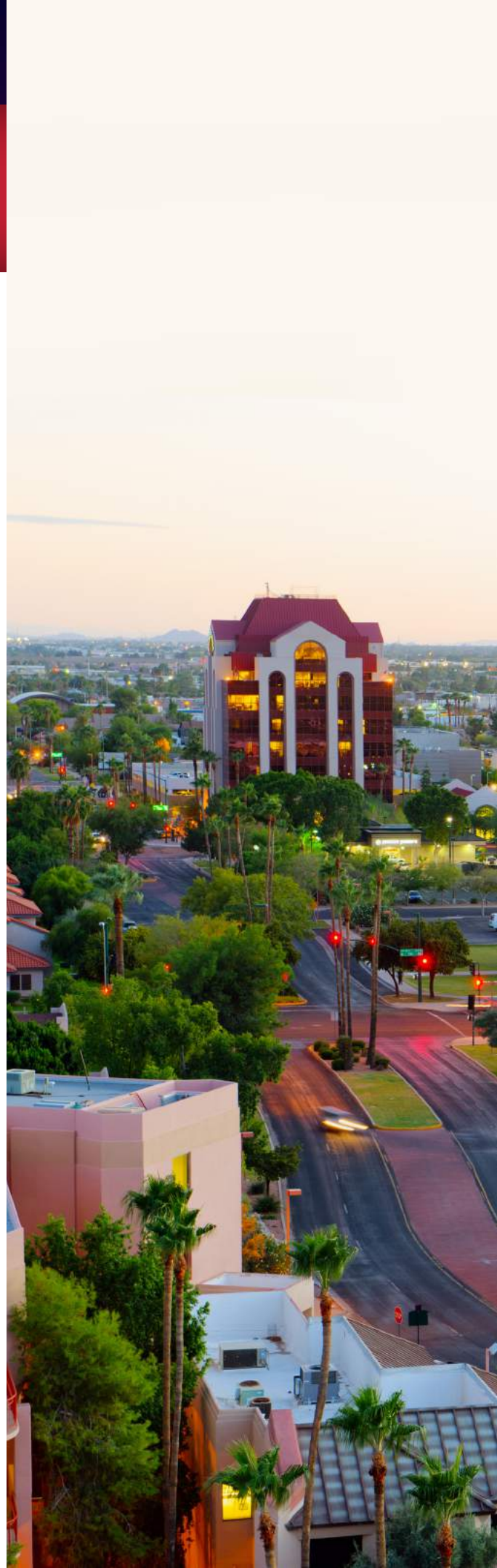
Frequently, complex projects start off well, with a collective enthusiasm to accomplish the tasks set before them. However, as projects move down the natural path toward implementation, they can lose momentum as the issues of the day pull the team in various directions. Yesterday's priority can be overshadowed by today's priority.

Evaluating each of the recommendations followed a standard approach: review current state, identify differences between the recommendation and current state, review industry trends and operational data with a goal to reach favorable support for the recommendation or not. In addition, each of the recommendations could be evaluated independently. Considering these factors, multiple recommendations could be evaluated in parallel; brought before the Use of Force Review and Implementation Committee and subsequently queued for review by the Chief's Panel.

Several processes were put in place to prevent every day distractions from derailing the project's momentum. The processes included established milestones, an iterative framework, timely involvement of team members and creation of an engaging progression that was streamlined, inclusive and repeatable.

The continuous iteration through the list of 66 recommendations, presenting a set of recommendations first to the Committee, reviewing Committee feedback and preparing a series of final guidance considerations for executive team review, created an engaging process for and predictable focus from the Committee members.

This iterative approach also offered natural buffers that allowed for unexpected disruption of the process. The committee met in person and was almost done with the review process when the COVID-19 pandemic emerged. The team quickly transitioned to virtual meetings to continue their important work. An iterative approach ensured the process was not derailed.





PROJECT TEAM

One of the greatest assets to any project is its team members, and with each team member committed to a solutions-based posture, a pledge to work without pause and embracing the opportunity to learn, this project team was poised for success from the very beginning.

The project team, also known as the Use of Force Review and Implementation Committee (the committee), consisted of select individuals, elected to the team by the executive sponsor due to their expertise in the focus areas of the recommendations along with volunteers from the community with a passion to improve community-police relations.

The project team was comprised of the following roles, each with a brief description of their contribution:

Executive Sponsor | Provided a clear vision for the project's goal, fully engaged during committee and executive sessions, and was fully supportive of the team's work efforts.

Subject Matter Experts (SMEs) | Police members specializing in principle areas where best practice, use of force recommendations were directed: policy, training, homicide, patrol, and professional standards. Conducted evidence-based evaluations of the recommendations and represented their findings with the committee and executive staff.

Legal Representatives | Staff Attorney and Risk Management contributed legal expertise to the committee meetings.

Police Members | Additional Department representation from Special Operations, Patrol, and the labor organizations: Mesa Police Association and the Fraternal Order of Police. Contributed work experiences to the committee meetings.

University Professors, Criminology Department | Contributed hypothetical and theoretical perspectives to the discussion often based on history and research.

Community Members | Citizens of Mesa with a passion for obtaining a better understanding about policing, contributing experiences and thoughts from the community, and improving relations between the police and community.

Project Manager | Outside consultant, provided expertise in process development and project collateral, managed project workflow, assigned exclusively to the project.

Project Assistant | Managed logistics for meeting accommodations.

(See Appendix C for Project Team biographies)

The commitments of the Use of Force Review and Implementation Committee members included attendance to a meeting every two weeks, over a nine-month period, during which four presentations on a best practice, use of force recommendation was delivered by a SME. Each recommendation received an evidence-based evaluation by the SME and considered industry trends, relevant policy, training curriculum, and implementation requirements. The SME formed their presentation based on this evaluation.

The committee participated in a discussion session following each presentation during which time clarifications were provided, questions were answered, and opinions were shared. Each committee member was extended the opportunity to introduce evidence-based information into the dialog.

The committee focused on the recommendations and did not provide any input or oversight for use of force cases in the public domain nor did the committee draft new or update existing policy. The sole purpose of the committee was to provide input (as described) for consideration or further evaluation by the SME. The SME in turn prepared the final guidance to the Chief of Police and executive staff, incorporating the committee feedback.

Throughout the course of the evaluation phase of the project, a nine-month period, at least ninety percent of the committee members were present at each meeting.

Scheduled monthly, following the committee meetings, decision-making meetings were conducted with the Chief of Police and the executive staff (assistant chiefs and staff attorney). The committee SMEs presented their final guidance at these meetings and facilitated deliberations to reach decisions on whether to approve (or not approve) the final guidance. If applicable, the specific verbiage to be incorporated into policy was presented and decided on in these meetings.



Meet the Team

Policy



Lee Rankin
Assistant Police Chief



Britney Brimhall
Detective,
Policy



Scott Martin
Lieutenant,
Policy

Homicide



Jason Redwing
Lieutenant,
Homicide



Gregory Love
Sergeant,
Professional Standards



Michael Beaton
Commander,
Special Operations/SWAT



Will Biascoechea
Officer,
Patrol



Glenn Pearson
Sergeant,
Patrol

Special Operations

Labor

Community Members



Andy Keeler
Business Owner



Lubna Tabassum
Victim Services
Specialist



Mark Tompert
Community Advocate



Betty McGee
Pastor



Ozetta Kirby
Reverend



Helen Hunter
Reverend

Professional Standards



Aaron Spicer
Lieutenant,
Professional Standards



Jason Coon
Lieutenant,
Patrol Division

Patrol



Lee Coking,
Officer,
Patrol



Charles Trapani
Sergeant,
Patrol



Jeff Wojnar
Project Manager

Training



Timothy Walker
Commander,
Patrol Division



Michael Bellows
Commander,
Training

Legal



Geoff Balon
Legal Advisor,
Legal

Risk Management



Elizabeth Wilttrout
Management Assistant,
Risk Management

ASU Professors



Andre Miller Sr.
Pastor



Lynn Runyan
Community Advocate



Kina Harding
Attorney at Law



Michael Scott
Arizona State
University



Charles Katz
Arizona State
University



William Terrill
Arizona State
University



PILLAR I POLICY

I. POLICY

Overview

Policies and procedures are integral to the successful functioning of any organization. They offer a framework for members to operate within and guidance for day-to-day operations. Clear, concise, and up-to-date policies aligning with industry best practices are vital to keep employees operating effectively, appropriately, and at the highest standards.

The general, high level theme of these recommendations is to provide clear philosophy, terms, definitions, policies, and procedures in MPD operational orders, to correspond with industry best practices and training. This provides clarity for our members and supports the process of sound and consistent decision making. Additionally, these recommendations provide a method for continued policy enhancements over time and to encourage positive involvement. Furthermore, policy updates benefit greatly from a collaborative effort. Considering feedback during the policy creation and/or revision process is vital to broad acceptance and understanding of the policy across the organization as suggested in one of the recommendations herein. Detailed below, we will discuss policy recommendations, final guidance, and the ultimate implementation efforts to put them into effect to positively impact our Department, our members, and our community.

Recommendations

- Consolidate Use of Force Policies
- Emphasize Sanctity of Life in Policy
- Revise Use of Force Terms
- Clearly Define Basis for Using Force
- All Persons Exposed to a Taser Receive a Medical Evaluation
- Revise the Definition of a Drive Stun
- Revise TASER Deployment Procedures
- Replace the Term “Suppression Fire” with “Directed Fire”
- Update Definition of De-escalation
- Allow Feedback During Policy Creation
- Update Policy for Leg Restraints

Consolidate Use of Force Policies

Consolidate approximately eleven policies relating to the use of force. If the MPD determines any of the Use of Force policies remain separate, each respective policy should coincide with the philosophy and definitions established in the Department’s standalone Use of Force policy.

Final Guidance

The MPD should combine related Use of Force policies under a single directive. This will make it easier for officers to find pertinent information on use of force and will create a more holistic approach to force within the department. This comprehensive policy should include the agency’s philosophy on use of force, clear guidelines around lethal and less lethal force options, and guidelines on the accountability and reporting measures related to use of force. Specifically, the following policies should be merged:

DEFINITIONS:

Policy - Guiding principles adopted by the organization, including operational procedures.

- DPM 2.1.1, Use of Force Philosophy and Definitions
- DPM 2.1.2, Special Order Use of Force (effective June 2018)
- DPM 2.1.5, Use of Force
- DPM 2.1.20, Firearms Use
- DPM 2.1.25, Impact Weapons
- DPM 2.1.30, Chemical Agents
- DPM 2.1.35, Conducted Energy Weapon (CEW) Protocols
- DPM 2.1.40, Less Lethal Shotgun Protocols
- DPM 2.1.45, Use of Force Reporting Protocols
- DPM 2.1.50 FN303 Less Lethal Launcher Protocols
- DPM 2.1.60, 40mm Specialty Impact Weapon

Currently, the MPD’s directives regarding use of force are separated into several different policies. For example, the Department’s use of force philosophy and definitions are in a standalone policy, while policies governing authorized equipment use are outlined in separate documents. The MPD should consider consolidating the current Use of Force policies to ensure clarity. When issues pertaining to use of force are broken into numerous policies, there is a chance that revisions may not be applied uniformly and that the Department’s use of force philosophy may not be clear to officers. MPD would be better served if issues related to use of force were combined under a single policy. This would also make updating the policy easier, as all the critical components would be located in the same document.

There are at least 11 policies which address the use of force. The Department’s philosophy on the use of force is not repeated at the beginning of each policy. Definitions are located in a single use of force definitions policy; these definitions are sometimes repeated in associated policies, yet are often inconsistent, and at other times not repeated at all in individual policies.

Industry Trends

Agency	Number of documents detailing the UoF Policies	Number of pages of the consolidated UoF policy
Las Vegas Metro PD	1	36
Phoenix PD	1	22
Gilbert PD	1	14
Tucson	1	13
Tempe PD	3	
Chandler PD	4	
Chicago PD	8	

Outside agency approaches to Use of Force policy.

While there is no national standard for organizing Use of Force policies, many agencies subscribe to the single policy approach. Of course, these single Use of Force policies are lengthier to cover the required concepts. Nevertheless, even with the added length of the policy, querying a single source of reference is critically beneficial to officers.

The MPD agrees with this recommendation and approach and has consolidated all related policies into a single Use of Force policy. Appendix D is the approved version of the consolidated Use of Force policy at the Mesa Police Department. Any standalone Use of Force policy that remains will respect the directive to include the Department's use of force philosophy and relevant definitions within the policy.

DEFINITIONS:

Sanctity of Life -
The state or quality of being holy, sacred, or saintly; ultimate importance and inviolability (having to be respected and not ignored).

Emphasize Sanctity of Life in Policy

The MPD should add a sentence emphasizing the sanctity of human life as a core value in its Use of Force policy.

Final Guidance

The MPD should add a sentence emphasizing the sanctity of human life as a core value in its Use of Force policy. For example, the Baltimore Police Department's Use of Force policy states: "The policy of the Baltimore Police Department is to value and preserve human life in all situations."

Since at least 2012, the MPD has included the concept of the sanctity of life in policy. It can currently be found in both the Use of Force Philosophy & Definitions policy, as well as the Special Order reference for the Use of Force.

DPM 2.1.1, Use of Force Philosophy & Definitions

*"The MPD is committed above all to the **sanctity and preservation of life**, human rights, the dignity of every individual, and the Constitution of the United States and the State of Arizona".*

DPM 2.1.2, Special Order Use of Force

"A reverence and respect for the dignity of all persons and the sanctity of all human life shall guide all training, leadership, and direction as well as guide officers in the use of force."

Committee comments and feedback during a round table discussion.

- Agreement MPD should simplify and use layman's terms to make it easier for officers and citizens to understand.
- Important to keep, because some officers don't value human life, proven by many situations involving minorities. (Committee Member feedback)
- It is flowery language which is just rhetoric but glosses over the reality of police work. (Academic Member feedback)

Overall, the Committee was in unanimous support of keeping a "sanctity of life" statement in our policy.

The executive team agreed that the consolidated Use of Force policy expressed sanctity of life, using the current phrase as guidance, and positioning as the department’s philosophy.

Sanctity of Human Life

The MPD is committed above all to value and preserve human life, human rights, the dignity of every individual, and the Constitution of the United States and the State of Arizona.

Revise Use of Force Terms

Replace current references of “deadly force” to “lethal force”. Change references of “non-deadly force” to “less lethal force”.

Final Guidance

The MPD should replace current references of “deadly force” to “lethal force,” and should change references of “non-deadly force” to “less lethal force”.

Currently the MPD uses the terms that are consistent with the following:

- Arizona Revised Statutes
- Arizona Peace Officer Standards and Training

It is recommended that the Mesa Police Department continue to use the term deadly force. The Committee’s decision was for the Mesa Police Department to implement the term less lethal in policy and training and discontinue the use of the term non-deadly force. The term less lethal acknowledges the possibility that deaths have occurred as a result of less lethal options.



Clearly Define Basis for Using Force

The MPD should consider strengthening its Use of Force policy by adding language that more clearly defines the basis for using force.

Final Guidance

The MPD should consider strengthening its Use of Force policy by adding language that more clearly defines the basis for using force. This language should go beyond the minimum legal standard established in the U.S. Supreme Court decision *Graham v. Connor* (1989) and should reflect key concepts such as *de-escalation* and *proportionality*. These concepts should also be incorporated into all of the MPD's policies, practices, and training on the use of force.

Graham v. Connor establishes a general standard of “*objective reasonableness*” regarding police use of force. Objective reasonableness represents the legal standard by which police use of force is judged by the courts, and it is critical that any Use of Force policy articulate this standard:

“Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, ... its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”

This guidance is derived from the *International Association of Chiefs of Police (IACP) National Consensus Policy on Use of Force*. This *National Consensus Policy on Use of Force* was a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States.

Approved additions to the MPD Use of Force policy include:

- *Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.*
- *The decision to use force “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”*
- *In addition, “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...the question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”*

DEFINITIONS

“Less Lethal” - Force, other than deadly force, which by design and application is less likely to cause serious physical injury or death than deadly force. Less lethal force has the possibility of causing death or serious physical injury in rare circumstances.

Definitions for deadly force and non-deadly force directly from the Arizona Revised Statutes are:

Deadly Force: *Force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury. (ARS 13-105.14)*

Non-Deadly Force: *Force that is used upon or directed toward the body of another person and includes confinement but does not include deadly physical force. Any application of force that is not reasonably anticipated and is not intended to create a substantial likelihood of death or serious injury shall be considered physical force and non-deadly force. (ARS 13-105.31)*

All Persons Exposed to a Taser Receive a Medical Evaluation

Reiterate in policy that subjects who have been exposed to a Conducted Energy Weapon (CEW) application must receive a medical evaluation by emergency medical responders or at a medical facility.

Final Guidance

The MPD should reiterate in its Use of Force policy that all subjects who have been exposed to a Conducted Energy Weapon (CEW) application receive a medical evaluation by emergency medical responders in the field or at a medical facility.

In accordance with the philosophy of the *sanctity of life*, MPD Use of Force policy outlines the requirements for obtaining medical treatment for individuals following an officer's use of force. However, it does not include a requirement that the deployment of a CEW triggers the need for medical treatment. Given the risks involved in the use of CEWs, individuals who have received a CEW deployment should be afforded medical treatment. Although the need for medical treatment is included in MPD's Conducted Energy Weapon (CEW) Protocols policy, it should be mentioned again in the overall Use of Force policy if these two policies remain separate.

Conducted Energy Weapon (CEW) Protocols Policy:

Post Deployment Procedures: Medical Assistance

- *As soon as it can be done safely, members shall have medical personnel examine any subject exposed to a CEW activation.*

Use of Force Policy:

Medical Treatment After Use of Force

- *Ensure medical treatment is provided when appropriate.*
- *Prior to booking or release, medical assistance shall be obtained for:*
 - *Any person who has sustained visible injury; or*
 - *Expressed a complaint of injury or continuing pain; or*
 - *Has been rendered unconscious.*

As can be seen, the requirement for medical treatment after CEW exposure is clearly stated in the CEW policy but not the general Use of Force policy. The Use of Force policy reference to medical treatment may have a different meaning than PERF's recommendation.



Reference #1

PERF Electronic Control Weapon Guidelines (2011)

- All subjects who have been exposed to ECW application should receive a medical evaluation by emergency medical responders in the field or at a medical facility.
- Subjects who have been exposed to prolonged application (i.e., more than 15 seconds) should be transported to an emergency department for evaluation.
- Personnel conducting the medical evaluation should be made aware that the suspect has experienced ECW activation, so they can better evaluate the need for further medical treatment.
- All subjects who have received an ECW application should be monitored regularly while in police custody even if they received medical care. Documentation of the ECW exposure should accompany the subject when transferred to jail personnel or until the subject is released from police custody.

PERF CEW Guidelines.

Reference #2

IACP Model ECW Policy

Officers shall request emergency medical response if any of the following occurs:

- The subject requests medical attention.
- A probe has contacted a sensitive area.
- There is difficulty removing the probes.
- The subject does not appear to be recovering in a manner consistent with training and experience.
- The subject is part of an elevated risk population group.
- The subject has been exposed to more than three ECW cycles or 15 seconds of discharge.
- The subject has been simultaneously exposed to the effects of more than one ECW device.
- The subject has exhibited signs of excited delirium as described in training, prior to or during ECW exposure.

IACP CEW Model Policy.

The final guidance, which is currently being implemented, was to proceed with PERF's recommendation by adding the following information to MPD's Use of Force policy:

As soon as it can be done safely, members shall have medical personnel examine any subject exposed to a CEW activation.

DEFINITIONS:

"Graham vs. Connor" - A Supreme Court case which established the objective reasonableness standard. This refers to whether force used by an officer was objectively reasonable in light of the totality of the circumstances. We must consider, would another officer with similar training and experience consider the force reasonable given these circumstances? Factors to be considered include the severity of the crime, the immediate threat posed by the suspect to the safety of officers or others, and whether a suspect is actively resisting arrest or attempting to evade arrest by flight.

TASER Conducted Energy Weapon (CEW) - An electro-muscular disruption device that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject. Synonymous with TASER, Electronic Control Device (ECD), and Electronic Control Weapon (ECW).

Revise the Definition of a Drive Stun

This recommendation references several areas of enhancement regarding the application of a drive stun:

1. Redefine drive stun in policy to specify deployment criteria.
2. Prohibit drive stun to the groin.
3. Discuss appropriate target areas during training.
4. Discourage the use of drive stuns for pain compliance.

Final Guidance

The MPD should revise policy and procedures reference *drive stun* to state that “*drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.*”

In addition, PERF recommends against deploying probes to the groin area. The MPD should also discuss appropriate target areas during annual CEW recertification and conduct refresher training on the use of CEWs as needed. Furthermore, the current definition of *drive stun* included in MPD’s CEW policy specifies behavior that should be discouraged. PERF recommends clarifying the definition of *drive stun* to discourage its use as a pain compliance technique.

Upon comprehensive review, it was specifically determined:

- *MPD training materials are current and aligned with PERF recommendations and CEW best practice.*
- *The MPD is current and aligned with PERF recommendations related to training frequency.*
- *Yet MPD policy is misaligned with current MPD training and CEW best practice and should be revised.*

Defining Drive Stun

Considerations

The definition should be concise and describe a drive stun.

The definition section of the policy is not the proper location for use guidelines, training considerations, or deployment procedures.

General Guidelines, Restrictions, and Deployment Procedures are appropriate sections for additional direction on the drive stun technique.

Policy Recommendation

CURRENT: 2.1.35 Section 2 Definitions: Drive Stun

A function of the CEW is to stun a subject by making direct contact with the body after the air cartridge has been expended or removed.

A drive stun does not override an individual’s motor responses but can be used for pain compliance. Use of the CEW with an air cartridge is preferred.

RECOMMENDED 2.1.35 Section 2 Definitions: Drive Stun

A drive stun is a secondary function intended to cause pain by placing the cartridge bay of the CEW in contact with a subject, while the CEW is activated and cycling.

Note: SMART Cartridges have replaced Air Cartridges.

Deployment Criteria Evaluation

Overview

PERF HIGHLIGHT

Redefine drive stun to specify deployment criteria

MPD should revise the definition of Drive Stun to state that “Drive Stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.”

This definition should include additional language on Drive Stuns included throughout the policy, specifically the language on page 3 of the policy.

Discussion

CEW is categorized as a significant intermediate control option:

- Use of impact weapons
- Strike to the head / face

Can be used when there is imminent threat of physical harm to officers or others.

Drive stun deployment criteria is the same as probe deployment.

Axon states to avoid using drive stuns with three exceptions.

MPD teaches probe deployment with the option of a drive stun follow-up.

MPD does not teach drive stun for pain compliance.

Situation: Officer in close quarter combat.

Situation: Multiple officer grappling with subject.

CURRENT POLICY

DPM 2.1.35 Section 3 - Authorized Use

- A CEW should only be deployed when reasonably necessary, consistent with DPM 2.1.5 Use of Force, to subdue or incapacitate a subject in order:
- To prevent violent behavior; or
- To prevent physical harm to the officer or another person; or
- In response to threats of physical injury to himself / herself or of other persons; or
- prevent a subject from committing suicide.
- Members may use a CEW against dangerous animals.

Current Training

Avoid using CEW drive stuns except:

- 3 or 4 point contact to complete circuit or increase probe spread
- “break-contact” or distraction tactic to create reactionary distance
- brief application to attempt pain compliance

Do not repeat drive stuns if compliance not achieved

Do not use drive stuns if pain is unlikely to gain compliance due to mind-body disconnect (psychotic episode) or increased pain tolerance (drugs/alcohol)

DEFINITIONS:

“Drive Stun” -
Conducted Energy Weapons (CEWs)
deliver a high-voltage, low-watt current to the individual when the trigger is pulled. The current is delivered in two ways:
1. Via probes fired from the CEW.
2. By touching the subject with the cartridge bay of the CEW, while the CEW is activated and cycling.

Guidance for Drive Stun Deployment

Considerations

- CEW is categorized as a significant intermediate control option.
- CEW probe deployment and drive stun deployment require the same justification.
- Provides direction on the use of the technique.
- Prohibits the use of drive stun solely for pain compliance
- Restricts the use of drive stun to a higher level of force.

Policy Recommendation

2.1.35 Section 3 General Guidelines Authorized Use

Add Heading: Drive Stun

Drive stuns are subject to the same guidelines and restrictions as a probe deployment.

A drive stun is considered a secondary deployment technique and relies on pain to gain compliance.

Drive stuns shall not be used solely as a pain compliance technique.

A drive stun will not result in neuro muscular incapacitation (NMI).

A drive stun is considered less effective than when probes are deployed with adequate probe spread and is therefore discouraged.

Drive Stun Target Areas

Overview

PERF HIGHLIGHT

Recommend against deploying probes in the groin

PERF recommends against deploying probes to the groin area as currently allowed in this section.

PERF HIGHLIGHT

Discuss appropriate target areas during training

MPD should discuss appropriate target areas during annual recertification and conduct refresher training on the use of ECWs as needed.

CURRENT POLICY

DPM 2.1.35 - Section 5 - Deployment Procedures

Air Cartridge

- The primary target area is the back of the subject, below the neck line.
- Secondary targets include, in order, the side and the front (lower center mass) of the subject.
- When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as a target.

Drive Stun

- The primary target area is the back of the subject, below the neck line.
- Secondary targets include, in order, the side and the front (lower center mass) of the subject.
- Once probes have been deployed, the groin is an acceptable target area for drive stun.

Discussion

CURRENT TRAINING

- Recommends large muscle groups as primary targets for probe deployment.
- Sensitive areas are prohibited from being intentionally targeted when deploying probes.
- Drive stuns utilize the same recommended target areas as the probes.

Use Preferred Target Zones: Rear (when practicable)

Below neck (green zone)

- Large muscles
- Avoid head and neck

The back is the most preferred target area when reasonably practicable because it contains larger muscle groups and reduces risk of hitting sensitive body areas



Use Preferred Target Zones: Front (when practicable)

Lower torso (green zone below chest)

- More effective than hitting the chest
 - Larger muscles (legs)
 - Split the beltline
- Reduces risk of hitting sensitive body areas (see product warnings)
- Increases dart-to-heart safety margin distances
- Do not intentionally target head, eyes, throat, chest or genitals



Fundamentals for Drive Stun Targeting

Considerations

- Replace heading AIR CARTRIDGE with new heading.
- Combine Air Cartridge and Drive Stun.
- Policy language reflects manufacturer recommendations and CEW best practices.
- Language is consistent with current training practice.

Policy Recommendation

DPM 2.1.35 - Section 5 - Deployment Procedures

PROBE DEPLOYMENT & DRIVE STUN TARGETING

- The primary target area is the back of the subject, below the neckline
- Secondary target area is the front (lower center mass) of the subject.

Drive Stun Restrictions

Considerations

- CEW probe deployment and drive stun deployment require the same justification.
- CEWs are not at the same level of force as pressure points, soft hands, or limited hard hands and therefore are not authorized as a pain compliance technique.
- Policy prohibits the use of CEWs for pain compliance without additional justification.

Policy Recommendation

DPM 2.1.35 - Section 4 - Restrictions

Members shall not use a CEW on a subject:

- As a form of coercion or punishment.
- When known to be or visibly pregnant, elderly, very young, frail, or disabled unless deadly force is the only other option.
- In an elevated position where a fall is likely to cause substantial injury or death.
- In a location where the subject could drown.
- In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present (including, but not limited to OC spray with alcohol or other volatile propellant, gasoline, natural gas, or propane).
- Operating a motor vehicle or motorcycle when the engine is running or on a bicycle or scooter in motion, unless the subject is displaying overtly assaultive behavior which cannot be reasonably dealt with in any other safer fashion.
- Handcuffed or otherwise restrained, unless displaying assaultive behavior which cannot be reasonably dealt with in any other safer fashion.
- To awaken him/her if unconscious or intoxicated.
- To prevent the destruction of evidence.
- **Solely for pain compliance or to escort, prod, or jab**
- To gain the attention or voluntary compliance of a group of people except as outlined in crowd dispersal guidelines as outlined in FFS 1.2 Field Force System.

Industry Trends	
Agency	Policy on CEW Drive Stun (Discourages / Limits Use)
IACP	Discusses factors and issues with drive stuns and identified it as a less effective technique. States drive stuns are generally discouraged and generally should be used only in close range or self-defense situations. Specifically allows for: <ul style="list-style-type: none"> • Brief application to attempt compliance to distraction. • Breaking contact or distraction technique when “tied up” with subject • Three or four point contact to achieve NMI
Gilbert	Does not discourage drive stuns. Defines prohibited uses to include: <ul style="list-style-type: none"> • Escorting or prodding an individual into action • Waking an unconscious or intoxicated individual.
LVMPD	Limits the use of drive stun to only completing NMI effect. Defines prohibited uses to include: <ul style="list-style-type: none"> • Coercion • Escorts or jabs • To awaken unconscious or intoxicated individuals
Scottsdale	Does not discourage drive stuns. Defines prohibitions to include: <ul style="list-style-type: none"> • As a prod • To awaken sleeping or intoxicated subjects • To obtain information

Policy changes include:

1. *Properly describing the equipment and drive stun technique.*
2. *Removing reference to the groin being an acceptable target area for a drive stun and align with CEW best practice and current MPD training.*
3. *Restricting the use of the drive stun techniques except as described in current MPD training and revised policy.*

Revise TASER Deployment Procedures

Revise policy related to TASER Conducted Energy Weapon (CEW) deployment procedures to include precise information in line with the following best practices:

1. One cycle, then conduct subsequent evaluation to determine if an additional cycle is required.
2. Exposure to CEW longer than 15 seconds may increase risk of death or serious physical injury.
3. Subsequent applications should be independently justified, and the higher risk weighed against other force options.

Final Guidance

The MPD should revise Conducted Energy Weapon (CEW) deployment procedures to state, “Members should use a CEW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Members should consider that exposure to the CEW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent application should be independently justifiable, and the higher risk should be weighed against other force options.”

Due to the risk of injury associated with CEWs, the policy regarding their use should be precise and in line with best practice. The policy should include considerations of the length of time subjects are exposed to CEWs. Policy is currently lacking specific language related to extended CEW exposure. Policy is also lacking specific language related to subsequent applications of the CEW.

Current MPD Conducted Energy Weapon (CEW) Protocols policy states:

When practical and reasonable, a verbal announcement of the intended use of the CEW and the display of the red aiming laser at the subject shall precede the application of a CEW in order to:

- *Provide subject with a reasonable opportunity to voluntarily comply.*
- *Provide other members and individuals with a warning that a CEW may be deployed.*
 - *Do not place self, or others, in jeopardy in order to deliver such warnings.*
- *When practical, have another officer present with available lethal force when utilizing the CEW.*
- *Members should not leave cover or put themselves in an otherwise tactically unsafe position in order to deploy the CEW.*

DEFINITIONS:

Standard CEW cycle -
An activation of the CEW for five seconds, designed to cause temporary incapacitation, offering officers a window of opportunity to gain control of a combative subject.

Industry Trends	
Agency	Policy on CEW deployment specific to the PERF recommendations
IACP	<ul style="list-style-type: none"> • Specifies one cycle absent exigent circumstances • Specifies 5-seconds for a cycle • Requires medical response for subject exposed to more than three cycles or fifteen seconds • Requires medical response for subjects exposed to more than one CEW simultaneously • Special reporting requirements for drive stuns, multiple or extended exposures, and elevated risk population
Gilbert	<ul style="list-style-type: none"> • Does not specify a limit on number of cycles • Specifies each cycle must be independently justified • Requires a medical evaluation after every CEW deployment, prior to transport • No special reporting requirements for subjects exposed to multiple CEWs
LVMPD	<ul style="list-style-type: none"> • Outlines medical considerations • Specifies standard 5-second cycle • Specifies once a subject has been exposed to three 5-second cycles, the CEW will be considered ineffective, unless exigent circumstances exist • Does not specify mandatory medical response • Specifies reporting requirement for CEW deployment
Scottsdale	<ul style="list-style-type: none"> • Does not specify a limit on number of cycles • Specifies repeated and prolonged exposures should be avoided • Requires a paramedic response after every CEW deployment • No special reporting requirements for subjects exposed to multiple CEW



Reasons for adopting the recommendation include:

- *Brings MPD policy in line with:*
 - *Industry best practice; and*
 - *MPD training.*
- *Adds specific language related to:*
 - *Extended CEW exposure; and*
 - *Subsequent applications of the CEW.*

The ultimate proposed action is to adopt the proposed policy revisions with specific policy language related to:

- Exposure to CEW longer than 15 seconds may increase risk of death or serious injury.
- Subsequent applications of a CEW should be independently justified, and the higher risk weighed against other force options.

The revised policy would specifically state:

- *Initial use of the CEW shall be a standard five-second cycle, and then the officer will evaluate the need to apply a second five-second cycle after providing the subject a reasonable opportunity to comply.*
- *Each subsequent five-second cycle requires separate justification. The justification shall include consideration of the enhanced risks to subjects exposed to multiple and/or prolonged CEW cycles. The justification for each application of the CEW shall be documented in a departmental report.*
- *Once the subject has been exposed to three cycles, the CEW shall be deemed ineffective and another use of force option will be considered, unless exigent circumstances exist.*

(See Appendix E for the updated policy on the CEW)

Replace the Term “Suppression Fire” with “Directed Fire”

Replace “suppression fire” with “directed fire” in policy, which is more accepted by policing experts and has less of a militaristic connotation.

Final Guidance

The MPD should replace the term “*suppression fire*” with “*directed fire*” in both Tactical and Firearms Use policy. The term directed fire is more accepted by policing experts and does not have the militaristic connotations of *suppression fire*.

Per MPD policy, *suppression fire* is prohibited except under exigent circumstances when:

The officer reasonably believes the subject poses an imminent threat of death or serious injury to the officer or another person, and the subject has demonstrated the ability to cause death or serious injury to others (i.e., downed officer or citizen rescue). This tactic should not be employed if the use of suppression fire would place innocent bystanders or victims in greater harm than the actions of the suspect.

Term Review

The final guidance is to adopt the recommendation and replace “suppression fire” with “focused fire” in both Tactical and Firearms Use policy.

DEFINITIONS:

Directed Fire -

A controlled volume of weapons fire directed toward a suspect, allowing an officer to move. This tactic can be deployed against a target specific threat (i.e., active shooter) or toward a specific threat area (i.e., known area occupied by the suspect).

Suppression Fire Military Term

In military science, suppressive fire is “fire that degrades the performance of an enemy force below the level needed to fulfill its mission”. It is one of three types of fire support, which is defined by NATO as “the application of fire, coordinated with the maneuver of forces, to destroy, neutralize or suppress the enemy.”

Focused Fire

So when would be an appropriate time for the use of Focused fire?

Injured Citizen/Officer Down rescue

Pinned down citizens or Officers who are taking gunfire

If there is a need to fight into a structure due to a rapid deployment scenario and we are taking gunfire stopping our attempts to enter the structure

Suspect is engaging paramedics from the Fire Department who are attempting to render aid in a mass casualty event

The suspects actions must be placing other Officers or the public in greater jeopardy than the risk of employing Focused Fire.

Update Definition of De-escalation

The MPD should conduct a review of its Use of Force policy to include a mandate to use de-escalation techniques. MPD should conduct an evaluation of their training curriculum regarding de-escalation and align it with updated policy.

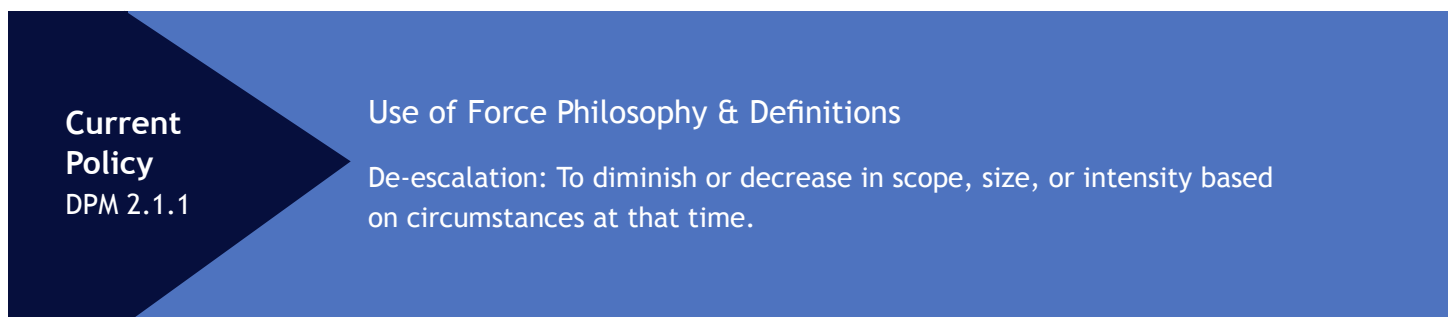
Final Guidance

It is recommended that the MPD conduct a review of its Use of Force policy to include the mandate to use *de-escalation* techniques when safe and feasible. Additionally, a command and control element should be added to the Sergeant's Training and Evaluation Program (STEP) and all other leadership programs.

The following is a list of management and leadership concepts that would guide in the success in handling police situations:

- Positioning or re-positioning personnel to address crossfire or threats to officer safety (i.e., standing in front of an apartment door).
- Identify and coordinate an arrest team with designated roles/assignments.
- Identify a single officer to communicate with the suspect, avoiding conflicting and simultaneous commands, etc.
- Facilitate evacuation.
- Assign specific roles (less lethal and lethal officers) when appropriate as time permits.
- Delegate deployment and positioning of specific weapons (i.e. patrol rifle, TASER, etc.).
- Coordinate traffic control points.
- Coordinate the response of additional resources.
- Make necessary notifications and facilitate communication between officers (i.e. direction of travel, observations of other officers, etc.) when appropriate.
- Oversee the use of force.
- Direct resources in and out of an incident to ensure that valuable personnel resources are used efficiently and to ensure that an excessive amount of personnel are not at the scene.

Finally, it is recommended the MPD conduct an evaluation of their training curriculum to examine whether sufficient time is dedicated to emotional control and anger management techniques when dealing with uncooperative persons.

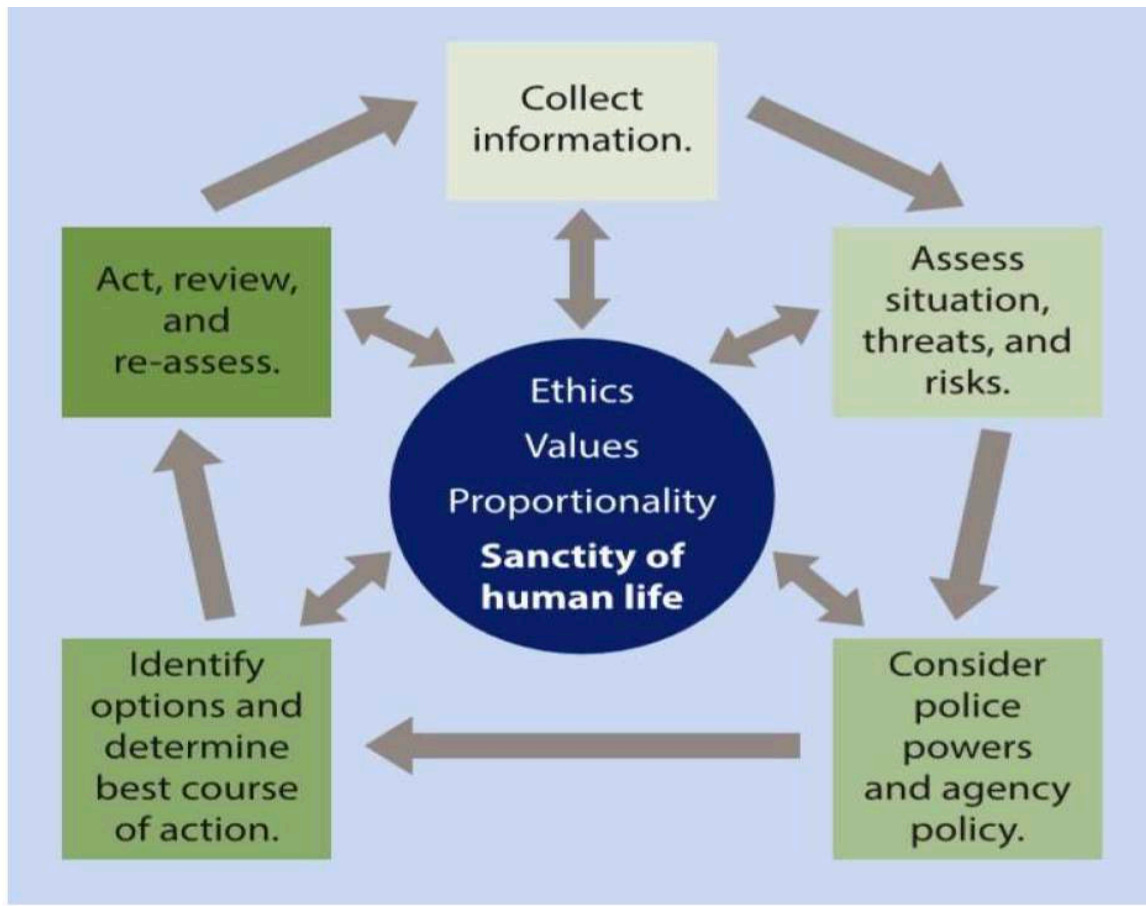


The original definition of de-escalation in MPD Use of Force policy, to be replaced with an updated, more useful definition.

Critical Decision Making Model

DEFINITIONS:

De-escalation -
Techniques used to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances known to members at that point in time.



Integrating Communications, Assessment & Tactics (ICAT) Training, currently taught at the MPD, is designed to increase officer and citizen safety when responding to critical incidents, especially those involving subjects in a behavioral crisis who are acting erratically.

The final guidance is to continue with *de-escalation* training and implement policy change regarding *de-escalation*. The definition of *de-escalation* will be replaced with:

De-escalation - When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, and coordinate a response. In their interaction with subjects, officers should use warnings, verbal persuasion, and employ proper tactics. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options. Officers shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others.

Allow Feedback During Policy Creation

The MPD should create a formal system, overseen by the Policy & Planning Section, to allow feedback during the policy making process. The system should allow for input by a multitude of disciplines within the Department including officers and frontline supervisors, subject matter experts (SMEs), commanders, legal representatives, and labor organizations. Using PowerDMS, a policy management database, the above-mentioned

parties should be given a set number of days to provide feedback. Once the policy is ratified and operational, a review on the impact to daily operations from the field should be made available.

Final Guidance

The MPD should create a formal system to be overseen by the Policy & Planning Section to allow feedback during the policy making process. This system should allow for input from internal subject matter experts (SMEs) and by individuals within the department who will be significantly impacted by the policy. Once the policy has been implemented, feedback should be solicited from the field on how the policy impacts daily operations. The MPD should consider allowing feedback via PowerDMS and should ensure that each policy goes through the same process. For example, when a policy is issued, the MPD should use the current PowerDMS system to send the policy out to a consistent group of individuals who have been designated to review policy changes. Individuals to include would be all commanders, the department's legal representatives, elected labor organization officials, and other internal SMEs. Within a certain number of days, this group should provide feedback and additional recommendations to be considered by the Policy & Planning Section as they finalize the policy.

Highlights from current MPD policy in relation to policy creation and revisions include:

- Any member may submit a request via the chain of command to the Policy & Planning Section to create or revise a Department policy.
- Once a policy draft is received, Policy & Planning may recommend further collaborative work.
- In practice:
 - Usually Policy & Planning, the requestor, SMEs, lieutenants, commanders and legal are involved in the collaborative process.
 - The collaborative process is external to PowerDMS, and communication and revisions are completed via:
 - Email.
 - Meetings (in-person or telephonic).
 - MS Word.
 - Once the draft is finalized, Policy & Planning submits it to the appropriate parties for workflow approvals.
 - Upon approval(s), the new/revised policy is disseminated via PowerDMS and sign-off is required by all effected members.

Current practice at the time of the recommendation showed:

- The labor organizations were not part of the collaborative process for policy creation.
- PowerDMS was mainly used for the final workflow and approvals process, not the collaboration phase.
- No follow-up was conducted once a new policy was implemented.

Industry Trends

Informal Survey Results from Valley & California Agencies:

- Most conduct initial collaborative process via email, phone or in-person meetings and draft changes in MS Word.
- Almost nobody was including officers, unless they are the original requestor.
- Everybody includes SMEs in policy creation process.
- Some include labor organizations in the creation process, but the majority do not.
- Once final version is ready and approvals are needed, sent through official workflow in DMS.
 - This includes legal & executive staff.
- Policy is disseminated via a Document Management System, requiring sign-off.
- Most agencies have the expectation their supervisors are reviewing important policies with their people but are unaware if this actually occurs.
- For post review, most agencies rely on word of mouth concerns from the field. If there are issues, a revision process can be considered.
- Anyone can suggest new policy or revision through chain of command.

DEFINITIONS:

Formal System -
An official set of procedures according to which something is done.

Common practices reference policy creation and revision among other agencies, which very closely parallel the MPD.

The committee had a plethora of feedback reference the topic of policy creation and revisions:

Committee Feedback

- There should be timelines for feedback and approvals.
- If labor organizations are included as stakeholders, we should run by legal, so that it doesn't appear we are bargaining with a labor organization, which the City Charter prohibits.
 - Will run final wording by City Attorneys.
- It was asked if the labor organizations really represent the majority of our officers.
 - Labor organizations advised 100% of officers belong to the MPA or FOP.
 - They have the trust of our officers and can communicate policy changes with them. Issues officers have can be brought up preemptively for consideration.
- It was suggested minor policies shouldn't involve team effort; there are just too many.
 - A solution is to give access to all stakeholders during a specified period so they can have a voice, and if they don't respond during review period, they are skipped.
- Lieutenants are responsible for policy development. Complex policies should be discussed at their meetings. This is where policy development should begin.
- PowerDMS as a tool during the collaborative process was not well received. We would have to train people to use. We'd have to consider public records and retention laws. Most agencies are using meetings, phone and email for the collaborative process.
- It was suggested to have two stages; one for collaboration and the second for a final draft and approvals.
 - ASU suggested allowing during the collaborative phase, feedback from the community as well; for instance, professors who are SMEs due to research and training.
 - Providing policy electronically would make it easier for them to provide feedback.

Committee Feedback

- They suggested lieutenants always be included in the workflow approval chain, since policy is their job.
- Allowing members to comment may lead to unhelpful feedback, yet at least they have a voice, being heard and considered.
- Again, it's the lieutenant's job to create policy. Get the policy to a somewhat final form, and then solicit feedback. Allow officers to comment.
- Do initial research on policy using IACP, SMEs, etc. Don't get people involved too early; it gets overly complicated.
- PowerDMS is a good tool, because we can put timeframes on review and contributions. We have a historical record so we don't reinvent the wheel.

The ultimate decision was to adopt most of the recommendation. This would include:

- *Ensuring communication on major policy changes occurs from the top down, including involvement of the labor organizations.*
- *Continuing the use of the current formal policy creation and revision process.*
- *Re-establishing the feedback process via the chain of command for situations where a published policy has a negative effect.*
- *Note: The executive staff decided against adding the labor organizations to the current list of stakeholders (i.e., SMEs, legal representatives, the effected lieutenant, and executive staff).*

Update Policy for Leg Restraints

Department policy on restraining prisoners describes positional asphyxia and procedures when handling subjects who have been restrained using handcuffs. This policy does not specifically outline the use of RIPP Restraint (hobbles), nor does it describe special considerations that must be taken when RIPP Restraint is used on a prisoner. Policy and procedures must be established to address the use of RIPP Restraint.

Final Guidance

MPD's Restraining Prisoners policy did not describe the proper use of RIPP Restraint [hobbles], nor did it describe special considerations that must be taken when RIPP Restraint is used on a subject. Although the policy did not address the use of RIPP Restraint, it did include the following information on avoiding positional asphyxia:

- *Anytime maximum restraint is used, or anytime a suspect exhibits bizarre behavior before, during or after control is applied, watch the suspect closely for breathing difficulties.*
- *Sometimes multiple officers are necessary to overcome the strength of a suspect.*
- *It may be necessary to use the weight of several officers to hold a subject down while handcuffs or other restraints are applied.*



- *Once the individual is controlled, quickly remove the weight to allow the subject to breathe freely.*
 - *Roll subject onto side or into a sitting position as soon as possible.*
- *Transport in an upright/seated position.*
- *Obtain medical care immediately if the subject has any breathing difficulties or if requested by the subject.*

The recommendation to update policy was approved, and the following details displayed below were added to current policy:

Language to be added

Insert in current policy between “General Guidelines for Restraints” and “Head Nets”

- Description of RIPP/Leg Restraints
 - Permanent loop made of nylon webbing with a bronze snap and one-way jawed alligator clip
 - Self locking clip holds the permanent loop into place
- Proper application guidelines
 - Allows for the transport of prisoners in vehicles in an upright, seated position, but removes the ability to kick doors and windows
 - Can be used as an additional level restraining tool of a handcuffed prisoner
 - this is for extremely combative prisoners
 - the prisoner should immediately be placed on their side and avoid leaving them in a face down position
 - monitor the prisoner closely for signs of labored breathing
 - advise a supervisor via radio as soon as practicable
 - as soon as possible, the restraint should be removed from around the handcuffs and the prisoner secured in a patrol vehicle in a seated position
- Safety concerns when using and guidelines for care of prisoners being restrained
 - positional asphyxia
 - nerve damage to wrists
 - sternum cartilage

DEFINITIONS:

Leg Restraint

(Hobbles) - A restraint device used primarily to secure the legs and ankles of a subject.

RIPP Restraint is the specific device authorized for use by the MPD. It includes a permanent loop made of nylon webbing with a bronze snap and a one-way jawed alligator clip. The self-locking clip holds the permanent loop in place.

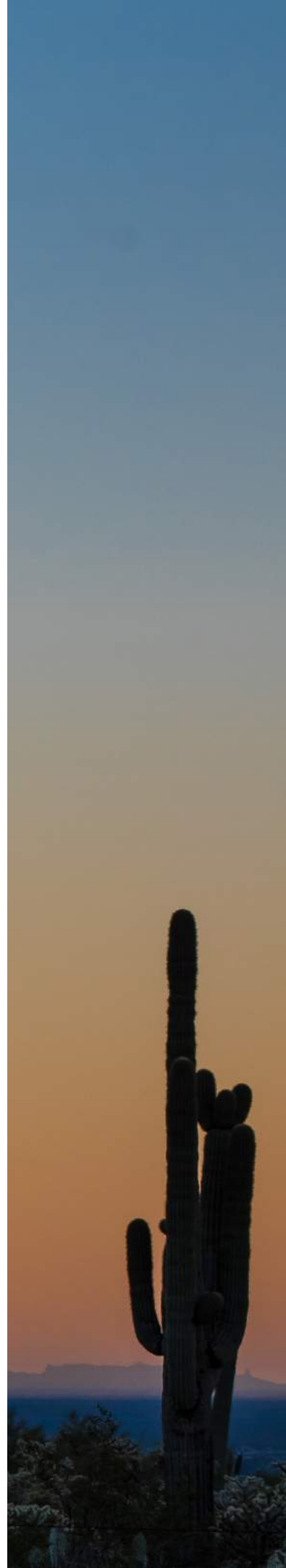
Summary

The Use of Force Committee provided our Department and community leaders an opportunity to work together to discuss, decide upon, and implement positive changes to MPD policy, procedures, and training. This evolution to our way of operating is in line with current policing best practices.

To summarize, the following changes were decided upon and have been or are currently being implemented:

- MPD Use of Force policies are being consolidated into one location for ease of comprehension for members.
- The *sanctity of life* has been emphasized as a guiding principal in our use of force philosophy
- The term *non-deadly* is being replaced with *less lethal* in policy and training to make it clear that although such options are less likely to be lethal, there is still a possibility of causing death or serious physical injury in rare circumstances.
- The Use of Force policy is currently being updated with clear information on when force is appropriate using the *objectively reasonable* standard.
- The Use of Force policy is also being updated with information that was already included in the Conducted Energy Weapon (CEW) policy, requiring members to request medical evaluation for anyone exposed to a TASER deployment.
- The definition of a *Drive Stun* has been revised in policy to discourage its use as a pain compliance tool. This revision aligns with training and industry best practice.
- TASER CEW deployment procedures have been revised in policy. These changes are in line with current MPD training and follow industry best practice to ensure caution when applying multiple applications of a CEW.
- The term *Suppression Fire* has been replaced with *Focused Fire* in policy to remove the militaristic connotation and make clear the focused nature of the tactic and the limited circumstances in which it can be used.
- The MPD Use of Force policy has been revised with a comprehensive definition of *de-escalation* as well as expectations from Department members reference the use of *de-escalation* techniques.
- The MPD has solidified its policy creation process. It will continue to follow the process set forth in policy with additional enhancements reference the collaboration method.
- Finally, the Restraining Prisoners policy has been updated to incorporate a definition for *RIPP Restraint*, including procedures for using them in the safest manner possible.

All of these updates to MPD policies make our Department better for both our members and the community which we serve. The enhancements provide guiding philosophy rooted in empathy; grounds for using force that are in line with industry best practices and more stringent than the basic standards; make procedures clear and simple to comprehend for our members; and ensure the safe application of equipment and techniques focusing on successful outcomes.







PILLAR II TRAINING

II. TRAINING

Overview

Training is foundational to establishing a qualified workforce, maintaining industry best practices, and mitigating risk. Law enforcement training must cover all aspects of the job with emphasis on the high risk, low frequency situations a police officer may face. Effective training is explainable, repeatable, defensible, and contemporary with the ever-changing profession of policing.

Arizona Police Officers Standards and Training (AZPOST) is legislatively mandated to oversee instructor certifications, basic training programs, in-service training, and peace officer certifications. To become a peace officer in the State of Arizona, a person must participate in a certified law enforcement training program and successfully demonstrate the required knowledge, skills, and abilities for peace officer certification. Once certified, a peace officer must attend annual training to maintain their certification.

The development of qualified instructors and the continuous improvement of training curriculum is critical to the success of a sustainable law enforcement training program. Qualified instructors provide continuity to the instructor pool, improve the consistency of instruction, and provide an opportunity to improve the quality of the curriculum. A regular review of training programs ensures training is meeting the requirements of the profession and the needs of the officers.

The following recommendations provide a review of department training policy and procedures which align with best practices for the law enforcement profession.

Recommendations

- Authorized Face, Neck and Head Strikes
- Define Limited Strikes and Strikes
- Neck Restraints - A Lethal Force Option
- Electronic Control Weapon
- Repository for Training Records
- Precision Immobilization Technique - PIT
- Instructor Evaluation
- Track Trends and Emerging Issues

Authorized Face, Neck and Head Strikes

Clarify Under Which Circumstances Face, Head and Neck Strikes Are Permitted.

MPD policy and training outlines the circumstances under which officers are permitted to use force. Policy prohibits the use of face, head, or neck strikes unless a subject is demonstrating active aggression or aggravated active aggression against an officer or innocent third party. However, there are situations which require some clarification.

Specifically, there are situations in which a subject may be classified as demonstrating active aggression according to department policy definition, but the threat to an officer is low. For example, a subject who is standing in a fighting stance would be categorized as active aggression. Given the seriousness of a strike to the face, head, or neck, it should be

DEFINITIONS:

Training -

To teach an individual a particular concept, skill, or behavior through techniques designed to achieve the desired outcome.

Face, Head and

Neck Strikes -

Strikes specifically targeting a person's face, head, and neck.

specified further that officers can only use a strike to the face, head, or neck when a subject is physically using force against an officer or member of the public.

Final Guidance

Policy defines a strike as a technique that have more than a minimal chance of injury. (Examples: Kicks, elbow, palm or knee strikes, and punches). The officer will consider the totality of circumstances in evaluating which area of the body to strike. MPD Special Order provides greater definition on when strikes can be used.

Regionally, law enforcement agencies have adopted limiting face strikes as best practice.

Industry Trends

LVMPD- Aggravated Aggressive

Members should only use tactics appropriate to the situation which have been taught by department Defensive Tactics instructors.

Phoenix PD- Intermediate Force

Strikes to the face and head will only be used when reasonable as a means to overcome a violent attack.

Chandler PD- Intermediate Force

Head and Neck Strikes - Prohibited absent active aggression/aggravated active aggression.

The Mesa Police Department approved the recommendations to limit Face, Head and Neck Strikes absent active aggression or aggravated active aggression by a subject against an officer or innocent third party.



Define Limited Strikes and Strikes

Decide whether to combine the terms “strikes” and “limited strikes” into one category to streamline policy, training, and reporting.

The Mesa Police Department’s current force options include both strikes and limited strikes. Both definitions result in a hands-on approach being taken with a suspect with the same type of force being used. PERF recommends combining the categories of strike and limited strike into a single definition to streamline policy and training. Initially, it may appear only difference between the two terms is the location of the strike. However, when looking at this recommendation in totality, there are several factors to consider.

The term “limited strike” originated with the Mesa Police Department and is defined as a strike applied to limited target areas. Refer to “Strikes” definition. Example target areas: brachial plexus (tie-in), radial, median, femoral, common peroneal and tibial nerves. These limited target areas are large muscle groups and nerves, which minimize chance of injury.

DEFINITIONS:

Strikes -
Techniques that have more than a minimal chance of injury. (Examples: Kicks, impact push, elbow, palm or knee strikes, and punches). The officer will consider the totality of circumstances in evaluating which area of the body to strike.

Limited Strikes -
Strike applied to limited target areas, including the brachial plexus tie-in, radial, medial, femoral, common peroneal, and tibial nerves, and major muscle groups.

Current Policy

Definitions for “Strikes” and “Limited Strikes” are in DPM 2.1.1, Use of Force Philosophy & Definitions and DPM 2.1.5, Use of Force:

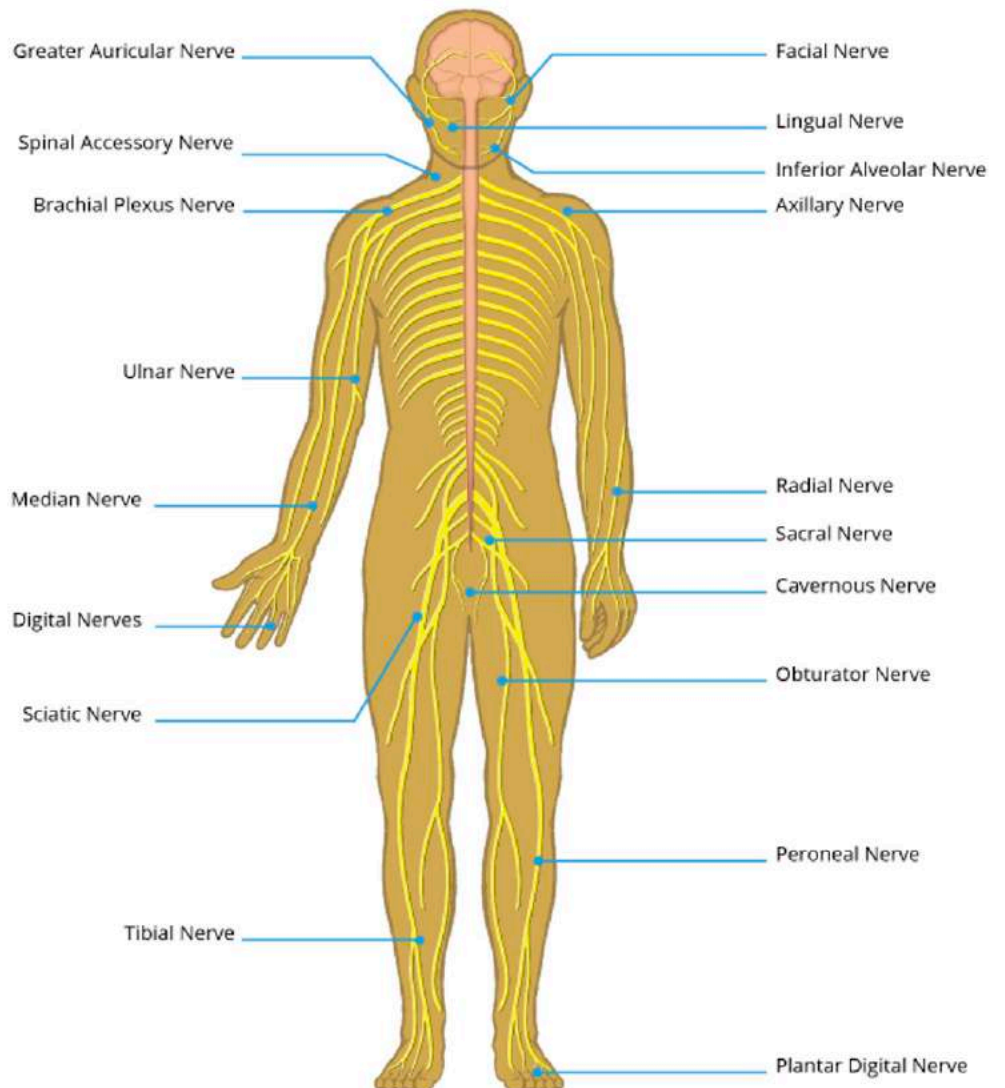
Strikes:

- Techniques that have more than a minimal chance of injury. (Examples: Kicks, elbow, palm or knee strikes, and punches).
- The officer will consider the totality of circumstances in evaluating which area of the body to strike.

Limited Strikes:

- Strikes applied to limited target areas. Refer to “Strikes” definition. Example target areas: brachial plexus (tie-in), radial, median, femoral, common peroneal and tibial nerves.

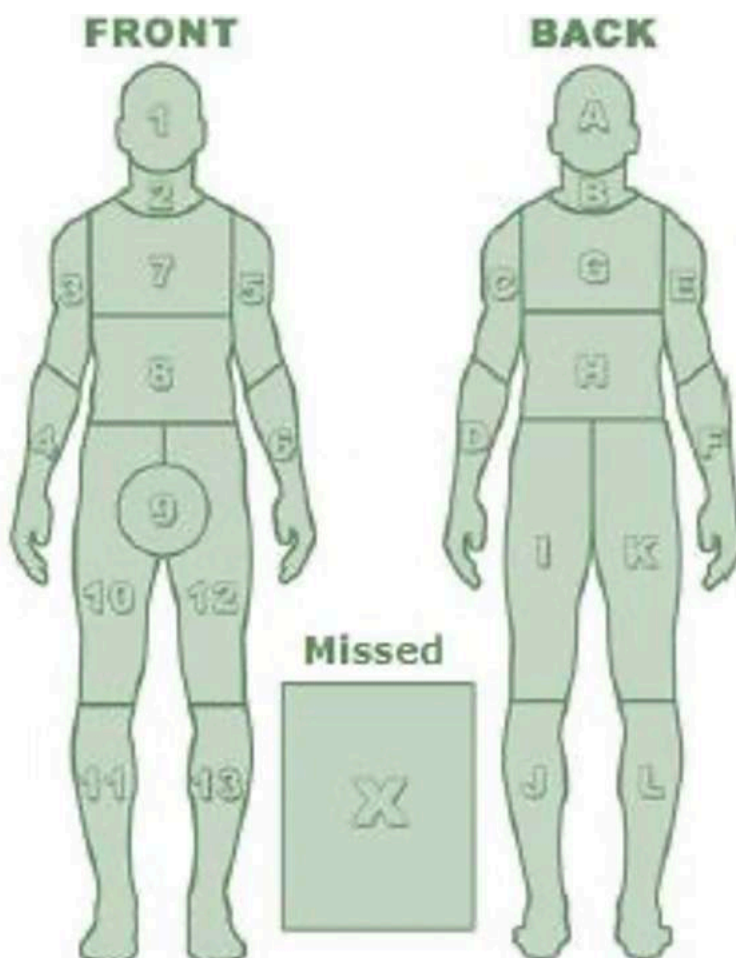
*Per Training, these limited target areas are large muscle groups and nerves, which minimize chance of injury.



Although “limited strikes” is not a common term, law enforcement agencies in the region use similar concepts to describe isolated techniques for applying force. Mesa Police Officers have trained limited strikes as an option for minimizing the risk of injury. When training recruits it is easier to understand the concept of limiting the target area for a strike by using a unique term. A limited strike is a specific type of strike targeted to limited areas.

The Mesa Police Department utilizes IA Pro / Blue Team to track use of force incidents. The Blue Team system is designed to capture and report statistics for strikes and limited strikes. Combining the terms would require a manual process to separate historical statistics.

Force Used (check all that apply)	Was Force Effective in Controlling Subject
<input type="checkbox"/> Verbal Commands	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Control Holds	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Chemical Agents	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Limited Strikes	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Strikes	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> TASER CEW	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Impact Weapons	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Flexible Baton (Bean Bag)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Baton Round (Sage/Pentarms)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Police Service Dog (K9)	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Cartoid Control Technique	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Deadly Force	<input type="checkbox"/> Yes <input type="checkbox"/> No



Final Guidance

There is no industry standard for describing a technique used to deliver force. Local law enforcement agencies use a variety of terms to describe specific techniques and applications of force.

Department	Use Of Force Policy
Maricopa PD	Uses terms “strikes” and “limited strikes” but appears to utilize Mesa’s policy.
Gilbert PD	No mention of “limited strikes” but does mention “strikes to nerve points” as an “intermediate level of force”. Other strikes with more than a minimal chance of injury are a “high level of force”.
Phoenix PD	Lists Intermediate Control Techniques such as Hard Empty Hand Techniques, which includes but is not limited to: Closed fist strikes, Hammer fist strikes, Palm-heel strikes, Knee strikes, Elbow strikes and Head Strikes. (No mention of limited target areas).
Chandler PD	Lower Level Force includes Empty Hand Control, which includes techniques such as strikes. Mentions “Hard” control techniques is a type of Empty Hand Control using the hands, knees, or feet directed at pressure points...

DEFINITIONS:

Carotid Control Technique -
Bilateral vascular restraint where pressure is applied to the sides of the neck, resulting in diminished oxygenated blood flow to the brain without compressing or restricting the airway.

The Mesa Police Department is adopting a modified version of this recommendation to include streamlining policy by defining strikes and limited strikes in the definitions section and removing duplicate definitions appearing elsewhere in policy. Policy and lesson plans and will be updated to reflect limited strikes as a subcategory of strikes. This will clarify the relationship between the two techniques. Use of force reporting in Blue team will remain unchanged.

Neck Restraints - A Lethal Force Option

Decide whether to continue to authorize the Carotid Control Technique, if the technique is authorized maintain the Carotid Control Technique as a lethal force option, and review policy and training requirements for the continued use of the Carotid Control Technique.

PERF has traditionally recommended the prohibition of any type of neck restraint due to the limited opportunities in which it can be applied, the extensive training required to learn the technique, and regular practice required to maintain the skill to apply the technique safely and effectively.

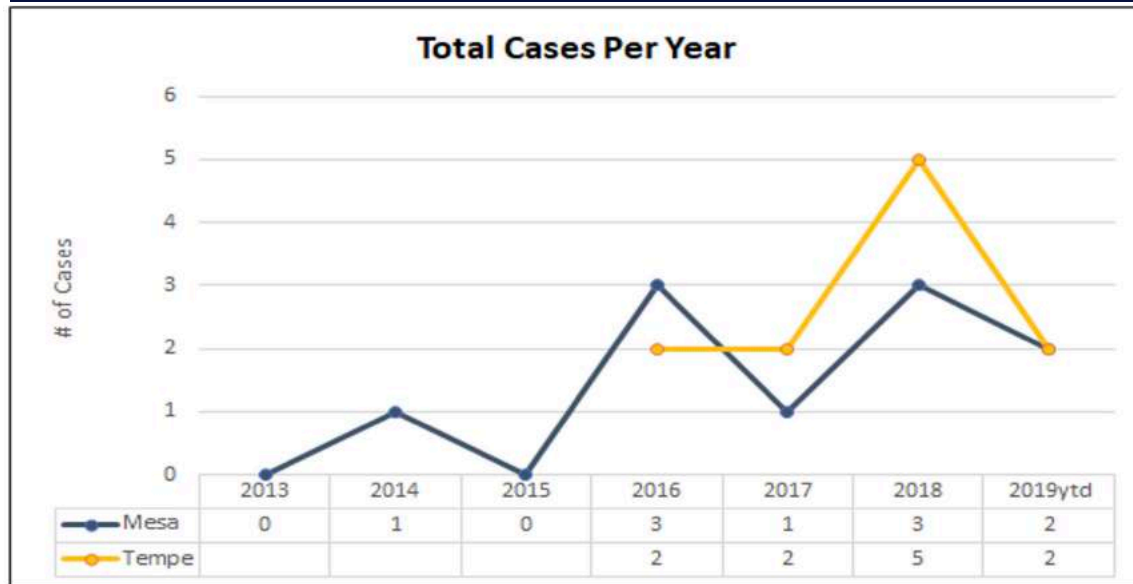
The Mesa Police Department defines the Carotid Control Technique as a technique designed to render a person unconscious for a short period of time by reducing oxygenated blood flow to the brain. It is not a choke hold that restricts air flow through the throat. The department authorizes the use of the Carotid Control Technique at the level of lethal force and officers are trained and tested yearly on the Carotid Control Technique.

PERF agrees with this classification of the technique as a lethal option, based upon language the U.S. Department of Justice has used in consent decrees with police agencies. Consent decrees for the City of Albuquerque and the City of New Orleans

state that neck holds should be prohibited except when lethal force is authorized. Due to the potential safety concerns associated with the use of the Carotid Control Technique, the New York City Police Department and the Philadelphia Police Department have forbidden its use. PERF recommended removing policy language which conflicted with the directive to consider the Carotid Control Technique a lethal force option.

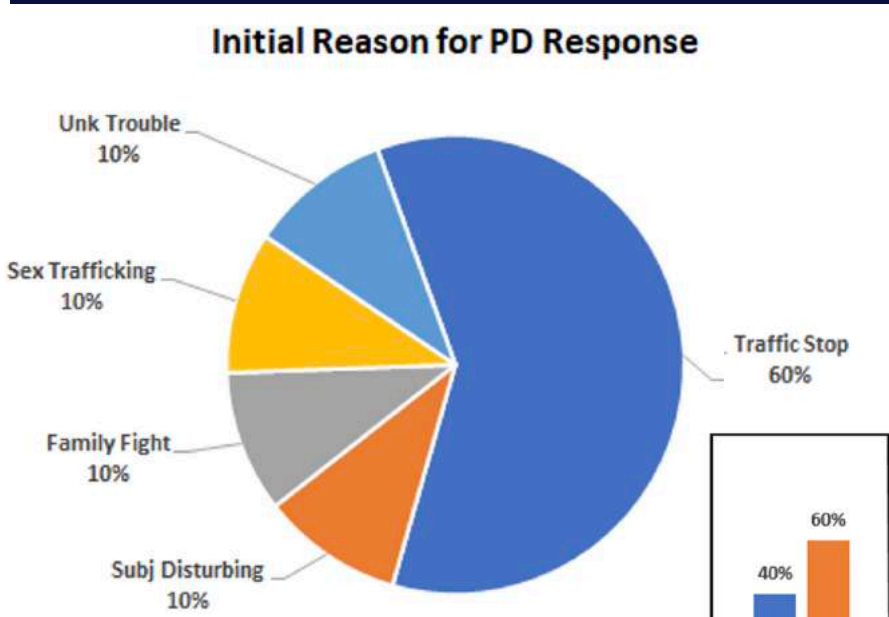
Mesa Police Officers have used the Carotid Control Technique ten times over the past seven years. In each case, the subject was actively assaulting officers and other use of force option were tried before the Carotid Control Technique was used. In 70% of the cases, the technique rendered the subject unconscious. In 100% of the cases, deadly physical force was not required after the Carotid Control Technique was applied.

USE OF CAROTID BY YEAR AND COMPARISON AGENCY - 2013 TO 2019ytd



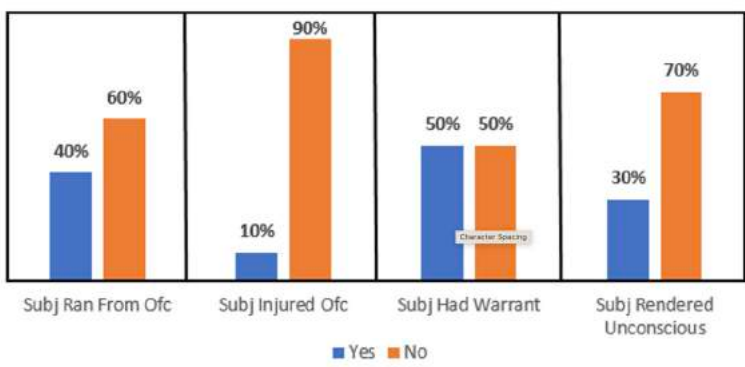
Other Agency Information:
 Scottsdale - No data available. Carotid not addressed in policy, but officers trained annually on technique.
 Gilbert - Not used in past 8 years. Removed from policy and officers are no longer trained on technique.
 Chandler - No data available.

MPD CAROTID USE - 2013 TO 2019ytd



Officers all reported a lengthy active assault, and fatigue as a factor.
 In many cases officers reported size, strength and fighting skill of the suspect as a factor
 100% of the subjects were actively assaulting officers before use
 Other uses of force were utilized prior to Carotid application

Additional Circumstances



Final Guidance

The Mesa Police Department will continue to authorize the Carotid Control Technique after carefully reviewing several factors to include:

- The Carotid Control Technique has proven to be an effective and safe force option for officers being actively assaulted where other use of force alternatives have proven to be ineffective.
- Members of the Use of Force Committee unanimously preferred the use of the Carotid Control Technique over alternative lethal force options such as a firearm.

In keeping with the PERF recommendation, the policy statement was removed which stated, “the Carotid Control Technique is justified when other control methods have been exhausted or the officer reasonably believes other methods would be ineffective.” This clearly establish the technique as deadly force and states it may be used when a subject’s actions are likely to result in the death or serious bodily harm to the officer or another (Aggravated Active Aggression).

Electronic Control Weapon

Replace all references of “ECD” and “TASER” in policy to a more appropriate term “Electronic Control Weapon” (ECW) to clarify that ECWs are weapons that carry a risk of harming persons.

PERF recommended the MPD replace all references of “ECD” and “TASER” in its Electronic Control Device (ECD) policy and any related policies to the more descriptive and appropriate term “Electronic Control Weapon” (ECW) in order to clarify that ECWs are in fact weapons that carry a risk of harming persons.

Initially officers on the Use of Force Committee were conflicted by the term weapon because it seemed contrary to the TASERs use and had a negative connotation. Most felt the TASER was a device. However, most civilian members of the Use of Force Committee felt the TASER was a weapon. A review of current training material developed by Axon and adopted by the Mesa Police Department identified the term Conducted Energy Weapon (CEW) used to describe the TASER.

What Does AXON Call It?

The image shows a dark, geometric-patterned background. In the top right corner is the Axon logo, which consists of a yellow triangle above the word "AXON" in yellow capital letters. In the bottom left corner, there is a yellow vertical bar followed by the text "TASER CEW ANNUAL CONDUCTED ENERGY WEAPON (CEW) USER UPDATE" in white, bold, capital letters. Below this, in smaller white text, it says "AXON Academy | TASER Training" and "Version 21 - Effective January 14, 2019". On the right side of the image, there is a blue vertical bar containing white text that reads: "Axon refers to the TASER as a Conducted Energy Weapon (CEW). AXON's advice: 'if given the opportunity, change it to CEW to align with Axon, but only if it does not cause a hardship in work and costs to have it changed.'"

DEFINITIONS:

Electronic Control Weapon” (ECW) -
An electro-muscular disruption device that disrupts the body’s ability to communicate messages from the brain to the muscles causing temporary motor dysfunction to a subject.
Synonymous with TASER, Electronic Control Device (ECD), and Electronic Control Weapon (ECW).

- An increased awareness of the risk and a greater respect for its use
- Clarity and consistency of policy and training by using one acronym
- Simple and inexpensive implementation with minimal negative consequences
- A TASER used against the police or a victim would be considered a weapon

The MPD has used the terms Electronic Control Device (ECD), TASER, and Conducted Energy Weapon (CEW) in policy and training to refer to the device. The most recent training used the word Conducted Energy Weapon (CEW), reflecting the idea that a TASER is a weapon. This training also made it very clear to sworn members the risks associated with TASER use.

Mesa's
Current
Training

2019 training refers to device: **Conducted Energy Weapon (CEW)**. The official term being used by AXON/TASER, is being used in our most recent MPD training, and corresponds with PERF's recommendation to call it a weapon. We are also being trained on its risks.

LEAD INSTRUCTOR: Taser Instructor	BACK-UP INSTRUCTOR(S): Taser Instructor
APPROVAL NUMBER: 19-069	
COURSE DESCRIPTION: Review of operation, medical/ safety issues, legal issues, tactical considerations, and policy regarding the use of the Taser CEW ; including the deployment of two cartridges during drills and/or scenarios.	
INSTRUCTOR REFERENCES: Taser Version 21 training material, DPM 2.1.5 (Use of Force), DPM 2.1.35 (ECD Protocols)	TRAINING AIDS, EQUIPMENT, MATERIALS: PowerPoint presentation, Tasers, cartridges, safety glasses, Taser suit for scenarios, or targets.

TASER CEWS ARE NOT RISK FREE



Final Guidance

The Mesa Police Department chose to partially adopt this recommendation by adopting the term Conducted Energy Weapon (CEW) and including the other common names in the policy definition as synonyms for TASER. This ensured the terminology used by the department matched the manufacturer information and our current training. Policy was edited and the term Conducted Energy Weapon (CEW) was inserted. The updated definition of TASER Conducted Energy Weapon (CEW) included TASER, CEW, ECD, and ECW as synonymous and authorized the word TASER as an acceptable word to describe the device.



Repository for Training Records

Enhance record-keeping for training and consolidate these records using a repository.

During the administrative investigation, it was noted that training records for involved officers were not able to be located through the Training Section. However, the training records were able to be ascertained by contacting AZPOST and obtaining the related Lesson Plan. This led to the recommendation of immediately addressing record-keeping practices.

The International Association of Chiefs of Police suggested “keeping track of incidents, policies, training, and other core aspects of daily police work is easier and more productive with customizable and user-friendly records management systems (RMS). These systems also help optimize accountability and transparency while addressing liability concerns.”

As of 2019, the Mesa Police Department Training Section has consistently used PowerDMS, a web-based records management system, to electronically record all Lesson Plans, including Academy Lesson Plans. There has been an ongoing effort to provide training through the PowerDMS platform. Most recently, training for the TASER Conducted Energy Weapon training was administered through this platform.

Training records are currently maintained by the Training Section. Per current policy, members are to forward training completion to the Training Section within 10 days of completion. This excludes City of Mesa Personnel Training and Information Services computer training, which is recorded in the City of Mesa training records management system.

Final Guidance

The Mesa Police Department adopted PowerDMS as the training records repository. This allowed all members of the department to search related lesson plans, rosters, and policies related to training classes.

DEFINITIONS:

Taser - *The Mesa Police Department now defines a TASER as an electro-muscular disruption device that disrupts the body’s ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject. Synonymous with TASER are the terms Electronic Control Device (ECD), Electronic Control Weapon (ECW), and Conducted Energy Weapon (CEW).*

PowerDMS - *PowerDMS as the training records repository. This allowed all members of the department to search related lesson plans, rosters, and policies related to training classes.*

Precision Immobilization Technique - PIT

Determine if PIT should be used, list specific circumstance for the use of PIT, and update policy to reflect training be provided on a regular basis.

The Mesa Police Department authorizes the use of the Pursuit Intervention Technique (PIT) within restrictive guidelines to stop a subject driving a vehicle who poses an immediate threat to human life. Although the PIT is used infrequently, the techniques provides officers an effective tool for resolving a high-risk situation which the Mesa Police Officers have used with a high degree of success.

Mesa Police policy specifically outlines when PIT may be used: to *apprehend a subject who poses an immediate threat to human life*. Policy clearly outlines the requirements, restrictions and authority required to employ the PIT against another vehicle.

Current Policy

AUTHORIZED USE:

- Apprehend a subject who poses an immediate threat to human life
- Terminate a hazardous driving situation because of imminent threat to human life.
- Prevent further hazardous driving behavior which poses an imminent threat to human life.

RESTRICTIONS:

- Not authorized if the offense is a civil traffic violation, stolen vehicle only, misdemeanor, or non-violent, non-life threatening felony.
- On a pickup truck or similar type vehicle when there are people occupying the open bed portion.
- On motorcycles.
- When non-sworn personnel are passengers in the PIT vehicle.
- On vehicles with flat tire(s).
- Speeds above 45 MPH unless deadly force is authorized.

REQUIREMENTS:

- Supervisor approval required
- PIT must be performed by PIT certified officer
- Vehicles are traveling at 45 MPH or less at time of PIT
- PIT trained officer has reasonable determined necessity
- The apparent risk of harm to the public from the suspect outweighs the apparent risk of harm involved in using the PIT maneuver.
- The vehicle used for the PIT maneuver should be operated with active emergency lights and siren.

Currently, PIT certification and refresher training is scheduled through the Mesa Police department Driving Coordinator and PIT certified officers are required to attend a refresher class at least once every two years.

Final Guidance

The Mesa Police Department chose to continue to authorize the PIT and updated policy to include a statement regarding the current practice of requiring PIT certified offices to attend refresher training as scheduled by the driving coordinator.

Instructor Evaluation

Department leadership should attend ICAT classes to observe training, ensure training is presented as intended, and evaluate instructors.

In June 2018, The Mesa Police Department asked PERF to review its use of force practices including a review of its training on use of force. In August 2018, PERF was asked to provide a train-the-trainer seminar to begin the department's implementation of Integrating Communications, Assessment, and Tactics (ICAT) training. PERF staff conducted a train-the-trainer seminar for the department's training section staff and a selected number of field training officers. In this training, PERF provided an overview of the ICAT curriculum and demonstrated several examples of the scenario-based training that is a key part of ICAT.

In November 2018, PERF staff observed an ICAT training session facilitated by MPD staff. The training was conducted for twenty-eight patrol officers and was well received. ICAT introduced the Critical Decision-Making Model (CDM) which provides tools to successfully assess situations, with an aim towards de-escalating force. For first-line supervisors, the CDM provided a consistent framework to evaluate whether the force used by officers in the field is appropriate and in line with department policy. For the Use of Force Board, using the CDM in the review process helped identify policy and training needs for the entire department.

PERF recommended the MPD command staff regularly evaluate how the training was being delivered by attending classes and personally observing how the training is being delivered.

Department policy requires the Mesa Police Department Training Section to review agency training programs annually to ensure they meet personnel and operational needs, legal requirements and adhere to agency policies. Training staff develop the training plan for the upcoming year and present to the department's executive staff. The MPD Training Staff schedules a special session where the lesson plans are presented, and staff members participate in the training. In 2019, a five-year training calendar was developed as part of the annual training plan to allow executive staff the agility to plan department wide training based on the current needs of the department.

A robust instructors development plan was implemented with the development of Subject Matter Expert (SME) Curriculum Teams focused on an area of expertise. Instructors for these designated proficiency skills are mandated to attend in-service training presented by members of the Subject Matter Expert (SME) Curriculum Teams as scheduled by the Advanced Training Lieutenant or designee at least once per year. Proficiency skills instructors are mentored by SMEs, and an informal two-year time limit is in place to maintain instructor status without attending in-service training or routinely instructing classes.

DEFINITIONS:

Pursuit Intervention Technique (PIT) -

The Precision Immobilization

Technique (PIT)

may be used in a situation where an officer reasonably determines that it is immediately necessary to:

o Apprehend a subject because the suspect poses an immediate threat to human life.

o Terminate a hazardous driving situation because the subject poses an imminent threat to human life.

o Prevent further hazardous driving behavior, which poses an imminent threat to human life.

Subject Matter

Expert - *A person who is an authority in a particular area or topic.*

Classes curriculum and instructor presentations are evaluated by the students on a department form and are provided to the instructors. Instructors responsibilities include reviewing course evaluations to ensure lesson plan material and instruction techniques are meeting student needs, and instructors meet with the training staff to discuss areas of concern and for improvement noted in the course critiques.

Current policy mandates instructors be evaluated. There are no formally established processes for vetting instructors, new instructor development, or for instructors to mandatorily maintain certification.

Final Guidance

The Mesa Police Department adopted policy language to provide direction to the training staff on instructor development and evaluation by the training staff. Policy language was also added to outline the current practice of staff participating in department wide training to evaluate the training and provide direction to the training staff on the training presentation.

Track Trends and Emerging Issues

The Training Section should monitor trends and emerging issues by tracking data found in use-of-force complaints including the types of force being used and the reasons for use of force.

The Mesa Police Training Section provides monthly reports to executive staff on use of force incidents. Information is extracted from use-of-force reports which are reviewed by members of the training staff after the reports are entered into Blue Team. The Training Section is responsible for reviewing Blue Team reports to ensure the information included is complete following a use-of-force investigation. If it is incomplete, the report is to be sent back to the originating supervisor for completion. Once marked complete, the reports are uploaded into IA Pro.

Current policy simply states that the Proficiency Skills Unit within the Training Section should review each Use-of-Force report in Blue Team. PERF recommends that the scope and purpose of the review be specified in policy. As the Training Section has access to the Blue Team Use-of-Force reports, they can act as an additional level of accountability to ensure training is implemented correctly in the field. The Training Section should review the data to identify trends within use-of-force reports to inform training needs for the entire agency. Doing so can help identify potential issues before they become ingrained in agency culture.

With the Training Section fully involved in the process of monitoring the department's use of force, it will also be able to create training derived from actual cases. The purpose of using these actual cases is not to critique the actions of the officers involved, but instead to develop realistic scenario-based training

Final Guidance

The Mesa Police Department approved recommended change to policy, directing training to monitor trends and emerging Issues. The Proficiency Skills Unit will review each Use of Force Report generated in Blue Team, and each completed use of force complaint to produce the monthly Use of Force Report which will include:

- Department Overview of use of force.
- Division Overview of use of force by shift and squad.
- Identify use of force trends.
- Provide recommendations for training.

Summary

A thorough review of the training policies and practices demonstrated the professionalism of Mesa Police Officers, the high caliber of the Mesa Police Training Staff, and the contemporary nature of the training material being taught to Mesa Police Officers.

The review identified areas for improvement in the records management and policy revisions to ensure policy was current with practice. Finally, the review identified equipment and tactics with a goal to update to best practice. Mesa Police Department is purchasing equipment to meet recommendations, utilizing online training management systems to deliver and track training records and utilizing data to drive the training mission. As a result, all of the recommendations are in the process of being implemented.





PILLAR III SUPERVISION

III. SUPERVISION

Overview

Appropriate supervision of police activities is paramount to ensuring department policies and guidelines are followed and enforced. The accountability of a department begins and ends with supervision. Through proper supervision of police activities, issues can be identified in the field and mitigated early before they become a larger problem for the department.

Supervisors bear a tremendous responsibility to make sure their personnel abide by the policies and guidelines established by the Department. Having clear guidelines and expectations helps supervisors and officers make good decisions. The transparency of police accountability must show these decisions are enforced and reviewed to ensure public trust.

The following recommendations outline clear and precise policy and training directives which support the departments goal to provide supervisors with contemporary polices and guidelines for police supervision.

Recommendations

- Duty to Intervene
- Shooting at or From Vehicles
- Supervisor Scene Response
- Report When Taser is Pointed
- Authorization to Use Firearm to Stop Fleeing Felon
- Use of Force Report Findings
- Vehicle Pursuits
- Supervisor Accountability for Directed Training
- Complaints Are Not Discouraged
- Commending De-escalation Techniques

Duty to Intervene

MPD should add a definition of the duty to intervene. This definition should include the following language: “Officers have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”

In setting out a clear use-of-force philosophy, there are specific tenets that emphasize the sanctity of life of all involved in an incident. These include the ideas that force used should be proportional, that officers should attempt to de-escalate situations whenever possible, and that officers have a duty to intervene when fellow officers are not acting in accordance with the department’s use-of-force policy. To avoid confusion, the expectations associated with these aspects of the department’s philosophy should be fully explained in policy.

Final Guidance

Current Policy

- “Duty to intervene” is not mentioned in Policy
- However, this does not mean it is not in practice in MPD

EXAMPLES;

- **Know Your Authority Training (1/15/2019)** - Officer/s should also intervene when they realize the interaction between another officer and a subject is rapidly decaying, the officer is encouraging a physical confrontation,
- **DPM 1.4.5 Code of Conduct** -
 - #60, Fail to report any use of force to a supervisor
 - #61, Unnecessary or improper use of force
 - #65, Fail to notify a supervisor when involved in a matter that would concern the Mesa Police Department

PROS AND CONS

Reasons for adopting the recommendation

- Clearly defines expectations of members
- Matches the culture of MPD
- Fulfills the expectations of our residents

Reasons against adopting the recommendation

- None

“Any officer present and observing another officer using force clearly beyond what is objectively reasonable under the circumstances shall, when in a position to do so, safely intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.”

Shooting at or From Vehicles

MPD should include a prohibition against shooting at moving vehicles. PERF recommends the following language: “Shooting at or from vehicles is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself. The only exception is an apparent act of terrorism when the vehicle is being used as a weapon of mass destruction.”

PERF found that MPD’s policy does not prohibit officers from shooting at moving vehicles. Many agencies have adopted this prohibition, starting with the New York City Police Department (NYPD) in the 1970s. Other agencies that prohibit shooting at vehicles include the Boston, Chicago, Cincinnati, Denver, Philadelphia, and Washington DC Police Departments. In New York City, the total number of shooting incidents involving NYPD officers declined 33 percent in the year following the implementation of the prohibition, and shootings continued to drop by more than 90 percent in the following years.

However, PERF recognizes the recent trend of using motor vehicles as a weapon of mass destruction. This has been observed both internationally and within the United States. PERF understands that this type of threat may require an extraordinary response to stop the threat and protect life. If this type of event were to occur within Mesa, any use of force, particularly lethal force, must be evaluated based on the totality of the circumstances and the necessary, reasonable, and proportional use of force.

For example, in July 2016, a cargo truck was driven into a crowd in Nice, France. This attack resulted in the deaths of 86 people and 458 people were injured. In the United States, a vehicle was used to attack a crowd in Charlottesville, VA in August 2017. One person was killed, and 19 others were injured. In October 2017, a vehicle was rammed through a crowded bike lane in New York City. Eight people were killed, and 12 were injured.

Final Guidance

Current Policy DPM 2.1.20

Shooting at a Motor Vehicle / Occupant

- A Department member shall not discharge a firearm at an occupant of a moving vehicle unless the officer reasonably believes that:
 - The subject poses an immediate threat of death or serious physical injury to the officer or another person; AND
 - There is no reasonable alternative course of action for the officer to prevent the death or serious physical injury
- If at all possible, an officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.
- Discharging a firearm at a vehicle solely in an attempt to disable the vehicle is generally prohibited.
- Bullets fired at a moving vehicle are extremely unlikely to stop or disable the moving vehicle.
- If it becomes necessary for officers to shoot at a moving vehicle, the following ramifications shall be considered:
 - Moving vehicles present a rapidly changing field of fire.
 - If the driver is incapacitated, the vehicle would be uncontrolled.
 - The action could create a danger to the public that outweighs the reason the deadly force was initially used.



Industry Trends	
Agency	
IACP	<ul style="list-style-type: none"> Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle; or the vehicle is operated in a manner deliberately intended to strike an officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle
Departments across the country prohibit shooting at or from a moving vehicle.	
Sierra Vista PD:	<ul style="list-style-type: none"> Officers shall not discharge their weapons at a moving vehicle unless it is necessary to do so to protect the life of the officer or others. In such case, the shots will be directed at the perpetrators and not at the structure of the vehicle itself. Officers shall not fire shots from a moving vehicle, unless it is necessary to do so to protect the life of the officer or others.
Chandler PD:	<ul style="list-style-type: none"> Do not fire at or from a moving vehicle except when necessary for self defense or in defense of another person's life and all reasonable means have been exhausted against the suspects use of deadly force Do not shoot from or at a moving vehicle except when necessary in self defense or in defense of another person's life when all other reasonable means have failed, and then only when the use of the officer's firearm creates no substantial risk to innocent persons.

Shooting at or from a moving vehicle is prohibited. The only exceptions are:

- An apparent act of terrorism when the vehicle is used as a weapon of mass destruction or is being used a dangerous instrument.
- Someone inside the vehicle is using or threatening deadly physical force.

Supervisor Scene Response

MPD should require a non-involved supervisor to respond to the scene and initiate a use-of-force investigation for every reportable use of force. This investigation should include a briefing from the involved officer(s), questioning available witnesses, and speaking with the suspect.

MPD policy does not adequately detail the responsibilities of sergeants during a use-of-force investigation. For example, Special Order 2018-001 DPM 2.1.2 specifies patrol supervisors should respond to the scene of an incident when a face, head, or neck strike is deployed. Supervisors, however, should respond to the scene of all reportable uses of force, regardless of what type of force is used and where the force was used. The lack of supervisors responding to the scene of a reportable use of force was an accountability issue raised in numerous interviews.

MPD officials advised PERF that, historically, supervisors often did not respond to the scene of a reported use of force. This was a common practice in many police agencies. However, there is a growing recognition in the policing profession that in critical incidents where force may be necessary, supervisors play an important role. If a supervisor can get to the scene prior to force being used, the supervisor can have a stabilizing effect and may prevent the incident from escalating unnecessarily.

At PERF's 2016 meeting on Guiding Principles on Use of Force, former San Diego Police Chief William Lansdowne said that in incidents that involved an officer-involved shooting, there was typically about a 15-minute window of time from when the call came in until the first shots were fired. If you have a system set up within your organization that gets a supervisor to the scene early on, within the 15-minute window, your chance of having an officer-involved shooting...is reduced by about 80 percent, because they can manage the situation as a team, Chief Lansdowne said. Therefore, PERF recommends that supervisors be aware of the types of incidents that can result in force being used - such as calls involving persons with a mental illness, developmental disability, drug addiction, or other condition that is causing them to behave erratically or dangerously - and to respond to those calls.

In situations where a supervisor is unable to arrive at the scene prior to a use of force, it is important that they respond as soon as possible to begin an investigation at the scene of the incident. While on the scene, it is beneficial for supervisors to utilize the CDM as they investigate the reported use of force. Doing so will give the supervisors a consistent framework to determine whether the actions taken were appropriate. Having supervisors use the CDM will also help reinforce the concept with officers who can see it being used in a practical situation. It also sets the expectation that officers are to utilize the CDM in their daily work.

Given the concerns that members of the department raised about a lack of supervision at the initial scene of a reportable use of force, the department should emphasize the role of supervisors in the accountability process. A critical part of that is to state clearly in policy that supervisors should respond to the scene of every reportable use of force. With supervisors on scene for the initial investigation, the investigations will be more thorough and accurate and findings will more accurately reflect the department's use of force.



Final Guidance

Current Policy

Revision made June 7, 2018 to include:

Non-involved supervisor immediately responds to the scene on any reported use of force which involves the use of:

- Strikes to the face, head or neck
- Electronic Control Devices (ECD)
- Impact Weapons
- Deployment of Police Service Dog (K-9)
- Carotid Control Technique
- Any other use of force causing the subject to be treated at the hospital for a physical injury

Investigatory Responsibilities:

- Obtain basic facts from the involved officer(s)
- Conduct initial review of the application of use of force
- Ensure medical treatment provided
- Ensure overall photographs taken, including areas involving visible injury or complaint of pain
- Ensure all necessary evidence is collected.

Definition

- Emergency Calls:
 - Life threatening
 - Confrontations which may threaten life or safety of a person
- Priority One Calls:
 - In progress crime that could result in a threat to injure or possible major property loss or immediate apprehension of a suspect

Assignment of supervisor(s).

- Responds to the scene on Emergency Calls
- Is informed of case comments on certain Priority One Calls
 - Responding to the scene is of the supervisor's discretion

Gap Analysis

Supervisor Responsibilities	Current Policy	Recommendation
Non-involved supervisor responds to the scene on every reportable use of force	*	X
Investigates every reportable use of force	X	X
Briefing with involved officers	X	X
Interview witnesses		X
Interview suspect		X
Collect necessary evidence, including photographs	X	X
Ensure medical treatment is provided	X	X
Initial review of the application of force	X	X
*Current policy lists specific uses of force		
Supervisor Scene Response	Current Policy	Recommendation
Supervisors immediately respond to any scene where a weapon is involved	X	X
Supervisors immediately respond to any scene where a person experiencing a mental health crisis is reported	*	X
Supervisors immediately respond to any scene where a dispatcher or other member of the department believes there is potential for significant use of force		X

- Define non-involved supervisor - Use of Force Reporting Protocols and in the development of the Concurrent Investigation policy as:
 - A supervisor who may be at the scene and witnesses the incident, but is not directly involved in the application of force.
- Recommend a non-involved supervisor respond to Category 1 and 2 type incidents.
 - It will be the responsibility of Professional Standards to interview the involved member, witnesses, and the involved suspect.

Report When Taser is Pointed

MPD should require that the pointing of an Taser CEW be reported by officers. This action does not have to be captured in the official use-of-force report, but can instead be required in an incident report.

PERF found that MPD does not currently require reporting on the pointing of an CEW at an individual. “Agencies should capture and review reports on the pointing of an CEW at an individual as a threat of force.” The reason for requiring reporting in this circumstance is to help agencies identify areas for improvement with respect to policies and training, and to promote accountability and transparency within the agency. Considering that MPD officers utilized CEWs in over 40 percent of use of force reports over a three-year period, it is important that the use of CEWs be appropriately tracked, even when they are not fully deployed. With this information, MPD should also track the effectiveness of CEWs and determine whether additional training is needed informing officers on what other options are available to them in the event that the use of an CEW fails. Additionally, the potential lethality of CEWs justifies its oversight similar to the oversight of the pointing of a firearm.

Final Guidance

Current MPD Policies Regarding pointing a CEW		
Use of Force Reporting Protocols (DPM 2.1.45) No mention	Conducted Energy Weapon (DPM 2.1.35) No mention	Firearms Use (DPM 2.1.20) Verbal and written reports are required when a firearm is pointed in the direction of another person and the person was aware of it

Industry Trends			
Yes	No	Agency	Policy
	✓	MCSO	Use of Force documentation is *not* necessary for a display of force.
✓		Flagstaff PD	Pointing a Taser at an individual requires an officer to fill out a use of force report.
✓		Tucson PD	Threatened use of force through the aiming of a less-lethal projective weapon at a person, without firing, or any arcing of a CEW to gain compliance requires a BlueTeam Report. Supervisor shall be notified at time of incident but response to the scene is discretionary. Documentation required in Incident and/or Supplementary Report(s).
✓		Gilbert PD	Taser OR display is a reportable use of force.
✓		Chandler PD	Documented in RMS as a “show of force”, along with handgun, rifle, sage and beanbag. But different than a Use of Force Report.

Adopt PERF’s recommendation requiring officers document the pointing an CEW in an incident report as a show of force. Expand the documentation to include other weapons.

Authorization to Use Firearm to Stop Fleeing Felon

MPD should clarify that the authorization to use a firearm to “stop a fleeing felon” is permissible only when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or the general public.

Given that the use of firearms is a lethal option, it is important that the language governing the use of firearms be precise. Within the general guidelines, there are opportunities for the current language to be more specific. For example, language permitting the use of firearms to “stop a fleeing felon” is too broad and should be qualified to determine whether a threat is posed to officers or the public per *Tennessee v. Garner*, which prohibits shooting a fleeing suspect “unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”

Final Guidance

Current Policy

DPM 2.1.20 Firearms Use

The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force:

- In defense of life or to stop a fleeing felon.
- To dispatch seriously wounded or dangerous animals when other forms of disposition are impractical. Refer to DPM 2.5.45, Animal Related Incidents.
- At firearms training or department shoots.
- At approved Range.
- Test firing in the Crime Laboratory

DPM 2.1.5 Use of Force

Dangerous Fleeing Felon: The officer reasonably believes that it is necessary to prevent the escape of a fleeing subject and the officer reasonably believes that:

- The subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and
- The escape of the subject would pose an imminent danger of death or serious physical injury to the officer or to another person.

Tennessee v. Garner, 471 U.S. 1 (1985)

Deadly Force may not be used unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily harm to the officer or others.”

Graham v. Connor

- Actions were objectively reasonable in light of the facts and circumstances confronting officer. Reasonableness must be judged from the perspective of a reasonable officer on the scene, not after the fact.
- Officers in the situation acted as other “reasonable and prudent” officers would act faced with a similar situation.
- Relevant factors for determining objective reasonableness:
 - Whether the suspect poses and immediate threat to the safety of the officers or others.
 - Did the suspect actively resist arrest?
 - The severity of the crime.
 - Was the suspect attempting to escape?

Considerations: The calculus of reasonableness must embody allowance for the fact that officers are often forced to make split second judgements in circumstances that are tense, uncertain and rapidly evolving.

- Add language to DPM 2.1.20 Firearms Use to align with case law and use of force policy:

DPM 2.1.20 Firearms Use

The use of firearms is authorized in accordance with DPM 2.1.5, Use of Force: In defense of life or to stop a dangerous fleeing felon when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or others.

Use of Force Report Findings

MPD should require that each individual involved in the routing process documents the steps taken in reviewing the use-of-force report, and that each individual states his or her agreement or disagreement with the findings of the investigating supervisor.

The recommendations in this section seek to strengthen the current reporting protocols in a manner that emphasizes accountability of the first-line supervisor through all levels of the department.

The September 2018 update to DPM 2.1.45 Use of Force Reporting Protocols specifies the expected documentation requirements for sergeants and lieutenants.

- Moving forward, sergeants now must make one of two possible determinations: “No issues identified after initial review” or “Additional Review Required” by a senior officer. Upon making either determination, sergeants must include a statement indicating the factors that led them to the stated conclusion.
- Lieutenants must also conduct an investigation of the facts of the incident and make a determination as to whether any issues were identified following the initial review and if additional review is needed. If no issues are identified, lieutenants must include their final comments on the use-of-force incident and forward the file to the Training Section. If additional review is needed, the Blue Team file is to be forwarded to the appropriate Division commander, with the Advanced Training Lieutenant copied.



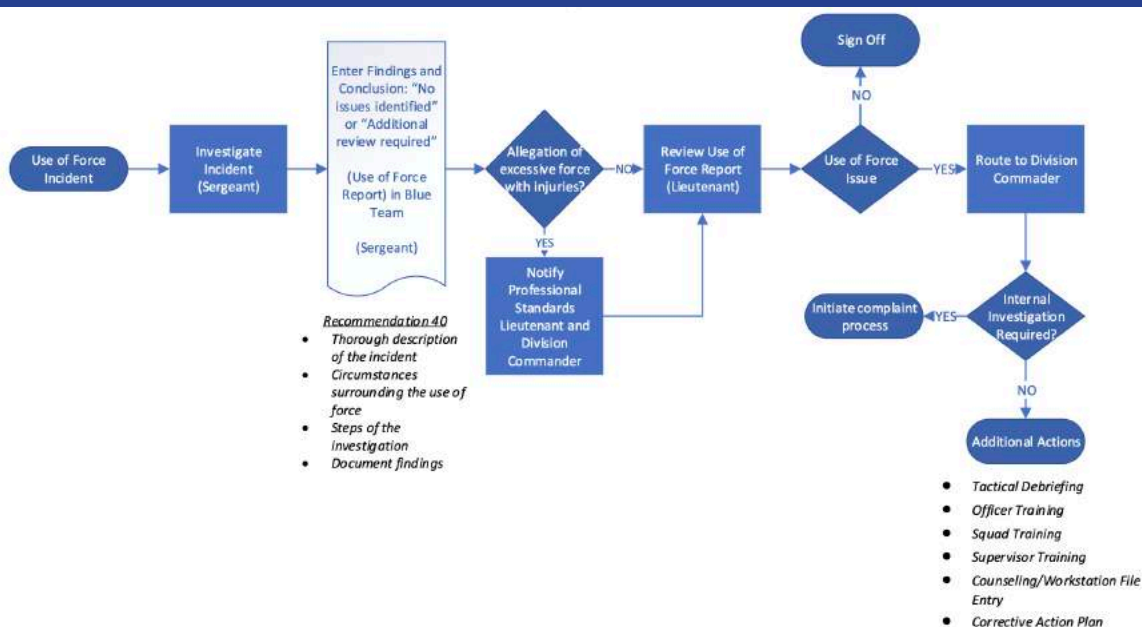
Following initial investigation, the use-of-force report is to be submitted to the chain of command for review. PERF's review of Blue Team Use of Force reports showed very little documentation of the routing process. Documentation was primarily limited to timestamps of when reports were sent from the sergeant to the lieutenant involved in the investigation. Additionally, there was often a notation that read, "Routing was NOT handled in Blue Team. The incident was moved into IAPRo by IAPro user Police Officer X". As a result, final dispositions were rarely included in the reports. Handling routing outside of the Blue Team report limits the use of these reports as an accountability tool.

Under a previous policy, sergeants conducted an investigation and completed the use-of-force report form in Blue Team. The policy did not specify what level of detail should be included in the report. Following the initial investigation, the sergeant was to forward the Blue Team report to his or her lieutenant. Although it was required that the lieutenant review the Blue Team report, there were no specific instructions in policy on how to note this review or what should be done if the investigation was not sufficient. By incorporating the CDM into the review process, individuals reviewing the investigation findings will be operating under the same framework, making it easier to determine whether they agree with the findings or if more investigation is needed.

Final Guidance

Current Process

Revision in June 2018 to DPM 2.1.45 - Use of Force Reporting Protocols



Gap Analysis

PERF's Recommendation

MPD should require that each individual involved in the routing process documents the steps taken in reviewing the use-of-force report, and that each individual states his or her agreement or disagreement with the findings of the investigating supervisor.



Current Policy

Upon review by Lieutenants, there is documentation provided when forwarding the incident to the next level.

If determined "No issues identified after initial review."

- Provide final comments to the use of force incident and forward to the Training Section in Blue Team.

If determined "Additional Review Required."

- Forward the completed Use of Force Report via Blue Team to the Division Commander

Continue current process requiring 1st line supervisor to gather the necessary evidence/information and 2nd line supervisor to provide a proper evaluation. Include PERF's recommendation to require 2nd line supervisor agree with or disagree with the initial supervisor's findings.

Vehicle Pursuits

MPD should ensure that when making a consideration of the number of officers required for a pursuit, MPD should limit the number of responders to a primary unit, a secondary unit, and a supervisor who is also involved in the pursuit. This should be the limit unless exigent circumstances exist that would require additional personnel to join the pursuit.

DPM 2.3.5 Vehicle Pursuits

Given the unpredictable and hazardous nature of vehicle pursuits, they can be a public safety threat and should only be conducted under specific instances. MPD's current policy is strong, as it restricts vehicle pursuits to situations in which an officer determines that the apprehension of a suspect is immediately necessary because the suspect poses an imminent threat of death or serious physical injury to human life.

DPM 2.3.5 Section: 2. General Guidelines

In order to control vehicle pursuits, the number of units involved should be limited. Current policy states that the number of officers involved should be determined by ongoing threat assessments made by either the pursuing officer or functional supervisor. While ongoing threat assessments are important, PERF recommends narrowing this aspect of the policy to reduce the number of units involved in pursuits.

Final Guidance

Current Process

Summary of the current policy

- Current policy DPM 2.3.5, Vehicle Pursuits was revised 05/29/19.
- This recommendation appears to already be present in the most recent version of the policy.
- In fact, researching back to 2015, this recommendation was already present as well.
- The current policy reads:
 - Units authorized to participate in the pursuit are the Primary Police Unit, Secondary Police Unit and Functional Supervisor. Additional units may be authorized by a sworn supervisor.

Reference

Model Policy by IACP (excerpt taken from the Criminal Justice Institute's model Policy and Procedure Manual for Police Departments):

PURSUIT TACTICS(1) Unless expressly authorized by a supervisor, pursuit shall be limited to the assigned primary and backup vehicles. Officers are not otherwise permitted to join the pursuit team, or follow the pursuit on parallel streets.

SUPERVISOR RESPONSIBILITIES

(3) In controlling the pursuit incident, the supervisor shall be responsible for coordination of the pursuit as follows:

- (a) Directing pursuit vehicles into or out of the pursuit;
- (b) Re-designation of primary, support or other backup vehicle responsibilities;
- (c) Approval or disapproval, and coordination of pursuit tactics; and
- (d) Approval or disapproval to leave jurisdiction to continue pursuit.

(4) The supervisor may approve and assign additional backup vehicles to assist the primary and backup pursuit vehicles based on an analysis of:

- (a) The nature of the offense for which pursuit was initiated;
- (b) The number of suspects and any known propensity for violence;
- (c) The number of officers in the pursuit vehicles;
- (d) Any damage or injuries to the assigned primary and backup vehicle or officers;
- (e) The number of officers necessary to make an arrest at the conclusion of the pursuit; and
- (f) Any other clear and articulable facts that would warrant the increased hazards caused by numerous pursuit vehicles.

Update the general guidelines of the current policy:

Authorized Units are a Primary Unit, Secondary Unit and Functional Supervisor.

- Additional units may only be authorized by a sworn supervisor.
- Additional units are determined by an ongoing situational threat assessment.

Supervisor Accountability for Directed Training

MPD should make substation commanders and supervisors (sergeants and above) aware of the findings in this report in a briefing or in-service training. Supervisors should continue to track use of force involving officers under their command and should use these findings to determine whether additional training is needed. Supervisors should also be tasked with ensuring that current policies are followed in the field.

In PERF’s review of MPD use-of-force reports, a number of important findings were identified. A relatively small number of officers are involved in incidents that require use-of-force reports, with some apparent outliers involved; in a disproportionate number of reports. In looking at reports involving all types of force, incidents tended to involve officers on patrol in the evening shifts.

These findings were mirrored in the analysis of incidents involving strikes, which indicates that the use of strikes is not isolated to a particular unit or situation and is used throughout the department. In taking a sample of these cases, it was found that 52% of strikes were directed at the face, head, or neck. The most commonly cited reason for these strikes were active aggression and active resistance. However, active resistance does not warrant a strike to the face, head, or neck under the current policy and did not warrant a strike in the previous policy. Moving forward, it will be important for MPD to ensure that its current policy is enforced throughout the department.

Given the findings of the data analysis, there are significant implications for the Mesa Police Department moving forward. With the recent change in policy regarding the justification required for a strike to the face, MPD leaders must ensure that these efforts to change the department’s policies, training, culture, and accountability practices are sustainable and long-lasting. Charting a new path forward should not lead to a greater reliance on the use of ECWs, given the findings about their frequent ineffectiveness in the field

Final Guidance

Current Policy - Training Derived

DPM 2.1.45 Use of Force Reporting Protocols

Supervisor reviews use of force report; lieutenant forwards to training



Advanced training lieutenant produces monthly report to Exec staff

- Statistical overview of use of force data by Division shift and squad
- Recommendations for training across entire Department

Exec staff implements training directive

Current Policy - Supervisor Accountability

DPM 1.1.10 Command, Chain of & Obeying Orders

Supervisor Authority and Responsibility

Supervisors are responsible for their own performance and conduct, as well as that of their members.

Supervisors are also responsible for:

- Ensuring members under their command perform their regular assigned duties.
- Recognizing members for exemplary performance and conduct.
- Investigating allegations of misconduct by a member.
- Reviewing Department reports for completeness, accuracy and promptness.
- Ensuring assigned Department property is in operational readiness.

Pros and Cons

Pros

- Addresses targeted training needs in the Division or Squad
- Cost effective, training is not implemented where it is not needed
- Supervisor accountability for identifying and implementing training
- Provides opportunity for Training Unit to coordinate training needs across the entire Department

Cons

- Select Members benefit from training refresher
- Lack of thresholds to determine when training is required Department-wide
- Training demand may outpace resources

- Require actionable data be provided by Training to the Divisions, therefore enabling supervisors to facilitate training directives specific to their division or squad.
- Allocate training resources to implement requested training at the division or Squad levels.
- Use of Advanced Training /Proficiency Squad to address emergent training requirements.
- Critical Incident Review Board findings shared with Proficiency Squad to provide direct division level training.
- Division level supervisors will assess training needs of their personnel and communicate needs to the Training Division. The requesting division and the Training Division will work jointly to determine best training delivery method to address existing needs.



Complaints Are Not Discouraged

MPD should state Use of Force Reporting Protocols that complaints are not to be discouraged and should emphasize the sergeant’s role in making sure the policy is enforced. Sergeants should be trained on their responsibilities in accepting complaints.

MPD should include language in policy that makes it clear that complaints made to members of the department are not to be discouraged. In PERF’s interviews of MPD personnel, we heard that there was inconsistency in which complaints were forwarded for review. Sergeants should be trained on their responsibilities in accepting complaints, because a refusal to accept a complaint can damage the public’s trust in the department

Final Guidance

Gap Analysis - DPM 1.4.10- Disciplinary Process

Recommendation

MPD Policy should emphasize complaints are not to be discouraged and sergeants should be trained on their role in making sure the policy is enforced.



Current Policy

MPD thoroughly records and promptly investigates all complaints. Supervisors shall make an entry into Blue Team documenting any actions, information, or statements as observed, received or reported without unnecessary delay

Regional Trends

Chandler Police Department

Employees will make every effort to facilitate the convenient, courteous, and prompt receipt and processing of an external complaint and not attempt to discourage, interfere, or delay an individual from registering a complaint.

Other local agencies make no mention of discouraging complaints

Adopt recommendation by including the following verbiage in policy:

Employees will make every effort to facilitate the convenient, courteous, and prompt receipt and processing of an external complaint and not attempt to discourage, interfere, or delay an individual from registering a complaint.

Modify recommendation to have verbiage included in the disciplinary policy revision being drafted, not in the Use of Force Reporting Policy.

Upon the release of the disciplinary policy revision, supervisor training will include supervisor responsibilities in accepting complaints.

Commending De-escalation Techniques

MPD should commend officers who demonstrate appropriate use of force or restraint in accordance with department policy and who practice de-escalation techniques in the field.

It is important for MPD to track positive behavior related to use of force in addition to tracking areas for improvement. Doing so will help reinforce training and potentially increase morale. The Los Angeles Police Department, the Denver Police Department, and the Philadelphia Police Department are among the many departments that have implemented awards for officers who demonstrate de-escalation techniques in the field.

DEFINITIONS:

De-escalation -
Techniques used to prevent or reduce the need for force. Examples of de-escalation techniques may include providing a warning and exercising persuasion and advice prior to use of force; determining whether the member may be able to stabilize the situation through the use of time, distance, and/or positioning to isolate and contain a subject; and/or requesting additional personnel to respond or make use of specialized units or equipment, including crisis intervention trained officers.



Final Guidance

Current Policy : DPM 1.11.30 - Awards & Commendations

Award	Qualifier
1 Medal of Honor	Awarded to the member who distinguishes him/herself conspicuously by gallantry, heroism, and courage at the risk of his/her life, above and beyond the call of duty, when faced with a violent conflict involving themselves or a third party.
2 Medal of Distinction	Awarded to a member who distinguishes him/herself by bravery in action in a potentially hazardous situation. The act performed must render the recipient well above the standard expected.
3 Lifesaving Medal	Awarded to members directly responsible for saving a human life where the recipient was not placed in personal danger.
4 Medal of Excellence	Contribution to the Mesa Police Department in an exemplary manner, which typifies excellence in the mission and values of the organization and have contributed to the police profession in an outstanding manner.
5 Commendation	Recognition of outstanding performance on difficult police operations, or situations requiring exceptional dedication

Gap Analysis

Recommendation	Current Policy
PERF suggests to designate an award such as a; “Preservation of Life Medal”.	<ol style="list-style-type: none"> 1. Medal of Honor Courage at the risk of their own life 2. Medal of Distinction For an act performed that renders the recipient well above the standard expected. 3. Medal of Excellence Exemplary contribution to the mission and values of the organization. 4. Commendation Outstanding performance

Heroic example;

“Eight Denver Police Department officers awarded for showing restraint when gunfire would have been justified.”

When Denver police Cpl. William Bastien IV saw a gun barrel pointed toward him, it looked as wide as the mouth of a coffee mug.

The world went silent as he watched a 14-year-old aim at him.

Bastien, though, did not fire his gun. Instead, he realized he had enough protection from his car and ordered the boy to drop the gun.

The boy listened, dropped his pistol and lay on the ground. The incident, which unfolded in a matter of seconds in a park in Montbello, ended peacefully.

“I didn’t want to shoot a kid,” Bastien said Thursday. “He had the drop on me. He was ready. Hopefully, he never forgets that day. Hopefully, he remembers me for the rest of his life, and it stops him from doing stupid things.”

Denver Post-April 19, 2018

MPD should partially adopt PERF's recommendation to commend officers who demonstrate appropriate use of force or restraint in accordance with department policy and who practice de-escalation techniques in the field but use existing department awards for this purpose instead of creating a new medal.

Summary

All the recommendations in the Supervision Pillar have been implemented or are in the process of being implemented. The implementation of these recommendations, whether fully implemented or adjusted in a way that best fit the needs of the MPD and its community, will create a safer environment for both the community and its police officers. These recommendations will bolster the credibility of the Department within the community it works with to provide professional policing.





PILLAR IV DISCIPLINE

IV. DISCIPLINE

Overview

Officers are provided substantial training on acceptable actions and tactics for a variety of incidents. For circumstances in which an officer exercises a judgement and subsequent action inconsistent with the policies and training provided, the officer is held accountable for his/her actions. Discipline can range from non-disciplinary corrective action, written reprimand, suspension/demotion to termination.

An officer's application of force greater than un-resisted handcuffing is evaluated on whether appropriate standards were exercised and is documented in a use of force report. Multiple levels of supervisory input is provided to each use of force report, along with recommended follow up or corrective action.

In addition, the concurrent investigation protocols provide a formal framework for Professional Standards and Training to investigate a use of force incident, often alongside a criminal investigation, to assess whether an officer's action was justified or within policy. This newly approved policy produces findings for both the Department and officer in half the time; finally leading to safer protocols for other officers to employ in similar circumstances.

As shown, the recommendations within the Discipline pillar do not focus on the application of discipline or tiers of discipline to be considered but rather key areas that support the determination of whether discipline is warranted in the first place: should the Professional Standards Investigators consider past disciplinary actions or use this personal background to determine the level of discipline to impose, and, once discipline is imposed and recorded, how long is this mark retained as part of the officers record.

Recommendations

- Concurrent Investigations
- Reportable Use of Force
- Use of Force (Blue Team*) Reports
- Disciplinary History Retention Period
- Consider Past Disciplinary History
- Professional Standards to Provide Findings
- Complaints Given a Formal Investigation
- Relocate Office for Professional Standards

Concurrent Investigations

Conduct administrative and criminal investigations concurrently for ALL qualified use of force incidents. Form a dedicated team comprised of multidisciplinary investigators from Training and Professional Standards to conduct administrative investigations, identified as Force Investigation Team. Attain timely resolution of deficiencies identified during the administrative investigation relative to policy, training, and risk management implications.

Concurrent investigations consider the type of critical incident, a scene response, scene responsibilities, executive debrief and Critical Incident Review Board.

DEFINITIONS:

Concurrent investigations - bifurcated, parallel investigations during which the policy, training and tactics applied by the officer (administrative investigation) is conducted alongside a criminal investigation to determine whether the officer's actions comply with existing statutes.

Concurrent investigations consider the type of critical incident, a scene response, scene responsibilities, executive debrief and Critical Incident Review Board.

MPD should form a dedicated team comprised of multi-disciplinary investigators from Training and Professional Standards to conduct administrative investigations, identified as Force Investigation Team (FIT).

The Force Investigation Team is to conduct administrative and criminal investigations concurrently for ALL qualified use of force incidents. The objective of the FIT is to attain timely resolution of deficiencies identified during the administrative investigation relative to policy, training, and risk management implications.

The Force Investigation Team should respond on scene to all officer involved shootings, in-custody deaths, and serious use of force incidents. In addition, other critical incidents such as the application of Carotid Control Technique, unintentional (inadvertent or accidental) head strikes with an impact weapon or device, canine deployments resulting in hospitalization, officer-involved animal shootings and unintentional firearm discharges will be reviewed by FIT and the Critical Incident Review Board.

A Critical Incident Review Board (CIRB) is comprised of members of the department and community who are responsible for reviewing the reports prepared by the Homicide Unit, Training Unit, and Professional Standards. The CIRB forms non-binding opinions related to whether the actions of the involved member(s) were within departmental policy, as well as regarding policy, equipment, training, supervision, and member(s') actions.

Completing an administrative investigation in a timely manner, regardless of outside legal proceedings, protects departmental integrity and sends a strong signal to employees and the community that its disciplinary decisions are made on the merits and are not influenced by external circumstances.

Final Guidance

Under traditional practice, even though the probability of prosecution was highly unlikely, the criminal investigation took precedence over the administrative investigation, and the administrative investigation was not even started until after the prosecutorial declination, which could take a year or more to obtain. Often, the involved officer would not be formally interviewed by the administrative investigators until many months after the event. While it is important not to corrupt a criminal investigation with compelled testimony from the officer, procedures have been developed in the LAPD, LASD, Denver, Portland, and elsewhere that minimize that risk.

These investigations, criminal and administrative, had occurred sequentially as shown in the following diagram resulting in lengthy delays to Departmental disciplinary/corrective action or training updates.



Concurrent investigations reduces the overall timeline in half whereby the appropriate corrective action or training needs can be addressed in a matter of months as illustrated below.

DEFINITIONS:

Use of Force - The level of effort or requisite tactic required by an officer to achieve compliance by a reluctant subject.



Based on the guidance from the committee, the MPD now conducts concurrent administrative and criminal investigations for all qualified use of force incidents. These investigations are completed by the individual units under their respective discipline or area of expertise, and presented to the Critical Incident Review Board. Appendix F is the approved version of the new Concurrent Investigations policy at the Mesa Police Department.



Reportable Use of Force

All uses of force greater than unresisted handcuffing must be reported in writing.

Final Guidance

This recommendation is the current policy at the MPD. The following exceptions to this reporting requirement include: verbal commands, handcuffing, control hold techniques used while applying handcuffs and empty hand control holds.

A review of several local and regional agencies outline their minimum thresholds for use of force reporting and align with MPD’s current policy.

Industry Trends	
Agency	Use of Force Reporting; Minimum Threshold
Chandler PD	Chemical agents, hard Empty Hands (elbow, palm, impact push, knee strikes or punches)
Gilbert PD	Chemical agents, takedowns, pressure points/joint lock control hold
Las Vegas PD	Deployment of a rifle, OC, when injury occurs with strikes, takedowns, handcuffing, arm locks
Tempe PD	Display of a firearm, chemical agents and strikes
Tucson PD	“Hard” empty hand tactics (strikes)

No changes were required by MPD to conform to this recommendation since policy and training materials were updated soon after the assessment.

MPD should ensure that Blue Team* reports (the application MPD uses to record use-of-force incidents) include a thorough description of the incident in question, including the names of the officers and subjects involved, the circumstances surrounding the use of force, and the result of the force used. Sergeants should also document the steps of the investigative process, including who was interviewed and what materials were reviewed. Finally, the sergeants should document the findings of their review in the Blue Team system.

Current Policy - Use of Force Reporting Protocols DPM 2.1.45		
Sergeant Responsibilities on a reportable use of force:		
<p>Respond to the scene to;</p> <ul style="list-style-type: none"> Obtain basic facts from involved officers Conduct initial review of application of force Ensure medical treatment is provided Ensure evidence and photographs are collected Ensure members using force document the use in a written report 	<p>Use of Force Report (documentation)</p> <ul style="list-style-type: none"> Reason Service being rendered Injuries/ hospitalization Was subject Arrested Size of the subject Distance from subject Was force effective Impairment or mental illness Type of resistance Witnesses - citizen(s) and employee(s) 	<p>Post Incident;</p> <ul style="list-style-type: none"> Ensure written reports completed at end of shift and reviewed Document determination of use of force No issues identified after initial review Additional review required Route Uoff Report to appropriate Lieutenant Copy Division Commander

Review of a sample of Blue Team Use-of-Force reports showed that incident summaries and investigative steps were rarely documented in the reports. In a number of cases, the incident summary merely included a directive to refer to the incident report.

*Blue Team is a computer application designed to capture, route and store use of force incidents.

Final Guidance

Current policy required supervisors to document each use of force incident directly in Blue Team though without noting the investigative actions followed or a summary of the circumstances surrounding the force application.

DEFINITIONS:

Use of Force Report -
A detailed report completed by a supervisor for each incident involving a use of force application.



The revised Use of Force Policy (See Appendix D) adopts the recommendation for additional investigative and reporting requirements. Specifically, MPD adopted this recommendation and includes the following list of additional information in each use of force report:

- A thorough description of the incident
- Circumstances surrounding the use of force
- Document the steps of the investigation
- Who was interviewed
- What materials were reviewed
- Document the findings

Disciplinary History Retention Period

Investigatory files should be maintained for the duration of an employee's career with the Mesa Police Department plus a sufficient number of years to allow all collateral proceedings to reach a final result and to be available in connection with an employee's future employment with another law enforcement agency.

MPD should develop a policy that outlines circumstances in which personnel files held by the Professional Standards Division can or cannot be purged; for example, sustained complaints against an officer should be held indefinitely.

Final Guidance

This recommendation requires a complete disciplinary history to be maintained throughout the career of an officer. An officer's disciplinary history serves several purposes:

- provide data that would help evaluate the integrity, credibility, and trustworthiness of the officer's statements in the case at hand, and;
- provide data to examine whether patterns in an officer's disciplinary history are predictors of the likelihood of involvement in a shooting or other serious use of force.
- purging disciplinary files hinders a case agent's ability to prepare adequately and hinders an adjudicator's ability to determine an appropriate discipline.

Unless otherwise provided by law, all investigatory files, including all Professional Standards and Command level investigations, regardless of disposition, shall be maintained in hard copy or electronic form for the duration of the subject officer's employment by the Mesa Police Department plus five years or until all proceedings, including litigation, arising out of the subject matter of the investigation is finally concluded, whichever comes later.

Current policy outlined the following retention periods for disciplinary files:

- All inquiries will be retained for three (3) years
- Unfounded, Exonerated, Not Sustained, Policy Failure and/or Sustained: No Discipline, will be retained for three (3) years
- Written Reprimand, Disciplinary Probation, or Disciplinary Suspension, will be retained for five (5) years
- Dismissal or Resignation in Lieu of Termination or Involuntary Demotion will be retained indefinitely
- Retain records for ongoing or foreseeable audits, lawsuits, or investigations

Discussion Points

List the reasons for adopting the recommendation

- Consideration for PS to investigate repeated violations

List the reasons against adopting the recommendation

- The investigator must remember to always be objective and impartial
- Administrative questioning must specifically and narrowly focused based on new allegations
- Questioning an employee to previously adjudicated cases
- Disciplinary history is currently evaluated when rendering discipline

DEFINITIONS:

Record Retention Period - *Establishes standards and procedures for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of records no longer possessing sufficient administrative, legal or fiscal value to warrant their further keeping*

References

Arizona State Library: Law Enforcement Records Retention Schedule GS-1031, Rev 3 (2017)

Record Title	Retention Period	Retention Remark
Professional Standards: All Other Records May include critical incident reviews, use of force, weapons deployments and other related records	3 years	After review is completed.
Professional Standards: Sustained Finding(s) Resulting in Discipline May include critical incident reviews, use of force, weapons deployments and other related records	5 years	After separation of employee. Trigger begins when discipline is final.
“Discipline” is undefined by the Arizona Library. Per Police Officer Bill of Rights (ARS 38-1101); “Disciplinary action” means the dismissal, the demotion or any suspension of a law enforcement officer that is a result of misconduct or unsatisfactory performance.		

In accordance with ARS 41-151.12 Arizona General Records Retention Schedule for All Public Bodies Law Enforcement Records, the following table lists the retention periods for disciplinary files/records for law enforcement officers:

MPD updated their retention guidelines as follows:

- Category 1 case files will be retained for member's career plus 5 years
- All other categories will follow State retention guidelines (see above table).

Additionally, MPD established guidelines when disciplinary history is to be used for progressive discipline and the promotional process.

Consider Past Disciplinary History

The investigator with the Professional Standards Unit, as part of a complaint or use of force report, should review an officer's past history, specifically past use of force or other policy violations. Access to an officer's record helps planning and executing a meaningful interview and highlights past, related occurrences by the subject officer.

A case agent in Professional Standards should have access to an officer's past history regarding use of force or other policy violations during the investigative process. This would allow the case agent to be aware of past issues and provide them a better opportunity to plan and execute a meaningful interview with the subject member.

Final Guidance

Under the current practice a Professional Standards investigator is responsible for the following:

- One individual should be accountable for all aspects of the investigation
- Serves as point of contact with the complainant
- Maintain the case files and documentation while the case is open
- Must ensure the confidentiality of the investigation
- Update command staff as necessary
- Conduct a thorough and objective investigation that conforms to policy and law
- Interview involved parties
- Provides a detailed and factual summary

While considering this recommendation the Committee debated each listed Discussion Points and agreed that in general this recommendation distracts an investigators focus from the specific allegation.

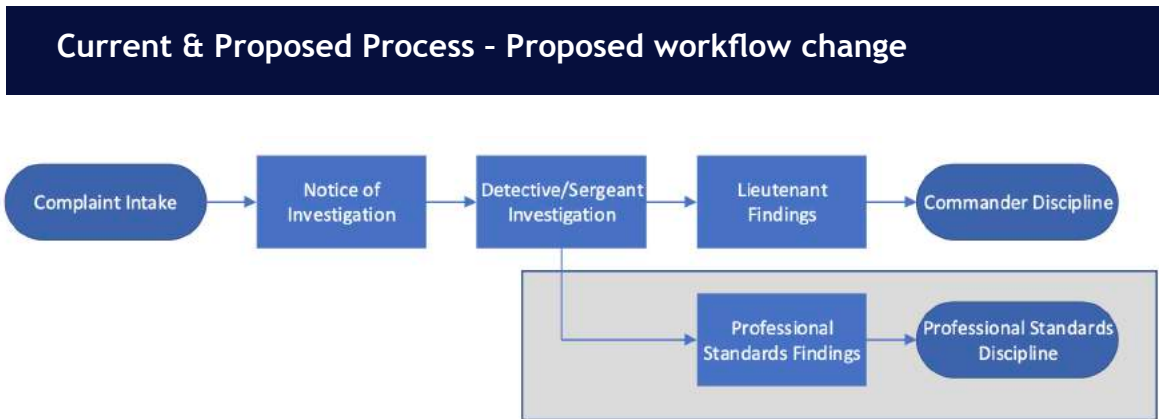
Based on the Committee discussion, MPD rejected the recommendation to require the Professional Standards investigator review an alleged member's disciplinary history during the investigation phase of the complaint process. MPD continues to consider a member's disciplinary history during the adjudication process when discipline is being recommended.

Professional Standards to Provide Findings

Professional Standards should be in charge to make recommendations as to whether a Notice of Investigation (NOI) should be sustained, unfounded or exonerated.

Final Guidance

Under current policy, findings and adjudication were the responsibility of the member's chain of command. Not only does this process increase workload for the individual supervisors, additionally, it may introduce a level of subjectivity due to continued working relationships. Research on best practices indicate a change by many agencies to move away from the command level disciplinary recommendations in favor of Professional Standards providing findings and adjudication as shown by the proposed workflow change.



Based on this recommendation, Professional Standards implemented broad changes in the disciplinary process including requiring the Professional Standards Lieutenant to provide findings (i.e. sustained/not sustained, etc.) and adding a Professional Standards Commander to ratify the findings and adjudicate discipline.

Complaints Given a Formal Investigation

MPD should include the guidelines in the disciplinary process on which types of complaints warrant a formal department investigation.

Under the policy at the time, "all complaints against MPD members shall be accepted and may be entered in the BlueTeam and IAPro databases. Allowing this flexibility in entering complaints into BlueTeam can make tracking officers' patterns of behavior difficult and could hinder opportunities for the MPD to make an "early intervention" to counsel officers and help them adjust their behavior to correct minor problems.

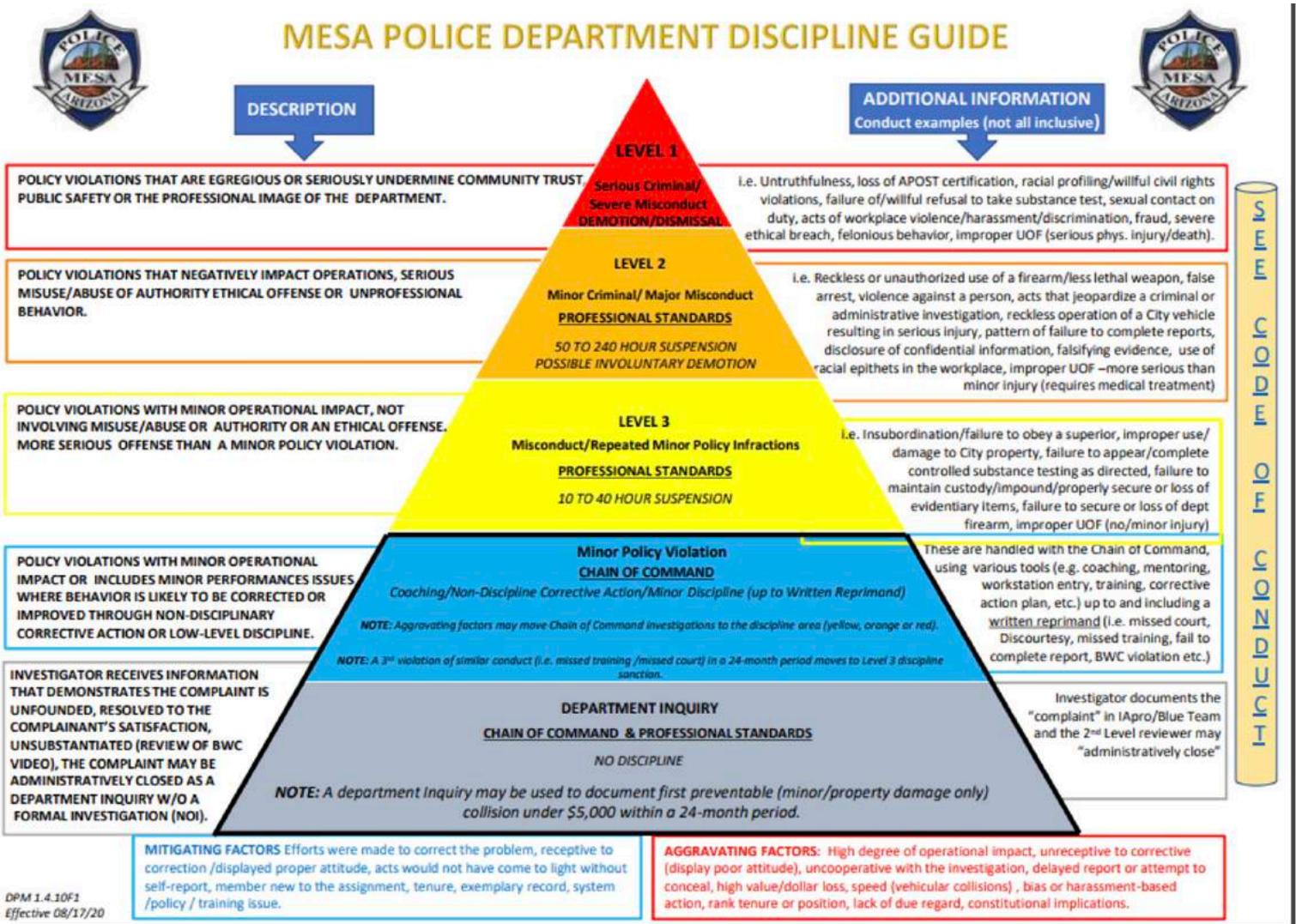
DEFINITIONS:

Progressive Discipline - The practice of implementing the lowest appropriate level of discipline and advancing to higher levels in response to repeated misconduct or poor performance. Progressive discipline may not be appropriate in all cases, depending on the seriousness of the misconduct. Progressive discipline need not start over for subsequent misconduct of a different nature.

Findings - The investigative conclusion, namely sustained, not sustained, exonerated, policy failure, administratively closed or unfounded.

Final Guidance

As part of a comprehensive disciplinary process improvement, MPD adopted a tiered disciplinary guide (below) to provide specific definitions and conduct examples for each misconduct tier.



MPD updated the disciplinary policy (see Appendix F for the approved version of the new Disciplinary Process policy and Discipline Guide.) to require supervisors, who become aware of misconduct, to enter ALL complaints into BlueTeam/IAPro databases.

Relocate Office for Professional Standards

MPD should consider moving the Professional Standards Division’s office to an off-site location. An off-site facility, such as a mixed-use office building or another city property, can be less intimidating for complainants than Police Headquarters. Furthermore, for officers involved in an investigation, the off-site location will ensure a higher level of privacy and will help protect the integrity of the investigation.

Final Guidance

Currently, the Professional Standards Unit is located in a secure access area within MPD Headquarters.

The Committee considered the following pros and cons when discussing the proposed relocation of the Professional Standards Unit:

Pros and Cons	
Reasons for adopting the recommendation <ul style="list-style-type: none">• Can be less intimidating for complainants to meet with investigators• Ensure a higher level of privacy for officers• Ensure confidentiality and the integrity of the investigation• Room for expansion	Reasons against adopting the recommendation <ul style="list-style-type: none">• Interviews can occur at an off-site location• Minimal in-person interviews conducted with complainants• Cost for acquisition of site, renovation, furniture and equipment• Limited access/proximity to resources• Staffing during operation hours

DEFINITIONS:

Complaint -
An allegation of misconduct

Professional Standards -
The internal unit responsible for investigating member misconduct other than minor policy violations.

Considering the logistical factors and associated infrastructure costs, together with numerous other channels (i.e. web based form, telephonic, written correspondence, etc.) to initiate a complaint, MPD decided that moving the Professional Standards Unit to an off-site location was difficult to justify. Additionally, complainant interviews can be scheduled to occur at any location other than MPD Headquarters or by phone.

Summary

The concurrent investigation process provides MPD a formal framework to investigate critical incidents with the utmost thoroughness, professionalism, and impartiality to determine whether the officer's actions conform with applicable law and this Department's policies and training. The administrative review will allow for changes to procedures, equipment, or training to mitigate the effects or reduce the number of similar incidents in the future.

Tracking use-of-force incidents is one of the most important measures of accountability a department can undertake. The recommendations in this section seek to strengthen the current reporting protocols in a manner that emphasizes accountability of the first-line supervisor through all levels of the department and requires the acceptance of all complaint allegations. Allowing the first line-supervisor to provide findings in the disciplinary process facilitates resolving investigations in a timely manner.

The retention of department investigations provides evidence to assist with determining appropriate discipline that is fair and equitable. This newly approved policy produces findings for both the Department and officer in half the time; finally leading to safer protocols for other officers to employ in similar circumstances.

All the recommendations in this Pillar have been implemented.



PILLAR V

ADMINISTRATION

V. ADMINISTRATION

Overview

Welcome to the Administration Pillar. As you read through this section you will quickly come to realize the Administration Pillar covers several recommendations that may not be directly related to use of force applications. With that said though, if these types of recommendations go unaddressed or unchecked by a law enforcement agency they could easily lead to unnecessary use of force encounters by police members. Several of these recommendations required funding where others could be changed or revised relatively easily by updating the police agency's public website. Close examinations of each of the recommendations were conducted to ensure their implementations were appropriate and necessary within the Mesa Police Department. Two of the recommendations were deemed necessary to ensure that a safe working environment was maintained for police employees which in turn could lead to the safer and more effective use of less lethal weapons. Other recommendations in this pillar addressed how to make police information easier to access within the police department's website and ensured information was consistent throughout. Another recommendation made the police agency examine how the public could electronically submit a compliment on an officer and inquired about the effectiveness of a false reporting warning when a member of the public filed a complaint against an officer. Lastly, the Patrol Bureau shift bid was examined to determine if checks and balances needed to be put in place to prevent internal corruption and to ensure productivity remained high on patrol squads. Please continue to read on through the section to find out more information about each of these recommendations and if and how the Mesa Police Department implemented each into policy and procedure.



Below is a snapshot and short summary in layman terms of each recommendation addressed. Further into this section will be a more detailed explanation of the research and outcome of each recommendation.

Recommendations

- Mark Electronic Control Weapon
 - This change will make a responding police officer and the public aware that a police officer is brandishing a CEW and not a firearm. Being able to quickly recognize that only a CEW is deployed, by it being brightly colored, alerts a responding officer that the officer is not actively in a deadly force encounter allowing him/her to respond appropriately.
- Less-Lethal Shotguns
 - Having Less-Lethal shotguns definitively marked where they can be immediately identified as a less-lethal shotgun will have the same effect as mentioned above with brightly colored CEWs. With the shotgun it can also ensure that an officer does not inadvertently deploy a lethal shotgun when he/she thought it was a less-lethal shotgun.
- Update Website Access to Compliment Form
- Remove Warning on Making False Complaints
 - Ascertain the need for a false reporting warning to those filing complaints against officers.
 - This warning could discourage complainants from filing false complaints. PERF feels this could scare some from filing valid complaints.
- Website is Consistent and Accurate
- Policy & Procedure Access to Public on Website
- Release Use of Force Data Annually
- Squad Assignment Bidding Process
 - It was recommended Patrol Lieutenants and Sergeants be required to bid different squad every two years to decrease complacency and improve productivity.

Mark Electronic Control Weapon

MPD should consider adopting brightly colored CEWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the CEW for a firearm.

Final Guidance

ECWs should be clearly marked (brightly colored) and easily identifiable as a less-lethal option. It is recognized, however, that specialized units such as SWAT may prefer dark-colored CEWs for tactical concealment purposes. A cost-effective option for the department is to purchase new CEWs in yellow as older devices are replaced.

Current Policy

DPM 2.1.35- Section 7 (Carrying & Security):

The ECD shall be carried in:

- In a secured manner on the support side of the body.
- An ECD holster or a secured pouch on the vest.

No policy on color of the ECD. (Taser)



Recommend that MPD wait until the current contract expires with AXON/Taser. Acquire Yellow Tasers as new policy directive at that time.

Less-Lethal Shotguns

Change Mesa Police Department Policy to require less-lethal shotguns be definitively marked to indicate they are less-lethal weapons.

Final Guidance

MPD should ensure that less-lethal shotguns are clearly marked to avoid confusion with lethal shotguns.

It should be noted that all MPD shotguns are deployed as less-lethal devices; the department has not deployed shotguns equipped with lethal munitions for years. While MPD does not deploy shotguns to be used as lethal force, these weapons are not marked to indicate that they are less-lethal devices (such as being equipped with an orange stock and handguard). This causes the potential for confusion in instances where MPD responds jointly with officers from neighboring jurisdictions who might believe MPD officers to be armed with lethal shotguns.

Current Policy

DPM 2.1.40 Authorized Equipment:

- Department authorized 12-gauge Remington 870 Shotgun.
- Use only department issued; factory-loaded bean bag projectiles.
- Less lethal shotguns and bean bag projectiles are issued to department members by the Range Sergeant or designee.

DEFINITIONS:

TASER Conducted Energy Weapon (CEW) - An electro-muscular disruption device that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject. Synonymous with TASER, Electronic Control Device (ECD) and Electronic Control Weapon (ECW).

Less Lethal Weapon - Devices used by members to stop, control, and restrain individuals while causing less harm than deadly force.

Less-Lethal Shotgun - 12 Gauge Flexible Baton (also known as "Bean Bag Projectile"): The authorized less lethal round being used in the 12-gauge shotgun is manufactured by Def-Tec. The Def-Tec round is a 2-3/4-inch standard plastic 12-gauge round with a 40-gram (approximate) lead shot payload formed into a sock type fabric bag. The shot filled bag is designed to be non-penetrating and collapse when contacting the target. The shot then acts as a fluid medium, distributing the energy over a wider area than a solid projectile.

History

- Drag Stabilized 12-Gauge Round is a translucent 12-Gauge shell loaded with a 40-Gram tear shaped bag made from a cotton and ballistic material blend and filled with #9 shot. (Impact Weapon)
- Less-lethal shotgun program started in 1998.
- Lethal shotguns replaced by AR-15 Rifle overtime.
- Currently the Mesa Police Department has no lethal shotguns.



PERF's recommendation to revise MPD policy and change all less-lethal shotguns to have orange colored stock and fore-end is fulfilled.

Update Website Access to Compliment Form

MPD should modify its website to place information on how to file a compliment or complaint to the homepage, so it can be made more visible to the public.

Final Guidance

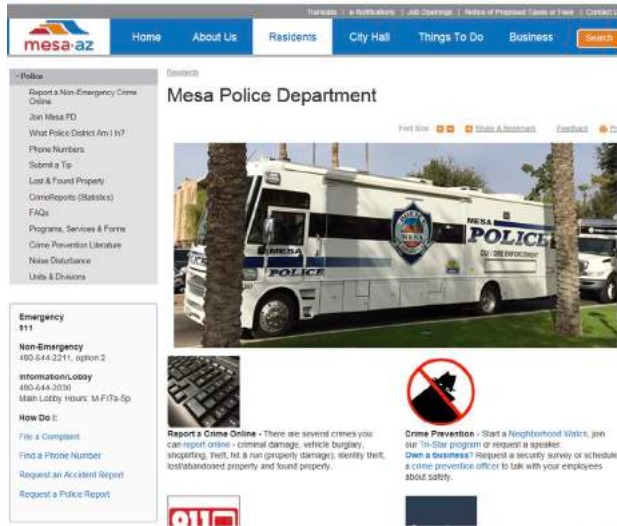
Citizens can report complaints in a number of ways, including in-person and through on-line methods. To make a complaint, an individual can:

- Directly contact an officer's supervisor in person or over the telephone to verbally make a complaint;
- Complete a complaint form through the department's website, or mail/fax the form to the Professional Standards Division (PSD); or
- Call the PSD directly and make a complaint via telephone.

MPD's methods by which citizens can file a complaint are in line with national best practices. Accessing the online form, however, may be difficult for community members who are not familiar with the structure of MPD, because the form is currently located on the PSD subpage. PERF recommends that MPD move information on how to make a complaint to its homepage.

Current Practice

- A hyperlink on the main webpage to file department complaint only



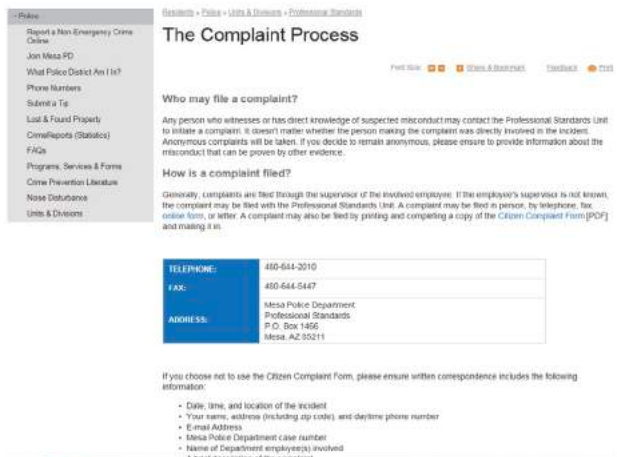
DEFINITIONS:

Compliment -
When any person receives or witnesses outstanding service from a police department member worthy of positive recognition.

Complaint -
When any person witnesses or has direct knowledge of suspected misconduct by any member of the police department.

Current Practice

- The Departments methods by which a citizen can file a complaint are in line with national best practices.



Current Practice

- Name
- Contact Information
- Gender
- Date, Time and Location of Incident
- Names and ID Numbers of Officers Involved
- Witness Information
- Open Text Field for Incident Details

Current Practice

- Hyperlink to commend an employee is not easily accessible to the public



Regional Trends	
Agency	Commend and Complaint Link on Department Webpage
Phoenix PD	X
Tucson PD	X
Tempe PD	X
Scottsdale PD	X
Chandler PD	X
Gilbert PD	X

PERF’s recommendation to include information on how to file a complaint on the Department’s website is fulfilled. Adopt PERF’s recommendation to include information on how to commend an employee on the Department’s website homepage, so it can be made more visible to the public.

Remove Warning on Making False Complaints

MPD should remove the warning about making a false complaint from its complaint materials and website.

Additionally, this warning should not be given to individuals making complaints in person or over the phone.

Final Guidance

MPD does a good job of making the complaint process accessible to the public. However, PERF identified some areas for improvement in the complaint form.

MPD’s current complaint form includes the statement, “Be aware that per Arizona State Law, A.R.S. 13-2907.01, it is a misdemeanor to knowingly make a false statement to a law enforcement agency. By submitting this form, you attest to the truthfulness of the statements made below.”

On-line on the MPD’s website explains the warning in further detail included in this statement, “Can a person get in trouble for filing a complaint? Not if you are truthful. The Mesa Police Department will not take action against a person who has acted in good faith. However, be aware that per Arizona State Law, A.R.S.13-2907.01, it is a misdemeanor to knowingly make a false, fraudulent or unfounded report or statement to a law enforcement agency of either this state or a political subdivision of this state, or to knowingly misrepresent a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a peace officer.”

According to PERF, warnings that making a false complaint is a criminal violation can be perceived as an impediment to the complaint process. Some feel such warnings may discourage individuals who are hesitant about making a complaint. Some potential complainants may interpret the warning as a veiled hint that complaints are not welcome.

It is important to remove barriers that may discourage individuals from making a complaint. Therefore, unless it is required by law, complaint forms should not include advisements of potential prosecution for filing a false complaint. PERF recommends removing this language from MPD’s complaint form, if permissible by state law.

Current Practice

In-person and Telephone

Verbal warning is not provided

Website

Can a person get in trouble for filing a complaint?

Not if you are truthful. The Mesa Police Department will not take action against a person who has acted in good faith. However, be aware that per Arizona State Law, A.R.S.13-2907.01, it is a misdemeanor to knowingly make a false statement to a law enforcement agency.

Mail in Form

Be aware that per Arizona State Law, A.R.S.13-2907.01, it is a misdemeanor to knowingly make a false statement to a law enforcement agency. By submitting this form you attest to the truthfulness of the statements made below.

Online Complaint Form

Be aware that per Arizona State Law, A.R.S.13-2907.01, it is a misdemeanor to knowingly make a false statement to a law enforcement agency. By submitting this form you attest to the truthfulness of the statements made below.

I understand that it is unlawful for a person to knowingly make a false, fraudulent or unfounded report or statement to a law enforcement agency of this state or a political subdivision of this state, or to knowingly misrepresent a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a peace officer. I certify that all information provided herein is true and correct to the best of my knowledge.

Regional Trends

Agency

Advisement Against Making False Report

Phoenix PD

X

Tucson PD

Tempe PD

X

Scottsdale PD

Chandler PD

X

Gilbert PD

X

No Legal requirement for warning

Community Oriented Policing Services (COPS)

Unless required by law, a complaint need not be under oath or penalty of perjury. Unless required by law, no threats or warnings of prosecution or potential prosecution for filing a false complaint should be made orally or in writing to a complainant or potential complainant.

DEFINITIONS:

False Complaint -

When any person knowingly files a false complaint of misconduct against a police officer. The Mesa Police Department will not take action against a person who acted in good faith. However, per Arizona State law, A.R.S. 13-2907.01, it is a misdemeanor to knowingly make a false, fraudulent or unfounded report or statement to a law enforcement agency either this state or a political subdivision of this state, or to knowingly misrepresent a fact for the purpose of interfering with the orderly operation of a law enforcement agency or misleading a police officer.

MPD decided to retain the warning. The verbiage was updated to be consistent on the website, mail-in form, and online submission form.

Website is Consistent and Accurate

MPD should ensure that all materials related to the complaint process are consistent and accurate. Specifically, MPD should reconcile the website's instructions for making a complaint via phone.

MPD should also ensure all of the links on the complaint form are active.

Final Guidance

MPD should ensure that all materials related to the complaint process are consistent and accurate. Specifically, MPD should reconcile the website's instructions for making a complaint via phone. Currently, the phone number on MPD's webpage differs from the phone number on the separate complaint form. MPD should also ensure all of the links on the complaint form are active and replace any broken links.

It is important that terminology and information be consistent in the materials that involve the complaint process. MPD's main webpage states that complaints should be made to the Professional Standards Unit at the phone number as 480-644-2010. On the Citizen Complaint Form, however, individuals are instructed to contact the Internal Affairs Unit at 480-644-5214. Additionally, the link provided on the form that directs individuals on how to submit a complaint electronically defaults to an error page

Regional Trends - Information Available Online				
Agency	On-Line Complaint Form	Telephone Number	Mail-In Form	Email
Phoenix PD	X	X		
Tempe PD	X	X		X
Scottsdale PD	X			
Chandler PD	X			

Recommendations have been corrected.

- MPD's website includes the telephone and fax number for Professional Standards
- Hyperlink on the Citizen Complaint Form has been repaired
- Mail-In Form can be printed and sent to Professional Standards



Policy & Procedure Access to Public on Website

- Give the public easier access to all police department policies and procedures and the annual release of use of force data.
 - This will aid in the improvement of transparency to the community.

Final Guidance

MPD should create a link to its policies and procedures on its homepage to make them more accessible to the public.

MPD follows promising practices by making its policies available online through its website, an important step in promoting external transparency. PERF recommends that policies be made more accessible, because they currently can be found only by navigating through several pages.

DEFINITIONS:

Consistent and Accurate - *The Mesa Police Department offers several options to the public to explain and file a complaint. Any person can file a complaint in person, over the telephone, in writing, or electronically via the department's website. Instructions and hyperlinks need to be reviewed regularly to ensure consistency and accuracy, as well as, functionality.*

Access to MPD Public Website - *Granting public access to Department written policies and procedures through direct hyperlinks to MPD policy and procedure on the MPD Department website.*

Current Navigation to the Department Policies

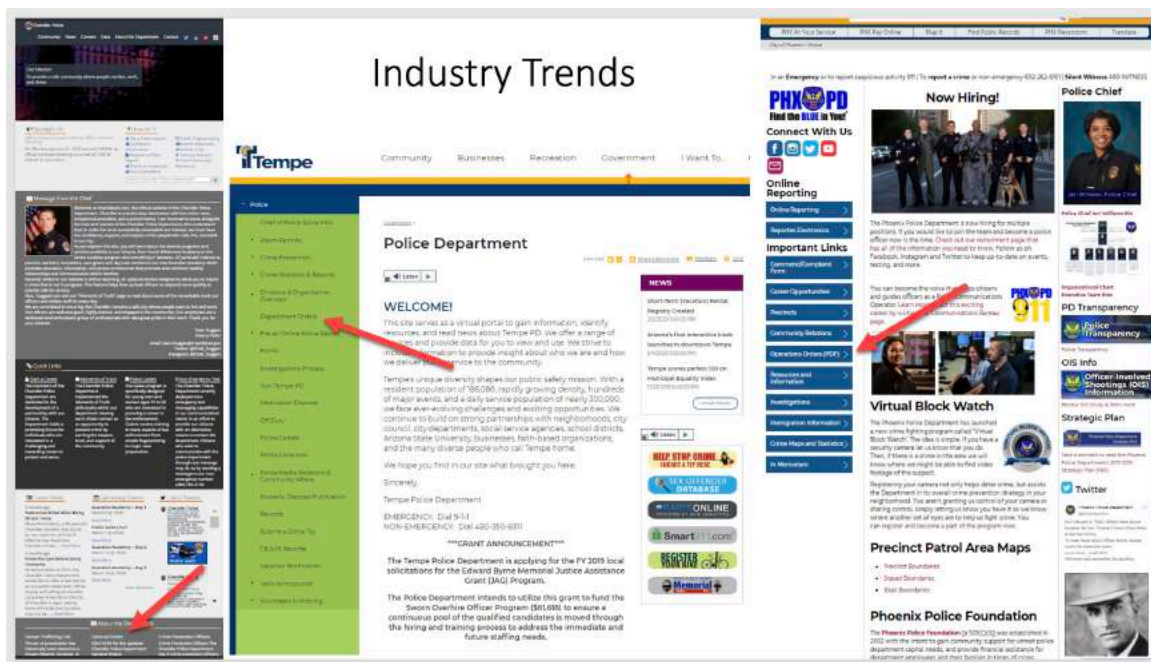
Mesa Police Department Website

Second option for public;

Google

Google search for "Mesa PD Policy" takes viewer immediately to policy.

- Realistically, this is probably how they're going to search for it.



Adopt PERF's recommendation for the department policies to be more accessible on MPD's webpage.

Release Use of Force Data Annually

The recommendation is to release data on the department’s Use of Force on an annual basis. This report should present the public with detailed information on the trends identified in Use of Force for that year. PERF has made the recommendation to improve transparency and accountability within the department.

Final Guidance

MPD currently releases an annual report which provides information about the department to the public. However, this report does not include information on the department’s use-of-force statistics.

PERF recommends that MPD prepare and release an annual report of the department’s use of force, in addition to the department’s official annual report. This report should be comprehensive and should detail trends in that year’s use-of-force statistics as well as information on complaint dispositions

Current Policy

Currently, the use of force statistics are only provided upon public request.

The Proficiency Skills Unit does tally use of force statistics;

- for internal use
- to voluntarily submit to the FBI - National Use-Of-Force Data Collection initiative.

Reference - PERF Guiding Principles on Use of Force (2016)

To build understanding and trust, agencies should issue regular reports to the public on use of force.

- Agencies should publish regular reports on officers’ use of force, including:
 - Officer involved shootings
 - Deployment of less lethal options
 - Use of canines
- Reports should include demographics information about the officer and subjects involved in use of force incidents and circumstances under which they occurred.
- These reports should be published annually at a minimum and be widely available on agency’s website and hard copy.

References

Not all departments release use of force data, but the many that do are releasing the use of force data publicly via a variety of methods. Here are some examples:

ANNUAL USE OF FORCE REPORT <ul style="list-style-type: none"> • NYPD • Seattle PD • LAPD 	QUARTERLY RELEASE OF USE OF FORCE DATA <ul style="list-style-type: none"> • Portland PD • NYPD 	ANNUAL REPORT INCLUDING USE OF FORCE DATA <ul style="list-style-type: none"> • Gilbert PD • Maricopa PD 	OCCASIONAL RELEASE OF USE OF FORCE DATA <ul style="list-style-type: none"> • Albuquerque PD
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Adopt PERF's recommendation for Mesa PD to release the department's use of force data.

Further guidance needed;

1. Where to display data (Annual Report, MPD Homepage, Open Data Portal, Other)
2. What unit is responsible
3. What frequency should the data be released

Squad Assignment Bidding Process

- Require Patrol Sergeants and Lieutenants to rotate assignments every 2 years
- Stagger Patrol Sergeant and Lieutenant movements
- First year Sergeants move
- Second year Lieutenants move

MPD should, to increase accountability, revisit its current bidding process for squad assignments to ensure that supervisors do not remain in a particular squad for an extended period of time. Doing so will expose officers to different supervisory styles among the sergeants and lieutenants.

First-line supervisors are a critical component in the operation of a police department. They are tasked with ensuring that officers' behaviors in the field are in line with the department's mission, values, and policy. As a result, supervisors have a great deal of influence over an agency's culture.

It came to PERF's attention that MPD's current bidding process for squad assignments allows patrol officers to follow an individual sergeant. While this is not necessarily a bad practice, it could contribute to negative behaviors ingrained within squads. PERF recommends that MPD revisit its bidding process to encourage the rotation of supervisors,

DEFINITIONS:

Use Of Force Data -
Data collected reference each use of force application deployed by department members while performing official law enforcement duties.

Shift Bid - *When sworn officers select Patrol District and Patrol Squad shift assignments to include shift time and scheduled regular days off. The bidding order for each officer is based on their rank seniority within the MPD.*



so that officers can benefit from learning from different sergeants and enhance their own career development. This will also help to maintain a higher standard of accountability within the department.

PERF recommends a bidding process that requires supervisors, both sergeants and lieutenants, to rotate assignments every two years. For example, in year one of the new process, sergeants would move to a new squad for a 2-year period. The following year, lieutenants would rotate to a new assignment for a 2-year period, which staggers the movement of supervisors. Under this system, patrol officers would be allowed to stay in the same squad if desired.

Current Policy - Patrol Bid Process and Sworn Seniority, DPM 2.8.5

All members of the Patrol Division bid annually for shifts

- Order of Bid
 - Lieutenants, Sergeants and then Officers

Bid order is based on seniority in current rank

- There are special rules for employees promoted or hired on the same date

Reassignments may occur after the bid process at the discretion of Patrol Division Commanders

Chief of Police or designee reserves the right to deny or modify a member's ability to bid in the best interest of the department and/or member

Industry Trends

Scottsdale PD

- Patrol bids every 2 years for July deployment (Lieutenants, Sergeants, Officers, and then Police Aides)
- Bid order is based on seniority
 - No restriction on how many times someone bids for the same squad
- Assistant Chiefs have authority to adjust schedules as needed

Gilbert PD

- Patrol bids annually in August
- Bid order is based on seniority
 - No restriction on how many times someone bids for the same squad
- The Police Chief reserves the right to change any employee schedule for the betterment of the Department

Chandler PD

- Patrol bids annually in October
- Bid order is based on seniority
 - No restriction on how many times someone bids for the same squad
- The Police Chief reserves the right to dismantle a squad or change supervision for the betterment of the agency

Mesa PD Checks and Balances

COMPSTAT

- Productivity is tracked and examined regularly
- Through statistical information it is relatively simple to identify low producing patrol squads and/or officers

IAPro/BlueTeam Reporting

- Use of force cases involving officers are tracked
- Trends or spikes in use of force cases are identified and can be addressed quickly

- Keep current annual Patrol shift bid process intact
- Chief of Police or designee has authority to assign officers, sergeants or lieutenants to other squads if concerning issues arise for the good of the department

Summary

All of the recommendations in the Administrative Pillar have been implemented by the MPD, with the exception of the release of use of force data on an annual basis, as of this writing. The MPD Policy Unit is working diligently in updating this process. The two options currently being looked at are to include the use of force statistical information in the MPD Annual Report or to create a real time web link of use of force applications when reported that is available to the public on the MPD website. With this recommendation close to implementation and the other recommendations within the Administrative Pillar being implemented, it is an honorable and impressive achievement for the entire MPD. The implementation of these recommendations, whether fully implemented or adjusted in a way that best fit the needs of the MPD and its community, will create a safer environment for both the community and its police officers. Not only will the implementation of these recommendations foster safety, but it will positively improve the relationship and bond between the MPD and its community through the MPD's tireless efforts to continually improve its transparency. These recommendations allow the MPD to be more open with their policies and statistical use of force reporting that in recent times communities across the country have been very interested in. These changes reduce the bureaucracy of old and allows the public to view MPD policies and statistical information for themselves without the requirement of a public information request. The complaint/compliment process was streamlined making it more accessible to the public to file a complaint/compliment to ensure all allegations of misconduct are reported and investigated. As mentioned in this Pillar's opening comments, some of these recommended changes were simple in nature, by updating a website or hyperlink, where others required concentrated research and planning. At the end of the day though, the MPD responded to the call of change and made the necessary changes that benefited their department and community making them the "Leaders in Public Safety" - the meaningful words proudly displayed on all of their department's patrol vehicles.





ADDITIONAL FORUMS

ADDITIONAL FORUMS

The Mesa Police Department deeply values our relationship with the community and our continued partnerships to strengthen public safety. We work together with community leaders on a shared goal to improve our service delivery. Therefore, a goal of the Use of Force Review and Implementation project was to extend community involvement beyond the community members participating on the Use of Force Review and Implementation Committee. Two additional forums from which other community members could contribute to the project were established, the Community Review Sessions and the Use of Force Best Practices Review website.

Community Review Sessions

Two *community review sessions* were hosted by the project to provide members of the community the opportunity to participate in the evaluation of these best practice recommendations. Invitations were sent to a known list of community activists and advocates encouraging attendance by them or other affiliated community members.

The format for these sessions was an open forum whereby each of the recommendations, their corresponding policy and final guidance, were displayed on poster boards around a large meeting room. The community members were invited to view the recommendations, educate themselves about use of force best practices, and share their feedback with the project via an anonymous form or in person with the SMEs. The SMEs were on hand to support these sessions, answer questions and receive feedback. The additional information by the SMEs from these community interactions was beneficial and considered in their final guidance presentations to the Chief and executive staff.

Each of the sessions was well attended. Community members responded positively to the opportunity to learn and share their thoughts and the Mesa Police Department truly appreciated the participation and feedback provided.

Website

A website was created for the purpose of sharing the work products from the Use of Force Review and Implementation Committee. The webpage can be found here: <http://www.mesaaz.gov/residents/police/useforceproject>. The website hosts the actual presentations created by the SMEs, the initial presentation to the committee and the subsequent guidance presentation to the Chief and executive staff. Members of the community are able to view both presentations and provide feedback to the executive sponsor through an email address welcoming community feedback.

Community Feedback Welcome!

Send your feedback to PDUFProjectFeedback@mesaaz.gov. Include the title of the Recommendation or Guidance presentation(s), along with your thoughts. Your feedback will be shared with the SMES.

The website is part of the broader “Transparency in Policing” initiative at the MPD.



WORKFLOW

WORKFLOW

Introduction

All projects begin with a well-defined understanding of the desired outcome, a suggested period in which to manage the project and a commitment of resources to deliver the result. Upon completion of a project, the desired outcome must be verified objectively with a measure of achievements delivered by the project.

The following section steps through the deliberations of these three project pillars by the executive sponsor, project manager and key project resources (SMEs). This initial phase of the project is the Evaluation Phase. The primary deliverable of this Phase is guidance to Department leadership (Chief of Police and executive staff) on whether a recommendation should be adopted as presented, rejected, or modified by the Department. Considerations for guidance include current policy, industry trends, feedback from the Use of Force Review and Implementation Committee and the advantages or disadvantages to the Department if the guidance was accepted into practice as presented.

The final phase of the project is the Implementation Phase. Given a final decision by the executive staff based on their consensus on the guidance, the goal of the project shifted to implementing these recommendations into operational practice at the Department. During this Phase many of the SMEs continued with the project, though additional resources were added as needed. Implementation of these recommendations required new policy development, updates to existing policies, training lesson plan realignment with policy changes, equipment enhancements, computer system modifications, and staff augmentation. Recommendations to be implemented that required extended planning considerations were moved to the Department's Strategic Plan for assignment, budget approvals, timeline development, and status tracking.

Evaluation Phase

The Evaluation Phase conducted a fact-based, systematic evaluation on each of the sixty-six recommendations from the original list of best practice, use of force recommendations. The following sections outline the overall approach, the specific methodology employed, the project deliverables, tracking mechanisms, resources for project collateral and the final decision result achieved in this phase.

Approach

The following diagram delineates the key objectives of the overall approach for the Evaluation Phase:

1. Evaluate each recommendation on the **Recommendation List**
2. Incorporate into *Guidance* feedback following the **Committee Review**
3. Reach a *Decision* by the executive team based on their **Final Decision** discussion
4. Stage recommendations in the **Implementation Queue**, *Repeat the approach*

Our Approach



The principle emphasis of **Evaluation** was to research a recommendation considering a set of facts to eventually direct the executive staff to adopt or reject the recommendation. The research of each recommendation considered current policy, training, and the advantages and disadvantages to the Department if the recommendation were to be adopted. This research also explored whether other peer agencies supported the recommendation in their policy. For those agencies that did, their policy directives were included in the set of facts. Industry examples, such as model policy and relevant Department and industry data also helped eventually guide the guidance proposal. Lastly, a high-level implementation checklist was created to capture the steps to operationalize the recommendation.

The objective of **Guidance** was to develop a proposal to the executive staff from which a final decision could be reached on whether to accept or reject the recommendation or modify it to better fit the Department's culture and goals. A major contributor to Guidance was the initial presentation to the Committee and the subsequent discussion and feedback. Committee feedback, in several instances directed additional research and was always shared with the executive staff for consideration in their rendering a final decision.

The final decision is ratified during the guidance presentation to the executive staff by the original evaluator (SME). The **Decision** is the approval or rejection directive by the executive staff. An approval may also include additional edicts to be satisfied during the implementation phase.

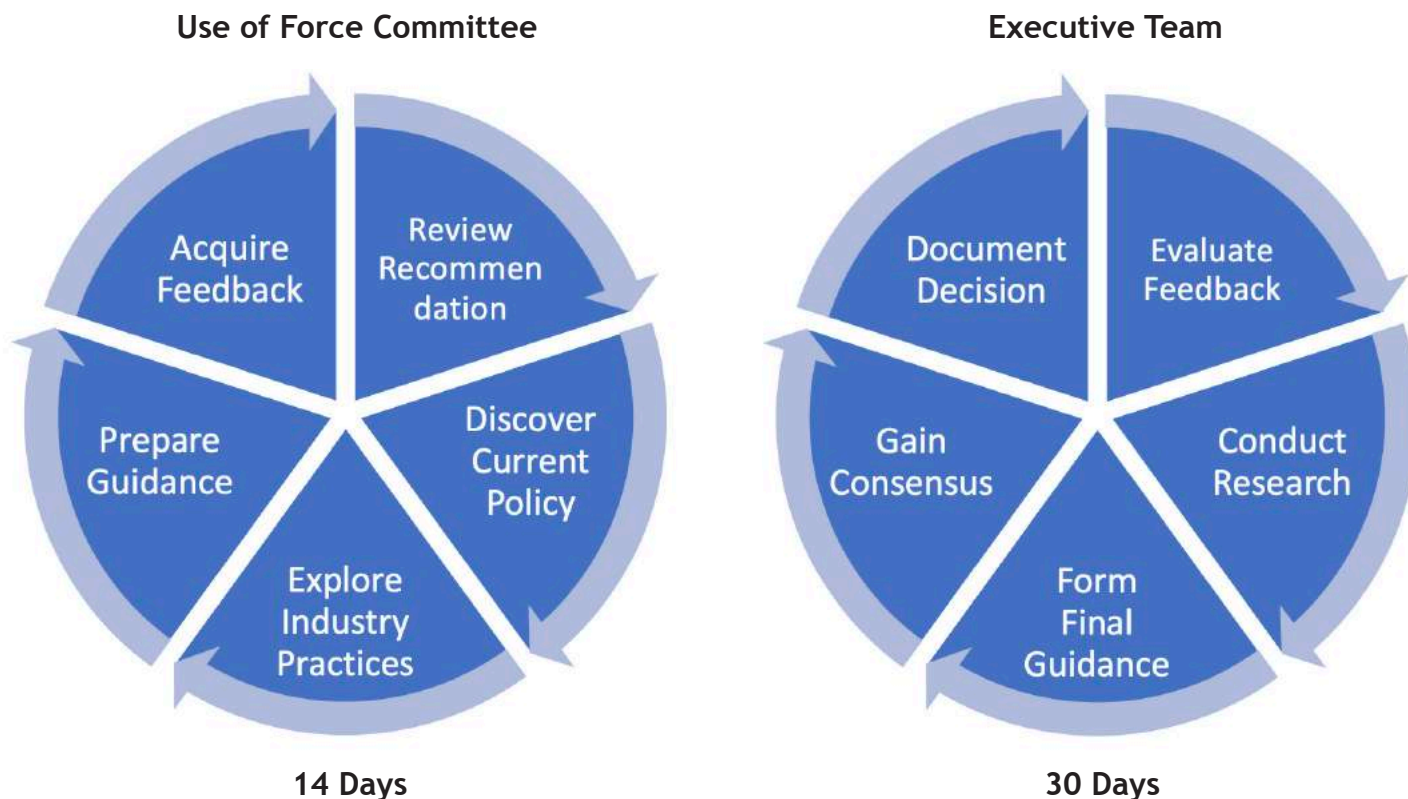
Methodology

To fulfill this approach two parallel paths were followed for project expediency; one path engaged the Committee in discussion and review of the recommendation, the other path obtained the decision from the executive team. There were (66) recommendations to process through each of these paths and these recommendations were to improve use of force protocols within the Department. Best practice use of force protocols that benefit both the Department and community and the timely completion of this effort, without comprising the integrity of the approach, was warranted.

Almost all the recommendations impacted the Policy, Training and the Professional Standards Units. Committing to an aggressive schedule required the engagement of a sizable team of subject matter experts (SMEs) in each of these areas to process each recommendation through the guidance proposal. Additionally, since the evaluation of each recommendation needed a reasonable amount of time and presenting several guidance proposals to executive staff could occur in a single session, a phased timetable was designed as the optimal schedule for the project. Each recommendation is provided two weeks to be evaluated and every month six guidance proposals are presented to the executive staff.



The following diagram depicts these two paths and the timetable for each. The Committee was presented with four recommendations every two weeks. The executive team contemplated the guidance proposals on six recommendations every month. (The activities each of these paths executed start at the top point of the diagram.)



The Sprint

Thirty-three weeks were required to evaluate all (66) recommendations at a pace of four recommendations every two weeks. Eleven months were required to complete the review of (66) guidance proposals at a pace of six proposals per month. The evaluators and the leadership team had a Department to run. To complete this project within a reasonable timeframe required commitment to a consistent process. A “Sprint” was selected as a repeatable, iterative process to prosecute the required number of recommendations over this preferred period.

The following Sprint Activities chart identifies the activities performed during each day of a Sprint. The chart illustrates two Sprints given the *Chief’s Review* of guidance proposals occurred every 4 weeks.

A new Sprint started every other Monday. Four recommendations were assigned to the evaluators and the recommendation and background data was emailed to the civilian Committee members. Research activity (*Support Tasks and Implementation List*) commenced and continued through the second Monday of the Sprint. The Committee presentation was prepared, and the repository updated during this time. A formal review of the Committee presentations was conducted by the executive sponsor on this second Monday day as well.

The recommendations and research were presented to the Committee, *Committee Review*, every other Wednesday, one session per Sprint. Following the Committee presentation, the evaluators began preparing their presentations to the Chief, crafting their guidance proposal as they began the *Guidance* activity. At the end of every Sprint, four final decision proposals were backlogged awaiting review by the executive staff.

Sprint Activities

1	1 - Mon Start of Sprint: Assigned (4) Backlog (4) Planning Meeting	2 - Tue Support Tasks Implementation List Planning Meeting	3 - Wed Support Tasks Implementation List	4 - Thu Support Tasks Implementation List Status Meeting	5 - Fri Support Tasks Implementation List	6 - Sat Support Tasks Implementation List	7 - Sun Support Tasks Implementation List
	8 - Mon Support Tasks Implementation List	9 - Tue Prepare for Committee Review Support Tasks Implementation List	10 - Wed Committee Review (4) Prepare Guidance	11 - Thu Prepare Guidance Status Meeting	12 - Fri Prepare Guidance	13 - Sat Prepare Guidance	14 - Sun Prepare Guidance End of Sprint: (4) Ready for Chief Review
2	1 - Mon Start of Sprint: Assigned (4) Backlog (4) Planning Meeting	2 - Tue Support Tasks Implementation List Planning Meeting	3 - Wed Support Tasks Implementation List	4 - Thu Support Tasks Implementation List Status Meeting	5 - Fri Support Tasks Implementation List	6 - Sat Support Tasks Implementation List	7 - Sun Support Tasks Implementation List
	8 - Mon Support Tasks Implementation List	9 - Tue Prepare for Committee Review Prepare for Chief's Review	10 - Wed Committee Review (4) Chief's Review (6)	11 - Thu Prepare Guidance Status Meeting	12 - Fri Prepare Guidance	13 - Sat Prepare Guidance	14 - Sun Prepare Guidance End of Sprint: (4) Ready for Chief Review

An example of the Sprint checklist is available in the Appendix H. The checklist was an invaluable tool to keep a Sprint on track and ensure all Sprint tasks were completed on time.

Deliverables

At the start of every Sprint, several templates were available to the evaluators to assist with their research activities. The Process Checklist, shown in the Appendix I, outlined in detail all activities to be performed with their evaluation of a recommendation. The Discovery Worksheet, referenced by the Process Checklist and included in the Appendix J, was an aid to the evaluator at the start of their Sprint responsibilities. These templates, although optional, provided a consistent, systematic approach for conducting the evaluation of a use of force, best practice recommendation.

Two other templates, the Recommendation Presentation and Guidance Presentation templates, described in the following sections, were mandatory for each recommendation.

Recommendation Presentation

The recommendation presentation was a major deliverable of the project. Each recommendation was thoroughly vetted by a subject matter expert (SME) with authority experience within the recommendation topic. The SME presented the evaluation findings to the Committee. Following the presentation, the SME led a discussion with the Committee, providing an opportunity for further clarification if needed, the introduction of additional evidence to support or not support the proposed action and to solicit the sentiment of the community. The discussion points introduced during the Committee discussion were captured in meeting minutes for later reference (See Guidance Presentation).

Latitude was extended to the SMEs on the presentation template format shown in the following table. Industry trends were often accompanied in the presentation with internal data from the Department. This action in the evaluation of a recommendation was the foundation from which the proposed guidance would be supported or not.

Generally, the proposed guidance for almost all the recommendations was to adopt the suggested best practice recommendation as presented. The recommendation presentation and Committee discussion provided the essential validation necessary to garner support [for the proposed guidance] from all Members within the Department.

Table 1: Template for the Recommendation Presentation to the Committee

Slide	Description
Title	Title for the recommendation including the recommendation reference number.
Agenda	List of topics (slides)
Objective	List the objective the recommendation supports if approved
Recommendation Highlights	List the major points proposed by the recommendation
Current Policy	Summarize the current policy related to the recommendation
Gap Analysis	Identify the differences between the recommendation and the current policy
Industry Trends	List other agencies and/or industry references and respective alignment with the recommendation
Pros and Cons	List the reasons for and against adopting the recommendation
Proposed Action	Summarize the proposed action to be presented to the executive team: adopt as is, partially adopt or reject the recommendation for the Department
Discussion	Signal discussion of the recommendation by the Committee

Appendix K is the actual presentation to the Committee introducing concurrent investigations.

Guidance Presentation

The guidance presentation is a major deliverable from the project and is prepared by the same SME that represented the recommendation to the Committee. The major difference between the recommendation presentation and the guidance presentation is the discoveries obtained from the Committee during the discussion following the recommendation presentation. Major points raised by the Committee and further analysis, if required, were included in the guidance presentation to the executive staff.

The following table outlines the slides included in the guidance presentation to the executive team. The presenter (SME) was able to include additional slides as necessary to support the guidance proposal.



Table 2: Template for the Guidance Presentation to the Executive Team

Slide	Description
Title	Title for the recommendation including the recommendation reference number.
Agenda	List of topics (slides)
Recommendation Highlights	List the major points proposed by the recommendation
Gap Analysis	Identify the differences between the recommendation and the current policy
Industry Trends	List other agencies and/or industry references and respective alignment with the recommendation
Pros and Cons	List the reasons for and against adopting the recommendation
Committee Feedback	
Further Analysis	
Final Guidance	Summarize the proposed action to be presented to the executive team: adopt as is, partially adopt or reject the recommendation for the Department
Discussion	Signal discussion of the recommendation by the Committee

Appendix L is the corresponding guidance proposal/presentation on concurrent investigations. The guidance proposal differed from the original recommendation.

Tracking Progress

Two status reports were used to track progress during the project. The overall project status report used a *burn down/burn up* chart to easily show planned vs actual activity and whether the project was on schedule. The second status report provided detailed status at the Sprint level so each of the SMEs were aware of their tasks and due dates. Both reports are described in greater detail in the following sections.

Overall Project Status Report

The project status report, shown in Figure 1, displayed both a “burn down” and “burn up” line chart to track the overall progress of the project, completing the evaluation of each recommendation and obtaining a final decision from the executive staff.

The orange line represents the “burn down” target of (66) recommendations based on the Sprint methodology employed, completing the scheduled evaluation of (4) recommendations every two weeks. The final milestone date of May 6th was the target completion date to have all evaluations, Committee presentations, completed.

The grey line represents the actual burn down rate, the actual date the evaluation, committee presentation, was completed. The project is on schedule where the grey line overlaps the orange line, ahead of schedule where the grey line is below the orange line and behind schedule should the grey line have tracked above the orange line. As shown on this final chart, the project was never behind schedule.

It was especially important to stay on, or ahead of schedule. The blue line on the chart is the planned “burn up” rate, representing the dates when (6) recommendations were planned to be presented to the executive staff. An initial completion milestone for this activity was July 21st.

The yellow line indicates when a final decision was obtained from the executive staff. Early in the project this activity jumped ahead of schedule as shown by the yellow line above the blue line.



Note: During the execution of many projects, as experience with the data and process is gained, opportunities present to alter resource demand and timeline. An interim, review of the original list of recommendations was conducted at approximately the halfway point in the original plan. The result of the review identified (12) recommendations that were consolidated with a corresponding related recommendation and as such, the evaluation schedule was accelerated in mid-December as shown.

In March, the COVID pandemic paused the project. The Committee and Chiefs review sessions were rescheduled. The project was able to conduct a final Committee session and four consecutive weekly Chiefs review sessions to complete the evaluation phase of the project as shown.

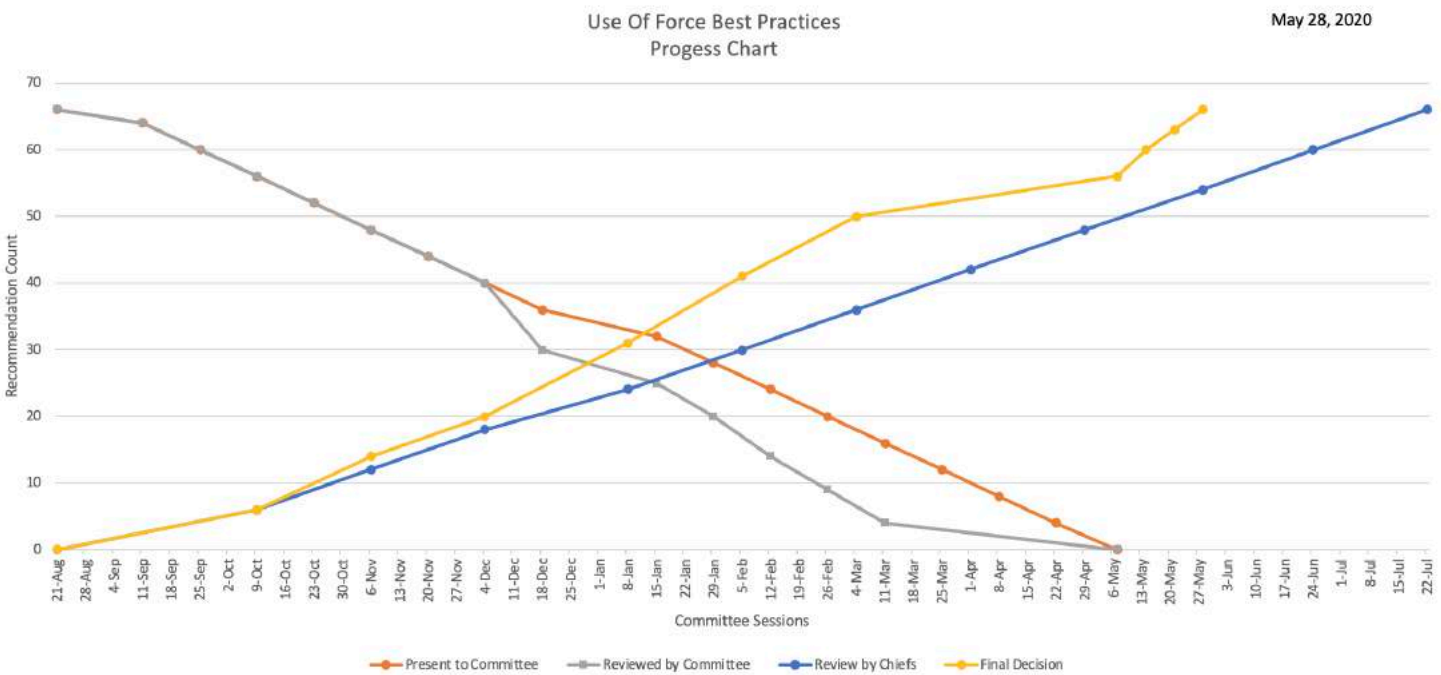


Figure 1: Final Project Status Report

Sprint Status Report

The second status report, Figure 2, lists the recommendations, each aligned within the stages described in the approach. Each stage included the tasks to be completed during the Sprint, along with the resource assignments and due dates. This report was updated weekly during each Sprint and sent to the assigned SMEs and executive sponsor.

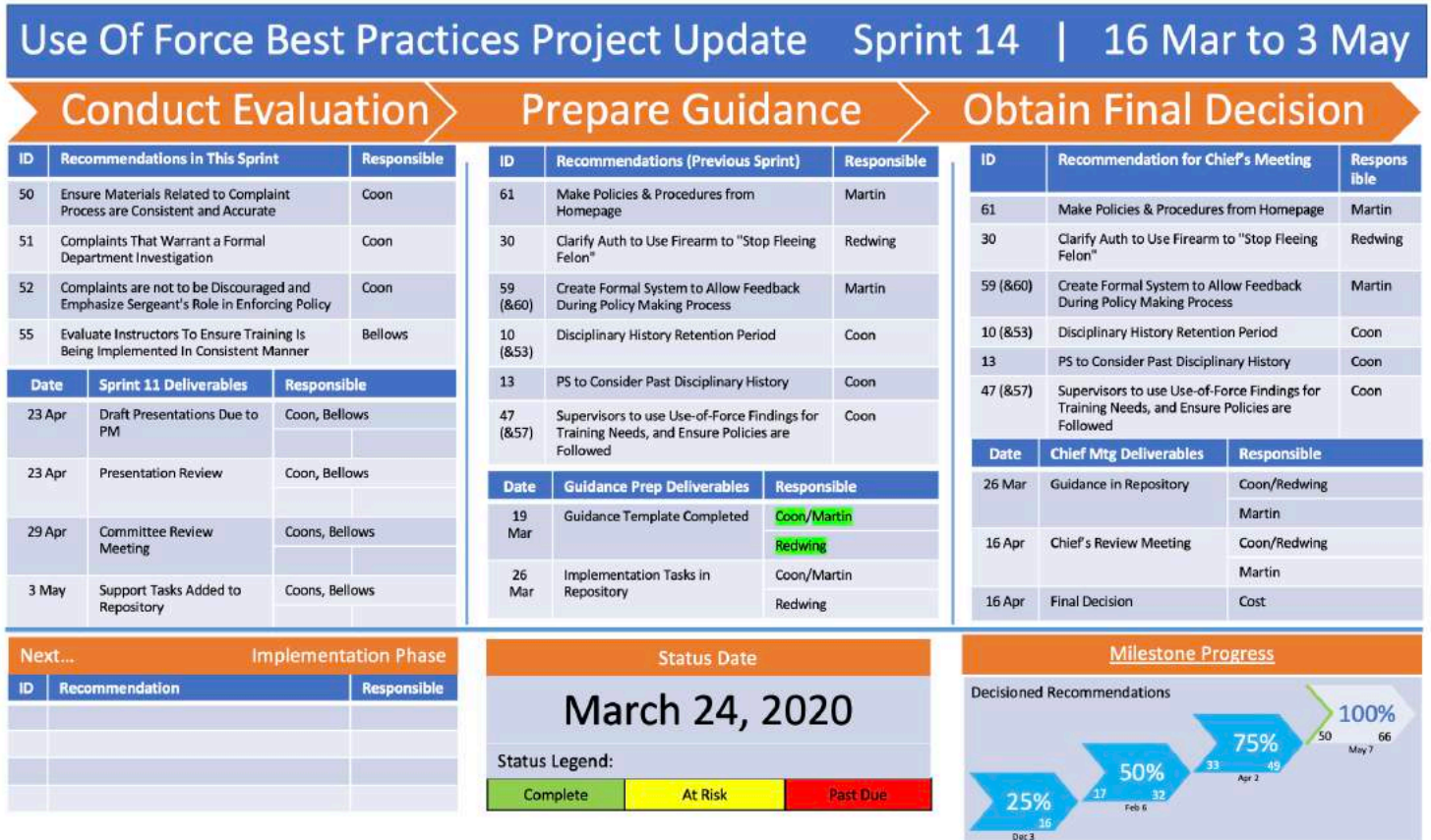


Figure 2 Sprint Status Report

Color coding was used to indicate whether the assignment was on schedule (green), at risk (yellow), or behind (red). This weekly [Sprint] status report kept everyone on schedule as the project team executed the workflow methodology.

Result

The use of force, best practice recommendations were systematically evaluated successfully using the process described in this section. All sixty-six recommendations, whether consolidated with related recommendations or not, were presented before the Committee and leadership team and received equal examination as part of the evaluation phase. Not a single recommendation was “rubber-stamped” for approval or rejected outright prior to hearing a full presentation of facts. The project team was fully dedicated to this process and has been commended by the Chief of Police for their efforts.





IMPLEMENTATION

IMPLEMENTATION

Implementation Phase

The Implementation Phase sought to fulfill the *final decision* into the day-to-day operations at the Department, overseeing the transition from current state operations to operations based on the best practice, industry standard recommendations. Much of the work as expected, involved updates to existing policies. However, several recommendations required new policies to be created. Policy updates often triggered updates to training lesson plans and in some cases system updates. Select implementation efforts were started in parallel with Evaluation Phase.

Approach

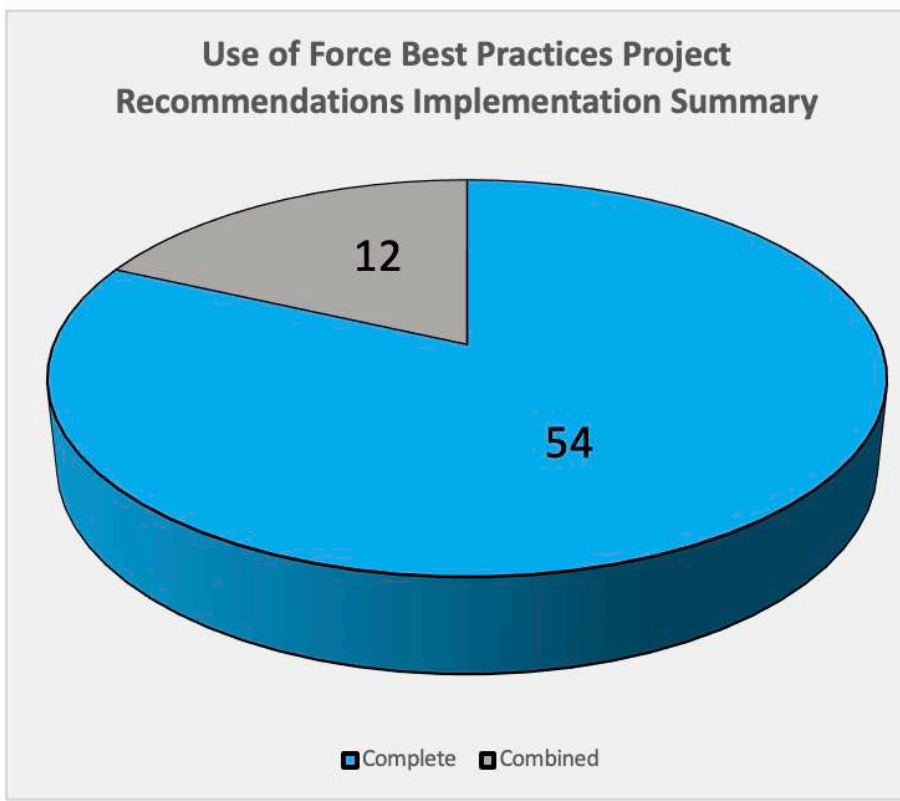
The implementation of each recommendation was recognized as a project. Most of the implementation projects were small in scope and required little oversight. The updates, exact verbiage, to existing policies were taken directly from the final decision. The Policy Unit was well prepared to make these types of updates. The Policy Unit engaged the Training Unit to reconcile policy updates with the respective lesson plan and course materials as needed.

Another group of [implementation] projects required greater organization and oversight. These projects covered the creation of new policies, broader updates to current policies, updates to existing equipment, new equipment purchases, staff augmentation and system enhancements. These projects were often spearheaded by a subject matter expert, a member of the project team and Unit with the greatest influence in operationalizing the recommendation.

NOTIFICATION	SCENE RESPONSE	SCENE RESPONSIBILITIES	INVESTIGATION	CRITICAL INCIDENT REVIEW BOARD
<p>CATEGORY 1</p> <ul style="list-style-type: none"> An incident involving deadly force. Use of force resulting in serious (permanent) physical injury. Use of force incident resulting in death. Intentional head strikes with an impact weapon or device. In-custody death. Driving operations that result in death to driver or other party. An incident involving serious physical injury or death to a department member. 	<p>Immediate on-duty supervisory response and screening at scene.</p>	<p>Screening of scene</p> <p>Immediate notification to: Homicide, Traffic On-Call Members Professional Standards Lieutenant</p> <p>Response to scene for Criminal Investigation by Homicide & Traffic On-Call Members</p> <p>Response to scene for Administrative Investigation by Advanced Training Unit & Professional Standards</p> <p>Administrative Investigation receives briefing on evidence & witnesses and scene walk-through</p>	<p>Use of Force Report completed by Professional Standards</p> <p>Executive Debrief</p> <p>Criminal Investigation & Report</p> <p>Administrative Review</p> <p>Reports created by Advance Training & Professional Standards Units</p>	<p>Mandatory Review of Incident</p>
<p>CATEGORY 2</p> <ul style="list-style-type: none"> Allegation of excessive force. Application of Carotid Control Technique. Unintentional (inadvertent or accidental) head strikes with an impact weapon or device. Department canine deployment resulting in hospitalization. Officer-involved animal shootings. Unintentional firearm discharges. Use of force resulting in temporary physical injury as defined above. 	<p>Immediate on-duty supervisory response and screening at scene.</p>	<p>Screening of scene</p> <p>Immediate notification to Professional Standards Lieutenant</p>	<p>Use of Force Report completed by non-involved supervisor</p> <p>Administrative Review</p> <p>Reports created by Advance Training & Professional Standards Units</p>	<p>Discretionary Review of Incident</p>
<p>CATEGORY 3</p> <ul style="list-style-type: none"> All other reportable instances in which a department member uses force that is not defined as Category 1 or Category 2 Critical Incident. Application of: <ul style="list-style-type: none"> Chemical Agent Control Methods Impact Weapons Less Lethal Weapons Limited Strikes Strikes TASER Conducted Energy Weapon (CEW) 	<p>On-scene response by a non-involved supervisor</p>		<p>Use of Force Report completed by non-involved supervisor</p> <p>Administrative Review & Findings</p>	

For example, in the case of implementing *concurrent investigations* (R1-R8), a subcommittee was formed with representation from all involved Units. The subcommittee was headed by a Lieutenant from the Professional Services Unit. The subcommittee deliberated the *final decisions* for each phase of a concurrent investigation, shown in the following figure, with the goal to create a new policy for the Department (*See Appendix F*). This undertaking required many meetings by the subcommittee to reach consensus on the policy directives and final operational procedures.

Lastly, several recommendations were not able to be implemented readily due to budget considerations, new staffing requisitions and existing contracts. These few recommendations were proposed to be included on the strategic plan for tracking, ensuring all recommendations approved by the Chief are implemented even if completion is months or years away.



Completed
THIS WEEK
CUMMULATIVE
<ul style="list-style-type: none"> COMPLETED: 1-7, 8, 9, 10, 11, 12, 13, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 54, 55, 58, 59, 61, 62, 64, 65, 66 COMBINED: 14, 15, 16, 19, 20, 31, 46, 53, 56, 57, 60, 63
In Progress & Not Started
Next Up

Tracking Progress

At the conclusion of each implementation project, every recommendation received an audit to verify the *final decision* was implemented completely and the recommended change in the Department was fully operational or assigned to the strategic plan. The following chart was published weekly to communicate the implementation status of the recommendations with the Executive sponsor. The final chart is shown here.

Result

As of the writing of this book, almost all of the recommendations have been implemented within the Department. The following is a short list of some of the high-profile recommendations implemented by the Department because of this project:

- Re-emphasize in policy, the Mesa Police Department is to *value and preserve human life in all situations*.
- Officers have a *duty intervene when they observe objectively unreasonable force*.
- *Prohibit strikes to the face, head, or neck* other than when a suspect engages in active aggression or aggravated active aggression.
- *Prohibit the Carotid Control Technique* except when deadly force is justified.
- *Prohibit shooting at or from a moving vehicle*.
- *Creation of the Critical Incident Review Board (CIRB)* consisting of representation from the Labor Association(s), Advanced Training, a Legal Advisor, and three City of Mesa residents who serve as civilian members.

The Mesa Police Department continually aims to promote trust within the Community. A positive result for the Community and Department, is evidenced by the implementation of these use of force recommendations.





REPOSITORY

REPOSITORY

The recommendations repository (repository) is a Microsoft Access database application created to store all pertinent information related to, and created during, the evaluation phase of this project. The repository is lightweight, providing only the necessary functionality to support a systematic evaluation of each recommendation using a standard user interface design.

The repository is the information storeroom, system of record, for this project providing a complete record of the evaluation activity, including tasks, implementation considerations and final guidance, for each recommendation.

The repository was pre-populated with sixty-six recommendations along with supplemental information from the original evaluation reports [produced by PERF, PARC, John McMahon & Associates and Maricopa Attorney Rick Romley].

Several reports, using standard report features in Microsoft Access, are included with the repository to complement the information available through the user interface.

Since each recommendation is a proposed change to an existing policy, training lesson plan, operational procedure, or system, current policies and lesson plans were referenced in the repository alongside their respective recommendation. Additional, relevant local and national information was linked as well.

The evaluators, subject matter experts within the Department, used the repository to capture their evaluation activities, implementation considerations and guidance proposal as they conducted their evidenced based, standardized review of recommendations.

The repository supported several reports including a recommendations list based on select filter criteria, a recommendations details report to capture the actual recommendation along with details of the evaluation effort, and a task report to identify assigned tasks and their status.

The repository was stored on a protected file share and available to the subject matter experts and the MPD members on the project team.

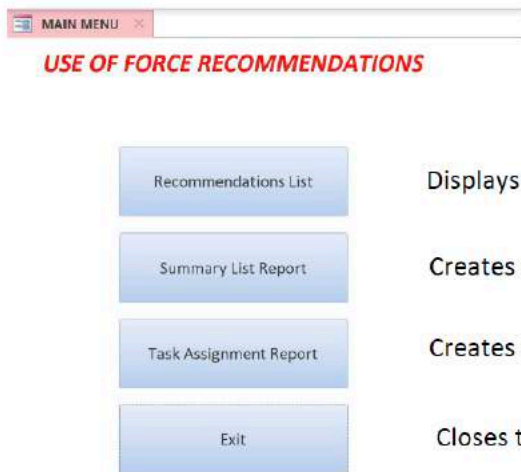
The following pages briefly describe the repository features.



User Interface

The user interface is comprised of screens to support inquiry of the associated information and updates to the recommendation record as the evaluation process is executed. This section describes the fields and functionality for each of these custom screens.

A **Launch Screen** displays when the repository is opened. The purpose of this screen is to provide navigation to the major functional areas within the repository.



Displays a complete list of the recommendations.

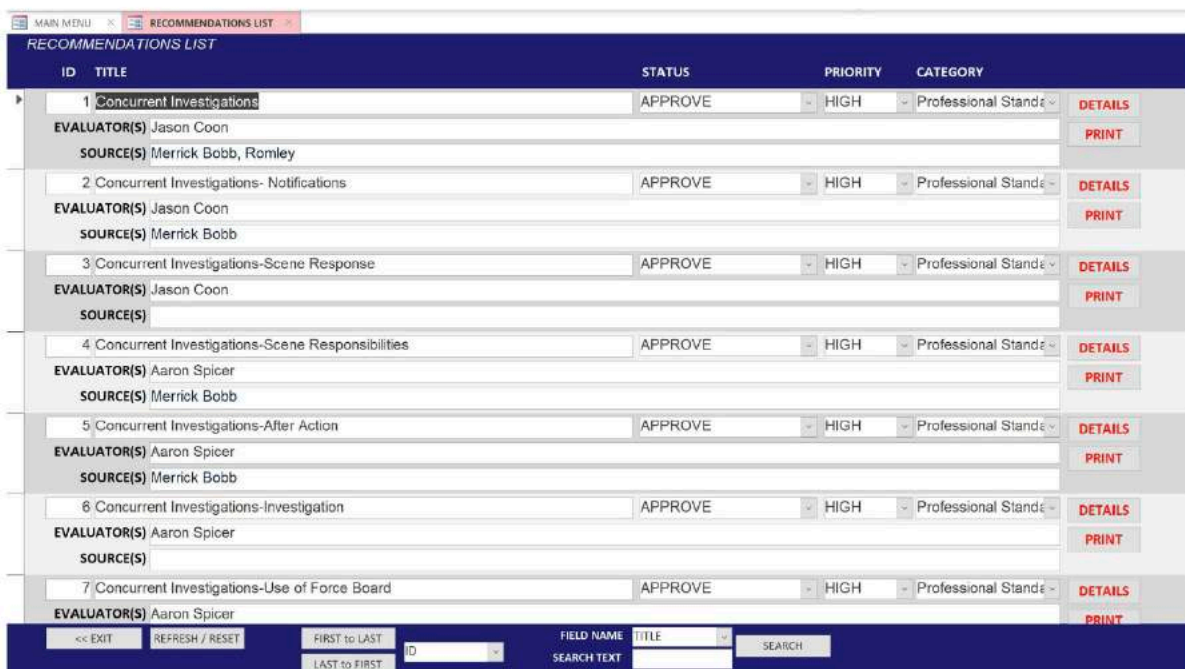
Creates a report with a filtered list of recommendations.

Creates a report listing an evaluator’s assigned tasks.

Closes the repository.

Launch Screen

The **Recommendations List** screen provides a scrollable, summary list of all (66) recommendations. The list of recommendations is initially sorted by ID in ascending order and all fields are read only. Filtering and sorting functionality of the recommendations is configurable using the options in the footer section of the screen. A Details button [for each recommendation] launches the **Recommendation Detail** screen (see next section). The **Print** button constructs the **Recommendation Details Report**. (The layout details of this report are provided in Reports section.)



Recommendations List Screen

The **Recommendation Details** screen is the primary user interface to display the current recommendation data (record) and accept user input, whether to update existing fields or enter new data. The screen consists of five tabs: Fundamentals, Background, Support, Implementation and Decision. (The field layout and purpose for each tab is provided in their respective sections)

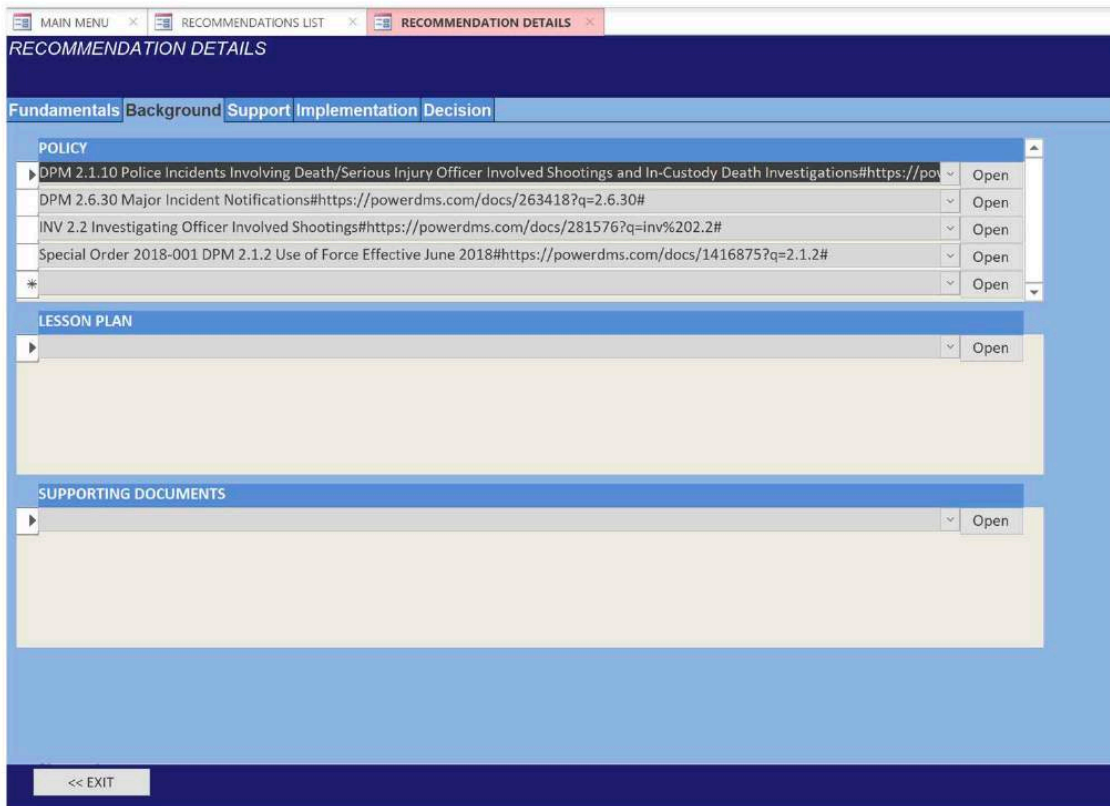


Background

Recommendation Details Screen: Fundamentals

The **Fundamentals** and **Background** tabs combine to provide the presented and current available information relating to a best practice, use of force recommendation. The **Fundamentals** tab lists the recommendation and additional information obtained from the evaluation reports. Traceability between each recommendation and the source document(s) is recorded. Resource assignment and project tracking fields are maintained on this screen.





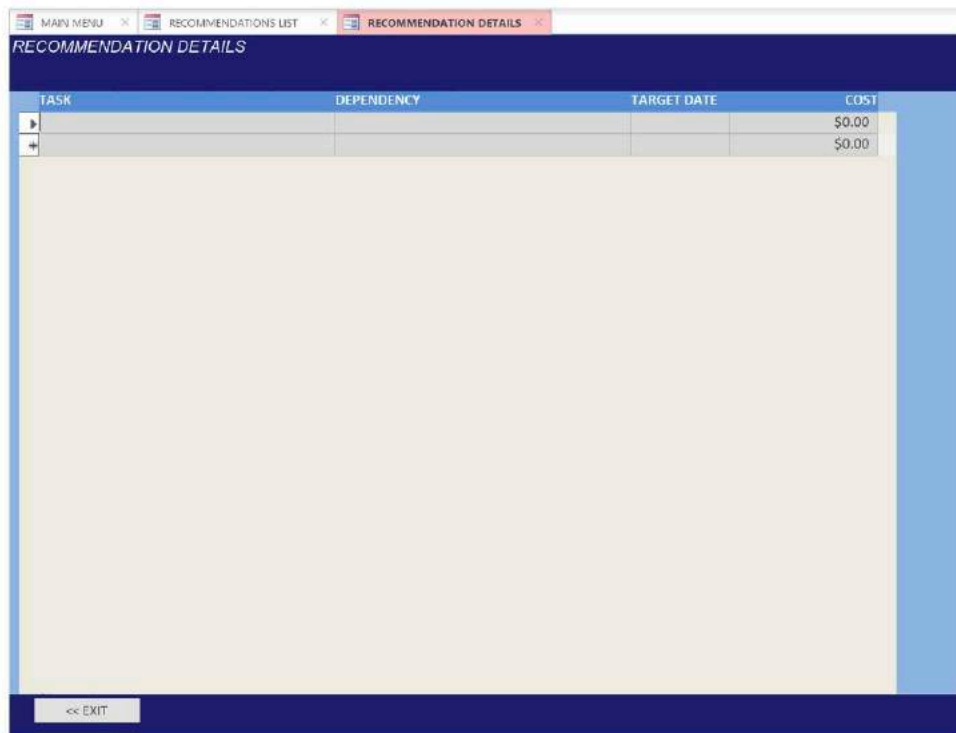
Recommendation Details Screen: Background

The **Background** tab lists hyperlinks to current information which is relevant to the recommendation and should be considered during the systematic evaluation process and eventual guidance offered. Hyperlinks for all policies, lesson plans and supporting documents are pre-populated here as part of the initial configuration of the repository.



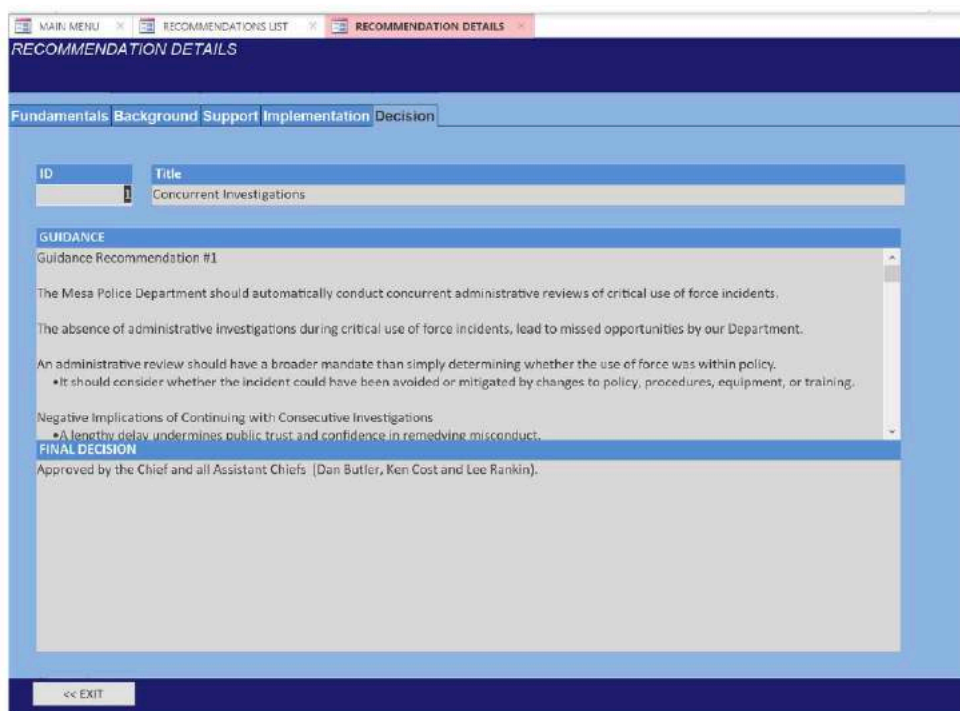
Recommendation Details Screen: Support

The **Support** tab lists the essential tasks required to fully evaluate the recommendation within the systematic evaluation process. The goal is to execute all tasks to support the final guidance for the recommendation. A task is an independent activity which results in a single outcome and optional reference. The evaluator adds the tasks required to thoroughly vet the recommendation. A common task is to identify the implementation considerations should the recommendation be approved.



Recommendation Details Screen: Implementation

The *Implementation* tab lists the tasks to be accomplished for the recommendation to be implemented. Dependencies, cost estimates and target dates are optionally listed for each task. This information informs the final decision for the recommendation.



Recommendation Details Screen: Decision

The guidance to the Department for the recommendation is presented on the *Decision* tab. The guidance highlights the conclusions reached by the evaluator. The Chief of Police, in consultation with executive staff, articulates a final decision: support for or oppose of the recommendation. The Chief of Police may review the evaluation activity (shown on the Support tab) and the implementation considerations (shown on the Implementation tab) in contemplation of a final decision.

Reports

The description and layout for each report is described in the following sections.

Recommendation Details Report

The *Recommendation Details* report organizes the current data for a recommendation into a layout which can be used to capture many data fields of the recommendation's record including the recommendation title and original source data, the evaluation tasks performed, guidance provided, final decision notes and the assigned evaluator. This format was used to create a report for each recommendation which was organized into a book for future reference.

Recommendation Details	
1	
Concurrent Investigations	
Merrick Bobb	
Romley	
IA pg 2, 24-25, 43-44, 56; Internal Review pg 4-7; Exhibit 3 pg 1-3; Romley pg 3	
<p>MERRICK BOBB - INTERNAL AFFAIRS RECOMMENDATIONS FOR THE MESA POLICE DEPARTMENT; PG 24-25 Mesa should make an affirmative decision on a case-by-case basis whether to proceed concurrently or consecutively with an administrative investigation during the pendency of civil litigation. That decision should be made by the Chief of Police or the Chief's designee according to department directives.</p> <p>Commentary It is the practice in some law enforcement agencies to hold an administrative investigation in abeyance during the pendency of civil litigation arising out of the same set of facts. Defense counsel fear conflicts in testimony between administrative interviews and deposition or trial testimony. Defense lawyers also worry that the imposition of administrative discipline or a finding that a given officer's actions were out of policy or unjustified will prejudice the outcome of the civil litigation.</p> <p>On the other hand, completing an internal investigation in as timely a manner as is reasonable, regardless of outside legal proceedings, protects departmental integrity and sends a strong signal to employees and the general public that its disciplinary decisions are made on the merits and are not influenced by external circumstances such as the filing of a lawsuit. The negative aspects of consecutive criminal and administrative investigations apply with equal force: witness's memories fade or the witness becomes unavailable; a cloud hangs over the head of the employee; eventual discipline, retraining, or corrective action is less meaningful with the passage of time; and the credibility of the agency in dealing with misconduct is undermined. Accordingly, some law enforcement agencies will proceed with the administrative investigation, including taking a compelled statement from the subject officer, before the civil litigation is final. The views of defense counsel in this regard should be solicited but should not be controlling.</p> <p>Civil discovery and trial may create a fuller and more complete record than typical administrative investigations. Mesa should review, and consider re-opening, an internal investigation if the result of litigation contains information indicating misconduct.</p>	
<p>MERRICK BOBB - INTERNAL AFFAIRS RECOMMENDATIONS FOR THE MESA POLICE DEPARTMENT; PG 43-44 The purpose of any officer-involved shooting or serious force investigation is to ensure unbiased fact finding focused on truth-seeking, transparency, and timely resolution of the incident. Those critical incidents may require special measures to protect the integrity of the truth seeking process.</p> <p>Commentary As a reminder, given disparity in the law across the country, in this section and throughout this document, Mesa is best advised to consult with legal counsel about the applicable rules before implementation. Unless otherwise required by law and without regard to whether the investigation is conducted by Internal Affairs or another specialized unit, involved and witness officers should be physically separated as soon as possible. As soon as is practical and reasonable, the officer should submit to a comprehensive, taped interview by department investigators. Members of the department either involved in or witnessing the critical incident should be ordered not to discuss the incident among themselves prior to being interviewed by department investigators. Members who were involved in or witnessed the incident in question may consult individually with legal counsel or labor representative telephonically or in person before providing an interview with department investigators. Yet members involved in or witnessing the incident should not consult with legal counsel or labor representatives collectively or in groups: for example, two or more members consulting at the same time with the same lawyer or labor representative. First responding supervisors or investigators arriving at the scene of a critical incident should be empowered, if they choose, to ask each officer voluntarily to state what happened and what, if any, discussions regarding the incident have occurred prior to the responder's arrival. That specialized team should participate in all scene walk-throughs with involved or witness</p>	

Summary List

The *Summary List* report provides a simple list of the recommendations assigned to an evaluator, a specific category, ready for the Chief's review, etc. The report lists the ID and title for the recommendation:

The screenshot shows a web application interface with a browser tab titled "SUMMARY LIST REPORT". The main heading is "SUMMARY LIST REPORT" in red. Below it are five filter sections, each with a blue header and a dropdown menu:

- EVALUATORS**: ALL
- STATUS**: APPROVE
- PRIORITY**: HIGH
- CATEGORY**: Policy
- SOURCE**: All

At the bottom are two buttons: "Print" and "Exit".

Summary List	
ID	TITLE
9	Reportable Use of Force
11	Consolidate the current use-of-force policies
17	Use of Term "Duty to Intervene"
18	Add a Sentence Emphasizing "the sanctity of life"
28	Reiterate in Policy that All Subjects Exposed to Electronic Control Weapon Receive Medical Evaluation
40	Ensure Blue Team Reports Include Thorough Information
61	Make Policies and Procedures Accessible to Public from Homepage

Task Assignment Report

The *Task Assignment* report provides a list of the tasks created by the evaluator to research the recommendation. Each task includes the assigned resource responsible for the task, the current status, start date and target date for completion.

MAIN MENU × TASK ASSIGNMENT REPORT × rptTaskAss

TASK ASSIGNMENT REPORT

START DATE
09/21/2019

END DATE
06/24/2020

TASK STATUS
ALL

ASSIGNED TO
Jason Coon

Task Assignment Report						
Assigned To	Jason Coon					
Start Date	9/21/2019					
End Date	6/24/2020					
Status	ALL					
ASSIGNED TO	REC ID	TITLE	TASK	STATUS	START DATE	TARGET DATE
Jason Coon	2	Concurrent Investigations- Notifications	Need to quantify the above recommended incidents in 2018.	COMPLETED	9/26/2019	10/1/2019
Jason Coon	2	Concurrent Investigations- Notifications	Need to define serious injuries.	COMPLETED	9/26/2019	10/1/2019
Jason Coon	2	Concurrent Investigations- Notifications	Define types of incident that require mandatory callout versus post scene review.	COMPLETED	9/26/2019	10/1/2019
Jason Coon	2	Concurrent Investigations- Notifications		COMPLETED	9/26/2019	10/1/2019
Jason Coon	5	Concurrent Investigations-After Action	Address with the subcommittee when is ideal time to convene executive debrief?	COMPLETED	10/29/2019	10/31/2019
Jason Coon	7	Concurrent Investigations-Use of Force Board	Identify if there should be term limitation on voting members.	COMPLETED	10/31/2019	10/31/2019
Jason Coon	7	Concurrent Investigations-Use of Force Board	Identify who should be consistent advisory members or positions	COMPLETED	10/31/2019	10/31/2019
Jason Coon	7	Concurrent Investigations-Use of Force Board	Identify how alternates should be addressed	COMPLETED	10/31/2019	10/31/2019

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APPENDIX



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APPENDIX A

Use of force review of the Mesa Police
Department by the Police Executive
Research Forum (PERF)

Use-of-Force Review of the Mesa Police Department

Final Report



March 2019

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Executive Summary

In August 2018, the City of Mesa, AZ commissioned the Police Executive Research Forum (PERF) to assess the Mesa Police Department's (MPD) use-of-force policies, procedures, training, and tactics. PERF reviewed departmental policies and training regarding use of force as well as MPD use-of-force report data. PERF also conducted on-site interviews with representatives of the department at all ranks. The purpose of the review was to examine use of force at the department level and not to focus on individual incidents or officers.

Throughout the review, PERF identified accountability, and the lack thereof, in the oversight of MPD's use of force as a primary issue. Without proper supervision, both in the field and in investigations of actions taken in the field, issues cannot be identified and mitigated early, before they become a larger problem for the department. Prior to recent changes made by MPD personnel, such as revised reporting protocols for use of force released in September 2018, investigations into use of force were limited and centered more around checking boxes than fact-finding. For example, supervisors tasked with a use-of-force investigation rarely responded to the scene of the incident. Without detailed investigations, common themes in uses of force cannot be identified, curtailing the ability to correct behavior that does not fully adhere to department policy.

This report presents PERF's recommendations regarding MPD's use-of-force policies and practices that seek to address the issues of accountability found and to bring MPD policies in line with industry best practices.

Summary of Recommendations

Recommendations included in the report stem from findings of PERF's review, which was based upon the expertise PERF has developed in conducting similar reviews for other law enforcement agencies. Throughout the review process, PERF communicated initial findings to MPD command staff. MPD already has made changes based on these findings and its own review, and PERF has noted in this report instances in which MPD already addressed PERF's recommendations.

This executive summary presents an overview of the recommendations that are included in the report as well as the progress made by MPD.

Policies and Procedures

MPD's directives regarding use of force are separated into several different policies. When issues pertaining to use-of-force are broken into numerous policies, there is a chance that revisions may not be applied uniformly and that the department's use-of-force philosophy may not be clear to officers. MPD would be better served if issues related to use-of-force were combined under a single policy.

Overall Policy Organization

Recommendation: *MPD should combine related use-of-force policies under a single directive. This will make it easier for officers to find pertinent information on use of force and will create a*

Executive Summary

more holistic approach to force within the department. This comprehensive policy should include the agency's philosophy on use of force, clear guidelines around lethal and less-lethal force options, and guidelines on the accountability and reporting measures related to use of force. Specifically, the following policies should be merged:

- DPM 2.1.1 Use of Force Philosophy and Definitions
- Special Order # 2018-001 DPM 2.1.2 Use of Force Effective June 2018
- DPM 2.1.5: Use of Force Revised June 2018
- DPM 2.1.20 Firearms Use
- DPM 2.1.25 Impact Weapons
- DPM 2.1.30 Chemical Agents
- DPM 2.1.35 Electronic Control Device (ECD) Protocols
- DPM 2.1.40 Less-Lethal Shotgun Protocols
- DPM 2.1.45 Use of Force Reporting Protocols
- DPM 2.1.50 Less-Lethal Launcher Protocols

DPM 1.11.60 Use of Force Board

Recommendation: *MPD should ensure its Use of Force Board consistently reviews all uses of force that result in a death, as well as force that results in serious bodily harm. MPD should revise "DPM 1.11.60 Use of Force Board" to include language on how frequently the board meets, the membership of the board, the term of members on the board, and the scope of the board's review.*

Recommendation: *MPD should ensure that critical incident cases are reviewed by the Use of Force Board as expeditiously as possible upon closure of the investigation. Cases should not be allowed to languish. In addition, the review board should meet within 24 to 48 hours following an officer-involved shooting or in-custody death to ensure there is not an obvious policy, training, and equipment issue that needs to be immediately rectified. The review board should be briefed by investigators regarding the facts of the case known at that time to ensure that no immediate changes to policy, training, or equipment are necessary. The review board should present all findings and recommendations to the chief of police.*

DPM 2.1.1 Use of Force Philosophy and Definitions

Recommendation: *MPD should replace current references "deadly force" to "lethal force," and should change references to "non-deadly force" to "less-lethal" force. These terms reflect the fact that while some weapons are designed to be less lethal than firearms, they sometimes do result in death. Related agency policies should also be reviewed to ensure that all references to "deadly" force are replaced with "lethal" force, and "non-deadly" is changed to "less lethal."*

Recommendation: *MPD should add a definition of "Proportionality" to this section. As explained in PERF's report on Guiding Principles of Use on Force, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that*

Executive Summary

are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers' actions. The concept of proportionality does not mean that officers, at the moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also considers the nature and severity of the underlying events.¹

Recommendation: *MPD should add a definition of “De-escalation” to this section. The definition should emphasize proportionality, the use of distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for supervisors and other resources, and similar actions and tactics.²*

Recommendation: *MPD should add a definition of the **duty to intervene**. This definition should include the following language: “Officers have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”*

Special Order #2018-001 DPM 2.1.2 Use of Force

Special Order #2018-001 DPM 2.1.2 Section: B. Policy Statement

Recommendation: *MPD should add a sentence emphasizing **the sanctity of human life** as a core value in its use-of-force policy. For example, the Baltimore Police Department’s use-of-force policy states: “The policy of the Baltimore Police Department is to value and preserve human life in all situations.”³*

Recommendation: *In addition to adding the definition of “**duty to intervene**” as mentioned above, MPD should include a statement creating a duty to intervene in instances where force is not being used appropriately. This statement should contain the following language: “Officers have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”*

Recommendation: *MPD should include an overview of “**proportionality**” in this section, in addition to including the full definition in DPM 2.1.1 Use of Force Philosophy and Definitions. Specifically, officers should be using the test of proportionality to determine if force is appropriate.*

¹ See PERF, *Guiding Principles on Use of Force*, pp. 38-40.
<http://www.policeforum.org/assets/guidingprinciples1.pdf>.

² Ibid, pp. 54-65.

³ Baltimore Police Department (2016). “Policy 1115 (‘Use of Force’)”.
<https://www.baltimorepolice.org/sites/default/files/Policies/1115 Use Of Force.pdf>

Executive Summary

Special Order #2018-001 DPM 2.1.2 Section: E. Prohibitions

Recommendation: MPD should include a prohibition against **shooting at moving vehicles**. PERF recommends the following language: "Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself. The only exception is an apparent act of terrorism when the vehicle is being used as a weapon of mass destruction."

Recommendation: MPD should require a non-involved supervisor to respond to the scene and initiate a use-of-force investigation for every reportable use of force. This investigation should include a briefing from the involved officer(s), questioning available witnesses, and speaking with the suspect.

Recommendation: MPD should clarify under which circumstances face, head, and neck strikes are permitted. Face, head, and neck strikes are currently authorized at the level of active aggression. According to the current definition of active aggression, a bladed/fighting stance would be categorized as active aggression and a face, head, or neck strike would be permitted. MPD should clarify this to state that an individual **must be actively using physical force** against an officer to warrant a face, head, or neck strike.

DPM. 2.1.5 Use of Force

DPM 2.1.5 Section: 3. Definitions

Recommendation: MPD should replace current references to "deadly force" and "non-deadly force" with the more precise and correct terms "lethal force" and "less-lethal force".

Recommendation: MPD should combine "strikes" and "limited strikes" into one category. Currently, both definitions refer to a hands-on approach, and there is little utility in keeping these two categories separate.

Recommendation: PERF has traditionally recommended the prohibition of any type of neck restraint, such as MPD's Carotid Control Technique, due to the limited occasions in which it is necessary/required, and the extensive training and skill required to perform it safely and effectively. Should MPD decide to continue the use of the Carotid Control Technique, **MPD should ensure that it remains authorized at the level of lethal force, as is current practice, and that all officers are trained and tested yearly on the Carotid Control Technique.**

MPD should also remove the following language from the current definition, because it does not specify a situation in which lethal force would be justified: "When a subject is actively assaulting an officer or another person and other control methods have been exhausted or the officer reasonably believes other methods would be ineffective." This scenario may present confusion for members of the department as it conflicts with the directive in current policy that the Carotid Control Technique be considered a lethal force option.

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DPM 2.1.5 Section: 4. Use of Force Factors

Recommendation: *MPD should consider strengthening its policy by adding language to this section that more clearly defines the basis for using force. This language should go beyond the minimum legal standard established in the U.S. Supreme Court decision *Graham v. Connor* (1989), and should reflect key concepts such as de-escalation and proportionality. These concepts should also be incorporated into all MPD's policies, practices, and training on use of force.*

DPM 2.1.5 Section: 5. Medical Treatment After Use of Force

Although the need for medical treatment is included in DPM 2.1.35 Electronic Control Device (ECD) Protocols, it should be mentioned again in the overall use of force policy if these two policies remain separate.

Recommendation: *MPD should reiterate in this policy that all subjects who have been exposed to an Electronic Control Weapon (ECW) application receive a medical evaluation by emergency medical responders in the field or at a medical facility.*

DPM 2.1.5 Section: 6. Reporting Guidelines

Recommendation: *MPD should require that the pointing of an ECW be reported by officers. This action does not have to be captured in the official use-of-force report, but can instead be required in an incident report.*

DPM 2.1.20 Firearms Use

DPM 2.1.20 Section: 2. General Guidelines

Recommendation: *MPD should clarify that the authorization to use a firearm to "stop a fleeing felon" is permissible **only** when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or the general public.*

DPM. 2.1.20 Section: 3. Restrictions

Recommendation: *MPD should replace the term "suppression fire" with "directed fire." The term "directed fire" is more accepted by policing experts and does not have the militaristic connotations of "suppression fire".*

Recommendation: *MPD should simplify the language in this section to simply state, "Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself. The only exception is an apparent act of terrorism when the vehicle is being used as a weapon of mass destruction."*

DPM 2.1.35 Electronic Control Device (ECD) Protocols

DPM 2.1.35 Section: 2. Definitions

Recommendation: *MPD should replace all references to “ECD” and “Taser” in this and any related policies with the more descriptive and appropriate term, “Electronic Control Weapon (ECW),” in order to clarify that ECWs are in fact weapons that carry a risk of harming persons.*

Recommendation: *MPD should revise the definition of Drive Stun to state that “Drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.” This definition should inform additional language on Drive Stuns included throughout the policy, specifically the language on page 3 of the policy. In addition, PERF recommends against deploying probes to the groin area as currently allowed in this section. MPD should discuss appropriate target areas during annual recertification and conduct refresher training on the use of ECWs as needed.*

DPM 2.1.35 Section: 5. Deployment Procedures

Recommendation: *MPD should revise deployment procedures to state, “Personnel should use an ECW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to the ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent application should be independently justifiable, and the higher risk should be weighed against other force options.”*

Recommendation: *MPD should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm.*

DPM 2.1.40 Less-Lethal Shotgun Protocols

Recommendation: *MPD should ensure that less-lethal shotguns are clearly marked to avoid confusion with lethal shotguns.*

DPM 2.1.45 Use of Force Reporting Protocols

Tracking use-of-force incidents is one of the most important measures of accountability a department can undertake. **The recommendations in this section seek to strengthen the current reporting protocols in a manner that emphasizes accountability of the first-line supervisor through all levels of the department.**

Executive Summary

DPM 2.1.45 Section: 2. Non-Deadly Force Police Incidents

Recommendation: *MPD should state in policy that supervisors should respond to the scene of ALL reportable uses of force to conduct the initial investigation. Supervisors should also be dispatched to all incidents where it is anticipated that force might be used.*

Recommendation: *MPD should add a requirement that supervisors immediately respond to any scene: where a weapon (including a firearm, edged weapon, rocks, or other improvised weapons) is reported; where a person experiencing a mental health crisis is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force.*

Recommendation: *MPD should ensure that Blue Team reports (the software MPD uses to record use-of-force incidents) include a thorough description of the incident in question, including the names of the officers and subjects involved, the circumstances surrounding the use of force, and the result of the force used. Sergeants should also document the steps of the investigative process, including who was interviewed and what materials were reviewed. Finally, the sergeants should document the findings of their review in the Blue Team system.*

Recommendation: *MPD should require that each individual involved in the routing process documents the steps taken in reviewing the use-of-force report, and that each individual states his or her agreement or disagreement with the findings of the investigating supervisor.*

MPD action taken: The September 2018 update to DPM 2.1.45 Use of Force Reporting Protocols specifies the expected documentation requirements for sergeants and lieutenants.

- Moving forward, sergeants now must make one of two possible determinations: “No issues identified after initial review” or “Additional Review Required” by a senior officer. Upon making either determination, sergeants must include a statement indicating the factors that led them to the stated conclusion.
- Lieutenants must also conduct an investigation of the facts of the incident and make a determination as to whether any issues were identified following the initial review and if additional review is needed. If no issues are identified, lieutenants must include their final comments on the use-of-force incident and forward the file to the Training Section. If additional review is needed, the Blue Team file is to be forwarded to the appropriate Division commander, with the Advanced Training Lieutenant copied.

DPM 2.3.5 Vehicle Pursuits

Overall, PERF’s review of MPD’s vehicle pursuit policy found that the policy is detailed and that it appropriately limits the situations in which a vehicle pursuit is allowed. The only issue identified was the lack of specification over the number of officers required for a pursuit.

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DPM 2.3.5 Section: 2. General Guidelines

Recommendation: *MPD should ensure that when making a consideration of the number of officers required for a pursuit, MPD should limit the number of responders to a primary unit, a secondary unit, and a supervisor who is also involved in the pursuit. This should be the limit unless exigent circumstances exist that would require additional personnel to join the pursuit.*

DPM 2.3.30 Precision Immobilization Technique (PIT)

Recommendation: *MPD should review how often it employs this technique. If it is used sparingly, MPD should discontinue its use. Should MPD elect to continue using it, policy should be updated to reflect that refresher training be provided on a regular basis. For example, the Las Cruces Police Department requires eight hours of annual training on the technique that includes both policy review and behind the wheel driving. The Las Cruces Police Department also only authorizes individuals trained by the department to use the technique and restricts its use to vehicles going forty miles per hour or less.*

TAC 4.4 Counter Sniper Program

Recommendation: *MPD should replace the term “suppression fire” with “directed fire” in TAC 4.4 as is also recommended in DPM 2.1.20 Firearms Use (above). The term “directed fire” is more accepted by policing experts and does not have the militaristic connotations of “suppression fire”.*

Data Review

PERF’s review of electronic data exported from 1610 use-of-force reports captured from July 2015-June 2018 showed that, although use-of-force reports have increased slightly over the last three years, **a relatively small number of MPD officers were involved in those incidents**. PERF also electronically reviewed a smaller sample of full Blue Team reports to analyze the location of strikes. PERF’s review found that 52% of the strikes identified in the sample were to the face, head, or neck, demonstrating that recent policy changes made by MPD leaders limiting the use of strikes to the face, head, or neck were necessary.

Recommendation: *MPD should merge “strikes” and “limited strikes” into a single category. Combining the categories will improve the accountability process by making it easier for supervisors to track the location of strikes under one category.*

Recommendation: *MPD should state clearly in policy that strikes to the face should only be utilized when the circumstances warrant such action. Officers should be trained on this policy update.*

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MPD action taken: In Special Order # 2018-001 in relation to DPM 2.1.2, effective June 2018, it was clarified that face, head, and neck strikes are prohibited absent active aggression/aggravated active aggression.

Recommendation: *MPD should make substation commanders and supervisors (sergeants and above) aware of the findings in this report in a briefing or in-service training. Supervisors should continue to track use of force involving officers under their command and should use these findings to determine whether additional training is needed. Supervisors should also be tasked with ensuring that current policies are followed in the field.*

Professional Standards Division Review

PERF also assessed MPD's Professional Standards Division (PSD) to identify any areas of improvement in the PSD's review process.

Recommendation: *MPD should modify its website to place information on how to file a compliment or complaint to the homepage, so it can be made more visible to the public.*

Recommendation: *MPD should **remove** the warning about making a false complaint from its complaint materials and website. Additionally, this warning should not be given to individuals making complaints in person or over the phone.*

Recommendation: *MPD should ensure that all materials related to the complaint process are consistent and accurate. Specifically, MPD should reconcile the website's instructions for making a complaint via phone. Currently, the phone number on MPD's webpage differs from the phone number on the separate complaint form. MPD should also ensure all of the links on the complaint form are active and replace any broken links.*

Recommendation: *MPD should include the guidelines outlined in DPM 1.4.10, Disciplinary Process on which types of complaints do warrant a formal department investigation to DPM 2.1.45, Use of Force Reporting Protocols. DPM 1.4.10, Disciplinary Process states that the following complaints cannot be classified as an inquiry and warrant a department investigation:*

- *Complaints that are criminal in nature.*
- *Complaints that involve sexual harassment.*
- *Discrimination.*
- *Violations of the COM Computer use policy.*
- *Violations of DPM 1.2.110, Overtime Protocols.*
- *Neglect of duty violations.*
- *Complaints of workplace violence.*
- *Bias complaints based on race, religion, national origin, sex, and sexual orientation.*

Recommendation: *MPD should state in DPM 2.1.45 Use of Force Reporting Protocols that complaints are not to be discouraged and should emphasize the sergeant's role in making sure this policy is enforced. Sergeants should be trained on their responsibilities in accepting complaints.*

Executive Summary

Recommendation: *MPD should develop a policy that outlines the circumstances in which personnel files held by the Professional Standards Division can or cannot be purged. The New Jersey Division of Archives and Records Management policy described on page 60 may be one example of how MPD can develop such a system. PERF recommends that this policy include a stipulation that sustained complaints against an officer are held indefinitely.*

MPD action taken: MPD has put a halt to the purging of files pending a review of public records laws and existing policy.

Recommendation: *MPD should consider moving the Professional Standards Division's office to an off-site location. An off-site facility, such as a mixed-use office building or another city property, can be less intimidating for complainants than police headquarters. Furthermore, for officers involved in an investigation, the off-site location will ensure a higher level of privacy and will help protect the integrity of the investigation.*

Use-of-Force Training

In addition to reviewing MPD's current training, PERF also provided a train-the-trainer seminar to assist MPD in the implementation of PERF's Integrating Communications, Assessment, and Tactics (ICAT) training.

Recommendation: *MPD should, as a general matter, evaluate instructors regularly to ensure that training is being implemented in a consistent manner. With respect to ICAT, which is a new type of training developed just two years ago, senior leaders in MPD's academy should sit in on classes to personally observe the instruction of ICAT and ensure that training is presented in the manner intended by MPD command.*

Recommendation: *MPD should involve the Training Section in the policy-making process when it is expected that training will need to be altered in accordance with the new policy directive(s).*

Recommendation: *MPD should require sergeants and lieutenants to monitor the implementation of training in the field. If officers are not in compliance with training, sergeants and lieutenants should intervene and correct the behavior immediately. Supervisors should be held accountable if these corrective measures are not taken.*

Recommendation: *MPD should stipulate in DPM 2.1.45, Use of Force Reporting Protocols, that the Training Section should monitor trends and emerging issues by tracking data found in use-of-force complaints. Specifically, the Training Section should monitor the types of force being used and the reasons for use of force. This review will allow instructors to identify needs for future training sessions.*

Executive Summary

Additional Recommendations

During the course of PERF's review, additional recommendations were identified that did not fall under the scope of work for the current assessment, but which could improve transparency and accountability within the department.

Transparency

Recommendation: *MPD should create a formal system to be overseen by the Policy and Planning Section to allow feedback during the policy making process. This system should allow for input from internal subject matter experts and by individuals within the department who will be significantly impacted by the policy. Once the policy has been implemented, feedback should be solicited from the field on how the policy impacts daily operations. MPD should consider allowing feedback via PowerDMS and should ensure that each policy goes through the same process. For example, when a policy is issued, MPD should use the current PowerDMS system to send the policy out to a consistent group of individuals who have been designated to review policy changes. Individuals to include would be all commanders, the department's legal representatives, elected union officials, and other internal subject matter experts. Within a certain number of days, this group should provide feedback and additional recommendations to be considered by the Policy and Planning Section as they finalize the policy.*

Recommendation: *MPD should create a system that allows officers in the field to make policy suggestions and should be encouraged to do so by the Chief. A timeframe should be set for when those suggestions are addressed by MPD command staff and the Policy and Planning Section. PERF recommends creating a policy committee utilizing subject matter experts on the topics of the policy in question within the department. First-line supervisors should be included on this committee due to the role they play in ensuring that officers in the field are adhering to department policy.*

Recommendation: *MPD should create a link to its policies and procedures on its homepage to make them more accessible to the public.*

Recommendation: *MPD should release data on the department's use of force on an annual basis. This report should present the public with detailed information on the trends identified in use of force for that year.*

Recommendation: *MPD should be prepared to participate and submit data to the FBI's National Use-of-Force database as soon as possible. Data collection began on January 1, 2019.*

Improving Officers' Experiences

Recommendation: *MPD should, to increase accountability, revisit its current bidding process for squad assignments to ensure that supervisors do not remain in a particular squad for an extended period of time. Doing so will expose officers to different supervisory styles among the sergeants and lieutenants.*

Executive Summary

Recommendation: *MPD should commend officers who demonstrate appropriate use of force or restraint in accordance with department policy and who practice de-escalation techniques in the field.*

Introduction

In August 2018, the City of Mesa, AZ commissioned the Police Executive Research Forum (PERF) to conduct an assessment of the Mesa Police Department's (MPD) use-of-force policies, procedures, and tactics. The review also included a review of how complaints of excessive use of force are documented and investigated.

The purpose of the review was not to investigate any specific incident or officer, but instead to focus on broader trends through the review of policies, procedures, training, and the department culture within MPD. PERF's review included an analysis of MPD's policies and training related to use of force, on-site interviews with department personnel of all ranks, and a review of officer-generated reports related to use-of-force.

During the review process, MPD personnel demonstrated a strong commitment to their community and an openness to recommendations for improvements and new types of training for officers that would help them serve their community. As noted throughout this report, MPD leaders proactively implemented changes to improve the department's use-of-force practices. The intention of these recommendations is to build upon these efforts by providing MPD with the tools and guidance needed to best serve the community of Mesa.

PERF's review of MPD's use-of-force policies, practices, and training is based on the expertise PERF has developed in conducting scores of similar reviews for other city and county law enforcement agencies, PERF's extensive research on use-of-force policies, and a review of policies in law enforcement agencies that have entered into consent decrees with the United States Department of Justice over use-of-force issues.⁴

About the City of Mesa and the Mesa Police Department

The city of Mesa, AZ, covering a land area of 136 square miles, is located just east of the capital city of Phoenix and is home to 496,401 residents.⁵ According to 2017 Census data, the racial composition of the City of Mesa is as follows:

- 83.8% White
- 3.7% Black or African American
- 2.3% American Indian and Alaska Native
- 2.0% Asian
- 0.4% Native Hawaiian and Other Pacific Islander
- 3.1% Two or more races.

In terms of ethnicity, 27.4% identified as Hispanic or Latino.

⁴ PERF conducted extensive research on the DOJ consent decree process, summarized in our 2013 report, "[Civil Rights Investigations of Local Police: Lessons Learned.](#)"

⁵ "Mesa city, Arizona." United States Census Bureau.
<https://www.census.gov/quickfacts/fact/table/mesacityarizona/IPE120217>

Introduction

The Mesa Police Department (MPD) employs approximately 800 sworn and 400 civilian employees.⁶ MPD is comprised of a Patrol Operations Bureau, an Investigations Bureau, an Administration Bureau, and Special Projects. The Patrol Operations Bureau oversees the city's four police districts: Fiesta, Central, Red Mountain, and Superstition. The Investigations Bureau is led by an Executive Assistant Chief who directly oversees the Professional Standards Division and an Assistant Chief who oversees the Criminal Investigations, Metro, Special Operations, and Forensic Services divisions. The Administration Bureau is comprised of the Human Resources, Community Engagement, Technical Services, and Financial Services divisions. The Legal Services Division reports directly to the Chief of Police and does not fall under any of the aforementioned bureaus.⁷

Project Scope and Methodology

PERF's review focused on five key areas:

- Use-of-force policies, procedures, and directives;
- Use-of-force practices, tactics, and techniques;
- Use-of-force documentation, investigation, and accountability;
- Processing and investigating use-of-force complaints, including case disposition;
- The organizational culture surrounding use-of-force issues within the Mesa Police Department.

To assess these key areas, PERF used the following methodology:

Onsite Interviews and Focus Groups: PERF staff members conducted a site visit to Mesa, AZ in September 2018 to conduct interviews and focus groups with stakeholders in the department and community. During this trip, PERF spoke with the Chief, executive staff, commanders, lieutenants, sergeants, patrol officers, civilian employees, the staff attorney, and community members. Additionally, staff members met with the Professional Standards Division and Training Division staff members. PERF staffers also conducted ride-alongs in each patrol district over three shift periods. Following the onsite interviews and focus groups, PERF maintained communication with MPD for follow-up questions and conducted a final site visit in November 2018.

Use-of-Force Policy Review and Analysis: PERF reviewed and analyzed MPD's policies, procedures, and other documents related to the department's use of force.

Use-of-Force Investigations and Documentation Review: PERF reviewed data from all use-of-force reports from July 2015 through June 2018, resulting in a review of data from 1,609 cases. MPD provided PERF with data exported from Blue Team reports (the software MPD uses to record use-of-force incidents) in Excel format for analysis. PERF then examined a random sample of 122 full case files for further analysis of variables or patterns that might be associated with a likelihood of officers needing to use force.

⁶ *Mesa Police Department 2017 Annual Report*, Mesa Police Department, <https://www.mesaaz.gov/home/showdocument?id=30366>

⁷ Mesa Police Department Organizational Chart, September 2018.

Introduction

Professional Standards Division Review: PERF staff conducted site visits to MPD and held an extended interview with staff members of the Professional Standards Division to thoroughly discuss the process of receiving, investigating, and classifying use-of-force complaints. PERF also reviewed a small sample of Professional Standards investigative files.

Use-of-Force Training Review: PERF conducted site visits to MPD's training facility and held a focus group with training staffers. PERF also reviewed training curricula and scenario-based exercises that relate to use of force.

As part of the review, PERF was also asked to provide train-the-trainer instruction on PERF's Integrating Communication, Assessment, and Tactics (ICAT) training to selected MPD training staff members. PERF conducted the train-the-trainer instruction in August 2018 and observed an MPD-facilitated ICAT session in November 2018.

This report presents the findings from PERF's review and provides recommendations for how MPD can continue to improve its use-of-force policies and practices. Preliminary recommendations were shared with MPD command staff members during the review process, and MPD has already begun implementing a number of recommendations that will strengthen its policies, procedures, and training. These updates will be noted throughout the report. PERF's recommendations are based on current research and reflect progressive policing practices that have been adopted in other police agencies.

SECTION I. USE-OF-FORCE POLICY REVIEW

SECTION I. USE-OF-FORCE POLICY REVIEW

PERF reviewed the Mesa Police Department's (MPD) policies related to use of force for thoroughness and compliance with nationally recognized progressive policing practices. Since 2006, four different chiefs have led MPD, and each has made changes to the department's use-of-force policies. PERF reviewed the latest iteration of each policy to develop the recommendations outlined in the following section. Previous iterations of the policies were also reviewed to provide context for the current policies.

Specifically, PERF reviewed the following policies:

- DPM 1.6.20 Patrol Rifle Protocols
- DPM 1.11.60 Use of Force Board
- DPM 2.1.1 Use of Force Philosophy and Definitions
- Special Order # 2018-001 DPM 2.1.2 Use of Force Effective June 2018
- DPM 2.1.5: Use of Force Revised June 2018
- DPM 2.1.6 Active Shooter Response
- DPM 2.1.10 Police Incidents Involving Death/Serious Injury Officer Involved Shootings and In-Custody Death Investigations
- DPM 2.1.20 Firearms Use
- DPM 2.1.25 Impact Weapons
- DPM 2.1.30 Chemical Agents
- DPM 2.1.35 Electronic Control Device (ECD) Protocols
- DPM 2.1.40 Less-Lethal Shotgun Protocols
- DPM 2.1.45 Use of Force Reporting Protocols
- DPM 2.1.50 Less-Lethal Launcher Protocols
- DPM 2.3.5 Vehicle Pursuits
- DPM 2.3.30 Precision Immobilization Technique (PIT)
- PSD 2.3 Police Service Dog Bite Incidents
- TAC 4.4 Counter Sniper Program

This section presents recommendations for how MPD can continue to improve its use-of-force policies, as well as specific recommendations for strengthening language in current policies. Policies and recommendations are presented below in sequential order based on the policy number and not in any priority order.

Rethinking Use-Of-Force Policies, Practices and Tactics

PERF's review of MPD's use-of-force policies, training, and practices took place amid a national debate about police use of force that has been going on for several years. In the wake of high-profile lethal force incidents that have occurred across the United States in recent years, it is important for police departments to strengthen their relationships with the community and to ensure that the sanctity of human life is at the heart of everything they do. This means examining use-of-force policies, practices,

SECTION I. USE-OF-FORCE POLICY REVIEW

and training to make sure that they reflect the core ideal of preserving the lives of everyone – including officers and the people they are charged with serving and protecting.

PERF's recent work regarding use of force has focused largely on police encounters with persons who are behaving erratically or dangerously due to a mental illness, a developmental disability, or another condition that prevents them from understanding and obeying orders from law enforcement. PERF also has focused on incidents involving individuals who either are unarmed, or are armed only with an edged weapon, a rock, or other weapon other than a firearm. In 30 percent of the 990 fatal officer-involved shootings across the country in 2015, the subjects either were unarmed or were armed with a weapon other than a firearm.⁸

It is these types of incidents where PERF believes there is the greatest potential for de-escalation and increasing the safety of everyone involved, including officers, by teaching officers to “slow the situation down,” to bring additional resources to the scene, and to use communications skills and operational safety tactics to resolve the incident with minimal use of force. In situations where criminal suspects are brandishing firearms, officers have fewer options for how they can respond, and use of lethal force is more likely.

The remainder of this section discusses the key concepts at the center of PERF's recent use-of-force work, which is detailed in two reports: *Re-Engineering Training on Police Use of Force*,⁹ and *Guiding Principles on Use of Force*.¹⁰ These concepts are woven throughout this report and provide the basis for many of the recommendations.

Re-Engineering Training on Police Use of Force

PERF held a national conference in May 2015 to explore new approaches to policies and training on police use of force. That conference, held in Washington, D.C., brought together nearly 300 police chiefs and other law enforcement executives, federal government officials, and academic experts.

PERF's report, *Re-Engineering Training on Police Use of Force*, documents findings from the conference as well as from a 2015 PERF survey of law enforcement agencies that examined the use-of-force training provided to officers in the academy and in-service. The survey found that use-of-force training in many agencies was primarily focused on firearms and defensive tactics training, while training on topics such as de-escalation, communication, and crisis intervention was far less common. Participants at the meeting agreed that agencies should supplement firearms and defensive tactics training with additional training on under-represented topics, and that training on de-escalation and crisis intervention should be integrated into a comprehensive training program, rather than “siloes” from other subjects.

⁸ Kindy, Kimberly and Kennedy Elliott. 2015. “2015 Police Shootings Investigation.” *Washington Post*, December 26, 2015. <https://www.washingtonpost.com/graphics/national/police-shootings-year-end/>.

⁹ Police Executive Research Forum. 2015. *Re-Engineering Training on Police Use of Force*. <http://www.policeforum.org/assets/reengineeringtraining1.pdf>

¹⁰ Police Executive Research Forum. 2016. *Guiding Principles on Use of Force*. <http://www.policeforum.org/assets/guidingprinciples1.pdf>

SECTION I. USE-OF-FORCE POLICY REVIEW

PERF followed up with a number of smaller regional meetings to further develop the concepts in the “Re-Engineering” report, with an eye toward developing policy concepts and training principles that police agencies can adopt. In January 2016, PERF again convened a national meeting in Washington, in which nearly 200 police chiefs and other executives, federal agency representatives, mental health experts, academics, and others evaluated a draft of 30 “Guiding Principles on Use of Force” developed by PERF.

Guiding Principles on Use of Force

The Guiding Principles, which were released in final form in March 2016,¹¹ are designed to give officers more specific guidance on use-of-force policy, training, tactics, equipment, and information needs. Some of the principles are general in nature (e.g., “Adopt de-escalation as formal agency policy”), while others are more specific (e.g., “Duty to intervene: Officers need to prevent other officers from using excessive force.”).

PERF’s Guiding Principles report also presents a new tool to support decision-making in the field, including during critical incidents. This tool, known as the **Critical Decision-Making Model (CDM)**, is based largely on the National Decision Model that has been used effectively in the UK for several years. The CDM is designed to teach officers how to think critically about many types of complex situations, including incidents that could end with a use of force. Essentially, during a critical incident, officers using the CDM continually ask themselves questions about the nature of the incident, any threats and risks, their powers and authority to take various actions, and their options. After taking action, they assess whether the action had the desired effect, and if necessary, begin the decision-making process again. In a situation involving a potential use of force, officers trained in the Critical Decision-Making Model ask themselves questions such as, “Do I need to take immediate action, or do I have time to slow this situation down? What is the threat? What information do I need about the person I am dealing with? How can I establish rapport with this person and ask him questions that will help me assess what is happening and the risks? Do I need additional resources at the scene, such as specialized equipment, other police units, a supervisor, or officers specially trained in mental health issues? What could go wrong here, and how serious would the harm be? How can I mitigate potential threats?”

While this process may sound complicated, officers who have been trained in the CDM have said that as they use it every day in various situations, it becomes second-nature. They compare it to driving a car. When a person is first learning to drive, every action, such as activating a turn signal or keeping the car centered in a lane, requires thought. But after a short time, drivers perform many of the tasks of driving without consciously thinking about them. Similarly, officers who use the CDM become accustomed to constantly evaluating situations and considering a wide array of potential responses.

Overall Policy Organization

Currently, MPD’s directives regarding use of force are separated into several different policies. For example, the department’s use-of-force definitions and philosophy are in a standalone policy, while policies governing equipment used in instances of force are also outlined in separate documents. **MPD should consider consolidating the current use-of-force policies to ensure clarity.** When issues

¹¹ Ibid.

SECTION I. USE-OF-FORCE POLICY REVIEW

pertaining to use-of-force are broken into numerous policies, there is a chance that revisions may not be applied uniformly and that the department's use-of-force philosophy may not be clear to officers. MPD would be better served if issues related to use-of-force were combined under a single policy. This would also make updating the policy easier as all of the critical components would be located in the same document.

Recommendation: *MPD should combine related use-of-force policies under a single directive. This will make it easier for officers to find pertinent information on use-of force and will create a more holistic approach to force within the department. This comprehensive policy should include the agency's philosophy on use of force, clear guidelines around lethal and less-lethal force options, and guidelines on the accountability and reporting measures related to use of force. Specifically, the following policies should be merged:*

- DPM 2.1.1 Use of Force Philosophy and Definitions
- Special Order # 2018-001 DPM 2.1.2 Use of Force Effective June 2018
- DPM 2.1.5: Use of Force Revised June 2018
- DPM 2.1.20 Firearms Use
- DPM 2.1.25 Impact Weapons
- DPM 2.1.30 Chemical Agents
- DPM 2.1.35 Electronic Control Device (ECD) Protocols
- DPM 2.1.40 Less-Lethal Shotgun Protocols
- DPM 2.1.45 Use of Force Reporting Protocols
- DPM 2.1.50 Less-Lethal Launcher Protocols

The recommendations provided below are based on MPD's current, individual policies. **Several recommendations may be repeated in various sections due to the overlap in current policies and the need to explain a definition or philosophy in multiple sections.** For example, PERF recommends that duty to intervene be included as an addition to policy in both Special Order 2.1.2 and DPM 2.1.1 Use of Force Philosophy and Definitions. When these policies are combined, the relevant recommendations should be incorporated into the new policy, which will also eliminate duplicated recommendations. Any policies that MPD determines should remain separate should still be enhanced by adding the department's use-of-force philosophy and relevant definitions to each standalone policy involving use of force.

DPM 1.11.60 Use of Force Board

Although MPD historically has had a use-of-force board, many of the interviewees during PERF's site visit stated that it is not effective and does not provide appropriate oversight of the department's use of force. During the site visit, there was support among MPD officials for changes to the current use-of-force board to improve its utility as an accountability mechanism.

Current MPD policy broadly outlines the objectives of the use-of-force review board and when the board should meet. Section 2. General Guidelines states the following:

SECTION I. USE-OF-FORCE POLICY REVIEW

The Use of Force Board reviews Use of Force incidents in an effort to:

- *Determine if the use of force complied with Mesa Police Department (MPD) policies.*
- *Identify training needs in regard to specific tactics, techniques, or procedures.*
- *Improve the overall officer safety of our members by evaluating the effectiveness of tactics and techniques.*

As stated in policy, the board is to meet as often as necessary. Board members are appointed by the Chief and include: the Human Resources Commander (Chair) and 3 sworn officers above the rank of sergeant. Advisory members, who may include a training lieutenant, policy lieutenant, or other subject matter experts, and two civilians are included on the board as non-voting members. An MPD legal advisor also serves with the board to provide legal counsel but is not considered a member.

Due to the importance of use-of-force boards, PERF believes the current policy should be strengthened. A critical review of incidents helps department and civic leaders understand why most police encounters end without difficulty, but at times, an incident may end in tragedy.

Tactical decision-making is frequently at the center of an officer's need or perceived need to use force, so law enforcement agencies should constantly assess tactical decision-making in the field. Law enforcement leaders should apply a high standard when evaluating tactical decision-making, not merely to determine whether a particular use of force was legally justifiable, but whether officers used best practices, strategies, and tactics to achieve the best possible outcome given the circumstances of an incident.

In addition, review of use-of-force cases should go *beyond* tactical considerations, to address possible issues in departmental policy, training, practices and procedures. **Leading police agencies seize opportunities to identify options and lessons learned from critical incidents that can be applied in future training.** One way to do so is to utilize the CDM in the review process. The CDM offers a consistent framework through which critical incidents can be evaluated. As the CDM outlines the decision-making process from the beginning of the incident through the incident's conclusion, tactical and policy issues can be easily identified.

The utilization of a force review board is therefore essential to the agency's mission: it is important to look at every aspect of what occurred before, during, and immediately after all uses of deadly force, as well as force that results in serious bodily harm, to determine whether changes to policy, training, and procedures need to be made to improve MPD's response to these incidents.

To strengthen the current policy, PERF recommends that specific language be inserted about how often the board should meet, and that the scope of the board be broadened to include a review of the totality of the circumstances that led to the use of force. Additionally, the membership of the board should be reevaluated to be representative of MPD's unions. Term limits for members of the board will ensure that the board does not become complacent in its duty as an oversight body.

Recommendation: *MPD should ensure its Use of Force Board consistently reviews all uses of force that result in a death, as well as force that results in serious bodily harm. MPD should*

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revise “DPM 1.11.60 Use of Force Board” to include language on how frequently the board meets, the membership of the board, the term of members on the board, and the scope of the board’s review.

Specifically:

- *The Use-of-Force Review Board should meet regularly. To start, the board should meet quarterly and then assess whether more frequent meetings are needed.*
- *Board membership should have set term limits of one year with new representatives added after the current term expires. This will help to ensure that the board does not become complacent and that the board benefits from different perspectives and experiences. MPD should stagger membership on the board to ensure there is not a complete turnover of the board at any given point. Therefore, the first iteration of the board under this new system will need to have varying timelines for their replacements until a set rotation can be established.*
- *MPD’s unions should select a representative from their membership to sit on the board. The individual selected by the unions will be in touch with the challenges facing officers on the street. The local Fraternal Order of Police and the Mesa Police Association should collectively select one representative to sit on the board per term.*
- *The scope of the board’s focus should be broadened beyond the review of tactics. The board should review compliance with policy, the efficacy of MPD’s equipment, whether the level of assistance and oversight provided by the officer’s supervisor during the incident was sufficient, and whether the investigation of the incident was thorough. The board should monitor trends across multiple incidents to identify any additional training needs. When conducting a review, the CDM should be utilized as a guide for evaluation. Using the CDM will guide members of the board through evaluating the circumstances that led to force being used, whether it was proportional to the circumstances, and whether the actions taken were in line with MPD policy.*
- *The board should consist of approximately five to seven members of varying ranks, with most members assigned to the patrol function. It should include a member of the Training Division as a member or advisor on current training practices.*

Although the Use of Force Board may meet quarterly, critical incidents should be reviewed as soon as possible. When a critical incident involves an officer-involved shooting or an in-custody death, the Use of Force Board should be convened within 24 to 48 hours following the incident. These incidents require immediate attention due to their severity. This initial review may reveal policy, training, or equipment issues that can then be addressed immediately.

Recommendation: *MPD should ensure that critical incident cases are reviewed by the Use of Force Board as expeditiously as possible upon closure of the investigation. Cases should not be allowed to languish. In addition, the review board should meet within 24 to 48 hours following an officer-involved shooting or in-custody death to ensure there is not an obvious policy, training, or equipment issue that needs to be immediately rectified. The review board should be briefed by investigators regarding the facts of the case known at that time to ensure that no immediate*

SECTION I. USE-OF-FORCE POLICY REVIEW

changes to policy, training, or equipment are necessary. The review board should present all findings and recommendations to the chief of police.

DPM 2.1.1 Use of Force Philosophy and Definitions

As mentioned previously, MPD should work to integrate its use-of-force policies into a single, cohesive policy. Recommendations made with regard to language in this specific section should also apply to language used if a singular policy is established.

Given that this policy is intended to definitively explain the department's use of force philosophy, it is important that it includes clear language and definitions. For example, throughout this policy and related other policies, MPD uses the outdated terms "deadly force" and "non-deadly force." In the past, less-lethal options were called non-deadly, as they were intended to be a clear alternative to lethal force options, such as firearms. However, some of the options traditionally termed non-deadly, such as ECWs, have resulted in death. Therefore, it would be inaccurate to label them as non-deadly options. Instead, MPD should utilize the more precise language of "lethal" and "less lethal". The term "less lethal" acknowledges the possibility that deaths have occurred as a result of less-lethal options.

Recommendation: *MPD should replace current references "deadly force" to "lethal force," and should change references to "non-deadly force" to "less-lethal" force. These terms reflect the fact that while some weapons are designed to be less lethal than firearms, they sometimes do result in death. Related agency policies should also be reviewed to ensure that all references to "deadly" force are replaced with "lethal" force, and "non-deadly" is changed to "less lethal."*

In setting out a clear use-of-force philosophy, there are specific tenets that emphasize the sanctity of life of all involved in an incident. These include the idea that force used should be proportional, that officers should attempt to de-escalate situations whenever possible, and that officers have a duty to intervene when fellow officers are not acting in accordance with the department's use-of-force policy. To avoid confusion, the expectations associated with these aspects of the department's philosophy should be fully explained in policy. PERF recommends that the following language be incorporated into MPD's current policy:

Recommendation: *MPD should add a definition of "Proportionality" to this section. As explained in PERF's report on Guiding Principles on Use of Force, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers' actions. The concept of proportionality does not mean that officers, at the moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat, should stop and consider how their actions will be viewed by others. Rather, officers should begin considering what might be appropriate and proportional as they approach an incident, and they should keep this consideration in their minds as they are assessing the situation and deciding how to respond. Proportionality also considers the nature and severity of the underlying events.¹²*

¹² See PERF, *Guiding Principles on Use of Force*, pp. 38-40.
<http://www.policeforum.org/assets/guidingprinciples1.pdf>.

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Recommendation: MPD should add a definition of “**De-escalation**” to this section. The definition should emphasize proportionality, the use of distance and cover, tactical repositioning, “slowing down” situations that do not pose an immediate threat, calling for supervisors and other resources, and similar actions and tactics.¹³

Recommendation: MPD should add a definition of the **duty to intervene**. This definition should include the following language: “Officers have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”

Special Order #2018-001 DPM 2.1.2 Use of Force

In June 2018, Chief Ramon Batista issued a special order to supplement the MPD’s current use of force policies. The order established the definitions to be used regarding de-escalation, specifically the levels of resistance justifying use of force. Levels of resistance include: compliant, passive resistance, active resistance, danger to self, active aggression, and aggravated active aggression. The levels of resistance were defined in policy until a policy update was issued in March 2017, in which the levels of resistance and the associated definitions were removed. The special order also established standards regarding specific instances when force can and cannot be used. Recommendations on specific areas for clarification and improvement in the special order are provided below.

Special Order #2018-001 DPM 2.1.2 Section: B. Policy Statement

The current policy statement within the special order can be strengthened to include a statement about officers’ duty to intervene and the need for force to be proportionate to the circumstances. MPD’s current policy statement reads:

While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department shall use these guidelines to make such decisions in a professional, impartial and reasonable manner.

Officers should continually assess the situation in order to increase an officer’s ability to bring a situation to a safe, peaceful conclusion. This conclusion may be accomplished by using time, distance, information, isolation, teamwork, force array, coordination and other techniques, to maximize our officers’ and community’s safety.

Although this policy mentions the desire to maximize officers’ and the community’s safety, a stronger statement on the sanctity of life should be included in this initial policy statement. Additionally, the concepts of duty to intervene and proportionality should be introduced in this section. If MPD’s use of force policies are consolidated as recommended, the definitions below only need to be included once. If policies remain separate, however, it is important that the concepts of the sanctity of human life, duty to intervene, and proportionality be included in both Special Order #2018-001 DPM 2.1.2 Use of Force and DPM 2.1.1 Use of Force Philosophy and Definitions.

¹³ Ibid, pp. 54-65.

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Recommendation: *MPD should add a sentence emphasizing **the sanctity of human life** as a core value in its use-of-force policy. For example, the Baltimore Police Department’s use-of-force policy states: “The policy of the Baltimore Police Department is to value and preserve human life in all situations.”¹⁴*

Recommendation: *In addition to adding the definition of “**duty to intervene**” as mentioned above, MPD should include a statement creating a duty to intervene in instances where force is not being used appropriately. This statement should contain the following language: “Officers have a duty to intervene if they anticipate or observe the unreasonable, unnecessary, or disproportionate use of force.”*

Recommendation: *MPD should include an overview of “**proportionality**” in this section, in addition to including the full definition in DPM 2.1.1 Use of Force Philosophy and Definitions. Specifically, officers should be using the test of proportionality to determine if force is appropriate.*

Current policy encourages officers to continually assess situations when deciding on force options. This approach can be strengthened by encouraging officers to use the Critical Decision-Making Model (CDM) which they are currently being trained to use through the Integrating Communications, Assessment, and Tactics (ICAT) program. The CDM teaches officers to continually assess the nature of a situation, the officer’s legal authorities to handle the situation, the officer’s goal in resolving the incident, any risks that are present, the officer’s range of options, etc. Utilizing the CDM will provide officers with guidance as they work to meet the department’s stated objective of bringing “a situation to a safe, peaceful conclusion” through continual assessment of the situation.

Special Order #2018-001 DPM 2.1.2 Section: E. Prohibitions

In this section, MPD outlines the circumstances under which officers are **not permitted** to use force. Notably, this section prohibits the use of face, head, or neck strikes absent active aggression/aggravated active aggression. **These policy changes regarding strikes to the head and face were the result of MPD leaders thoroughly reviewing use-of-force incidents and identifying ways to improve policy and accountability.** However, specific restrictions surrounding face, head, and neck strikes could be further clarified in the policy (see Recommendation below).

In addition, PERF found that MPD’s policy does not prohibit officers from shooting at moving vehicles. Many agencies have adopted this prohibition, starting with the New York City Police Department (NYPD) in the 1970s. Other agencies that prohibit shooting at vehicles include the Boston, Chicago, Cincinnati, Denver, Philadelphia, and Washington, DC Police Departments.¹⁵ In New York City, the total number of shooting incidents involving NYPD officers declined 33 percent in the year following the implementation of the prohibition, and shootings continued to drop by more than 90 percent in the following years.¹⁶

¹⁴ Baltimore Police Department (2016). “Policy 1115 (‘Use of Force’)”.

https://www.baltimorepolice.org/sites/default/files/Policies/1115_Use_of_Force.pdf

¹⁵ Police Executive Research Forum (2016): *Guiding Principles on Use of Force*. Page 44.

<https://www.policeforum.org/assets/30%20guiding%20principles.pdf>

¹⁶ See PERF, *Guiding Principles on Use of Force*, pp. 45. <http://www.policeforum.org/assets/guidingprinciples1.pdf>.

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However, PERF recognizes the recent trend of using motor vehicles as a weapon of mass destruction. This has been observed both internationally and within the United States.¹⁷ PERF understands that this type of threat may require an extraordinary response to stop the threat and protect life. If this type of event were to occur within Mesa, any use of force, particularly lethal force, must be evaluated based on the totality of the circumstances and the necessary, reasonable, and proportional use of force.

Recommendation: *MPD should include a prohibition against **shooting at moving vehicles**. PERF recommends the following language: "Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself. The only exception is an apparent act of terrorism when the vehicle is being used as a weapon of mass destruction."*

Finally, MPD policy does not adequately detail the responsibilities of sergeants during a use-of-force investigation. For example, Special Order 2018-001 DPM 2.1.2 specifies patrol supervisors should respond to the scene of an incident when a face, head, or neck strike is deployed. Supervisors, however, should respond to the scene of all reportable uses of force, regardless of what type of force is used and where the force was used. The lack of supervisors responding to the scene of a reportable use of force was an accountability issue raised in numerous interviews.

Recommendation: *MPD should require a non-involved supervisor to respond to the scene and initiate a use-of-force investigation for every reportable use of force. This investigation should include a briefing from the involved officer(s), questioning available witnesses, and speaking with the suspect.*

One of the issues that led to the release of the Special Order was concern over the use of strikes to the face, head, and neck. Although the Special Order outlines that such strikes are now only permissible in instances where a subject is demonstrating aggravated active aggression or active aggression, there is still room for improvement. Specifically, there are situations in which a subject may be classified as demonstrating active aggression according to MPD's definition, but the threat to an officer is low. For example, a subject who is standing in a fighting stance would be categorized as actively aggressive. Given the seriousness of a strike to the face, head, or neck, it should be specified further that officers can only use a strike to the face, head, or neck when a subject is physically using force against an officer or member of the public.

Recommendation: *MPD should clarify under which circumstances face, head, and neck strikes are permitted. Face, head, and neck strikes are currently authorized at the level of active aggression. According to the current definition of active aggression, a fighting stance would be categorized as active aggression and a face, head, or neck strike would be permitted. MPD*

¹⁷ For example, in July 2016, a cargo truck was driven into a crowd in Nice, France. This attack resulted in the deaths of 86 people and 458 people were injured. In the United States, a vehicle was used to attack a crowd in Charlottesville, VA in August 2017. One person was killed, and 19 others were injured. In October 2017, a vehicle was rammed through a crowded bike lane in New York City. Eight people were killed, and 12 were injured.

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*should clarify this to state that an individual **must be actively using physical force** against an officer to warrant a face, heard, or neck strike.*

DPM. 2.1.5 Use of Force

In recent years, MPD has seen a number of changes to its main use-of-force policy as a result of changes in the department's leadership. A policy change made between 2013 and 2017 removed definitions of the levels of resistance within the main policy. Special Order #2018-001 reestablished those definitions that were still absent in the latest use-of-force policy. PERF identified the following areas in which the current policy can be strengthened.

DPM 2.1.5 Section: 3. Definitions

As mentioned, this iteration of MPD's use-of-force policy included definitions pertaining to force options but did not include definitions for levels of resistance. The following recommendations are intended to strengthen the language within the current draft of the policy. While a recommendation would have been made to define the levels of resistance, that is covered in Special Order #2018-001 which supersedes DPM 2.1.5.

Recommendation: *MPD should replace current references to “deadly force” and “non-deadly force” with the more precise and correct terms “lethal force” and “less-lethal force”.*

MPD's current force options includes both strikes and limited strikes. The only difference between the two categories is the location of the strike. As the location of all uses of force is noted in the Blue Team use-of-force reports, separating strikes and limited strikes is unnecessary. Both definitions result in a hands-on approach being taken with a suspect with the same type of force being used. Combining these two categories will further streamline MPD's policy. Additionally, by tracking one “strikes” category, it will be easier to track trends in the use of strikes, specifically as to whether strikes to the face, head, or neck are being used.

Recommendation: *MPD should combine “strikes” and “limited strikes” into one category. Currently, both definitions refer to a hands-on approach and there is little utility in keeping these two categories separate.*

MPD's policy also includes the Carotid Control Technique as a lethal force option. PERF agrees with this classification of the technique as a lethal option, based upon language the U.S. Department of Justice has used in consent decrees with police agencies. Consent decrees for the City of Albuquerque and the City of New Orleans state that “neck holds” should be prohibited except when lethal force is authorized.¹⁸ Due to the potential safety concerns associated with the use of the Carotid Control

¹⁸ *United States v. City of Albuquerque*, Settlement Agreement (2014), pp. 12, 15.

<https://www.justice.gov/sites/default/files/usao-nm/legacy/2015/01/20/DOJ-ABQ%20Settlement%20Agreement%20EXECUTED.pdf>

United States v. City of New Orleans, Consent Decree Regarding the New Orleans Police Department (2013), p. 20.
https://www.justice.gov/sites/default/files/crt/legacy/2013/01/11/nopd_agreement_1-11-13.pdf

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Technique, the New York City Police Department and the Philadelphia Police Department have forbidden its use.¹⁹

Recommendation: *PERF has traditionally recommended the prohibition of any type of neck restraint, such as MPD’s Carotid Control Technique, due to the limited occasions in which it is necessary/required, and the extensive training and skill required to perform it safely and effectively. Should MPD decide to continue the use of the Carotid Control Technique, MPD should ensure that it remains authorized at the level of lethal force, as is current practice, and that all officers are trained and tested yearly on the Carotid Control Technique.*

MPD should also remove the following language from the current definition, because it does not specify a situation in which lethal force would be justified: “When a subject is actively assaulting an officer or another person and other control methods have been exhausted or the officer reasonably believes other methods would be ineffective.” This scenario may present confusion for members of the department as it conflicts with the directive in current policy that the Carotid Control Technique be considered a lethal force option.

DPM 2.1.5 Section: 4. Use of Force Factors

This section outlines what factors officers must consider when evaluating what level of force to use. The factors encourage officers to look at the totality of the circumstances, which include the availability of cover, and time constraints in the decision-making process.

*Graham v. Connor*²⁰ establishes a general standard of “objective reasonableness” regarding police use of force. Objective reasonableness represents the legal standard by which police use of force is judged by the courts, and it is critical that any use-of-force policy articulate that standard.

However, though *Graham* outlined broad principles for how the objective reasonableness standard should be applied, the Supreme Court ultimately left it up to individual police agencies to determine how to best incorporate those principles into their own policies, training, and tactics. The Court stated, “Determining whether the force used to effect a particular seizure is ‘reasonable’ under the Fourth Amendment requires a careful balancing of the ‘nature and quality of the intrusion on the individual’s Fourth Amendment interests’ against the countervailing governmental interests at stake. ... *Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, ... its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.*” (Emphasis added.)

Graham is the common denominator across the United States; all police agencies must have use-of-force policies that meet *Graham’s* standards. No one except the Supreme Court itself can alter that

¹⁹ Kevah Waddell and National Journal. (2014). “Why Many Large Police Department Tolerate Their Officers Using Neck Holds,” *The Atlantic*, <https://www.theatlantic.com/politics/archive/2014/12/why-many-large-police-departments-tolerate-their-officers-using-neck-holds/458079/>

²⁰ *Graham v. Connor*, 490 U.S. 386 (1989). <http://caselaw.findlaw.com/us-supreme-court/490/386.html>.

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precedent. However, many police departments have chosen to go *beyond* the bare requirements of *Graham*. For example, many police agencies have detailed policies and training on issues such as shooting at moving vehicles, rules on pursuits, guidelines on the use of Electronic Control Weapons (ECWs)²¹, and many other use-of-force issues that are not mentioned in or required by *Graham*.

Furthermore, new concepts in use-of-force policy and practice, such as the “tactical pause,” often reflect expectations of American communities about police use of force, particularly in assessing whether force in any given situation is not only legal, but also is necessary, proportional, and ethical. In this sense, use-of-force policies and practices currently employed by many police agencies seek to go beyond the minimum legal standard established in *Graham*.

In fact, a federal appeals court in 2016 held that professional standards in policing can sometimes become incorporated in new legal standards. (The case, *Armstrong v. the Village of Pinehurst et al.*, involved the use of an Electronic Control Weapon against a mentally ill man. The Fourth Circuit U.S. Court of Appeals cited ECW guidelines produced by PERF and the Justice Department’s COPS Office to reach the conclusion that “immediately tasing a non-criminal, mentally ill individual, who seconds before had been conversational, was not a proportional response.”)²²

Recommendation: *MPD should consider strengthening its policy by adding language to this section that more clearly defines the basis for using force. This language should go beyond the minimum legal standard established in the U.S. Supreme Court decision Graham v. Connor (1989), and should reflect key concepts such as de-escalation and proportionality. These concepts should also be incorporated into all MPD’s policies, practices, and training on use of force.*

DPM 2.1.5 Section: 5. Medical Treatment After Use of Force

In accordance with the philosophy of the sanctity of life, this section outlines the requirements for obtaining medical treatment for individuals following an officer’s use of force. However, it does not include a requirement that the deployment of an Electronic Control Weapon (ECW) triggers the need for medical treatment. Given the risks involved in the use of ECWs, individuals who have received an ECW deployment should be afforded medical treatment. Although the need for medical treatment is included in DPM 2.1.35 Electronic Control Device (ECD) Protocols, it should be mentioned again in the overall use of force policy if these two policies remain separate.

Recommendation: *MPD should reiterate in this policy that all subjects who have been exposed to an Electronic Control Weapon (ECW) application receive a medical evaluation by emergency medical responders in the field or at a medical facility.*

²¹ The Mesa Police Department refers to Taser-style devices as “Electronic Control Devices.” PERF recommends the term “Electronic Control Weapon,” which more accurately indicates that ECWs are weapons that can harm people.

²² See PERF, *Guiding Principles on Use of Force*, pp. 45. <http://www.policeforum.org/assets/guidingprinciples1.pdf>. Page 18.

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DPM 2.1.5 Section: 6. Reporting Guidelines

The process of reporting and investigating force is an important accountability measure for police agencies. The current policy provides a brief summary of the requirements for reporting force with more details included in DPM 2.1.45, Use of Force Reporting Protocols. Other reporting requirements were found in additional policies that PERF reviewed, including DPM 2.1.20, Firearms Use, in which verbal and written reports are required when a firearm is pointed in the direction of another person and the person was aware of it. Again, it is recommended that these separate policies be brought together into a single, comprehensive policy.

PERF found that MPD does not currently require reporting on the pointing of an ECW at an individual. Agencies should capture and review reports on the pointing of an ECW at an individual as a threat of force.”²³ The reason for requiring reporting in this circumstance is to help agencies identify areas for improvement with respect to policies and training, and to promote accountability and transparency within the agency. Considering that MPD officers utilized ECWs in over 40 percent of use of force reports over a three-year period, it is important that the use of ECWs be appropriately tracked, even when they are not fully deployed. With this information, MPD should also track the effectiveness of ECWs and determine whether additional training is needed informing officers on what other options are available to them in the event that the use of an ECW fails. Additionally, the potential lethality of ECWs justifies its oversight similar to the oversight of the pointing of a firearm.²⁴

Recommendation: *MPD should require that the pointing of an ECW be reported by officers. This action does not have to be captured in the official use-of-force report, but can instead be required in an incident report*

DPM 2.1.20 Firearms Use

As a means of lethal force, it is important to have clear guidelines surrounding the use of firearms. MPD currently provides recommendations on firearm use in a policy separate from the primary use-of-force policy. The firearms policy includes general guidelines, restrictions, deployment procedures, post-deployment procedures, carrying and security, and training considerations. Below, PERF provides recommendations on how to improve upon the current policy.

DPM 2.1.20 Section: 2. General Guidelines

Given that the use of firearms is a lethal option, it is important that the language governing the use of firearms be precise. Within the general guidelines, there are opportunities for the current language to be more specific. For example, language permitting the use of firearms to “stop a fleeing felon” is too broad and should be qualified to determine whether a threat is posed to officers or the public per *Tennessee v. Garner*, which prohibits shooting a fleeing suspect “unless necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”²⁵

²³ PERF, *Guiding Principles on Use of Force*, see Policy 10, pp. 48-49.

²⁴ See page 34 for more information about potential ECWs deployment issues and the need for alternative tactics.

²⁵ *Tennessee v. Garner*. 471 U.S. 1. (1985). <https://supreme.justia.com/cases/federal/us/471/1/>

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Recommendation: *MPD should clarify that the authorization to use a firearm to “stop a fleeing felon” is permissible **only** when the officer has probable cause to believe the suspect poses a significant threat of death or serious physical injury to the officer or the general public.*

DPM. 2.1.20 Section: 3. Restrictions

Current policy allows “suppression fire” to be used when “*the officer reasonably believes the subject(s) poses an imminent threat of death or serious injury to the officer or another person, and the subject has demonstrated the subject(s) has the ability to cause death or serious injury to others (example: downed officer or citizen rescue).*”

Based on PERF’s analysis of use-of-force policies, the use of the term “suppression fire” is not fully accepted in this context. PERF found that few agencies allowed for “suppressive fire” at life-threatening targets. According to police executives and training experts, “suppressive fire” is a military term referring to “sending large amounts of fire more or less indiscriminately into an enemy’s general location in order to force the enemy to seek cover.” It was agreed by the experts consulted that this military term should not be used in a policing context. The term “directed fire” was determined to be more appropriate, because it is more limited and involves aiming “at a specific threat in order to stop incoming fire from the threat.” Training on “directed fire” should recognize it as a lethal force option, and as such, it should be considered under the legal principles that govern police officers’ use of lethal force.

Recommendation: *MPD should replace the term “suppression fire” with “directed fire.” The term “directed fire” is more accepted by policing experts and does not have the militaristic connotations of “suppression fire”.*

As previously recommended, PERF recommends that firing at a moving vehicle be prohibited. The current language included in the Firearms Use policy can be simplified to make this prohibition clear.

Current MPD policy: Current policy states that:

- *A Department member shall not discharge a firearm at an occupant of a moving vehicle unless the officer reasonably believes that:*
 - *The subject poses an immediate threat of death or serious physical injury to the officer or another person; AND*
 - *There is no reasonable alternative course of action for the officer to prevent the death or serious physical injury.*
- *If at all possible, an officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.*
- *Discharging a firearm at a vehicle solely in an attempt to disable the vehicle is generally prohibited.*
- *Bullets fired at a moving vehicle are extremely unlikely to stop or disable the moving vehicle.*
- *If it becomes necessary for officers to shoot at a moving vehicle, the following ramifications shall be considered:*
 - *Moving vehicles present a rapidly changing field of fire.*

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- *If the driver is incapacitated, the vehicle would be uncontrolled.*
- *The action could create a danger to the public that outweighs the reason the deadly force was initially used.*

MPD's current policy is overly complicated, which could lead to confusion in the field. Additionally, the policy does not provide officers in the field with useful guidance. Therefore, the policy should be streamlined to clearly state that shooting at vehicles is prohibited. The only exceptions to this policy would be if a subject inside a vehicle is using or threatening lethal force by means other than the vehicle or if the vehicle is being used as a weapon of mass destruction.

Recommendation: *MPD should simplify the language in this section to simply state, "Shooting at or from a moving vehicle is prohibited unless someone inside the vehicle is using or threatening lethal force by means other than the vehicle itself. The only exception is an apparent act of terrorism when the vehicle is being used as a weapon of mass destruction."*

DPM 2.1.35 Electronic Control Device (ECD) Protocols

Based on PERF's analysis of MPD's use-of-force data, electronic control weapons (ECWs) were the most often cited type of force involved in use-of-force reports. Within the 1,609 cases PERF staff reviewed, there were 656 ECW deployments, accounting for approximately 40 percent of all force recorded. Therefore, it is important that the policy governing their use be appropriate and in line with best practices. Overall, MPD's policy is reflective of PERF's *2011 Electronic Control Weapon Guidelines* developed with the support of the Department of Justice's Office of Community Oriented Policing Services.

Although ECWs are a popular less-lethal option for MPD, studies of ECW deployments have found that they are not always an effective option. In fact, some cities have found that ECWs fail to work in almost half of all deployments, for a variety of reasons, such as probes failing to make contact with the subject's body. The Los Angeles Police Department (LAPD) studied the use of ECWs in the department and found that in 2015, there were more than 1,110 incidents in which officers fired their ECWs, but in only 53 percent of cases, the use of the ECW caused the subject to submit to arrest.²⁶ Given that ECWs are not effective in every situation and the high use by MPD officers, it is critical that MPD train officers on what to do when an ECW fails, especially de-escalation techniques. Having this training will provide officers with additional options without resorting to an escalation in force.

DPM 2.1.35 Section: 2. Definitions

Within MPD's policies, ECWs are referred to as "electronic control devices" (ECD) and "Tasers" interchangeably. PERF recommends that the term "electronic control weapons" be used instead and that this term be used consistently across all policies. The term ECW clarifies that ECWs are weapons that carry a risk of harm.

²⁶ See, for example, "One of the LAPD's preferred weapons to help officers avoid shootings often doesn't work." Los Angeles Times, April 1, 2016. <https://www.latimes.com/local/crime/la-me-lapd-tasers-20160401-story.html>

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Recommendation: *MPD should replace all references to “ECD” and “Taser” in this and any related policies with the more descriptive and appropriate term, “Electronic Control Weapon (ECW),” in order to clarify that ECWs are in fact weapons that carry a risk of harming persons.*

Additionally, the current definition of “Drive Stun” included in MPD’s ECW policy specifies behavior that should be discouraged. PERF recommends clarifying the definition of “Drive Stun” to discourage its use as a pain compliance technique.

Recommendation: *MPD should revise the definition of Drive Stun to state that “Drive stun mode should be used only to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.” This definition should inform additional language on Drive Stuns included throughout the policy, specifically the language on page 3 of the policy. In addition, PERF recommends against deploying probes to the groin area as currently allowed in this section. MPD should discuss appropriate target areas during annual recertification and conduct refresher training on the use of ECWs as needed.*

DPM 2.1.35 Section: 5. ECW Deployment Procedures

Due to the risk of injury associated with ECWs, the policy regarding their use should be precise and in line with best practices. The policy should include considerations of the length of time subjects are exposed to ECWs.

Recommendation: *MPD should revise deployment procedures to state, “Personnel should use an ECW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to the ECW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent application should be independently justifiable, and the higher risk should be weighed against other force options.”*

Additionally, ECWs should be clearly marked (brightly colored) and easily identifiable as a less-lethal option. It is recognized, however, that specialized units such as SWAT may prefer dark-colored ECWs for tactical concealment purposes. A cost-effective option for the department is to purchase new ECWs in yellow as older devices are replaced.

Recommendation: *MPD should consider adopting brightly colored ECWs (e.g., yellow), which may reduce the risk of escalating a force situation because they are plainly visible and thus decrease the possibility that a secondary unit will mistake the ECW for a firearm.*

DPM 2.1.40 Less-Lethal Shotgun Protocols

PERF’s review of DPM 2.1.40, Less-Lethal Shotgun Protocols, did not result in any specific recommendations to the content of the policy. However, it should be noted that all MPD shotguns are deployed as less-lethal devices; the department has not deployed shotguns equipped with lethal munitions for years. While MPD does not deploy shotguns to be used as lethal force, these weapons are

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not marked to indicate that they are less-lethal devices (such as being equipped with an orange stock and handguard). This causes the potential for confusion in instances where MPD responds jointly with officers from a neighboring jurisdiction who might believe MPD officers to be armed with lethal shotguns.

Recommendation: *MPD should ensure that less-lethal shotguns are clearly marked to avoid confusion with lethal shotguns.*

DPM 2.1.45 Use of Force Reporting Protocols

In the course of PERF's work with MPD, it became apparent that there were flaws in the current policy and practices on use-of-force reporting protocols, with policy shortcomings identified by both PERF and MPD leaders. Issues included supervisors not conducting investigations on the scenes of a reported use of force when required to do so, the lack of documentation in reports regarding the circumstances of reported uses of force and investigations, and a lack of documentation of the review of use-of-force reports. These issues revealed the importance of accountability within the department, particularly at the level of first-line supervisors. First-line supervisors provide key support to officers and to upholding the mission of the department, often with limited resources. Therefore, it is important that MPD provide first-line supervisors with the appropriate resources to effectively fulfill their role in holding members of the department accountable for uses of force. Without first-line supervisors taking the appropriate steps to investigate and document uses of force, the department will not be able to effectively track force within the department or correct any potential policy and training deficiencies related to use of force.

Once those issues of accountability were raised, Chief Batista and MPD acted swiftly and revised the existing policy. MPD leaders recognized the importance of having strong accountability measures in place, specifically those involving first-line supervisors, and worked to provide clearer guidance to supervisors in the department about the expectations for documenting and reporting use of force. PERF reviewed the revised policy issued in September 2018 to determine if any other changes were needed. The following recommendations are also based on a review of use-of-force reports focused on the investigative process and the review of investigations by the officer's chain of command.

DPM 2.1.45 Section: 2. Non-Deadly Force Police Incidents

Definitions

Current MPD policy stipulates the circumstances in which use of force is to be reported. The current policy covers the majority of force applications, with very few exceptions. These exceptions, such as verbal commands and handcuffing, are in line with industry standards. Therefore, PERF did not identify any issues with the current definition of "reportable use of force application" used by MPD.

Current MPD policy:

- Reportable Use of Force Application
 - All instances in which a Department member uses force on a subject shall be reported
- Exceptions
 - Verbal Commands.

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- Handcuffing.
- Control hold techniques used while applying handcuffs.
- Empty hand control holds.
- Take downs are reportable
- When a member uses force and a person is injured, or thought to be injured, or the person complains of injury and requests medical aid.

Sergeants' Responsibilities

MPD officials advised PERF that, historically, supervisors often did not respond to the scene of a reported use of force. This was a common practice in many police agencies. However, there is a growing recognition in the policing profession that in critical incidents where force may be necessary, supervisors play an important role. If a supervisor can get to the scene prior to force being used, the supervisor can have a stabilizing effect and may prevent the incident from escalating unnecessarily.

At PERF's 2016 meeting on *Guiding Principles on Use of Force*, former San Diego Police Chief William Lansdowne said that in incidents that involved an officer-involved shooting, there was typically about a 15-minute window of time from when the call came in until the first shots were fired. "If you have a system set up within your organization that gets a supervisor to the scene early on, within the 15-minute window, your chance of having an officer-involved shooting ... is reduced by about 80 percent, because they can manage the situation as a team," Chief Lansdowne said.²⁷ Therefore, PERF recommends that supervisors be aware of the types of incidents that can result in force being used – such as calls involving persons with a mental illness, developmental disability, drug addiction, or other condition that is causing them to behave erratically or dangerously – and to respond to those calls.

In situations where a supervisor is unable to arrive at the scene prior to a use of force, it is important that they respond as soon as possible to begin an investigation at the scene of the incident. While on the scene, it is beneficial for supervisors to utilize the CDM as they investigate the reported use of force. Doing so will give the supervisors a consistent framework to determine whether the actions taken were appropriate. Having supervisors use the CDM will also help reinforce the concept with officers who can see it being used in a practical situation. It also sets the expectation that officers are to utilize the CDM in their daily work.

MPD's September 2018 revision to DPM 2.1.45 expanded the categories of reported force that require a non-involved supervisor to immediately respond to the scene but fell short of requiring supervisors to respond to the scene of all reportable uses of force to conduct the initial investigation.

Current MPD policy: Current policy states that:

Non-Involved supervisor immediately responds to the scene on any reported use of force which involves the use of:

- *Strikes to the face, head, or neck.*
- *Electronic Control Devices (ECD).*

²⁷ Police Executive Research Forum, *Guiding Principles on Use of Force*, (Washington, D.C.: Police Executive Research Forum): p. 63.

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- *Impact Weapons.*
- *Deployment of Police Service Dog (K-9).*
- *Carotid Control Technique.*
- *Any other use of force causing the subject to be treated at the hospital for a physical injury as defined in DPM 2.1.1 Use of Force Philosophy & Definitions.*

Given the concerns that members of the department raised about a lack of supervision at the initial scene of a reportable use of force, the department should emphasize the role of supervisors in the accountability process. A critical part of that is to state clearly in policy that supervisors should respond to the scene of every reportable use of force. With supervisors on scene for the initial investigation, the investigations will be more thorough and accurate and findings will more accurately reflect the department's use of force.

Recommendation: *MPD should state in policy that supervisors should respond to the scene of ALL reportable uses of force to conduct the initial investigation. Supervisors should also be dispatched to all incidents where it is anticipated that force might be used.*

As discussed above, many police agencies have found that dispatching a supervisor to the scene of a critical incident can reduce the likelihood that lethal force will be used. There is often a short period of time between when an officer is dispatched to a scene and when force is used, so supervisory response should be prompt. Some police agencies have trained their dispatchers to go on the radio and specifically ask patrol supervisors if they are en route to certain high-risk calls.

Recommendation: *MPD should add a requirement that supervisors immediately respond to any scene: where a weapon (including a firearm, edged weapon, rocks, or other improvised weapons) is reported; where a person experiencing a mental health crisis is reported; or where a dispatcher or other member of the department believes there is potential for significant use of force.*

Post-Incident Sergeant Responsibilities

Following the initial investigation, current policy requires sergeants to complete and submit a Use-of-Force report via Blue Team software. Within this report, sergeants are to include "a review of all applicable reports and on-body camera footage."

A review of a sample of Blue Team Use-of-Force reports showed that incident summaries and investigative steps were rarely documented in the reports. In a number of cases, the incident summary merely included a directive to refer to the incident report. Many MPD officers and supervisors expressed concern including the narrative information in the Blue Team report, citing potential discrepancies with other reporting requirements. This concern, however, should not impede a thorough documentation of reported uses of force.

MPD officials told PERF that supervisors often write an incident report that is sent up the officer's chain of command if serious issues are identified, but that these reports are not connected to the actual Blue Team reporting process.

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Recommendation: *MPD should ensure that Blue Team reports (the software MPD uses to record use-of-force incidents) include a thorough description of the incident in question, including the names of the officers and subjects involved, the circumstances surrounding the use of force, and the result of the force used. Sergeants should also document the steps of the investigative process, including who was interviewed and what materials were reviewed. Finally, the sergeants should document the findings of their review in the Blue Team system.*

Following the initial investigation, the use-of-force report is to be submitted to the chain of command for review. PERF's review of Blue Team Use of Force reports showed very little documentation of the routing process. Documentation was primarily limited to timestamps of when reports were sent from the sergeant to the lieutenant involved in the investigation. Additionally, there was often a notation that read, "Routing was NOT handled in Blue Team. The incident was moved into IAPro by IAPro user Police Officer X." As a result, final dispositions were rarely included in the reports. Handling routing outside of the Blue Team report limits the use of these reports as an accountability tool.

Under a previous policy, sergeants conducted an investigation and completed the use-of-force report form in Blue Team. The policy did not specify what level of detail should be included in the report. Following the initial investigation, the sergeant was to forward the Blue Team report to his or her lieutenant. Although it was required that the lieutenant review the Blue Team report, there were no specific instructions in policy on how to note this review or what should be done if the investigation was not sufficient. By incorporating the CDM into the review process, individuals reviewing the investigation findings will be operating under the same framework, making it easier to determine whether they agree with the findings or if more investigation is needed.

Recommendation: *MPD should require that each individual involved in the routing process documents the steps taken in reviewing the use-of-force report using the CDM as a guide, and that each individual states his or her agreement or disagreement with the findings of the investigating supervisor.*

MPD action taken: The September 2018 update to DPM 2.1.45 Use of Force Reporting Protocols specifies the expected documentation requirements for sergeants and lieutenants.

- Moving forward, sergeants now must make one of two possible determinations: "No issues identified after initial review" or "Additional Review Required" by a senior officer. Upon making either determination, sergeants must include a statement indicating the factors that led them to the stated conclusion.
- Lieutenants must also conduct an investigation of the facts of the incident and make a determination as to whether any issues were identified following the initial review and if additional review is needed. If no issues are identified, lieutenants must include their final comments on the use-of-force incident and forward the file to the Training Section. If additional review is needed, the Blue Team file is to be forwarded to the appropriate Division commander, with the Advanced Training Lieutenant copied.

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DPM 2.3.5 Vehicle Pursuits

Given the unpredictable and hazardous nature of vehicle pursuits, they can be a public safety threat and should only be conducted under specific instances. MPD's current policy is strong, as it restricts vehicle pursuits to situations in which an officer determines that the apprehension of a suspect is immediately necessary because the suspect poses an imminent threat of death or serious physical injury to human life.

DPM 2.3.5 Section: 2. General Guidelines

In order to control vehicle pursuits, the number of units involved should be limited. Current policy states that the number of officers involved should be determined by ongoing threat assessments made by either the pursuing officer or functional supervisor. While ongoing threat assessments are important, PERF recommends narrowing this aspect of the policy to reduce the number of units involved in pursuits.

Recommendation: *MPD should ensure that when making a consideration of the number of officers required for a pursuit, MPD should limit the number of responders to a primary unit, a secondary unit, and a supervisor who is also involved in the pursuit. This should be the limit unless exigent circumstances exist that would require additional personnel to join the pursuit.*

DPM 2.3.30 Precision Immobilization Technique (PIT)

The Precision Immobilization Technique (PIT) should be a highly regulated tool in vehicle pursuits as it is not well controlled and, when conducted at high speeds, can be considered a lethal use-of-force option. Depending on how frequently PIT is used, MPD should consider discontinuing the process. If it is decided to continue the practice, the policy should be updated to reflect the need for continuous training on this technique and the specific circumstances in which it is allowed.

Recommendation: *MPD should review how often it employs this technique. If it is used sparingly, MPD should discontinue its use. Should MPD elect to continue using it, policy should be updated to reflect that refresher training be provided on a regular basis. For example, the Las Cruces Police Department requires eight hours of annual training on the technique that includes both policy review and behind the wheel driving. The Las Cruces Police Department also only authorizes individuals trained by the department to use the technique and restricts its use to vehicles going forty miles per hour or less.*

TAC 4.4 Counter Sniper Program

As mentioned in the recommendations for MPD's Firearms Use policy, the term "suppression fire" is not supported by police executives and training experts.

PERF recommends again that the term "directed fire" replace "suppression fire" throughout the policy.

Recommendation: *MPD should replace the term "suppression fire" with "directed fire" in TAC 4.4 as is also recommended in DPM 2.1.20 Firearms Use (above). The term "directed fire" is more*

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accepted by policing experts and does not have the militaristic connotations of “suppression fire”.

Additional Policies Reviewed

Several other policies were reviewed by PERF, in which no specific areas for improvement were identified. For example, DPM 2.1.25, Impact Weapons, and DPM 2.1.30, Chemical Agents, contain language reflecting progressive policing practices, such as clearly specifying aftercare following a chemical spray deployment and a requirement to immediately obtain medical assistance for subjects struck by a baton who sustain injuries or who complain of pain.

Given the high-profile nature of active shooter responses and recent controversies regarding the actions of law enforcement in responding to such incidents, MPD’s Active Shooter Response policy was closely reviewed. Overall, PERF’s review found that the policy covered all of the key components of an active shooter response, including rapid deployment tactics and instruction to find and neutralize the threat.

PERF did not identify any specific issues with the following policies that were also included in the review process:

- DPM 1.6.20 Patrol Rifle Protocols
- DPM 2.1.6 Active Shooter Response
- DPM 2.1.10 Police Incidents Involving Death/Serious Injury Officer Involved Shootings and In-Custody Death Investigations
- DPM 2.1.25 Impact Weapons
- DPM 2.1.30 Chemical Agents
- DPM 2.1.50 Less-Lethal Launcher Protocols
- PSD 2.3 Police Service Dog Bite Incidents – MPD’s policy on police service dog bite incidents included two key components: the documentation of such use of force and the medical treatment of suspects who have been injured by a police service dog. With these two components covered, PERF did not have any recommendations on current policy.

As discussed in a previous recommendation, if MPD elects to merge some or all of these policies into the department’s overall use-of-force policy, the department should ensure that each policy that remains separate contains MPD’s use-of-force philosophy and associated definitions.

SECTION II. USE-OF-FORCE DATA ANALYSIS

This section details the results of PERF’s review of the Mesa Police Department’s (MPD) use-of-force reports over a three-year period.

Use-of-Force Reports Data Review

PERF reviewed data from 1,609 use-of-force reports filed by officers, spanning from July 2015 through June 2018. MPD provided data exported from the reports stored in Blue Team IAPro software in Excel format.

PERF examined the provided data to determine general trends and areas for improvement. Figure 1 shows the number of use-of-force reports generated by quarter over the course of three years. The median number of reports per quarter was 135, with the number of reports per quarter generally increasing slightly over this timeframe.

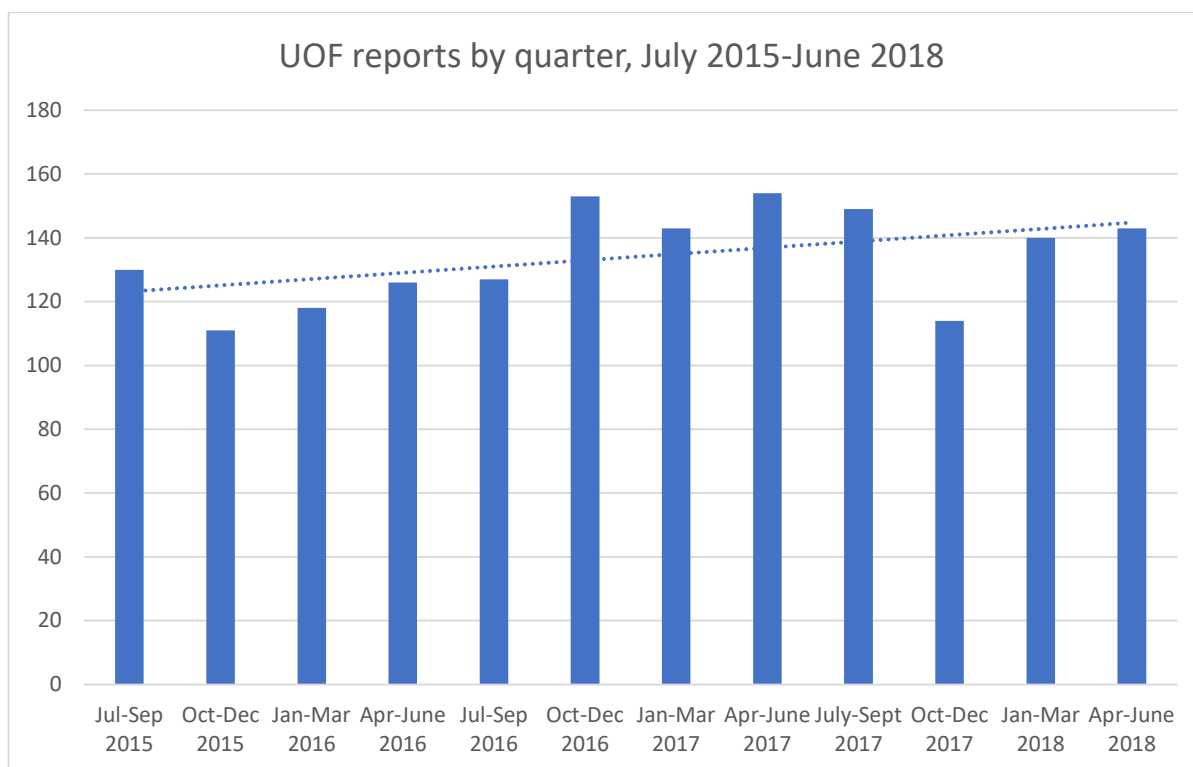


Figure 1. Use-of-Force Reports July 2015-June 2018

Overview of the Officers Involved and the Persons on Whom Force Was Used

Demographics of Subjects Involved in Use-of-Force Report

A large majority of the persons on whom force was used were male (88%), and the mean age was 32. Figure 2 shows the breakdown of the race of the persons who were subjected to a use of force. In comparing the demographic data reported to Census with the racial breakdown of the use-of-force reports:

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- 83.8% of residents identified as white and 50% of the subjects in use-of-force reports were white;
- 27.4% of residents identified as Hispanic or Latino and 22% of subjects in use-of-force reports were Hispanic or Latino; and
- 3.7% of the residents identified as Black or African American and 13% of the subjects in use-of-force were Black or African American.

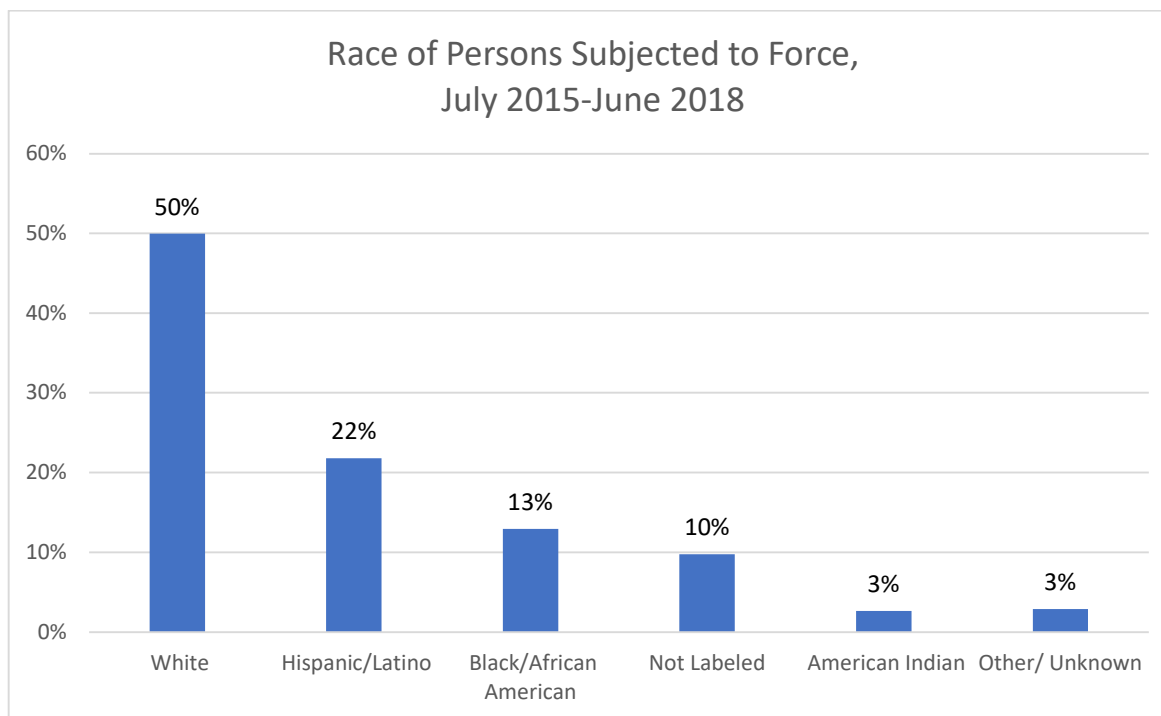


Figure 2 Citizen Complaints: Race²⁸

Citizen and Officer Injuries

MPD reported that a person subjected to a use of force was injured in 63% of the incidents (see Figure 3). In 39% of the incidents, a person required a trip to the hospital. Officers were injured in 19% of the incidents, and officers required a trip to the hospital in 4% of the incidents. In 14% of the incidents, both the officer and subject were injured, and in 2% of the incidents, both the officer and the subject went to the hospital.

	Subject Injury	Officer Injury
% of all incidents	63%	19%
% of all incidents with hospital visit	39%	4%

Figure 3 Subject and Officers - Required Hospital Treatment

²⁸ Other/Unknown category includes Asian, Polynesian, and Unknown responses that were negligible in size.

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Officer Characteristics

The 1,609 reports that PERF analyzed involved 552 officers. 38.8% of the 552 officers were involved in either one or two of the 1,609 reports of use of force. The median number of reports an officer was involved in was 4, and 23 officers were involved in 15 or more reports. The median number of years an involved officer was employed at MPD at the time of the use of force was 8 years.

Overview of Incident Characteristics

Data provided by MPD allowed PERF to examine the following report characteristics:

- The time of the incident;
- the type of force used;
- the reasons for the use of force;
- the “service rendered” (e.g. whether the use of force occurred while the officer was responding to a call for service, making a traffic stop, acting on a potential crime that the officer happened to witness, etc.); and
- the squad assignment of the officer involved.

This section discusses PERF’s findings on the characteristics of the incidents and provides recommendations on how these results can be used to strengthen MPD’s use-of-force policy, practices, and training.

Incident Time of Day

Examination of the time each incident occurred involved coding each report as either occurring in the daytime or the nighttime. Daytime was defined as the hours between 6 a.m. and 6 p.m., and nighttime was defined as between 6:01 p.m. and 5:59 a.m. Uses of force were more likely to occur at night, with 57% of the reports occurring at night and 42% during the day.²⁹

Type of Force Used

The type of force recorded in the reports ranged from verbal commands to lethal force. Figure 4 shows the number of unique reports involving each recordable type of force used. Because nearly half of the reports included more than one type of force used, the total number of uses of force in Figure 4 is greater than the number of reports examined (with more than 2,700 individual uses of force cited in 1,609 reports). The use of an electronic control weapon (ECW) was the most frequently cited type of force in the reports, followed by control holds, limited strikes, and strikes.

Control holds, limited strikes, and strikes are defined in DPM 2.1.5, Use of Force as:

- **Control holds** – Techniques that have minimal chance of injury. Examples: empty hand escort controls, firm grip, pressure points, takedowns, etc.

²⁹ Time was not noted in 60 reports, accounting for the 1% discrepancy in the percentage of reports occurring in the day versus the night.

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- **Limited Strike** – Strikes applied to limited target areas. Refer to “Strikes” definition. Example target areas: brachial plexus (tie-in), radial, median, femoral, common peroneal and tibial nerves.³⁰
- **Strike** – Techniques that have more than a minimal chance of injury. Examples: Kicks, elbow, palm or knee strikes, or punches.

Type of Force	Distinct Count of File Number	Percent of Total Cases
Electronic Control Weapon (ECW)	656	41%
Control Holds	540	34%
Limited Strikes	418	26%
Strikes	404	25%
Verbal Commands	365	23%
Bean Bag/Baton Round	156	10%
Chemical Agents	127	8%
Canine (K-9)	28	3%
Impact Weapons	27	2%
Lethal Force	12	2%
Carotid Artery Restraint	6	1%

Figure 4 – Type of Force Used

All of the four most common types of force used (ECW, control holds, limited strikes, and strikes) were more often used at night (Figure 5).

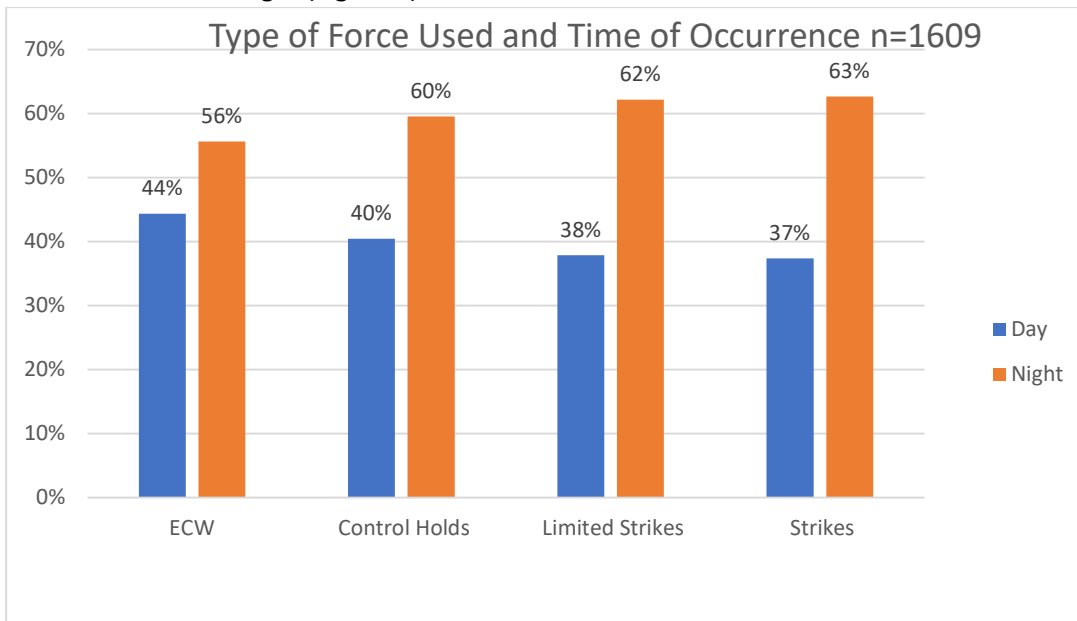


Figure 5 Type of Force Used and Time of Occurrence

³⁰ MPD separates strikes applied to the pressure points in the shoulder area, arms, and legs as “limited strikes”.

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Reason for Use of Force

The three most commonly cited reasons for using force were active resistance (43%), active aggression (30%), and arrest/detention (6%) (see Figure 6).

According to the MPD's definitions of active resistance and active aggression, as outlined in Special Order 2018-001 DPM 2.1.2, the primary difference is whether the subject's actions constitute an assault. These terms are defined as:

- **Active Resistance** – Physical actions on the part of a subject who is ignoring verbal commands and actively attempting to prevent the officer's control, but do not constitute an assault. Examples include ignoring the officer's verbal commands and pulling away, hiding behind or under objects, pinning arms under the body, thrashing around and/or body going rigid.
- **Active Aggression** – Assault with non-deadly physical force. The aggression may manifest itself through a subject taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions which present an imminent threat of physical harm to the officer or another.

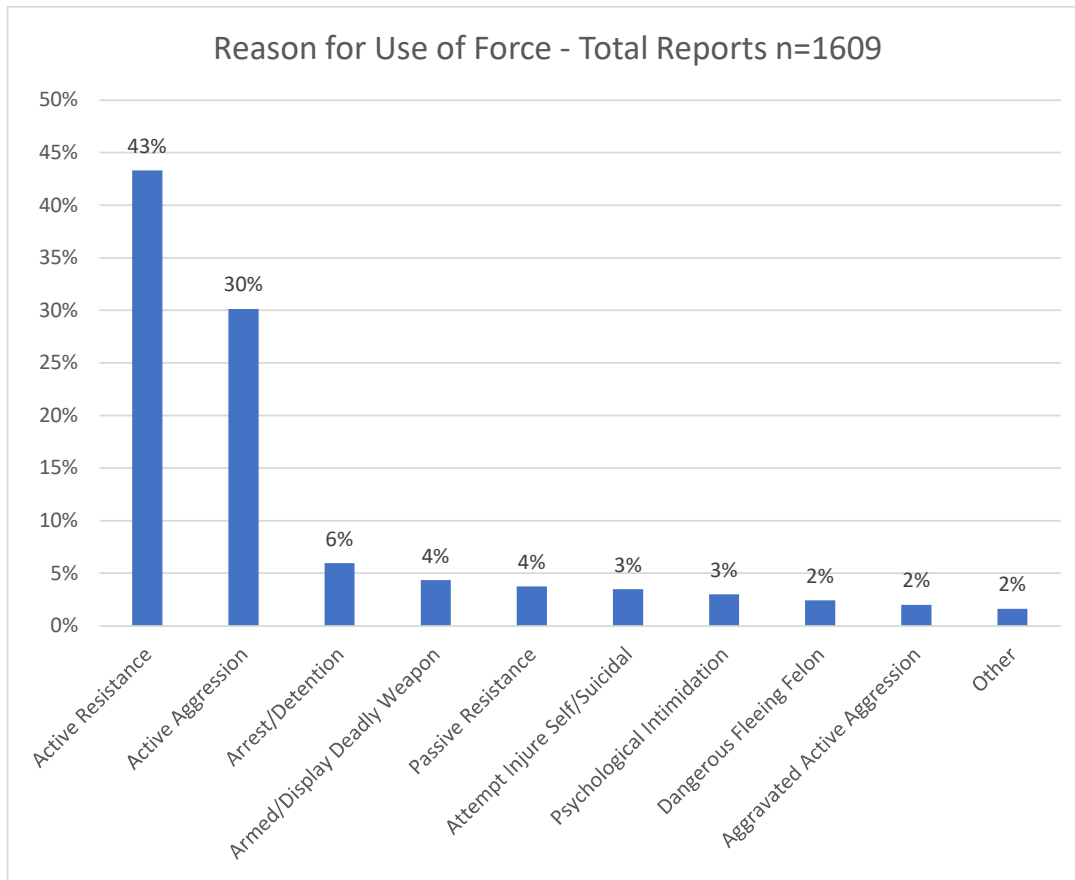


Figure 6 Reason for Use of Force - Total Reports³¹

³¹ "Other" includes responses categorized as self-defense, none, defense of others, prevent escape, and other. These categories were negligible when reported separately.

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Circumstances of Why the Officer Had the Encounter that Included a Use of Force

As seen in Figure 7, 58% of the use-of-force reports involved incidents that began with a call for service. That includes calls for service regarding a domestic violence incident (19%) plus all other calls for service (39%).

Encounters initiated by officers resulted in 24% of the use-of-force incidents; that includes pedestrian stops (9% of all of the use-of-force incidents), a crime in progress (9%), plus vehicle stops (6%).

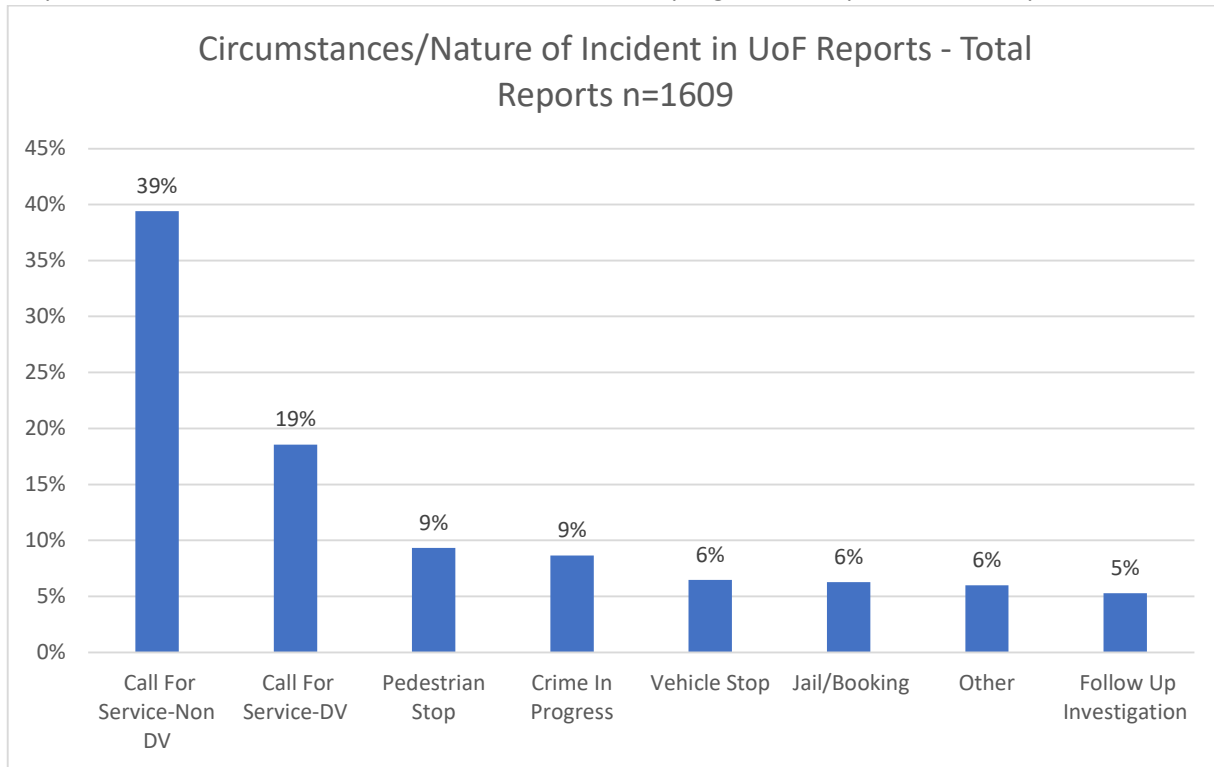


Figure 7 Service Rendered - Total Reports³²

Officer Assignment

The data review also included an examination of the officer's assignment involved in use-of-force incidents. As seen in Figure 8, the patrol substations were heavily represented in use-of-force reports, which is to be expected given that patrol officer's assignment is to respond to calls for service,

³² "Other" includes as Undercover Investigation, SWAT/Tactical Operation, Mental Health Detainer, and non-SWAT Warrant Service.

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proactively check suspicious behavior, and interact with the public. These patrol substations accounted for nearly 90% of all use-of-force reports.

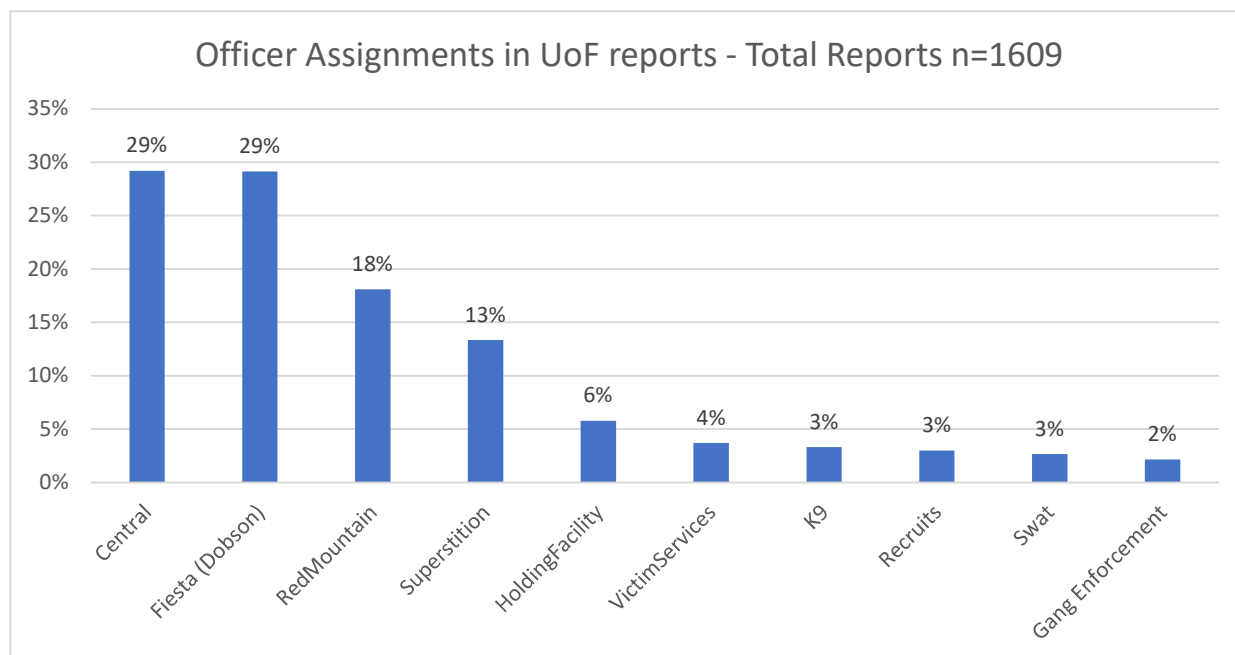


Figure 8 Combined Squad Assignments - Total Reports

Prevalence of Strikes to the Face, Head, and Neck

Prior to PERF’s work with MPD, a number of news stories highlighted use of force used by MPD officers. One video that received significant attention showed MPD officers striking a suspect in the head and face. Due to the concern over these incidents, PERF was asked to look at the department’s use-of-force data to determine whether force involving strikes to the head and face were commonly used by officers.

During the course of PERF’s review, it came to the attention of PERF staff members that a training exercised used in the past emphasized strikes to the head. PERF staff members questioned various members of MPD about this training exercise in interviews and focus groups. Although there were varying responses as to the circumstances of the training exercises, particularly around whether the suspect was demonstrating active or passive resistance, and its impact on the department’s culture, our primary takeaway from these conversations was that there was a clear expectation that a punch to the face was required to stop the threat and end the scenario. In separate interviews, MPD members described this technique as “taking out the computer.” Coupled with the national news stories, this training exercise raised concerns about the prevalence of strikes to the face being used in instances that are not allowed per current policy.

Although the Blue Team software allows users to enter the location of each reported use of force on a diagram of the human body, that data could not be exported into a readable format and was not included in the original dataset provided to PERF. Therefore, in addition to reviewing the raw data from all cases, the PERF team requested a smaller sample of full case files to review, and manually coded the information about where force was used on the person’s body from the files for analysis.

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Methodology

In order to determine the prevalence of strikes to the face, PERF focused on cases involving either a “strike” or a “limited strike,” which MPD defines as follows:

- **Strike** – Techniques that have more than a minimal chance of injury. Examples: Kicks, elbow, palm or knee strikes, or punches.
- **Limited Strike** – Strikes applied to limited target areas. Refer to “Strikes” definition. Example target areas: brachial plexus (tie-in), radial, median, femoral, common peroneal and tibial nerves.³³

Based on the definitions provided in MPD’s policy, strikes to the face would fall under the category of strikes (not limited strikes). Limited strikes were also included for analysis, to determine whether the definitions were being applied correctly.

As seen in Figure 4, of the total number of cases PERF analyzed, 404 of the cases involved a strike and 418 of the cases involved a limited strike, for a total population size of 822. PERF took a 15% sample of the cases involving a strike and limited strike using a stratified sampling technique, resulting in a sample size of 122 cases (two duplicate cases were removed).

Findings

To determine the prevalence of strikes to the face, PERF conducted an analysis of the location on the person’s body of strikes and limited strikes within the sample. The following characteristics were the primary focus in that analysis:

- The squad assignment of the officer involved;
- the time of day of the incident;
- the reasons for the use-of-force; and
- the reason for the encounter between the officer and the person who was struck (e.g. whether the officer was responding to a call for service, making a traffic stop, etc.)

Location of Strikes

MPD use-of-force reports include simple diagrams of a human body which officers can use to indicate where on a person’s body they made one strike or multiple strikes. See Figure 9.

³³ MPD separates strikes applied to the pressure points in the shoulder area, arms, and legs as “limited strikes”.

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Figure 9

Of the reports in the sample, any strikes located within areas 1, 2, and A were tallied as part of the case review. The three areas represent the face (area 1), neck (area 2), and back of the head (area A).

In many use-of-force reports, multiple separate strikes were recorded. Within the sample of “strikes” (not “limited strikes,” which by definition would include certain strikes to shoulders, arms, or legs but not to a person’s face), a total of 238 separate strikes were recorded.

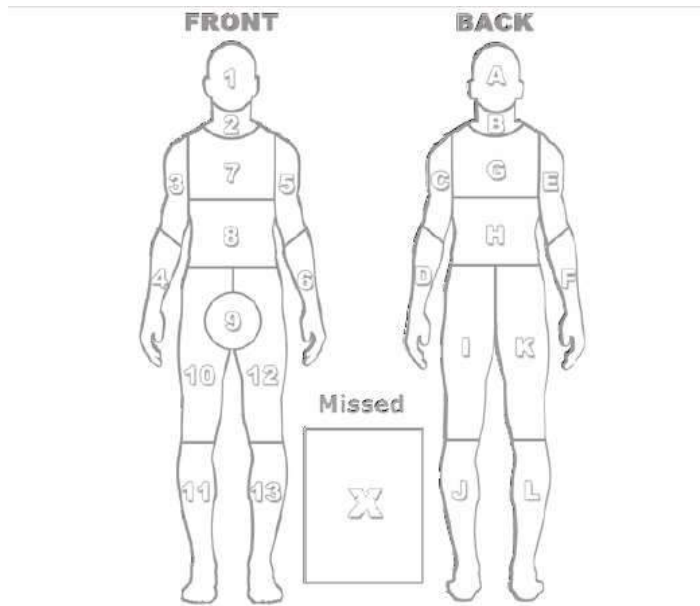
Of those, 101 strikes were directed at the face, 17 to the back of the head, and 6 to the neck.³⁴

Thus, a total of 124 strikes – 52% of the 238 separate strikes in the PERF sample – were directed at the face, head, and neck. Under MPD’s Special Order #2018-001 DPM 2.1.2, which took effect in June 2018, those types of strikes are now prohibited except in cases where the subject is engaged in “active aggression” or “aggravated active aggression.”

This section will further explore a variety of factors surrounding strikes and strikes to the face, head, and neck specifically. Figure 10 shows the complete breakdown of the location of strikes identified in the sample (n=122). Due to lack of national data, it is not possible to determine whether MPD is an outlier in the number of strikes to the face, head, or neck. However, it is important to critically examine the circumstances in which these strikes were used.

³⁴ The term neck is being used to refer to the front of the neck, specified in area 2, but not the back of the neck (area B), as that is how the term is defined throughout MPD policy. Future references to neck refer to strikes in this region.

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Location of Strike – Front of Body	Percentage of Total Strikes
1	42%
8	17%
7	6%
2	3%
4	2%
10	1%
12	0%
3	0%
5	0%

Location of Strike – Back of Body	Percentage of Total Strikes
G	11%
H	9%
A	7%
C	0%
E	0%
I	0%
X	0%

Figure 10 Sample: Location of Strike

Although strikes to the face, head, and neck do not fall under MPD’s definition of “limited strikes,” PERF analyzed a sample of limited strike reports to determine whether the definitions of force were being used correctly. PERF found that there was some indication that strikes to the face, head or neck were not appropriately labeled: 5% of the limited strikes recorded were to the face, and 2% were to the back of the head. There were no limited strikes directed at the neck recorded in the sample. This indicates that limited strikes are, for the most part, appropriately coded.

As noted in the policy recommendations, however, PERF recommends combining the categories of “strike” and “limited strike.” A single definition will make it easier for MPD to accurately track the location of strikes on persons’ bodies.

Recommendation: MPD should merge “strikes” and “limited strikes” into a single category. Combining the categories will improve the accountability process by making it easier for supervisors to track the location of strikes under one category.

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Squad Assignment – Strikes

Of the 238 strikes recorded in the sample, 124 strikes were to the face, head, or neck. These strikes to the face, head, or neck were associated with 76 unique reports included in the sample. Figure 11 shows the distribution of the involved officers’ assignments for these 76 reports.

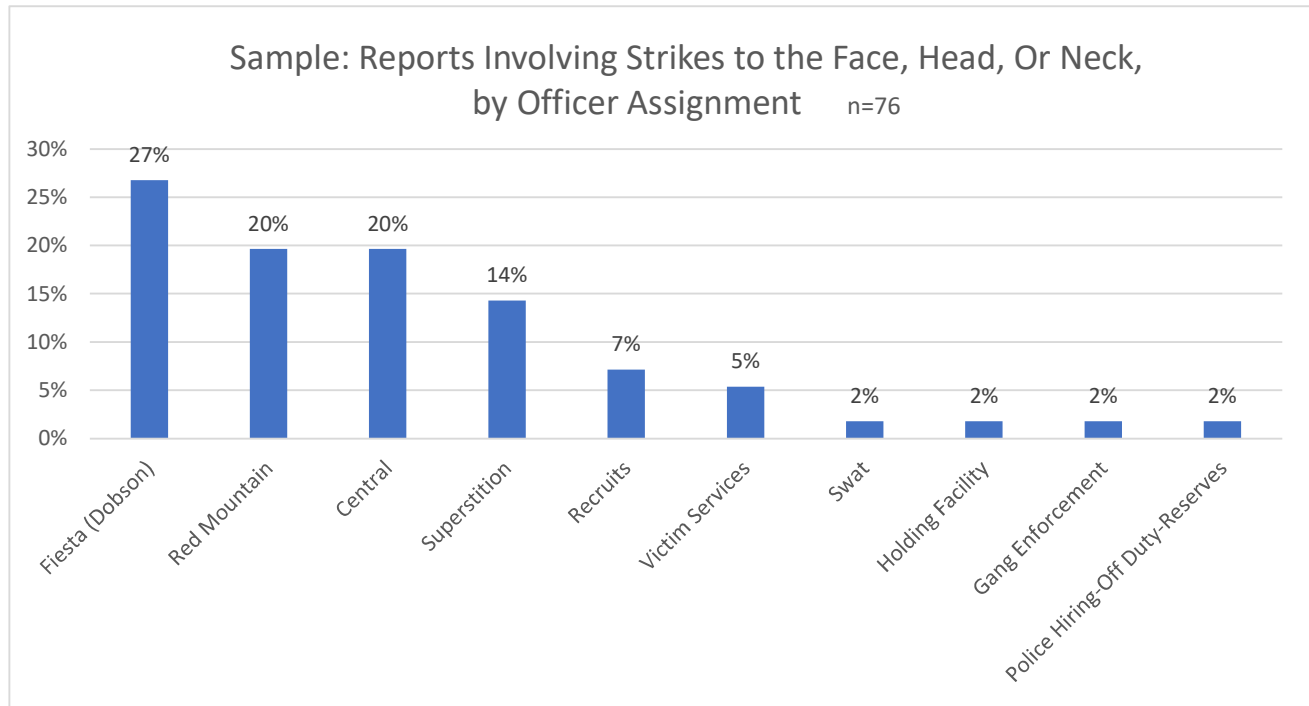


Figure 11 Sample: Reports involving Strikes to the Face, Head, Or Neck, by Officer Assignment

Incident Time of Day - Strikes

As noted earlier in this report, 58% of the overall use-of-force incidents occurred at night. This disparity is more apparent in assessing strikes to the face, head, or neck, 67% of which occurred at night (see Figure 12).

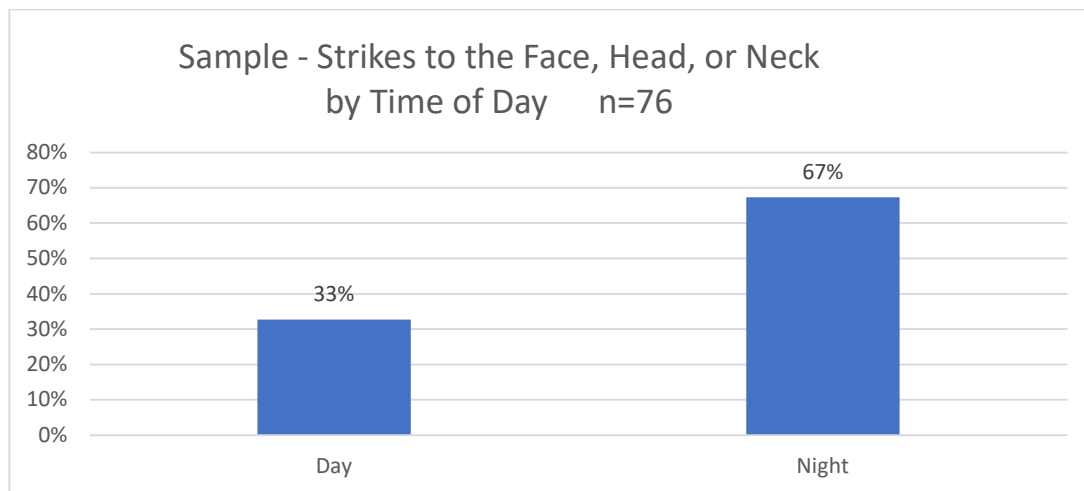


Figure 12 Sample - Strikes to the Face, Head, or Neck by Time of Day

SECTION II. USE-OF-FORCE DATA ANALYSIS

Reason for Use of Force – Strikes to the Face, Head, or Neck

Figure 13 shows the distribution of the reason for force in reports in the sample that involved a strike to the face, head, or neck.

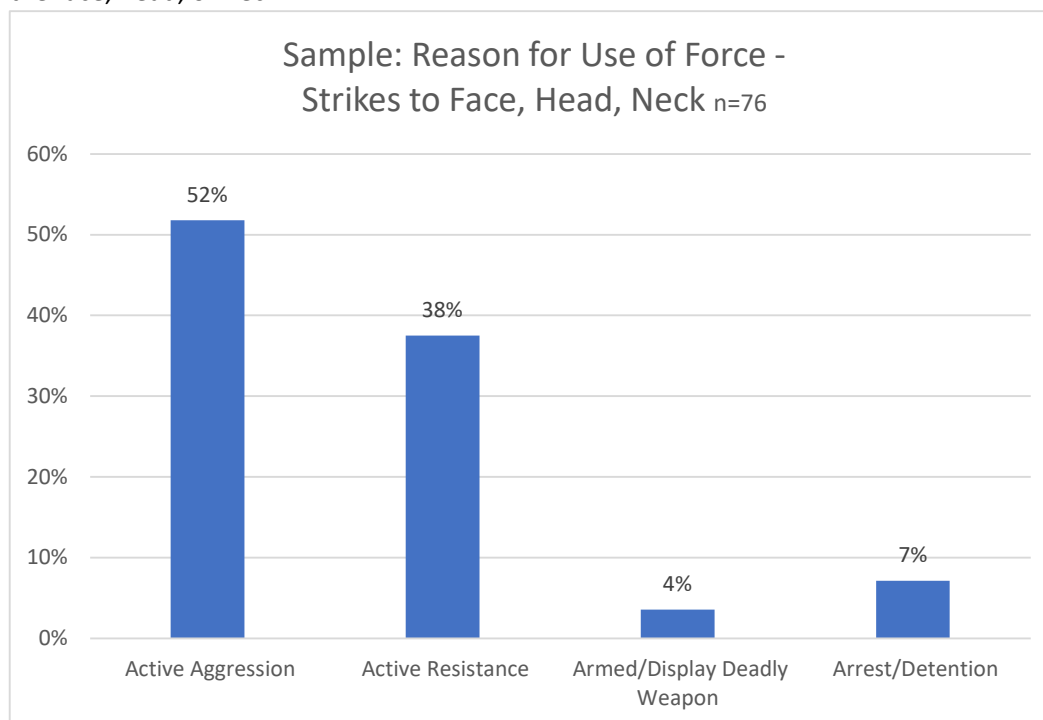


Figure 13 Sample: Reason for Use of Force - Strikes to Face, Head, Neck

Under MPD policy that took effect on June 7, 2018, strikes to the face, head, or neck should only be utilized when there is a clear need and should only be utilized when the subject is exhibiting “active aggression” or “aggravated active aggression,” defined as follows:

- **Active Aggression** – Assault with non-deadly physical force. The aggression may manifest itself through a subject taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions which present an imminent threat of physical harm to the officer or another.
- **Aggravated Active Aggression** – Assault with deadly force. The subject’s actions are likely to result in the death or serious bodily harm of the officer, themselves, or another. These actions may include firearm, use of blunt or bladed weapon, and extreme physical force.

Within PERF’s sample of cases from July 2015 through June 2018 (nearly all of which occurred before the MPD policy change on June 7, 2018), 52% of reports involving strikes to the face, head, or neck were due to active aggression and 0% were due to aggravated active aggression. Active resistance was cited in 38% of reports in the sample as the primary reason for the use of force, which is not an allowable justification under the current policy.³⁵

Thus, only 52% of the past cases involving a strike to the face, head, or neck from would be justified under current policy.

³⁵ See page 45 for the definition of “active resistance”.

SECTION II. USE-OF-FORCE DATA ANALYSIS

Recommendation: *MPD should state clearly in policy that strikes to the face should only be utilized when the circumstances warrant such action. Officers should be trained on this policy update.*

MPD action taken: In Special Order # 2018-001 in relation to DPM 2.1.2, effective June 2018, it was clarified that face, head, and neck strikes are prohibited absent active aggression/aggravated active aggression.

Summary of Findings from Report Data Analysis

In PERF's review of MPD use-of-force reports, a number of important findings were identified. A relatively small number of officers are involved in incidents that require use-of-force reports, with some apparent outliers involved in a disproportionate number of reports. In looking at reports involving all types of force, incidents tended to involve officers on patrol in the evening shifts.

These findings were mirrored in the analysis of incidents involving strikes, which indicates that the use of strikes is not isolated to a particular unit or situation, and is used throughout the department. In taking a sample of these cases, it was found that 52% of strikes were directed at the face, head, or neck. The most commonly cited reasons for these strikes were active aggression and active resistance. However, active resistance does not warrant a strike to the face, head, or neck under the current policy and did not warrant a strike in the previous policy. Moving forward, it will be important for MPD to ensure that its current policy is enforced throughout the department.

Recommendation: *MPD should make substation commanders and supervisors (sergeants and above) aware of the findings in this report in a briefing or in-service training. Supervisors should continue to track use of force involving officers under their command and should use these findings to determine whether additional training is needed. Supervisors should also be tasked with ensuring that current policies are followed in the field.*

Given the findings of the data analysis, there are significant implications for the Mesa Police Department moving forward. With the recent change in policy regarding the justification required for a strike to the face, MPD leaders must ensure that these efforts to change the department's policies, training, culture, and accountability practices are sustainable and long-lasting. Charting a new path forward should not lead to a greater reliance on the use of ECWs, given the findings about their frequent ineffectiveness in the field.

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

PERF's review also included an assessment of the Mesa Police Department's Professional Standards Division (PSD) as it relates to use-of-force complaints.

PERF reviewed a selection of complete Blue Team reports and policies related to the operation of PSD, including DPM 1.4.10 Disciplinary Process and DPM 1.4.25 Professional Standards. Focus groups conducted with members of MPD and an extensive interview of members of the Professional Standards Division helped to inform PERF's recommendations.

Process of Submitting a Complaint

PERF assessed the complaint process from the submission of a complaint through final disposition.

Public Complaints

Citizens can report complaints in a number of ways, including in-person and through online methods. To make a complaint, an individual can:

- Directly contact an officer's supervisor and verbally make a complaint;
- Complete a complaint form through the department's website or mail/fax the form to the PSD; or
- Call the PSD and make a complaint via telephone.

MPD's methods by which citizens can file a complaint are in line with national best practices. Accessing the online form, however, may be difficult for community members who are not familiar with the structure of MPD, because the form is currently located on the PSD subpage. PERF recommends that MPD move information on how to make a complaint to its home page.

Recommendation: *MPD should modify its website to place information on how to file a compliment or complaint to the homepage, so it can be made more visible to the public.*

Internal Complaints

Complaints also can be made by members of the Police Department. The complainant brings the complaint to the supervisor of the subject of the complaint. In these cases, the Division Commander and PSD are notified.

Complaint Form

As discussed above, MPD does a good job of making the complaint process accessible to the public. However, PERF identified some areas for improvement in the complaint form.

MPD's current complaint form includes the statement, "Be aware that per Arizona State Law, A.R.S. 13-2907.01, it is a misdemeanor to knowingly make a false statement to a law enforcement agency. By submitting this form, you attest to the truthfulness of the statements made below."

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

Warnings that making a false complaint is a criminal violation can be perceived as an impediment to the complaint process. Such warnings may discourage individuals who are hesitant about making a complaint. Some potential complainants may interpret the warning as a veiled hint that complaints are not welcome.

It is important to remove barriers that may discourage individuals from making a complaint. Therefore, unless it is required by law, complaint forms should not include threats of potential prosecution for filing a false complaint.³⁶ PERF recommends removing this language from MPD's complaint form, if permissible by state law.

Recommendation: *MPD should remove the warning about making a false complaint from its complaint materials and website. Additionally, this warning should not be given to individuals making complaints in person or over the phone.*

Additionally, it is important that terminology and information be consistent in the materials that involve the complaint process. MPD's main webpage states that complaints should be made to the Professional Standards Unit at the phone number as 480-644-2010. On the Citizen Complaint Form, however, individuals are instructed to contact the Internal Affairs Unit at 480-644-5214. Additionally, the link provided on the form that directs individuals on how to submit a complaint electronically defaults to an error page.

Recommendation: *MPD should ensure that all materials related to the complaint process are consistent and accurate. Specifically, MPD should reconcile the website's instructions for making a complaint via phone. Currently, the phone number on MPD's webpage differs from the phone number on the separate complaint form. MPD should also ensure that all of the links on the complaint form are active and replace any broken links.*

Complaint Investigation

Investigations of complaints within MPD take one of two paths. They either are investigated by the chain of command or by the Professional Standards Division (PSD).

Depending on the nature of the complaint, the lieutenant or commander of the officer involved determines whether the complaint should stay under the purview of the chain of command or should be elevated to PSD. A civilian program analyst working within PSD monitors chain-of-command complaints to determine if there is a need for PSD involvement, and the lieutenant in charge of PSD reviews these complaints on a weekly basis to ensure they do not need to be elevated to a PSD investigation.

The determination of whether a complaint stays within the chain of command or goes to PSD is made by the involved commander and the Executive Assistant Chief who oversees PSD. Minor complaints typically remain with the chain-of-command lieutenant and commander for resolution.

³⁶ *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice.* (Washington, D.C.: DOJ Office of Community Oriented Policing Services): p. 17. <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf>

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

Recommendations on these processes are included below.

Internal Affairs Investigations Process Outlined

Information entered into Blue Team is regularly reviewed by the Professional Standards Division. If a complaint submitted in Blue Team is determined to require further investigation, the incident is classified as an Internal Affairs Investigation and is assigned a tracking number within PSD. In this investigation, a PSD investigator is assigned, and the subject of the investigation is provided with a Notice of Investigation (NOI).

After the investigation is complete, the investigator completes an investigation memo summarizing the allegations and findings, and attaches it in IA Pro for review by the PSD Lieutenant. After this review by the lieutenant, the investigation is forwarded to the MPD Legal Unit for review and then returned to PSD. PSD then forwards the investigation to the lieutenant who supervises the subject of the investigation for review and recommended disposition.

If a complaint is sustained, the individual can submit a rebuttal. After the rebuttal is received, the investigation report and related files are sent to the Division Commander, who provides his or her concurrence or non-concurrence with the recommended disposition. The Division Commander then makes a recommendation for discipline and forwards the case to the Assistant Chief. The Assistant Chief then provides concurrence or non-concurrence with the recommended disposition and disciplinary action. If the final discipline is dismissal, the Chief of Police documents his or her concurrence or non-concurrence with the recommended disciplinary action.

To conclude the investigation, PSD notifies the subject of the complaint, his or her chain of command, and the complainant of the final disposition. Finally, all related documents are saved in IA Pro.

Command Investigations

As mentioned previously, minor complaints made against officers generally do not fall under the purview of PSD and are instead resolved in the field by the accused officer's chain of command. However, PERF was advised that sergeants do not always enter minor complaints into Blue Team. This is acceptable under DPM 1.4.25 Professional Standards, which states, "All complaints against MPD members shall be accepted and *may* be entered in the Blue Team and IA Pro databases" (emphasis added). Allowing this flexibility in entering complaints into Blue Team can make tracking officers' patterns of behavior difficult and could hinder opportunities for MPD to make and "early intervention" to counsel officers and help them adjust their behavior to correct minor problems.

To ensure that complaints that do require an investigation are documented, MPD should include the guidelines outlined in DPM 1.4.10, Disciplinary Process, that govern which complaints warrant a formal department investigation and cannot be investigated as a department inquiry.

Recommendation: *MPD should include the guidelines outlined in DPM 1.4.10, Disciplinary Process on which types of complaints do warrant a formal department investigation to DPM*

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

2.1.45, Use of Force Reporting Protocols. DPM 1.4.10, Disciplinary Process states that the following complaints cannot be classified as an inquiry and warrant a department investigation:

- *Complaints that are criminal in nature.*
- *Complaints that involve sexual harassment.*
- *Discrimination.*
- *Violations of the COM Computer use policy.*
- *Violations of DPM 1.2.110, Overtime Protocols.*
- *Neglect of duty violations.*
- *Complaints of workplace violence.*
- *Bias complaints based on race, religion, national origin, sex, and sexual orientation.*

Additionally, MPD should include language in policy that makes it clear that complaints made to members of the department are not to be discouraged. In PERF's interviews of MPD personnel, we heard that there was inconsistency in which complaints were forwarded for review. Sergeants should be trained on their responsibilities in accepting complaints, because a refusal to accepting a complaint can damage the public's trust in the department.

Recommendation: *MPD should state in DPM 2.1.45 Use of Force Reporting Protocols that complaints are not to be discouraged and should emphasize the sergeant's role in making sure this policy is enforced. Sergeants should be trained on their responsibilities in accepting complaints.*

Complaint Dispositions

As part of its review, PERF agreed to assess whether proper classifications of cases were being used within MPD and whether the definitions of case dispositions are in line with progressive practices of similar law enforcement agencies. PERF's intent in this review was not to assess the quality of the investigations, but rather to determine if the correct terminology and processes were used by the Professional Standards Division. MPD is currently working with former Maricopa County Attorney Rick Romley to assess the quality of investigations conducted by the PSD.

DPM 1.4.10 Disciplinary Process outlines the investigative findings classifications used by MPD³⁷:

1. **"Inquiry: Administratively Closed:** The initial review determines the allegations do not meet the criteria for a Department Investigation.³⁸ The allegations will be closed without interviewing the subject member (no NOI served). A disposition of Inquiry: Administratively Closed is not considered formal discipline.
2. **Unfounded:** The investigation revealed no facts to support that the incident complained of actually occurred.
3. **Exonerated:** Evidence shows the alleged conduct did occur but did not violate Mesa Police Department (MPD) policies, procedures, or training.

³⁷ Mesa Police Department, "DPM 1.4.10: Disciplinary Process," pg. 13-15
<https://www.powerdms.com/public/MESAPD/documents/263909>

³⁸ As outlined in DPM 1.4.10: Disciplinary Process, pg. 7-8

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

4. **Not Sustained:** There are insufficient facts to decide whether the alleged misconduct occurred.
5. **Sustained: Non-Disciplinary Corrective Action:** The evidence shows by preponderance of the evidence that the alleged conduct did occur, and the actions of the member violated MPD policies, procedures or training.
 - a. Per City of Mesa (COM) Management policy #339, supervisors may choose to initiate non-disciplinary corrective action in response to poor performance or inappropriate behavior. Initiation of these types of actions is generally given for problems related to first-time performance deficiencies or other minor offenses. Supervisors may choose to engage in one or more of the following non-disciplinary corrective actions:
 - i. Training
 - ii. Verbal Counseling in conjunction with Workstation File Documentation
 - iii. Corrective Action Plan
 - b. A disposition of Sustained: Non-Disciplinary Corrective Action is not considered formal discipline and not subject to a Mitigation Hearing.³⁹
 - c. For Sustained: Non-Disciplinary Corrective Action disposition, the affected Division Commander/Manager shall notify the member's immediate supervisor to ensure the non-disciplinary corrective action is completed and properly documented in the member's work station file.
6. **Sustained:** The evidence shows, by preponderance of the evidence, that the alleged conduct did occur, and the actions of the member violated MPD policies, procedures or training. Sustained complaints may include the following disciplinary actions: written reprimand, disciplinary probation, disciplinary suspension, involuntary demotion, or dismissal.
7. **Policy Failure:** The evidence shows the alleged conduct did occur, but the actions of the member were consistent with the MPD policies, procedures or training. If the final disposition results in a Policy Failure, the Policy & Planning Section Lieutenant shall be notified by the Professional Standards Lieutenant."

PERF reviewed MPD's disposition classifications to determine whether they meet the standard set by the Department of Justice's Office of Community Oriented Policing Services (COPS Office). The COPS Office recommends having at least four basic resolution categories for internal complaints: sustained/founded, not sustained/not resolved, exonerated, or unfounded.⁴⁰ Additional categories are encouraged for outcomes that may not fit into the four basic categories. MPD's "Policy Failure" disposition, for example, is a useful way to indicate the need for improvement in a situation in which there was no official misconduct, but the situation showed flaws in current policy.

PERF's review found that MPD's classifications are in line with professional standards set by the COPS Office and are being utilized correctly.

³⁹ Defined as "A meeting where a member is given the opportunity to respond to investigative findings, verbally or by written memo, or both, prior to the imposition of a disciplinary penalty of: written reprimand" in DPM 1.4.1 Professional Standards Chapter Definitions.

⁴⁰ *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*. (Washington, D.C.: DOJ Office of Community Oriented Policing Services): pg. 50 <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf>

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

Additional Recommendations for the Professional Standards Division

The PERF team identified additional recommendations concerning the Professional Standards Division outside of the complaint process:

Maintenance of Case Files

During PERF interviews of MPD personnel, we were advised that a large number of personnel files had been purged in 2014, including files containing sustained complaints. Given the importance of personnel files in monitoring officers throughout their careers and the possibility of future lawsuits, PERF recommends that MPD create a record retention policy specifying when records can be purged.

For example, in New Jersey, the Division of Archives and Records Management requires local police departments to permanently maintain internal affairs investigation files concerning a criminal homicide involving an officer. Incidents resulting in an officer's arrest are to be maintained for 75 years. The New Jersey guidelines suggest that all other criminal or administrative internal affairs records should be maintained for at least five years, and if the officer involved is still on the force, it is recommended they maintain the records for the duration of that officer's career plus five years.⁴¹

Recommendation: *MPD should develop a policy that outlines the circumstances in which personnel files held by the Professional Standards Division can or cannot be purged. The New Jersey Division of Archives and Records Management policy described above may be one example of how MPD can develop such a system. PERF recommends that this policy include a stipulation that sustained complaints against an officer are held indefinitely.*

MPD action taken: MPD has put a halt to the purging of files pending a review of public records laws and existing policy.

Physical Location of the Professional Standards Division

Currently, PSD is located at MPD headquarters. The PERF team heard multiple times that this location has presented problems in terms of the ease of making complaints and with the confidentiality of investigations. In the past, officers who were the subject of complaints apparently have attempted to discuss their cases with PSD staff when they were at headquarters on other business, potentially compromising the integrity of the investigation. Additionally, it was noted that conversations easily carry into adjoining officers and meeting spaces, compromising the confidentiality of complainants and the integrity of cases. PERF recommends that MPD explore options to move PSD outside of headquarters. Best practices suggest that if possible, complaints should be processed at any facilities accessible to the public and that if an agency can arrange for other local government offices or another location outside of police facilities to accept complaints, they should do so.⁴²

⁴¹ State of New Jersey, Office of the Attorney General, Department of Law and Public Safety. "Internal Affairs Policy and Procedures," pg. 41-42. https://www.nj.gov/oag/dcj/agguide/internalaffairs2000v1_2.pdf

⁴² *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*. (Washington, D.C.: DOJ Office of Community Oriented Policing Services): pg. 15 <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf>

SECTION III. PROFESSIONAL STANDARDS DIVISION REVIEW

Recommendation: *MPD should consider moving the Professional Standards Division's office to an off-site location. An off-site facility, such as a mixed-use office building or another city property, can be less intimidating for complainants than police headquarters. Furthermore, for officers involved in an investigation, the off-site location will ensure a higher level of privacy and will help protect the integrity of the investigation.*

SECTION IV. USE-OF-FORCE TRAINING REVIEW

SECTION IV. USE-OF-FORCE TRAINING REVIEW

PERF's review of the Mesa Police Department's use-of-force practices included a review of its training on use of force. PERF was also asked to provide a train-the-trainer seminar to begin MPD's implementation of PERF's Integrating Communications, Assessment, and Tactics (ICAT) training (see next page for information about ICAT).

In the course of the review, PERF reviewed Arizona POST's training curricula, which is utilized by MPD, along with other related training documents. Additionally, PERF staff members spent substantial time with MPD's Training Section, both in the provision of ICAT training and in focus groups. PERF's staff was consistently impressed by the Training Section's proficiency and professionalism.

Due to multiple recent changes in the department's use-of-force policy, however, the Training Section has had to adapt its training several times. The result is that MPD officers have received training on different policies, depending on their date of hire. Throughout PERF's site visit, it became apparent that the frequent changes in policy have impacted the effectiveness of training. The Training Division has attempted to provide consistency, but inconsistent reinforcement of training in the field can limit the impact of these efforts.

The following sections provide an overview of the implementation of ICAT and PERF's recommendations on how to strengthen MPD's training.

Implementing ICAT

In addition to reviewing MPD's use-of-force policies and practices, PERF was asked to provide an introduction to its ICAT training in the form of a train-the-trainer course as MPD works to incorporate ICAT into its current use-of-force training.

ICAT will also provide guidance for all members of the department on the benefits of the Critical Decision-Making Model (CDM). For officers, the CDM provides officers with the tactics to successfully assess situations, with an aim towards de-escalating force. For first-line supervisors, the CDM provides a consistent framework to evaluate whether the force used by officers in the field is appropriate and in line with department policy. For the Use of Force Board, using the CDM in the review process will help identify policy and training needs for the entire department.

To begin the process, in August 2018 PERF staff conducted a train-the-trainer seminar for MPD's Training Section staff and a selected number of Field Training Officers. In this training, PERF provided an overview of the ICAT curriculum and demonstrated several examples of the scenario-based training that is a key part of ICAT. MPD participants appeared receptive to the training and were engaged throughout the process.

In November 2018, PERF staff observed an ICAT training session facilitated by MPD staff. The training was conducted for 28 patrol officers. It was again noted that the training appeared to be well-received, and feedback was positive. PERF staff members noted no concerns in how MPD was implementing the

SECTION IV. USE-OF-FORCE TRAINING REVIEW

ICAT curriculum. PERF recommends, however, that MPD command staff regularly evaluate how the training is being delivered. To do so, it is recommended that senior leaders in the academy attend classes and personally observe how the training is being delivered. At a 2016 PERF conference, then-Commissioner Charles Ramsey of the Philadelphia Police Department noted: “You have to periodically check to make sure that the academy training is consistent with what you’re trying to achieve. Just going by and listening is a good way to do that.”

Recommendation: *MPD should, as a general matter, evaluate instructors regularly to ensure that training is being implemented in a consistent manner. With respect to ICAT, which is a new type of training developed just two years ago, senior leaders in MPD’s academy should sit in on classes to personally observe the instruction of ICAT and ensure that training is presented in the manner intended by MPD command.*

PERF staff will continue to provide support to MPD staff members as they work to implement the ICAT curriculum within the department.

PERF’s Integrating Communications, Assessment, And Tactics Training Guide

To help law enforcement agencies implement PERF’s 30 Guiding Principles on Use of Force⁴³, PERF developed *ICAT: Integrating Communications, Assessment, and Tactics*,⁴⁴ a training guide that represents a new way of thinking about use-of-force training for American police officers. ICAT takes the essential building blocks of critical thinking, crisis intervention, communications, and tactics, and puts them together in an integrated approach to training.

ICAT is designed to increase officer safety and public safety by providing officers with more tools, skills, and options for handling critical incidents, especially those involving subjects who are in crisis but who are not armed with firearms. The cornerstones of ICAT include slowing incidents down in order to avoid reaching a point where there is a need to use lethal force, upholding the sanctity of life, building community trust, and protecting officers from physical, emotional, and legal harm.

The ICAT Training Guide is comprised of six modules:

- Introduction to ICAT
- Critical Decision-Making Model
- Crisis Recognition and Response
- Tactical Communications
- Operational Safety Tactics
- Integration and Practice.

The ICAT Training Guide includes model lesson plans, scenario-based training exercises, PowerPoint presentations, case study videos of use-of-force incidents, and other resources. The Training Guide was

⁴³ Police Executive Research Forum (2016). *Guiding Principles on Use of Force*. <https://www.policeforum.org/assets/guidingprinciples1.pdf>

⁴⁴ Police Executive Research Forum (2016). *ICAT: Integrating Communications, Assessment, and Tactics. Training Guide for Defusing Critical Incidents*. <http://www.policeforum.org/assets/icattrainingguide.pdf>

SECTION IV. USE-OF-FORCE TRAINING REVIEW

developed with the help of a working group of more than 60 professionals representing law enforcement agencies and other organizations from across the country. A panel of 10 policing experts reviewed a draft of the Training Guide, and the training was pilot-tested in seven sites throughout the country in August and September of 2016.

Feedback from the expert review and pilot sites was incorporated into a final report⁴⁵ that was released in October 2016. In December 2016, PERF held a national meeting on how to implement ICAT Training. This meeting, held in New Orleans, was attended by more than 400 individuals representing more than 160 police agencies.

PERF held similar meetings in 2017 in Baltimore; Los Angeles; Columbia, SC; and Camden County, NJ to help agencies implement ICAT training. In 2018, sessions were held in Minnesota; Balch Springs, TX; and Watsonville, CA. As of December 2018, more than 500 law enforcement agencies have attended these ICAT training meetings.

Strengthening Use-of-Force Training

As previously mentioned, the fluctuations in MPD's use-of-force policy have impacted consistency in training. In interviews and focus groups, PERF identified a number of key areas in which training can be strengthened to improve its evenness:

Training on Policy Changes and Updates

When policy changes necessitate training changes, the Training Section should be involved in the policy-making process. Specifically, the Training Section should be involved in policy updates and the implementation of new policies. Involving the Training Section will provide them with time to prepare new or updated curricula that can be released in tandem with any policy changes. This is important because **policy changes will not be effective in the long-term without training to implement those changes in the field**. Officers may be more receptive to policy changes if they are given the tools to meet the department's new expectations. Additionally, training plays a significant role in setting the culture of an agency by ensuring that policy changes are sustainable and practical.

Recommendation: *MPD should involve the Training Section in the policy-making process when it is expected that training will need to be altered in accordance with the new policy directive(s).*

MPD leaders should ensure that changes being made in policy are supported by changes in training. For example, MPD's new directive prohibiting strikes to the face, head, and neck except in cases of active aggression or aggravated active aggression should be paired with training updates. **Not only do officers need training on the new expectations that have been outlined in policy, but they need training on alternative tactics they can use in place of strikes to the face, head, and neck.**

⁴⁵ Ibid.

SECTION IV. USE-OF-FORCE TRAINING REVIEW

Accountability

Training must constantly be reinforced in the field to remain effective. Therefore, it is critical that sergeants and lieutenants monitor the behavior of officers and ensure that training is being implemented correctly.

While on the site visit, the PERF team heard about a training exercise involving a suspect resisting arrest that could only end when the officer punched the suspect in the head. The purpose behind the training exercise appeared to have become distorted between the training and operationally in the field. Many officers referred to punches to the head as a way to “take out the computer” – i.e., a way to stun suspects who resist an officer’s orders. As seen in the data provided in this report, strikes to the face have often been used when suspects demonstrated active resistance, which, under current policy, is not justification for a strike to the face. Supervisors should be charged with recognizing and correcting behavior in the field that does not comply with policy.

Recommendation: *MPD should require sergeants and lieutenants to monitor the implementation of training in the field. If officers are not in compliance with training, sergeants and lieutenants should intervene and correct the behavior immediately. Supervisors should be held accountable if these corrective measures are not taken.*

Although accountability at the first-line supervisor level is important, this accountability needs to be seen through all levels of the department up to command staff. Recognizing the issues of accountability, MPD leaders have made significant changes to training leadership and to expectations regarding the department’s use of force. These actions have been made to address the use of strikes to the face, head, or neck and to correct previous training on strikes that was misinterpreted in the field.

PERF commends MPD leaders for making the necessary changes, which demonstrates accountability extending to the highest levels of the department. MPD leaders will need to take appropriate steps to continue to support changes that increase accountability. Specifically, Chief Batista can support changes by addressing officers during roll calls and recording videos articulating the reasons behind changes and setting clear expectations for the department.

Monitoring Use-of-Force Trends

Currently, the Training Section receives use-of-force reports and is responsible for reviewing each use-of-force report entered into Blue Team. Per DPM 2.1.45, Use of Force Reporting Protocols, the Training Section is responsible for reviewing Blue Team reports to ensure the information included is complete following a use-of-force investigation. If it is incomplete, the report is to be sent back the originating supervisor for completion. Once marked complete, the reports are uploaded into IA Pro.

Current policy simply states that the Proficiency Skills Unit within the Training Section should review each Use-of-Force report in Blue Team. PERF recommends that the scope and purpose of the review be specified in policy. As the Training Section has access to the Blue Team Use-of-Force reports, they can act as an additional level of accountability to ensure training is implemented correctly in the field. The Training Section should review the data to identify trends within use-of-force reports to inform training

SECTION IV. USE-OF-FORCE TRAINING REVIEW

needs for the entire agency. Doing so can help identify potential issues before they become engrained in agency culture.

Recommendation: *MPD should stipulate in DPM 2.1.45, Use of Force Reporting Protocols, that the Training Section should monitor trends and emerging issues by tracking data found in use-of-force complaints. Specifically, the Training Section should monitor the types of force being used and the reasons for use of force. This review will allow instructors to identify needs for future training sessions.*

With the Training Section fully involved in the process of monitoring the department's use of force, it will also be able to create training derived from actual cases. The purpose of using these actual cases is not to critique the actions of the officers involved, but instead to develop realistic scenario-based training.

SECTION V. ADDITIONAL RECOMMENDATIONS

SECTION V. ADDITIONAL RECOMMENDATIONS

In the course of its review, the PERF team identified additional recommendations to assist the Mesa Police Department. While they do not all fall under the initial scope of work, they may be beneficial to the department as a whole.

Transparency

Both internal and external transparency are important for a law enforcement organization. Transparency helps improve morale among officers and fosters trust within the community. Therefore, MPD should make an effort to promote transparency throughout the agency and with the community.

Internal Transparency

The Mesa Police Department is undergoing major changes to use of force. Making such changes can be a difficult process for all involved. Officers expressed concern that some of the changes happened too quickly and that there is a need for better communication regarding the reasoning behind policy changes. This concern was not limited to changes in the department's use-of-force policies. Officers cited additional examples, including policies on body-worn cameras and drug enforcement. MPD leaders can communicate policy changes through videos and roll calls. Involving officers in the policy-making process and focusing on the role of first-line supervisors in explaining policy changes can also help address officers' concern about the pace of change in the department.

Involving officers in the policy-making process is important in promoting internal transparency about the direction the department is moving. To do so, PERF recommends that MPD create a system that allows officers to provide feedback on new policies and policy changes. The Policy and Planning Section should identify internal subject matter experts who can provide feedback on potential policy changes and updates. Selected individuals in the department who will be most impacted by a policy (e.g. the department's use-of-force policies that impact patrol) should be allowed to provide feedback as well. The Policy and Planning Section should review all feedback and incorporate helpful suggestions as much as possible before the policy is disseminated department-wide.

Once a policy is enacted, members of the department should be allowed to provide feedback to the Policy and Planning Section about the policy's operational impacts for a set period of time. Full impacts of the policy on operations may not be known until it has been enacted in the field. By allowing a grace period for feedback, MPD can mitigate unintended consequences from the policy that negatively impact police operations.

To encourage feedback, MPD should consider using PowerDMS in the policy review process, because officers are already familiar with the software. The system that MPD chooses should be formalized so that each policy change goes through the same process.

Recommendation: *MPD should create a formal system to be overseen by the Policy and Planning Section to allow feedback during the policy making process. This system should allow for input from internal subject matter experts and by individuals within the department who will*

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be significantly impacted by the policy. Once the policy has been implemented, feedback should be solicited from the field on how the policy impacts daily operations. MPD should consider allowing feedback via PowerDMS and should ensure that each policy goes through the same process. For example, when a policy is issued, MPD should use the current PowerDMS system to send the policy out to a consistent group of individuals who have been designated to review policy changes. Individuals to include would be all commanders, the department's legal representatives, elected union officials, and other internal subject matter experts. Within a certain number of days, this group should provide feedback and additional recommendations to be considered by the Policy and Planning Section as they finalize the policy.

Officers also expressed dissatisfaction with the process of suggesting policy changes. Currently, members of the department who want to make a suggestion for a new policy or a policy change must complete and submit a "DPM 1.1.15FL PowerDMS Workflow Request Form" to the Policy and Planning Section, where a Policy Project Manager enters the information from the form into PowerDMS. The overriding belief was that policy changes made by command staff are enforced immediately, but policy changes suggested from the field remain unaddressed for extended periods of time, if at all.

PERF suggests that MPD consider implementing a more efficient system for policy suggestions by members of the department, and MPD should set a timetable to address those suggestions. One way to do so would be to create a policy committee staffed by internal subject matter experts on policy and other operational areas, who can review suggested policy changes in a timely manner. The Chief should encourage the officers' participation in suggesting policy changes by addressing roll calls – either in person or via video. Additionally, first-line supervisors should be brought together to discuss policy needs. Given the role of first-line supervisors in ensuring that policy changes are implemented in the field, they are an important voice to include in conversations about policy.

Recommendation: *MPD should create a system that allows officers in the field to make policy suggestions, and officers should be encouraged to do so by the Chief. A timeframe should be set for when those suggestions are addressed by MPD command staff and the Policy and Planning Section. PERF recommends creating a policy committee utilizing subject matter experts on the topics of the policy in question within the department. First-line supervisors should be included on this committee due to the role they play in ensuring that officers in the field are adhering to department policy.*

External Transparency

MPD follows promising practices by making its policies available online through its website, an important step in promoting external transparency. PERF recommends that policies be made more accessible, because they currently can be found only by navigating through several pages.

Recommendation: *MPD should create a link to its policies and procedures on its homepage to make them more accessible to the public.*

MPD currently releases an annual report which provides information about the department to the public. However, this report does not include information on the department's use-of-force statistics.

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PERF recommends that MPD prepare and release an annual report of the department's use of force, in addition to the department's official annual report. This report should be comprehensive and should detail trends in that year's use-of-force statistics as well as information on complaint dispositions.

Recommendation: *MPD should release data on the department's use of force on an annual basis. This report should present the public with detailed information on the trends identified in use of force for that year.*

Continuing to collect data on use of force should be a priority for MPD. Use-of-force data collection benefits the MPD internally, and it can benefit agencies nationally. MPD should participate in the FBI's National Use-of-Force database, which began data collection on January 1, 2019.⁴⁶ The FBI's use-of-force data collection efforts are supported by major policing organizations, including PERF, the Major Cities Chiefs Association (MCCA), the National Sheriffs' Association (NSA), the Major County Sheriffs of America, the International Association of Chiefs of Police (IACP), the Association of State Criminal Investigative Agencies, the National Organization of Black Law Enforcement Executives (NOBLE), and the Association of State Uniform Crime Reporting Programs.

Recommendation: *MPD should be prepared to participate and submit data to the FBI's National Use-of-Force database as soon as possible. Data collection began on January 1, 2019.*

Improving Officers' Experiences

First-line supervisors are a critical component in the operation of a police department. They are tasked with ensuring that officers' behaviors in the field are in line with the department's mission, values, and policy. As a result, supervisors have a great deal of influence over an agency's culture.

It came to PERF's attention that MPD's current bidding process for squad assignments allows patrol officers to follow an individual sergeant. While this is not necessarily a bad practice, it could contribute to negative behaviors becoming engrained within squads. PERF recommends that MPD revisit its bidding process to encourage the rotation of supervisors, so that officers can benefit from learning from different sergeants and enhance their own career development. This will also help to maintain a higher standard of accountability within the department.

PERF recommends a bidding process that requires supervisors, both sergeants and lieutenants, to rotate assignments every two years. For example, in year one of the new process, sergeants would move to a new squad for a 2-year period. The following year, lieutenants would rotate to a new assignment for a 2-year period, which staggers the movement of supervisors. Under this system, patrol officers would be allowed to stay in the same squad if desired.

Recommendation: *MPD should revisit its current bidding process for squad assignments to ensure that supervisors do not remain in a particular squad for an extended period of time.*

⁴⁶ More information on the FBI's National Use of Force Database can be found at <https://www.fbi.gov/services/cjis/ucr/use-of-force>

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Doing so will expose officers to different supervisory styles and will increase accountability among the sergeants and lieutenants.

Additionally, it is important for MPD to track positive behavior related to use of force in addition to tracking areas for improvement. Doing so will help reinforce training and potentially increase morale. The Los Angeles Police Department, the Denver Police Department, and the Philadelphia Police Department are among the many departments that have implemented awards for officers who demonstrate de-escalation techniques in the field.⁴⁷

Recommendation: *MPD should commend officers who demonstrate appropriate use of force or restraint in accordance with department policy and who practice de-escalation techniques in the field.*

⁴⁷ See: Phillips, Noelle, "Eight Denver Police Department officers awarded for showing restraint when gunfire would have been justified," *Denver Post*, 19 April 2018, <https://www.denverpost.com/2018/04/19/denver-police-preservation-of-life-medal/>; "Police Departments begin to reward officers for showing restraint," *CBS News*, 31 May 2016. <https://www.cbsnews.com/news/police-departments-begin-to-reward-officers-for-showing-restraint-philadelphia/>; Los Angeles Police Department. (2018). *Chief Michel Moore Honors 29 Officers with the Distinguished Medal of Valor, Purple Heart & Preservation of Life Awards* [Press Release]. http://www.lapdonline.org/newsroom/news_view/64534

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The Mesa Police Department (MPD) has demonstrated a commitment to improving its policies and practices on officers' use of force, and has recognized the need for self-assessment and analysis. As this report was being written, MPD already was making changes on many of the issues that PERF identified.

Several major themes have emerged:

- **Accountability is necessary at all levels, and the role of first-line supervisors is especially important.**

A lack of accountability over the thoroughness of use-of-force investigations has impeded the ability of department leaders to accurately track use of force. PERF recommends strengthening the policies regarding the reporting of use of force, including a requirement that a non-involved supervisor respond to the scene of all reportable uses of force. PERF was advised that in the past, supervisors very rarely responded to the scene of a reportable use of force.

First-line supervisors play a critical role in police agencies,⁴⁸ serving as an important link between department managers and officers. In the Mesa Police Department, sergeants will be instrumental in working with officers to implement many changes in policies and practices on use of force and related issues.

Accountability requires continuing analysis of current practices. PERF reviewed data from MPD's use-of-force reports from July 2015 through June 2018, including a sample of cases involving strikes, "limited strikes," and strikes to the face, which were the subject of news media coverage in Mesa. Under MPD's recently amended policy, only "aggravated active aggression" and "active aggression" by a subject warrant strikes to the face, head, or neck. In a sample of reports, however, 48 percent of the strikes were responses to "active resistance," "subject was armed/displayed a deadly weapon," or "arrest/detention." None of those strikes would be sanctioned under current policy.

At the department level, PERF recommends that MPD use its Use-of-Force Board more effectively by making the membership of the board more representative of the department, and by implementing staggered term limits to ensure that fresh perspectives are taken into account. Doing so will help the department identify areas for improvement before they become a department-wide issue.

PERF also recommends changes in the process of receiving complaints from the public, an important component of accountability and maintaining public confidence. PERF recommends making the complaint form easier to find on the department's website, and ensuring that all information included on the form is accurate.

⁴⁸ See *Promoting Excellence in First-Line Supervision: New Approaches to Selection, Training, and Leadership Development*. Police Executive Research Forum, 2018.
<https://www.policeforum.org/assets/FirstLineSupervision.pdf>

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- **Training of officers can be improved.**

For example, PERF's review of 1,609 use-of-force reports found that Electronic Control Weapon (ECW) deployments were the most commonly cited type of force used, with ECW use cited in 41 percent of the MPD incidents reviewed.

However, studies of ECW deployments in other cities have found that the devices often fail to work, either because the ECW probes fail to make contact with the subject's body or for other reasons. For example, a study by the Los Angeles Police Department in 2016 found that in more than 1,110 incidents in which officers fired their ECWs in 2015, the weapons caused the subject to submit to arrest only 53 percent of the time.⁴⁹

As part of this project, PERF provided MPD with assistance in implementing PERF's new training program, called Integrating Communications, Assessment, and Tactics (ICAT). A key part of this training is teaching officers to use a Critical Decision-Making Model (CDM),⁵⁰ which is a tool for expanding the range of options that police officers consider as they respond to any situation, including situations that may involve a use of force. By using the CDM, officers in many situations may be able to resolve an incident without using force, or they may make a better choice about the type of force that is most likely to be effective.

PERF facilitated a train-the-trainer seminar on ICAT and the CDM for MPD's Training Section staff, and conducted a follow-up visit to observe an MPD-led ICAT training. PERF found that MPD personnel were receptive to the training, and that the training is being provided in an appropriate way. PERF recommends, however, the MPD commanders regularly attend ICAT trainings to ensure that instruction remains consistent. PERF is available to provide guidance and support to MPD as the department continues its implementation of ICAT and the CDM.

- **MPD should work to develop an overall culture of change, in which all officers can participate.**

The specific findings and recommendations detailed in this report reflect a general approach of building accountability and continual improvement into the everyday operations of MPD. This starts at the top but involves all MPD personnel, particularly supervisors who have daily contact with line officers. At all levels of the department, personnel should strive to analyze current practices and outcomes, identify possible improvements, and work together to achieve better results. Training programs, roll call briefings, and other interactions can serve as mechanisms for soliciting input about problems and possible solutions.

A common issue that emerged from PERF's interviews of MPD personnel is that officers have a strong interest in becoming more engaged in the development of department policies that

⁴⁹ See "One of the LAPD's preferred weapons to help officers avoid shootings often doesn't work." Los Angeles Times, April 1, 2016. <https://www.latimes.com/local/crime/la-me-lapd-tasers-20160401-story.html>

⁵⁰ "ICAT Module 2: The Critical Decision-Making Model." Police Executive Research Forum <https://www.policeforum.org/icat-module-2>

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will impact them. By obtaining input from officers about possible changes, MPD can convey the message that the entire MPD workforce is part of building a culture of change. PERF recommends use of technologies that will allow MPD officers to easily provide feedback on policy changes.

- **MPD should foster transparency to build confidence with the public and with MPD members.**

For example, MPD can keep the public informed by making department policies more accessible on the department's website, and regularly releasing use-of-force data to the public.

An important step that MPD leaders can take to promote internal transparency is to share major findings and recommendations of this report with MPD members.

Moving Forward

Throughout the review process, PERF found members of the Mesa Police Department to be dedicated to their agency and their community. They expressed a strong desire to constantly improve their performance, serve the community, and be the best at what they do.

Over the last several months, MPD leaders have taken significant steps to improve use-of-force policies, practices, and training. Throughout the duration of this review, MPD leaders made changes in how the department uses force and the reporting of use of force through the release of updated policies. Additionally, changes were made to the Training Section staff, and the department began implementing ICAT training, which includes the Critical Decision-Making Model – an important tool for giving officers new perspectives on handling any situation, including situations that could end in a use of force. PERF recognizes the significant changes that the department has undertaken. **The changes MPD leaders have instituted over the last several months are noteworthy and show the department's commitment to improving practices on use of force.** This report is designed to serve as a blueprint for continued improvements on use of force and other issues.

APPENDIX B

The Mesa Police Department:
a guide for reporting and reviewing
internal review of force incidents
and internal affairs recommendations
for the Mesa Police Department
by the Police Assessment
Resource Center (PARC)



**The Mesa Police Department:
A Guide for Reporting and Reviewing
Internal Review of Force Incidents**

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Introduction

This memorandum contains recommendations for the reporting, review, and adjudication of uses of force by the Mesa PD. It will define a category of serious force incidents—Category 1—for special handling and treatment. Cases in this category will ultimately go to a Use of Force Review Board and the Chief of Police for resolution. Less serious force cases will be handled within the chain of command with input from the Training unit. Attached to this memorandum is an exhibit which describes in detail the depth of analysis of officer-involved shootings and other serious uses of force we strongly recommend.

I. Force Categories

We propose that reportable force be broken down into two categories: Category 1 and Category 2. Category 1 encompasses the most injurious uses of force:

A. Category 1 force: All force incidents causing death or serious physical injury, including deadly force, use of impact weapons, and hard hands causing serious physical injury,¹ plus

- any officer-involved shooting of a person (OIS), hit or non-hit, lethal or not, or involving a possibly negligent discharge during the course of a tactical incident;
- all uses of carotid restraint control or a chokehold;
- all uses of force resulting in an injury requiring emergency room treatment or hospitalization;
- all head strikes with an impact weapon;
- skeletal fractures;
- all uses of a taser causing death or serious physical injury;
- all other uses of force resulting in death or serious physical injury;
- all deaths and serious injuries while the arrestee or detainee is in the custodial care of the Mesa Police Department; or,

¹ "Serious physical injury" describes physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, significant physical pain, serious impairment of health or loss or protracted impairment of the function of any bodily organ, limb or mental or sensory faculty. [Source: Arizona criminal code; United States criminal code]

- a canine contact where the contact causes a member of the public to receive medical treatment.

B. Category 2 force includes soft hands, limited hard hands, and hard hands that do not cause serious physical injury.

I. Force Reporting

All uses of force greater than unresisted handcuffing must be reported in writing on the recommended form attached hereto as Exhibit 1 with the exception of force investigations conducted by the Mesa Force Investigations Team (FIT) described below.

III. Category 1 force investigations

A. Category 1 force investigations should be handled by a newly constituted specially trained team of seasoned investigators within Internal Affairs capable of evaluating the civil, administrative, strategic, and tactical aspects of such incidents. This team will be referred to as the Mesa force investigation team (FIT). Absent evidence that Homicide investigations of officer-involved shootings are not complete, fair, and impartial, we have no reason to recommend that Homicide discontinue handling the criminal aspects of the Category 1 incident. If Homicide investigations are found to be deficient, we recommend the establishment of two force investigation teams—one team to handle the criminal investigation and another to handle the civil, administrative, strategic, and tactical aspects, as is the case in Washington DC with the MPD's Force Investigations Team (FIT), and in LA with the Los Angeles Police Department's Force Investigations Division (FID).

Attached as Exhibit 2 are excerpts from the LAPD's Policy Manual setting forth how the LAPD responds to "categorical" force incidents. Categorical force incidents are virtually identical to what we have defined for Mesa as Category 1 incidents. Also attached are excerpts from the Los Angeles County Sheriff's

Department's (LASD) procedures for the investigation of significant force. We recommend that Mesa adopt procedures similar to those of the LAPD and LASD. These policies rest upon several assumptions and observations.

First, the LAPD and LASD policies recognize inherent problems with the traditional model where the Homicide unit alone conducts an investigation of a given officer-involved shooting to determine if the shooter violated the criminal law. The question answered by that investigation is narrow: Did the officer, at the time the trigger was pulled, have an objectively reasonable belief that he or she was at risk of imminent loss of life or serious physical injury? The answer to the question is almost always yes, and it is highly unusual for a police officer to be prosecuted for less than an intentional and knowing homicide. Portland, Oregon has gone more than 34 years without a single criminal prosecution of an officer involved in a shooting. The Denver District Attorney reports that generally only one in 500 officer-involved shootings results in a prosecution. Denver has had only three such prosecutions in the last 40 years, none of which resulted in a conviction.

There is increasing recognition, therefore, that the criminal implications of an officer-involved shooting are less important in a practical sense whether the incident was within department policy, strategically and tactically sound, necessary, and unavoidable. Also important are the civil liability implications of the given incident.

Under traditional practice, even though the probability of prosecution was highly unlikely, the criminal investigation took precedence over the administrative investigation, and the administrative investigation was not even started until after the prosecutorial declination, which could take a year or more to obtain. Often, the shooting officer would not be formally interviewed by the administrative investigators until many months after the event. While it is important not to corrupt a criminal investigation with compel testimony from the officer,

procedures have been developed in the LAPD, LASD, Denver, Portland, and elsewhere that minimize that risk.

B. Officer-involved shooting investigation. We will next consider how the Mesa Police Department would respond to the most serious of Category 1 incidents, an officer-involved shooting under the new Mesa OIS protocol. As soon as practicable, a supervisor will roll to the scene of the shooting and begin securing the location and identifying witnesses. The supervisor will take a public safety statement² from the shooting officer. The shooter, witnesses, and all other sworn witnesses will be separated from each other and kept separate and sequestered throughout. They will not be given opportunities to consult with each other, but sworn personnel will be provided opportunities to confer with their union representative or counsel. The representative or counsel will not be allowed to interview the officers as a group but must proceed one-on-one.

The Mesa administrative FIT team will receive an immediate notification and roll to the scene. So also will Homicide and the Training unit. Upon arrival, the Mesa FIT team will assume command and relieve the patrol supervisor or supervisors. FIT, in coordination with Homicide, will conduct all necessary witness statements

² The LAPD defines a public safety statement as follows:

795. OBTAINING A PUBLIC SAFETY STATEMENT – CATEGORICAL USE OF FORCE. A supervisor in charge of a Categorical use of force scene shall obtain sufficient information to conduct his/her duties at the scene (e.g., establishing a perimeter, protecting the crime scene, locating witnesses/evidence, managing the response of additional resources, etc.). A public safety statement shall be obtained from as many employees as necessary for the supervisor to immediately determine:

- Type of force used;
- Direction and approximate number of any shots fired by the involved employee(s) and/or suspects, if applicable;
- Location of injured persons, including those in need of medical attention, if any;
- Description of outstanding suspect(s) and his/her direction(s) of travel, time elapsed since the suspect was last seen, and any suspect weapon(s);
- Description and location of any known victims or witnesses;
- Description and location of any known evidence; and,
- Other information as necessary to ensure officer and public safety and assist in the apprehension of outstanding suspect(s).

and interviews. All statements and interviews will be tape-recorded or video recorded in their entirety. There will be no pre-interviews or unrecorded portions of statements or interviews.

As occurs in Phoenix, all involved officers will be compelled to give a full accounting of the incident in an interview prior to being released to go home. The compelled interview will be conducted by the Mesa FIT team with no participation from Homicide.

Within 72 hours of the incident, the Chief of Police will be given a thorough preliminary briefing on the incident by the FIT team, Training, the involved officer's commander, and the head of IA. The Chief will be briefed separately by the criminal investigators. All Category 1 incidents will be referred to the District Attorney for possible prosecution.

At the 72 hour briefing, the Chief of Police will decide if there is sufficient cause to believe that an IA investigation of the shooter or other officers is immediately warranted. The Chief will further decide whether immediate further training or retraining is needed. In all instances, the shooter will receive a standard Training Update. The Update will be provided by Training unit personnel to personnel involved in a Category 1 incident. The Training Update is not an inquiry into the specific details of the incident. The intent of the update is to provide involved personnel with standardized training material in the tactical issues and actions readily identified in the Category 1 incident as well as an update on the Use of Force policy. Training should be provided as soon as practicable.

The FIT team, Homicide, and the Training unit will then each prepare reports for the use of force review board. Based upon the 72 hour briefing, the Chief of Police will determine if, when, and under what conditions the shooting officer will return to work, whether training beyond the Training Update is immediately

necessary, and whether there are grounds at this stage of the proceedings to initiate an Internal Affairs investigation of the officer.

IV. The use of force review board

The next step will be to convene a use of force review board (UFRB). Law enforcement agencies vary in the composition of these review boards. In the LASD, the board is comprised of three Commanders, the rank below Deputy Chief. In the LAPD, the board members are the Department's Chief of staff, a member from Operations, a peer member, and the commanding officer of the Training Division. In Denver the members of the UFRB are the four Division Chiefs of the Department and “[t]wo community members trained and certified by the Department.” Manual §105.05(5)(b).

Portland, Oregon has a large force review board. Pursuant to Per Portland Police Bureau Policy §335.00, “Use of Force Review Boards,” the UFRB is composed of 13 members—eight voting members (including the three Branch Chiefs, two peer members of the same rank as the involved officer selected from a pre-approved pool, two citizen members selected from a pre-approved pool, and the involved officer’s unit Commander and five advisory members (the Review Board coordinator, a representative from the Bureau of Human Resources, a representative from the City Attorney’s office, the IA manager, and the Independent Monitor). In Phoenix, the board is composed of a commander, a peer employee, and three citizens of Phoenix.

In jurisdictions where there is meaningful external review by citizens or a monitor or auditor, there is less need for citizen participation on the UFRB. Conversely, it can be of benefit to the Police Department to have citizen participation in the absence of meaningful external oversight. The selection of such civilians can become a political and emotional issue because it is exceedingly difficult to find individuals who will have the simultaneous respect of all segments of the community as well as the police and police union. In the absence of such consensus candidates, the balance may tip in favor of not including civilians. If so, thought should be given to the creation of an external oversight mechanism.

No matter what the constitution of the UFRB in Mesa, it is important that the board be objective, detached, unbiased, and non-ideological. It must have the capacity to look at a given force incident not only to determine whether it is in policy but also whether the incident requires changes in policy, procedures, or practices; whether there is a need for retraining or the creation of new techniques; whether the strategic and tactical issues raised by the incident requires the drafting of new policy; and whether the particular use of force was necessary and unavoidable. The board will decide whether to recommend an administrative investigation for possible discipline or another course of action to correct apparent substandard performance by the involved officers and supervisors.

Attached as Exhibit 3 is a memorandum containing forms recommended for the use of force review process and describing its function.

The UFRB will make recommendations to the Chief of Police. The following chart suggests the options the board will consider in the context of a Category 1 incident:

Topic	Recommended findings	Consequences
<i>Drawing and exhibiting firearm</i>	in policy	Subject officer participates in a tactical debrief and receive additional training, if necessary. Use of force board recommends revisions to policy, practice, or procedures, if warranted
	Administrative disapproval	Extensive retraining if the drawing or exhibiting of a firearm could have been better, and Notice to correct deficiencies, if the drawing and exhibiting a firearm should have been different or was negligent, or Initiation of administrative investigation, if violation of policy was intentional, knowing, reckless, or grossly negligent.
<i>Tactics and strategy preceding use of force</i>	In policy	Participate in a tactical debrief and receive additional training, if

		necessary. Use of force board recommends revisions to policy, practice, or procedures, if warranted
	Administrative disapproval	Extensive retraining if the tactics and strategy could have been better, and Notice to correct deficiencies, if the tactics and strategy should have been different or were negligent, or Initiation of administrative investigation, if employment of the disapproved tactics or strategy was intentional, knowing, reckless, or grossly negligent
<i>Use of force</i>	In policy	Participate in a tactical debrief and receive additional training, if necessary. Use of force board recommends revisions to policy, practice, or procedures, if warranted
	Out of policy	Extensive retraining if the use of force was minimally unnecessary or excessive and Notice to correct deficiencies, if the use of force was unnecessary or excessive and subject officer was negligent with respect thereto, or Initiation of administrative investigation, if the force was unnecessary and excessive and the subject officer was intentionally, knowingly, recklessly, or grossly negligent with respect thereto.
<i>Post-shooting or post use of force conduct, including immediate rendition of medical aid, immediate notification of supervisors</i>	In policy	Subject officer participates in a tactical debrief and receive additional training, if necessary. Use of force board recommends revisions to policy, practice, or procedures, if warranted
	Administrative disapproval	Extensive retraining if the post shooting conduct could have been better, and Notice to correct deficiencies, if the conduct should have been different or was negligent, or Initiation of administrative investigation, if the disapproved conduct was intentional, knowing,

		reckless, or grossly negligent
<i>Actions of immediate supervisors prior to, during, and after use of force, including adequacy of supervision, formulation of a plan, and exercises control</i>	In policy	Subject supervisor participates in a tactical debrief and receive additional training, if necessary. Use of force board recommends revisions to policy, practice, or procedures, if warranted
	Administrative disapproval	Extensive retraining if the supervision could have been better, and Notice to correct deficiencies, if the supervision should have been different always negligent, or Initiation of administrative investigation, if the a supervisor was intentionally, knowingly, recklessly, or grossly negligent

Additionally, the UFRB will evaluate the strengths and weaknesses of the underlying criminal and administrative investigations for all uses of force in Category 1. A proposed worksheet or checklist for that evaluation is attached to Exhibit 3.

The recommendations of the UFRB will be transmitted to the Chief of Police will make the final decisions with respect thereto. Following that, there should be a Tactical Debriefing for the entire department where the incident will be discussed in detail and lessons to be learned from it will be taught.

V. Category 2 incidents

In addition to each officer who uses force, each Mesa police officer who was present at or witnesses a use of force should fill out a use of force report. The use of force report will then serve as a basis for adjudicating the propriety of the force. In the first instance, the report will be examined by the direct supervisor of the involved officers. We recommend that every supervisory review of a use of force include an assessment of the following issues: (1) was the force used in policy, reasonable, and necessary; (2) should the incident be investigated to determine whether misconduct occurred; (3) does the incident indicate

a need for additional training, counseling or other remedial measures; and (4) whether the incident suggests that Mesa PD should revise its policies, training, or tactics.

Using the matrix set forth below, the supervisor will make findings as follows:

Topic	Recommended findings	Consequences
<i>Tactics and strategy preceding use of force</i>	In policy	Subject officer participates in a debriefing and receive additional training, if necessary. Use of force review orders recommend revisions to policy, practice, or procedures, if warranted
	Out of policy	Extensive retraining if the tactics or strategy could have been better, and Notice to correct deficiencies, if the tactics or strategy should have been different or were negligent, or Initiation of administrative investigation, if employment of the disapproved tactics or strategy was intentional, knowing, reckless, or grossly negligent
<i>Use of force</i>	In policy	Participate in a debriefing and receive additional training, if necessary. Force review orders recommend revisions to policy, practice, or procedures, if warranted
	Out of policy	Extensive retraining if the use of force was minimally unnecessary or excessive and Notice to correct deficiencies, if the use of force was unnecessary or excessive and subject officer was negligent with respect thereto, or Initiation of administrative investigation, if the force was unnecessary and excessive and the subject officer was intentionally, knowingly, recklessly, or grossly negligent with respect thereto.
<i>Post-shooting or post use of force conduct, including</i>	In policy	Subject officer participates in a debriefing and receives additional

<i>immediate rendition of medical aid, immediate notification of supervisors</i>		training, if necessary. Force review orders recommend revisions to policy, practice, or procedures, if warranted
	Out of policy	Extensive retraining if the post shooting conduct could have been better, and Notice to correct deficiencies, if the conduct should have been different or was negligent, or Initiation of administrative investigation, if the disapproved conduct was intentional, knowing, reckless, or grossly negligent

The proposed findings and recommendations will then be forwarded to the subject officer's unit commander who will in turn accept or reject them. In the next step, the unit commander will then transmit the proposed findings and recommendations to the Training unit. That unit will then consider if any changes to training, procedures, force options, or policy changes are in order. The training unit memorandum and the proposed findings and recommendations will then go to the commanding officer of Internal Affairs for decision whether to begin administrative investigation leading to formal discipline. The packet, along with the recommendation of IA, will then be sent to the Chief of Police or his designee for final action.

Exhibit 2 describes how the LAPD deals with "non-categorical" uses of force which are similar to what we have called Category 2 incidents.

Conclusion

This memorandum and accompanying exhibits set forth our recommendations for the reporting, review, and adjudication of force incidents involving the Mesa Police Department. Adoption of these recommendations will formalize what is heretofore been handled less formally in the Mesa PD. The recommendations will produce a greater level of rigor and analysis. It will foster timely adjustments to policies and practices involving force. It will calibrate the consequences to an individual officer of a wrongful use of

force with greater precision and more explicit consideration of the mental state of the officer. It will add to the professionalism of the Mesa PD.



**INTERNAL AFFAIRS
RECOMMENDATIONS FOR THE
MESA POLICE DEPARTMENT**

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INTRODUCTION

These guidelines proceed from a premise that Internal Affairs in the Mesa Police Department can objectively and thoroughly investigate alleged police misconduct, be accountable to the public and civilian authority, and be open and transparent. Law enforcement agencies that rigorously police themselves for corruption and excessive force have great integrity. They are seen by all as protecting and serving all.

These guidelines accordingly rest upon certain fundamental principles:

1. The constitutional right to petition for redress of grievances applies to all complaints of police misconduct and the making of such complaints should be a simple and non-intimidating process.
2. Those who enforce the law cannot be above the law.
3. The ability of the police to investigate misconduct by their own is a privilege and not a right. It comes with an obligation to demonstrate the fairness, thoroughness, impartiality, and investigatory competence of internal investigations, when necessary.
4. The scope of Internal Affairs investigations, particularly those of officer-involved shootings and seriously injurious force, is not limited to whether an officer acted criminally or violated administrative policy. It should include an analysis of the wisdom of policy and examine practice, training, and risk management questions. Internal Affairs investigations do not begin and end with the disciplinary decision. Rather, they are, importantly, a search for ways to achieve an arrest, or other legitimate law enforcement end, without compromising officer safety but in a manner that lessens risks of unnecessary or avoidable death or serious bodily injury to the officer, the suspect, and any the other person.

The first section of this document, commencing at page 4, discusses the intake of complaints. The following section of this document, commencing at page 16, considers the classification of complaints. The third part, beginning at page 28, deals with the investigation of complaints. The final section of this document, starting at page 45, discusses mediation and adjudication of complaints.

1.0 INTAKE

The guiding principle governing our recommendations for the Mesa Police Department ("Mesa") on intake of public and internal complaints of officer misconduct is that the Constitution guarantees the public the right to petition the government for redress of grievances. It is a fundamental right and one of the hallmarks of a free, open, and democratic society. It channels public dissatisfaction and anger into constructive pathways leading to investigation, resolution, and, if called for, correction or remediation. Law enforcement agencies are an arm of government. The right to petition law enforcement by filing complaints should be untrammelled, and impediments should not be strewn in the path of complainants.

Accordingly, the widest possible net should be thrown open at intake to receive all complaints from all possible sources of complaint. While the procedures for investigation and resolution of these complaints may differ depending upon their nature, it is a recommended practice for Mesa to take in all complaints. Moreover, complaints as a whole provide the law enforcement agency with insight as to how it is perceived by the public. Law enforcement is not doing its job if the public, as a whole or in part, believes the police are not effective, ethical, or respectful.

Recommendation 1.1 describes *what* a complaint is and *who* may file one. Recommendation 1.2 discusses *how* a complaint can be transmitted and what forms it can take. Recommendations 1.3- 1.6 deal with *where* a complaint can be lodged and the spirit in which it should be received. Recommendations 1.7 and 1.8 describe procedures for standardizing and tracking complaints. Recommendation 1.9 discusses testing and auditing to assure compliance with department policies and procedures for complaint intake. Recommendation 1.10 discusses the generation of an administrative investigation arising from shootings and serious uses of force from lawsuits filed.

1.1 A complaint for purposes of intake is any expression of dissatisfaction from any person about any employee of the Mesa Police Department or any aspect of service provided by the Department. For purposes of this definition, "any person" includes all possible sources of a complaint, including the complainant, any percipient witness, any third party, any group or organization, any unidentified or anonymous person, any person under arrest or in custody, and any employee. "Any employee" includes all sworn and civilian personnel, on duty or off duty.

Commentary

This recommendation is intended to make concrete in the law enforcement context the Constitutional right to petition the government for redress of grievances.

Mesa is obligated to receive all complaints, but not all complaints must be investigated by Internal Affairs. Mesa should be open to receiving any and all complaints from the public, which are subsequently subject to Mesa's procedures for assigning the complaint for investigation via a specifically codified classification system and process.

Internal affairs should also handle complaints about service generally, at least in the first instance. IA should forward service complaints via standardized processes for follow-up by the appropriate unit. Mesa has an affirmative obligation to ensure that generalized service complaints are subject to a full and complete inquiry.

Employee complaints best resolvable beyond the realm of Internal Affairs should be redirected to other areas of the department as the nature of the complaint dictates (supervisory issues, personal grievances, etc).

1.2 A complaint can be written or oral, transmitted in person or by any contemporary means of communication, including but not limited to telephone, fax, e-mail, US mail, or overnight delivery service. A complaint may include the allegations in a civil lawsuit, claim, or criminal proceedings against or arising out of the activities of any law enforcement employee when they come to the attention of law enforcement agency in question.

"Written" includes handwritten, typewritten, word processed, or any other graphic means of communication. It is not necessary that the complainant fill out any particular form, although if the complainant requests a form, one should be promptly provided. "Oral" includes all statements communicated by voice, including statements made before, during, or after arrest or in custody.

If reasonable and practical, it should be an affirmative duty of any Mesa employee hearing an oral complaint of officer misconduct to call a supervisor to the scene. In other circumstances, particularly as regards complaints by arrestees, if reasonable and practical, it should be an affirmative duty of any Mesa employee hearing an oral complaint of misconduct to allow the person to communicate the complaint promptly to a supervisor. If a member of the public requests to speak to an officer's supervisor, a supervisor should be made available, as soon as reasonable and practical. If that supervisor is unavailable, the member of the public should be told specifically how to reach the supervisor and should be made familiar with the process of speaking with a supervisor.

Commentary

These recommended practices are intended to discourage the filtering or rejection of complaints at intake. Just as it is recommended practice to accept complaints from all sources, so also is the practice within reason to accept complaints in whatever form they arise. Accordingly, any writing in any medium that contains a complaint should be accepted as such by a law enforcement agency. Similarly, complaints made orally should also be recorded and transmitted. An individual

who raises a complaint against a law enforcement agent alleging misconduct has the right to raise that complaint with an individual other than that officer, preferably a supervisor who will respond in a timely manner to address that complaint. The right to raise a complaint with an individual other than the implicated officer might involve that officer providing direct access to a supervisor when reasonable or practical; if not, the involved officer must provide clear and specific instructions for speaking with a supervisor.

1.3 In addition to all other means of communicating a complaint described above, a complaint may be lodged directly with Mesa's Internal Affairs or at any patrol station or unit, as well at municipal offices. It should be an affirmative duty of any Mesa employee to receive a complaint, reduce it to writing if oral, and transmit it promptly to the person, division, or bureau charged with intake of complaints. The city of Mesa should specifically designate municipal offices and employees to receive complaints. It should be an affirmative duty of that designated municipal employee, as determined by Mesa, to receive a complaint, reduce it to writing if oral, and transmit it promptly to the person, division, or bureau within the Mesa Police Department charged with the intake of complaints.

Commentary

A complainant should have a wide choice of locations to file a complaint. It is recommended practice that complaints be accepted wherever presented within a law enforcement agency itself. A complainant also should have the opportunity to file a complaint elsewhere, including City Hall and other municipal offices, with those employees specifically designated by each municipality to take those complaints.

1.4 A public complaint form should be available upon request at all Mesa units and patrol stations and at the designated municipal offices. An electronic version of the complaint form should be on the Mesa website, capable of being filled out and transmitted electronically. The means of collecting complaint information, whether via written forms or another specific mechanism, should capture all necessary information. Whenever practicable, a complainant should affirmatively be provided with a copy of the completed complaint. When the information on such a complaint form is transferred to a different numbered and tracked document, such as an official internal form for registering complaints, the original complaint form should be retained and filed with the official form.

The form should be available in all languages spoken by a significant number of residents in the Mesa area. Similarly, brochures explaining the procedure for the filing and investigation of complaints should be available in those languages wherever a complaint can be made. There should be signage in English and those other languages at each patrol station or other unit informing persons of their right to make a complaint and the availability of forms and personnel to assist in the process.

Commentary

These practices are recommended to facilitate the making of a complaint and establish methods so that each complaint can be accounted for. They create a duty on the part of a law enforcement agency affirmatively to inform individuals of their right to make a complaint and to assist them in that process. Because American cities like Mesa are increasingly multi-cultural and multilingual, complaint forms should be available in all languages spoken by a significant number of residents in the region. A law enforcement agency should never discourage the filing of complaints.

1.5 The public complaint form should not contain language calculated to discourage, dishearten, or intimidate complainants or give them cause for fear. No threats or warnings of prosecution or potential prosecution shall be made orally or in writing to a complainant or potential complainant. Practices such as running warrant or immigration checks on complainants at intake solely because they are complainants should not be tolerated.

Commentary

Intimidation of complainants should not be countenanced, nor should supervisors try to persuade complainants not to file or to withdraw their complaint. These practices should subject the employee to discipline. Some law enforcement agencies offer mediation to complainants at intake, and the practice of doing so should be encouraged.

1.6 Mesa employees who have any contact with a complainant or potential complainant should be courteous, patient, and affirmatively helpful in facilitating the making of a complaint. Such employees should nonetheless solicit as much information as possible, including detailed contact information, albeit not in an intimidating way.

If the complainant or potential complainant is not fluent in written or spoken English, Mesa should have reasonably available an adequate number of employees or other persons who are fluent in all languages spoken by a significant number of residents of the region. The complainant should be provided a copy of the completed form and be permitted to review for accuracy any oral complaint reduced to writing by Mesa personnel.

Commentary

The receipt of complaints should be encouraged. Complaints provide a direct opportunity for a law enforcement agency to learn of public dissatisfaction and to respond to it. Complaints may give rise to discovery of serious problems or serious misconduct. While each individual complaint is not necessarily true or well founded, much can be learned from complaints in the aggregate and over time.

1.7 Every complaint should be tracked through final disposition. The tracking system should be automated, where feasible, and capable of capturing in separate data fields all salient information regarding the complaint. The tracking system should affirmatively alert personnel and supervisors when time deadlines are about to expire and have expired. It shall be the duty of Mesa supervisors to assure that time deadlines are met.

Commentary

Once an agency receives notice of a complaint, it must track that complaint through a final disposition.

One efficient means of ensuring that complaints are tracked from inception through disposition is via the use of one official, Department-authorized complaint form. Such forms should contain a unique identifier, such as a number, that allows such forms to be auditable and trackable. All original, official complaint information forms, as well as the finalized investigation, should be housed solely in one centralized location.

This system helps to maintain strict control over the forms themselves and repose authority and accountability in a single unit. Although complaint forms should be widely available, the responsibility for filling out, recording, and tracking the official complaint forms should be the responsibility of Internal Affairs or other similar unit.

1.8 Assuming there is adequate contact information, a written acknowledgment of a complaint or a receipt should be provided to the complainant in person or by mail or e-mail promptly and should be documented in a retrievable manner. It should include a reference number, complete synopsis of the complaint, and the identity of the investigator or other responsible person and his or her contact information.

Commentary

A complainant should be certain that the complaint has been taken down completely and accurately. The complainant should receive written notice that a complaint has been taken and how it will be handled.

1.9 As a routine matter, Mesa should conduct regular audits to verify that complaints are being taken properly and to ensure that all employees are adhering to the rules and standards of conduct described above.

Commentary

Some law enforcement agencies use video cameras or undercover officers posing as complainants to test the integrity of its processes for the intake of complaints. It is not uncommon for organizations concerned with civil rights to send individuals posing as complainants to conduct similar tests. Some complaint forms ask directly whether any attempt to intimidate the complainant has been made. However achieved, law enforcement agencies should, with frequency, satisfy themselves that the guidelines and recommendations set forth herein are being carefully observed.

1.10 Every complaint that is likely to lead to a lawsuit or legal claim against the city of Mesa, its police department, or any of the department's personnel should immediately be brought to the attention of the Mesa Police Department, the city's risk management unit, and the attorneys representing and defending the city in civil matters. Likewise, any lawsuit or claim, including those filed with a governmental or administrative agency, such as the EEOC, should be immediately brought to the attention of Internal Affairs or its equivalent. It should be classified as if it were a public complaint alleging misconduct by an employee.

Any civil lawsuit or civil claim filed against a Mesa, its Police Department, or law enforcement personnel for misconduct on or off-duty under color of authority should automatically cause an internal administrative investigation to be opened. Each Mesa employee shall have an affirmative obligation to bring to the attention of Internal Affairs or its equivalent of any lawsuit or civil claim involving such employee or of any other employee respecting which such employee is or becomes aware.

Commentary

It is not uncommon that the filing of a lawsuit or claim is the first notice that a law enforcement agency has that possible misconduct has occurred. The filing of a lawsuit or claim should occasion the opening of an Internal Affairs file for an investigation as well as to monitor the progress of the litigation.

2.0 Classification of Complaints

Promptly upon intake, it is the responsibility of Mesa's Internal Affairs unit to classify the complaint for purposes of determining where, when, and how the given complaint will be investigated and resolved. Classically, complaints are classified into two categories: criminal or administrative. A complaint that is criminal is investigated quite differently from a complaint that is administrative in nature. Criminal misconduct may lead to prosecution and jail or prison. An administrative complaint may lead to internal discipline or other corrective action.

Recommendations 2.1 and 2.2 discuss classifying a complaint as criminal. Recommendation 2.3 discusses the proper classification of complaints derived from lawsuits and claims. Recommendation 2.4 describes the classification of internally generated complaints. Recommendation 2.5 discusses whether administrative investigations should be held in abeyance pending the outcome of a criminal investigation arising out of the same incident. Recommendation 2.6 discusses whether administrative investigations should be held in abeyance pending the outcome of civil litigation arising from the same incident. Recommendation 2.7 discusses service complaints. Recommendation 2.8 deals with resignation in lieu of investigation.

2.1 As soon as is practicable, complaints alleging possible criminal misconduct should be separated, classified as a criminal complaint, and handled accordingly.

Criminal misconduct is when there is probable cause to believe that a crime occurred under local, state, or federal law. A decision not to classify a possibly criminal complaint as such should be approved by the unit commander of Internal Affairs or its equivalent or the Chief of Police or the Chief's designee according to protocols agreed upon with the District Attorney. If that concurrence is verbal, Internal Affairs should reduce it to writing and place it in the file. Declination of prosecution shall not be the basis for closing an investigation.

Any criminal filing or prosecution of a Mesa employee should automatically cause an internal administrative investigation to be opened. Each employee of a law enforcement agency shall have an affirmative obligation to bring to the attention of Internal Affairs or its equivalent of any arrest, criminal filing, or criminal prosecution of such employee or of any other employee respecting which such employee is or becomes aware.

Commentary

Questions arise as to whether complaints of excessive or unnecessary force must always be dealt with as a criminal complaint. A suggestion for a resolution of the question is that a complaint that alleges or suggests that an officer's use of force was willfully, intentionally, recklessly, or knowingly excessive or unreasonable should be classified and investigated as a criminal complaint. Some agencies have negotiated agreements over what complaints need to be prosecuted or presented to prosecutors for a decision on prosecution. It is recommended that Mesa establish an explicitly codified protocol for the presentation of cases for potential prosecution. Any doubt or uncertainty with respect to a criminal classification should be resolved in consultation with the District Attorney or other local prosecutor.

2.2 An Internal Affairs administrative investigation shall be opened to monitor and track the progress of any complaint investigation that is classified as criminal in nature. The declination by a prosecutor to proceed criminally or a dismissal of charges or a not guilty judgment or verdict shall not lead to a termination of an administrative investigation given the nature of prosecutorial discretion and the differing standard of proof in criminal matters (beyond a reasonable doubt) in contrast to civil liability or administrative proceedings (preponderance of the evidence).

Commentary

A criminal investigation focuses on whether a crime has been committed and concentrates on the specific actions and mental state of the accused. An administrative investigation of a police officer, on the other hand, should look more broadly at the tactical, strategic, and training implications of a particular incident in conjunction with an examination whether department policy was violated. There should be an active administrative investigation of any matter that is also being pursued as a criminal investigation. The degree to which the two investigations should proceed in parallel or not is discussed at section 2.4 below.

2.3 Internally generated allegations of misconduct shall be received and classified as criminal or administrative in the same manner as public complaints. Some departments have specialized investigatory units for certain types of internally generated complaints, such as those alleging discrimination or harassment by department employees. If so, Internal Affairs or its equivalent should bring such a complaint upon receipt to the attention of the specialized unit. Internal Affairs should nonetheless open a file to track and monitor the progress of that investigation by a specialized unit.

Commentary

Internal Affairs should be a clearinghouse for all internal investigations of possible misconduct whether or not Internal Affairs is charged with the investigation itself. Internal Affairs should be the centralized location monitoring every ongoing investigation of alleged misconduct.

2.3 Mesa should make an affirmative decision on a case-by-case basis whether to proceed concurrently or consecutively with a criminal and an administrative investigation. All things being equal, concurrent investigations should be preferred.

Commentary

It is the practice in some law enforcement agencies to hold an administrative investigation in abeyance during the pendency of a criminal investigation. It is often the desire of the prosecutor that the investigations be consecutive out of concern that compelled statements in the administrative investigation, if not handled carefully, may taint the criminal investigation. On the other hand, consecutive investigations can prejudice the administrative investigation. The time delay has a negative impact on the memory and availability of witnesses. It means that a cloud lingers over the employee for a long time. The longer eventual administrative discipline, retraining, or corrective action is postponed, the less effective and meaningful it will be. Moreover, a lengthy delay undermines public trust and confidence that the law enforcement agency is efficient and is taking speedy action to remedy police misconduct. If an agency does conduct consecutive, rather than concurrent, investigations, the agency should keep the complainant informed as to the progress of the investigations on a regular basis.

Some law enforcement agencies conduct contemporaneous criminal and administrative investigations. To do so eliminate the negative features of consecutive investigations described above. Contemporaneous investigations are more difficult to perform because of the strict necessity of keeping the two investigations separate. Additionally, contemporaneous investigations may involve double interviews of witnesses and a potential for conflicts in the record. Unless otherwise prohibited by law, the facts gathered in the criminal investigation can be shared with those conducting the administrative investigation; the reverse is not necessarily true. Great caution must be exercised to avoid a compelled statement or the fruits of a compelled statement from leaking into the criminal investigation. To do otherwise risks losing the potential

criminal prosecution because of constitutional violations of the privilege against self-incrimination.

Prosecutors have discretion as to how much time it will take to decide whether to proceed criminally. In some particularly sensitive cases, prosecutors have been known to take a year or more to make this decision. In the interim, the internal administrative investigation languishes. Memories grow stale. Discipline, if any, is long-delayed. Accordingly, some law enforcement agencies will proceed with the administrative investigation, including taking a compelled statement from the subject officer, before the prosecutor has made a decision. The prosecutor's views should be solicited in this regard but not be controlling.

2.5 All officer-involved shootings (hit or non-hit, fatal or nonfatal), all in-custody deaths, and all serious uses of force as defined by Mesa should generate an immediate response to the scene and an investigation conducted by Internal Affairs, in addition to whatever criminal or force review board proceedings or other investigations that occur or are contemplated and regardless whether a public complaint has been filed. Neither a prosecutor's declination nor a finding that such shootings or use of force were in policy or justified should cause an internal administrative review to be terminated. An administrative review of a shooting, in-custody deaths, and serious use of force should have a broader mandate than simply determining whether the use of force was in policy. It should urgently consider the strategic, tactical, policy, training, and risk management implications of any such incident, including whether the incident could have been avoided or mitigated by changes to policy, procedures, or training.

The use of a specialized team (“force review team”) or group of officers within Internal Affairs to respond to the scene and commence an immediate administrative investigation of critical incidents is encouraged.

Commentary

There is a growing recognition that a critical incident, such as a shooting, in-custody death, or seriously injurious force, involves more than an appraisal under the criminal law whether an officer should be prosecuted. Of equal importance is whether a given incident could or should have been avoided or mitigated by different strategies, tactics, policies, procedures, or training. The force review team has a separate and distinct responsibility from other professionals who also investigate these incidents.

A criminal investigation will not answer those latter questions while an administrative investigation is well-positioned to do so. Given the equal importance of those latter inquiries, a specialized unit or, in smaller departments,

a highly trained individual or group of individuals, should respond to the scene and participate as fully as the law provides.

2.6 Mesa should make an affirmative decision on a case-by-case basis whether to proceed concurrently or consecutively with an administrative investigation during the pendency of civil litigation. That decision should be made by the Chief of Police or the Chief's designee according to department directives.

Commentary

It is the practice in some law enforcement agencies to hold an administrative investigation in abeyance during the pendency of civil litigation arising out of the same set of facts. Defense counsel fear conflicts in testimony between administrative interviews and deposition or trial testimony. Defense lawyers also worry that the imposition of administrative discipline or a finding that a given officer's actions were out of policy or unjustified will prejudice the outcome of the civil litigation.

On the other hand, completing an internal investigation in as timely a manner as is reasonable, regardless of outside legal proceedings, protects departmental integrity and sends a strong signal to employees and the general public that its disciplinary decisions are made on the merits and are not influenced by external circumstances such as the filing of a lawsuit. The negative aspects of consecutive criminal and administrative investigations apply with equal force: witness's memories fade or the witness becomes unavailable; a cloud hangs over the head of the employee; eventual discipline, retraining, or corrective action is less meaningful with the passage of time; and the credibility of the agency in dealing with misconduct is undermined. Accordingly, some law enforcement agencies will proceed with the administrative investigation, including taking a compelled statement from the subject officer, before the civil litigation is final. The views of defense counsel in this regard should be solicited but should not be controlling.

Civil discovery and trial may create a fuller and more complete record than typical administrative investigations. Mesa should review, and consider re-opening, an internal investigation if the result of litigation contains information

indicating misconduct.

2.7 The practice of closing administrative investigations at intake should be discouraged. Rather, the decision should be deferred until some investigation has occurred, however short or truncated that investigation may be.

Commentary

Studies of the issues have shown the potential for abuse when investigations are closed prior to investigation. Auditing for such abuse is burdensome and time-consuming. The decision should be postponed until it is clear that no misconduct by personnel is alleged or suggested by the complaint.

2.8 Even if an employee resigns, an investigation should continue as far as it goes.

Commentary

With some frequency, law enforcement officers will resign in anticipation of an administrative investigation or while that investigation is ongoing. Those investigations should be completed despite the officer's resignation. To do so reassures the public and law enforcement employees that all complaints or accusations of misconduct are taken seriously. Further, to do so enhances the ability to learn which training, supervision, or policy changes might be needed to improve general officer performance. It protects the general public from a potentially problem officer and a subsequent law enforcement agency from unwittingly hiring such a person. While the involved officer will not be able to receive the discipline that would otherwise have been imposed had the officer remained on the force, a complaint that was initially judged actionable should be adjudicated fully.

3.0 INVESTIGATION

The guiding principle informing this section of the report is that all complaints, whether from the general public or generated internally, must be investigated by the Mesa Police Department. The extensiveness of the investigation may vary from complaint to complaint. Some small number may be capable of resolution after a cursory or truncated investigation. Most will not. The vast majority will require a fuller inquiry.

A subsidiary principle is that no complaint investigation should be closed or otherwise terminated by any individual in a law-enforcement agency acting alone. Every decision not to pursue a complete investigation should require the concurrence of the unit commander of Internal Affairs at minimum.

Internal Affairs should be the guarantor that every investigation undertaken by Mesa of its own personnel is full and fair. All reasonable steps should be taken to assure that every investigation is free from conflict of interest, bias, prejudice, or self-interest. Accordingly, investigations should, where reasonable and feasible, be conducted by an Internal Affairs unit which reports directly to the Mesa's Chief of Police or through the Chief's immediate subordinate deputy or assistant chief. And in any instance where Internal Affairs confronts a conflict of interest or believes that it cannot conduct an objective and unbiased investigation, it should recuse itself in favor of an external independent investigation.

If, for purposes of resource allocation and personnel, it is necessary to delegate certain investigations to the field, Internal Affairs must actively monitor such investigations, intervene or take over such investigations if necessary, and, at the end, review them and certify that they are thorough, complete, and fair. Internal Affairs should be empowered to remand investigations to the field for further work until IA can so certify.

The rules and procedures for an investigation must be framed to ensure its integrity, thoroughness, and fairness. To the extent possible under state or local law or existing union contracts, investigations should be prompt and present no opportunities for the fabrication or distortion of testimony or evidence. The rights of officers under law or pursuant to union contracts should be carefully observed. By the same token, these rights must not be abused so as to permit unnecessary delay, interference, tampering with testimony or evidence, or obfuscation of the truth.

The recommendations which follow in sections 3.1 and 3.2 set forth general principles that all complaints should receive some level of scrutiny and a narrow class of cases that may be closed with less than a full and complete investigation. Sections 3.3 and 3.4 describe differences between criminal and administrative investigations and which units should be responsible for pursuing them. Section 3.5 deals with allocation of responsibility for investigations between Internal Affairs and the field. Sections 3.6-3.11 deal with general investigative procedures and protocols. Sections 3.12 and 3.13 discuss the special case of investigations of shootings and other serious uses of force.

3.1 No complaint may be closed without a preliminary investigation, and no Mesa employee should have unreviewable discretion to close a case. A preliminary inquiry of every complaint should be conducted promptly upon intake. A preliminary investigation should encompass an effort to gather key statements or evidence if reasonably attainable. The goal of a preliminary investigation is to determine if the complaint should be further investigated and, if so, by whom.

A further, fuller investigation should take place whenever the facts as alleged could result in discipline, corrective action, counseling, or any change in the accused officer's future behavior, tactics, strategy, or training. Likewise, a further investigation should take place whenever the facts as alleged could result in a change in Departmental policies, procedures, protocols, standards, or training. Any decision not to proceed to a further investigation should be made by the commander of Internal Affairs with a written explanation. Nonetheless, a small number of complaints will allege facts that defy science and reason and accordingly do not merit more than cursory investigation and should be closed with a finding that there was no basis of fact. Complaints closed in this manner should be reviewed by the unit commander of Internal Affairs as a check against improper closure.

Commentary

The overwhelming majority of complaints should proceed to further investigation after a preliminary review by Internal Affairs. Yet to further investigate every complaint may result in a misallocation of resources.

3.2 Some complaints are lodged by frequent complainants whose previous complaints have uniformly been found to lack a basis in fact. These complaints should not be closed without any further investigation. A truncated investigation, however, may be satisfactory to establish that the current complaint lacks a basis in fact. The complaint should be closed with a finding that there was no basis of fact and be reviewed by the unit commander as a check against improper closure.

Commentary

So-called frivolous complaints should not be dismissed out of hand. Even if one has falsely cried "wolf" on prior occasions, one may not be doing so falsely the next time. Accordingly, complaints suspected to be frivolous should be subject to a brief investigation to determine in fact that the complaint lacks any basis.

3.3 A criminal investigation is a serious matter that must be conducted by a unit of high integrity and independence. The nature of a specific complaint largely dictates who should conduct further investigation. Allegations of criminal misconduct should be investigated by Internal Affairs, a dedicated unit within Internal Affairs for criminal investigations, or a specialized unit outside of Internal Affairs which handles criminal investigations.

Commentary

Internal Affairs units typically report to the Chief of Police or an assistant or deputy chief and thus have certain independence. In some law enforcement agencies, there is a specialized unit within Internal Affairs dedicated to criminal investigations. In other agencies, certain criminal investigations are handled outside of Internal Affairs by a detective or homicide unit, particularly in cases of officer-involved shootings. In yet other agencies, the District Attorney may have investigators who conduct some or all criminal investigations and may present a matter to a Grand Jury. In some instances, a law enforcement agency might ask another agency, such as the FBI, or an independent prosecutor, or a blue ribbon commission to conduct an independent, outside investigation or to monitor an internal investigation. From time to time, it has been proposed that certain sensitive investigations be conducted by a specially appointed independent prosecutor.

The goal in all instances is to produce an independent, fair-minded, objective, and competent investigation that the general public and members of the department accept as trustworthy and credible.

3.4 Internal Affairs itself in Mesa should not delegate to others all serious administrative investigations, including but not limited to officer-involved shootings, in-custody deaths, alleged Constitutional violations, corruption, allegations of racial profiling or discriminatory policing or racial prejudice, dishonesty, drug use, sexual misconduct, cases handled for other jurisdictions, interagency cases, and cases referred directly by the Chief of Police or command staff. Likewise, Internal Affairs should investigate all allegations of discrimination against members of the public based upon race, ethnicity, gender, disability, or sexual orientation. Internal Affairs should also conduct all administrative investigations of allegations of misconduct that are likely to result in litigation against the department or its members.

Internal Affairs should additionally investigate all allegations of misconduct of a first level supervisor or higher rank with the exceptions of allegations against Chief of Police or in any instance where there is an apparent conflict of interest. Those latter allegations should be investigated externally and entirely independently. Unless there is a specialized unit to handle internal complaints by employees of discrimination, sexual harassment, and other unlawful employment practices, Internal Affairs should conduct such investigations.

Commentary

Certain internal investigations are sufficiently serious that they should be conducted by a unit of high integrity and independence in order to produce a fair-minded, objective, and competent investigation which the general public and members of the department will accept as trustworthy and credible.

3.5 Investigations of less serious allegations of misconduct by rank-and-file should be conducted by Internal Affairs or, at the discretion of Internal Affairs, at the unit or station level, subject to the review and approval of Internal Affairs. Complaints alleging simple discourtesy or rudeness, without any suggestion of discrimination against a particular person or group, could be investigated at the unit level. Similarly, complaints by the public regarding traffic citations and traffic enforcement could be investigated at the unit level. Internal or external complaints alleging minor infractions of department regulations or policies, preventable traffic collisions, or minor performance issues also are appropriate for investigation at the unit level. Alleged excessive or unreasonable minor uses of force not involving death, serious injury, or hospital care or willful, intentional, reckless, or knowing misconduct may be appropriate for investigation at the unit level. Internal Affairs should nonetheless track and monitor ongoing station-level or unit-level investigations and intervene in or take over those investigations as necessary to ensure their competence, completeness, and integrity. All completed unit-or station-level investigations should be reviewed by Internal Affairs even if also reviewed through the chain of command. No unit level investigation should be closed unless and until Internal Affairs reviews the investigation and certifies that it is full, fair, and thorough.

Commentary

A guiding principle is that Internal Affairs is ultimately the guarantor of the integrity and thoroughness of every investigation conducted internally, whether conducted by Internal Affairs itself or by another unit. For issues of resource allocation, Internal Affairs may need to delegate the investigation of minor complaints to a unit or station. Usually, this delegation is to the unit or station employing the accused employee. That unit or station can usually do so most efficiently and rapidly. On the other hand, there is potential for conflict of interest

Affairs, and IA should affirm that an investigation done at the unit or station level is full, fair, and thorough.

3.6 Completion of Internal Affairs investigations should occur as rapidly as is reasonably necessary to produce a fair, thorough, and objective investigation given the particular facts and circumstances of a specific case. In all instances, however, an internal investigation should be completed within a reasonable time before any applicable statute of limitations or other bar to officer discipline has run. It is preferable to conclude investigations within 90 days.

Commentary

Mesa should implement and enforce specific time standards or expectations about the permissible length of an investigation. Such standards should emphasize the value of completing investigations quickly, as timely investigation and prompt resolution help to maintain public trust, and makes the process more predictable, less stressful, and more fair for employees. Absent compelling circumstances, such as a preceding criminal investigation or a factually complex investigation involving many officers and witnesses, it is preferable to conclude an internal investigation within 90 days.

3.7 During the pendency of an internal investigation, Mesa should place involved officers on administrative leave or reassignment should they be determined to pose a risk to themselves, the department, or the community; should their presence become disruptive to the successful completion of the investigation; or if the department makes the determination that termination is the likely outcome of the investigation.

Commentary

While an investigation is ongoing, a department may decide to suspend an officer, or they may elect to take the officer out of the field by re-assigning, re-positioning, or transferring them in the department while the investigation remains active. Such determinations must be made on a case-by-case basis depending on the nature of the complaint and investigation. If ongoing serious criminal investigation or proceedings make the execution of the officer's duties inadvisable or impossible, suspension of police powers or suspension without pay may be warranted if provided by law.

3.8 Unless otherwise provided by law, in-person, face-to-face, tape- or video-recorded interviews or interrogations of all witnesses and involved persons, including subject officers, whenever feasible, should be routine practice. No questioning or pre-interviewing of any witness or involved person should be permitted.

Commentary

Investigators should make all reasonable efforts to conduct all significant witness interviews in person and on tape. Interviewing an officer in person and a complainant over the phone, for example, could place a complainant at a relative disadvantage. Telephone interviews may suffice when it is the only reasonable alternative, where the witness's expected testimony is marginal to the investigation, or where an expedited investigation is imperative. Telephone interviews should also be taped. E-mail interviews are an option and should be considered.

Departments should give employees a reasonable amount of advance warning before an administrative interview in order for such employees to secure union or legal representation should they want it. Unless provided by law, an employee is not automatically entitled to any specific information or evidence prior to an interview or interrogation, though a department may choose to make some information available to an employee and his or her representative prior to an interview or during an interview on a case-by-case basis.

Questions asked during interview should be open-ended and non-leading. Those conducting interviews should take care not to formulate instantaneous credibility assessments that might bias the investigation. Investigators should receive ongoing training in interviewing and fact finding techniques. Law schools, judges, and accomplished litigators can provide such training. Investigators should thoroughly cover in each officer interview what information concerning the incident the officer had discussed or received from other officers or outside sources.

3.9 Mesa should consider employing proactive investigations, including compliance audits, inspections, stings, and decoy operations as an effective and efficient means of ensuring employee compliance with policies and procedures.

Commentary

Audits are retrospective reviews of behavior that has already occurred.

Inspections, in contrast, are contemporaneous observations to determine if current behavior conforms to standards. All police departments should employ audits and inspections as a means of confirming that officers are, on a routine and daily basis, complying with specific procedures and policies of the agency. Audits and inspections constitute an interactive, proactive component of a department's risk management functions.

Stings or decoy operations are inspections generally conducted by Internal Affairs in which an officer observes or participates in an event as it happens, testing for misconduct or criminal behavior by creating a controlled or artificial environment. These operations should be utilized as needed or dictated by the culture of the organization, particularly regarding corruption, sexual misconduct, police interaction with complainants, and dishonesty. Sting investigations may be either random or targeted. In a random sting, there is no particularized suspicion guiding the selection of a target officer. In a targeted investigation, there is particularized suspicion. Random or targeted sting operations should be authorized on a case-by-case basis in the informed discretion of the Chief of Police or designee.

3.10 To make certain that Internal Affairs departments benefit from high-quality and experienced employees, Mesa should utilize promotional policies that recognize service in Internal Affairs as productive and useful for advancing an officer's career, and it should make such policies explicit and well-publicized. Tours in Internal Affairs should be limited to fixed terms.

Commentary

Departments must provide officers with an incentive to work in Internal Affairs, and an explicit policy that places service in that unit as highly advantageous for promotional purposes is one of the most important means of doing so. Agencies should consider or provide particular preferences or point values to a career or service in the Internal Affairs division when an officer is being considered for promotion.

Specific requirements should be established for the selection of individuals to work within Internal Affairs. Prior investigative experience or a strong investigative background should either serve as a requirement or a significant qualification for Internal Affairs service. Mesa should conduct a secondary background check on candidates. Selected candidates should sign a confidentiality agreement that underscores their commitment to avoid discussing Internal Affairs cases and confidential details to anyone, and for any reason, outside the office. After being selected, the department should provide as much ongoing training or professional development in investigation and Internal Affairs investigation as possible, including training in fact finding and deposition techniques by lawyers or judges.

It is best practice to limit the length of tours within IA to a prescribed duration of years. Mandatory rotation out of Internal Affairs invigorates the unit and the employees working within it, ensuring that investigators retain a strong incentive to consistently surpass performance standards.

3.11 The documentation of investigations must be thorough, complete, and as exhaustive as reasonable, utilizing a consistent, standardized format for reports and recordkeeping.

Commentary

Establishing a clear and consistent format for investigative reports and files helps to ensure objective, unbiased, and thorough investigations by making investigators responsible for considering and including the whole of the evidence, interviews, summaries, and other investigative work undertaken during the course of a given investigation. A formalized checklist included as part of the final investigative file will help assure the completeness of an investigation. A log of the investigation serves to preserve and maintain a history of the investigation and a means to keep track of the various parts of the investigation. Each investigative file should contain a comprehensive summary of the investigation. Although the summary should be impartial, it should also identify inconsistencies between statements and inconsistencies between statements and physical evidence.

3.12 Internal Affairs should track and maintain a chronological log of all internal investigations.

Commentary

A centralized tracking system for managing ongoing all internal investigations, whether performed directly by Internal Affairs or not, ensures that investigations move along in as timely a manner as is reasonable given the particular factual circumstances of a case. Such a system allows supervisors and managers within an IA unit a more comprehensive and systematic view of ongoing investigations such that workloads and assignments can be managed as efficiently as possible.

A strong case management system should be developed and utilized to maximize the performance and efficiency of Internal Affairs investigators. Such a system allows managers or supervisors to oversee and manage an investigator's case load and monitor an investigator's outstanding cases and the thoroughness and efficiency of investigations.

3.13 The purpose of any officer-involved shooting or serious force investigation is to ensure unbiased fact finding focused on truth-seeking, transparency, and timely resolution of the incident. Those critical incidents may require special measures to protect the integrity of the truth seeking process.

Commentary

As a reminder, given disparity in the law across the country, in this section and throughout this document, Mesa is best advised to consult with legal counsel about the applicable rules before implementation. Unless otherwise required by law and without regard to whether the investigation is conducted by Internal Affairs or another specialized unit, involved and witness officers should be physically separated as soon as possible. As soon as is practical and reasonable, the officer should submit to a comprehensive, taped interview by department investigators. Members of the department either involved in or witnessing the critical incident should be ordered not to discuss the incident among themselves prior to being interviewed by department investigators. Members who were involved in or witnessed the incident in question may consult individually with legal counsel or labor representative telephonically or in person before providing an interview with department investigators. Yet members involved in or witnessing the incident should not consult with legal counsel or labor representatives collectively or in groups: for example, two or more members consulting at the same time with the same lawyer or labor representative. First responding supervisors or investigators arriving at the scene of a critical incident should be empowered, if they choose, to ask each officer voluntarily to state what happened and what, if any, discussions regarding the incident have occurred prior to the responder's arrival. That specialized team should participate in all scene walk-throughs with involved or witness officers. The practice of some investigators to conduct untaped “pre-interviews” of officers or witnesses prior

In conducting contemporaneous criminal and administrative review or investigation, the criminal and administrative investigators should be empowered, should they choose and to the extent practicable, to conduct joint interviews of all witnesses, including members of the department and the general public. Similarly, administrative investigators should be empowered, should they choose, to take a compelled statement from the subject officer or officers before or after the criminal investigator as long as great care is taken not to contaminate or compromise the criminal investigation. In any event, the tapes from the criminal interview and, if possible, a transcript of them should be provided to the administrative investigators as soon as practicable.

4.0 MEDIATION AND ADJUDICATION

This section of the recommendations to Mesa first discusses the role of mediation as an alternative to full investigation and adjudication in certain closely defined instances. The balance of this section concerns what happens after an investigation is concluded when it is necessary to weigh the facts to decide whether there has been a rule or policy violation and, if so, whether and to what extent discipline should be imposed. This section contains recommendations and observations calculated to bring about fair and just results. Whether or not it is the best response to correcting misconduct, traditional police discipline in the form of unpaid days off is the typical way discipline is handled.

Discipline in the form of a suspension may not, however, always be the best way to change unprofessional behavior and communicate to the department at large how individual misconduct betrays institutional values. A more nuanced view of the role of discipline is that it is one tool among many to bring about corrective action.

The best way to reinforce public trust and confidence in the police is extra vigilance on the part of police to deal with police misconduct and assure that internal process, including investigations, be as open and transparent as the law allows. Internal Affairs should be able to withstand heightened public scrutiny.

...

4.1 Voluntary mediation conducted by a neutral outside facilitator, in lieu of investigation and adjudication, would allow Mesa to deal with minor complaints that are not easily resolved through investigation. Mediation should be encouraged except where an officer has received prior complaints of similar misconduct or where there is a possibility of a pattern or practice of misconduct. In such cases, mediation should not be available to circumvent discipline or otherwise bypass an agency's early warning or intervention system.

Commentary

Mediation engages the community by giving individual members of the public who make a complaint the opportunity to have their concerns heard and considered in a way that might not otherwise occur if the complaint was investigated and adjudicated through the formal Internal Affairs process. Mediation is best used as a means of allowing an officer and citizen to better understand each other's perspectives. Mediation should not take place unless the complainant and the subject officer each voluntarily agreed to mediate.

Complaints best resolved through mediation are complaints of officer discourtesy or rudeness and others that involve minor unwitnessed "one-on-one" interactions between officers and members of the community. Complaints that can be mediated should be described in a clear written policy. The determination whether a given complaint is eligible for mediation should be made by Internal Affairs.

Mesa should establish written policies to ensure that an officer cannot elect to mediate multiple complaints where there is the possibility of a pattern or practice of misconduct or a motive to circumvent discipline or otherwise bypass Mesa's early warning or intervention system.

Outside facilitators make community members more comfortable that the mediation process is not biased against them or toward the officer, in turn making

mediation a more routine and attractive option, as well as a more effective means of improving relations with the community. Above all, the person chosen to mediate the dispute must be adequately trained in dispute resolution and strive to mediate in a neutral and objective manner.

4.2 The findings in completed investigations should result in one of four resolutions: (i) sustained or founded, (ii) not sustained or not resolved or unresolved, (iii) exonerated, or (iv) unfounded.

Commentary

In general terms, a "founded" or "sustained" adjudication means that the allegations are true by a preponderance of the evidence and that the conduct at issue is out of policy. An "unfounded" adjudication means that the allegations are not true. A "not resolved," "unresolved," or "not sustained" adjudication means that the allegations cannot be proven true or untrue by a preponderance of the evidence. "Exonerated" means that the conduct at issue occurred but is not out of policy. In other words, there is no evidence that a violation of law or policy occurred.

Mesa should consider using an additional set of dispositions for allegations of minor misconduct where corrective action is preferable to formal discipline. In such a scheme, the dispositions should include findings that that an officer's conduct "could have been better" or "should have been different." In either instance, the officer is counseled about the better or different way he or she should have acted. Where the officer's conduct should have been different, corrective action might include additional training and more careful supervision.

Mesa should be encouraged to explore non-disciplinary resolutions where other and more powerful means exist to change or modify conduct.

4.3 The Chief of Police or the Chief's designee should make the final internal adjudication and disciplinary decision and be accountable for those decisions. There may be an intermediate set of appeals or *de novo* internal hearings prior to the matter reaching the Chief of Police.

Commentary

Inasmuch as the Chief of Police is accountable for the performance of the department, it follows that the Mesa Chief of Police should ultimately decide the disposition of the case and the discipline to be imposed, subject to whatever appeals, hearings, arbitrations, or reviews to which an employee may be entitled by state or local law or contract. The Chief may delegate part of the adjudicatory authority to an assistant, deputy, or bureau chief. Delegation farther down the chain of command is discouraged. A Chief of Police or designee should be accountable inside and outside the law enforcement agency for those decisions, whether made personally or through delegated authority.

4.4 Adjudicators should use neutral and objective criteria, weigh evidence appropriately to distinguish strong evidence from questionable or less material evidence, and not indulge in presumptions that bias the findings of fact.

Commentary

Utilizing a member of the public's criminal history as a sole means for finding a complaint to be unfounded, for terminating an ongoing investigation, or for reaching a specific disposition or investigative outcome is not a sound practice. Similarly, while an officer's prior history or performance record might provide aggravating or mitigating factors in the imposition of discipline, the officer's history alone should not serve as a sole for specific factual findings or investigative outcomes. Departments must take care that consideration of the backgrounds of both officers and members of the public does not divert focused consideration of the actual evidence in the factual record. To be sure, past instances of untruthfulness should be used to make credibility determinations.

For a variety of reasons, including morale and issues of trust, some police departments are sometimes reluctant to make credibility determinations against an officer in "one-on-one" or "he said/she said" situations and thus resolve the conflict in testimony in favor of the officer. The use of assumptions, presumptions, or rules in favor of an officer that automatically dictate an "unfounded" resolution should be discouraged. It is necessary for agencies to make hard calls on credibility for purposes of legitimacy and integrity.

4.3 Concluded internal investigations, adjudications, and discipline should be open and transparent to the public to the greatest extent permitted by law. Efforts to close or seal an investigatory or personnel file or to close civil service or equivalent hearings may conflict with those goals of transparency. There nonetheless are legitimate reasons on a case-by-case basis to preserve the secrecy or confidentiality of certain information.

Commentary

One cannot state categorically that all efforts to preserve confidentiality and secrecy in closed investigations should be discouraged. On a case-by-case basis, the public interest in disclosure and transparency may have to give way to legitimate reasons for protection. For example, it may be necessary to take steps to protect the identity of certain witnesses or confidential informants or secret tactics and strategies the disclosure of which may compromise legitimate and important crime prevention or public safety efforts. Because of the clear linkage between openness and public confidence, it is important that efforts to close files or hearings should be employed only when vitally necessary and not universally. It must be kept in mind also that police officers are public servants and part of government and thus must expect that their conduct on the public's behalf will be subject to greater scrutiny and less privacy than that of a private citizen.

4.5 Unit commanders and their superiors in the Mesa chain of command should be empowered to make a recommendation for the disposition of cases and amount of discipline involving persons subordinate to them in the chain of command.

Commentary

Regardless of the system employed, the chain of command should have a voice in the disposition of cases and amount of discipline for persons subordinate in the chain of command. If the chain of command is to be held responsible for managing the risk of police misconduct and be accountable for the actions of those they supervise, they should have a voice in the adjudicatory process involving their employees.

4.7 A discipline matrix or similar schedule has proven helpful to some agencies, and it is recommended for Mesa. Mesa should seek to ensure consistency, objectivity, and progressive discipline. A matrix best involves recommended ranges of discipline, allowing for the decision-maker to consider the totality of the circumstances, including aggravating and mitigating factors, in determining appropriate discipline.

Commentary

A matrix codifies the nature of specific offenses or policy violations and associates them with specific penalty options or ranges of discipline. Within such a system, a policy violation falls within a certain class or category of violation that, in turn, corresponds to a particular range or set of discipline options that a decision maker can consider according to the totality of the circumstances present in a given case.

A matrix is a helpful tool but should not be applied inflexibly. The decision-maker should consider the totality of the circumstances, aggravating and mitigating factors, non-disciplinary outcomes, precedent, and consistency. Precedent, in the sense of prior disciplinary decisions for the same conduct, should be considered but should not straitjacket the decision-maker. As times and police culture change, and as the acuteness of particular forms of misconduct may grow in the eyes of the department or the public, disciplinary decisions must also change to reflect contemporary ethics and judgments about police behavior. While discipline should be reasonably predictable, fair punishment reflective of current ethical standards should not be held hostage to what may or may not have been done in the past.

Broad disciplinary categories may be useful but should not be used where more specific policy sections or descriptions apply.

4.8 Well-reasoned and fully justified settlement agreements, partial conditional suspensions of discipline, "last chance" agreements, and legitimate dropping of charges or mitigation of penalties should be available when to do so will not undermine the values of fairness, consistency, predictability, and integrity. Decisions to modify discipline should always be justified in writing.

Commentary

While it is important and efficient to settle grievances to avoid a proliferation of appeals and reviews, it is more important that individual officers or their representatives not be able to game the system. Untrammelled deal making and "plea bargaining" can make a disciplinary system arbitrary, unpredictable, and introduce luck into the final disciplinary determination. In a thorough investigation, each founded charge against an officer will be supported by sufficient proof such that an impartial and honest reviewer will be hard-pressed to overturn a disciplinary decision.

There is a place, nonetheless, for settlement and last chance agreements and mitigation in appropriate circumstances. Some departments hold sentences in full or partial abeyance and do not make the officer serve the actual numbers of days off if the officer's conduct in the next year is free of similar misconduct. Wisely deployed, these devices can be a useful and progressive way to encourage good behavior. Used unwisely, habitual suspension of sentences can encourage excessive deal making and introduce arbitrariness into the disciplinary system.

4.9 The head of Internal Affairs should preferably report directly to the Chief of Police on all matters not involving the Chief of Police personally. If a direct reporting relationship is not feasible, the IA commanding officer should nonetheless have prompt, unrestricted, and confidential access to all department executives, including the Chief of Police.

Commentary

For purposes of independence, confidentiality, direct and unfiltered discussion, and some freedom from institutional politics and pressures, it is better that the head of Internal Affairs report directly to the Chief of Police. The role of Internal Affairs is too vital to the integrity of the law enforcement agency to have intermediaries carrying its messages and recommendations to the Chief of Police.

4.10 There are advantages to formal linkage of Internal Affairs with the training academy, risk managers, lawyers representing Mesa or its officers in litigation, and those providing in-service training and advanced education.

Commentary

Administrative investigations should involve much more than the decision whether a given officer violated a particular policy. The investigation should be a learning opportunity for the department through a wide examination of policy, practices, training, risk management, and lessons learned from litigation. This best can be accomplished by a formal linkage between IA, the Academy, in-service trainers, and lawyers defending the department and its employees.

Impediments to a full and open discussion of pending and closed litigation should be eliminated. It is often the case that a given lawyer will be defending one or more individual officers in addition to the department or municipality involved. Generally, the city or other jurisdiction provides counsel to individual officers free of charge. In some instances, lawyers have taken the position that they cannot discuss the facts of the case or the possible exposure in the case with Internal Affairs because of a potential conflict between their loyalties to the individual officers as clients and the possibility that such discussions will bring to light facts that may lead to adverse action by Internal Affairs against those individual officers. In exchange for representation provided by the city, officers should waive any such conflict in order to serve the overriding goal of department integrity and the free flow of information relevant to questions of integrity.

4.11 Internal affairs investigations should be closed to the officer and the public during their pendency. Nonetheless, the Chief of Police should be fully informed of the progress of internal investigations and should regularly communicate the status of an investigation to the press and general public to the full extent permitted by law.

Commentary

To ensure that an officer's rights are preserved during the course of an Internal Affairs investigation, and to minimize interference and undue pressure on Internal Affairs and the department at large, it is important that investigations remain confidential during their pendency. There is nonetheless an obligation to keep the public informed of the progress of an investigation and such other disclosures that can be made without compromising the investigation.

4.12 Unless otherwise provided by law, all investigatory files, including all Internal Affairs and Command level investigations, regardless of disposition, shall be maintained in hard copy or electronic form for the duration of the subject officer's employment by the Mesa Police Department plus five years or until all proceedings, including litigation, arising out of the subject matter of the investigation is finally concluded, whichever comes later.

Commentary

Investigatory files should be maintained for the duration of an employee's career with the Mesa Police Department plus a sufficient number of years for all collateral proceedings to reach a final result and to be reasonably available in connection with an employee's future employment with another law enforcement agency.

4.13 The process of evaluating employee performance is a key component of personnel management decisions concerning transfers and promotions. All appropriate performance records, including those indexed in automated databases, including the early warning system, shall be reviewed prior to transfer and promotion decisions being made, including bonus selection decisions and assignment to specialized units. Such reviews must include consideration of the employee's specific assignments, duties, units and shifts as compared to those of other similarly situated employees and as contrasted with employees not similarly situated. Notwithstanding the foregoing, “unfounded” or “exonerated” shall not be used for any official determination regarding promotion, transfer or disciplinary action.

Commentary

Progressive police practice contemplates that past performance, including prior disciplinary history, should be taken into account for purposes of transfer, promotion, and selection for specialized units. The relevance of past misconduct diminishes to a degree over time— the more remote the instance of misconduct, the less it is relevant to current decisions, assuming no intervening instances of misconduct.



APPENDIX C

Project team biographies

Geoff Balon

Legal Advisor, Legal

Geoff Balon is the Legal Advisor for the Mesa Police Department where he provides a wide range of legal counsel and advice to the Chief of Police and employees of the Department including advice on criminal investigations, training personnel, risk management, public records, and representing the Department on legislative issues. Mr. Balon is a past President of the Young Lawyers Division, past Chair of the Public Lawyers Section, and served on the Board of Governors of the State Bar of Arizona. Mr. Balon graduated from The University of Arizona with a B.A. and a J.D. Prior to law school, Mr. Balon was the Press Assistant to U.S. Senator Tim Johnson in Washington D.C.

Michael Beaton

Commander, Special Operations/SWAT

Michael Beaton has been with the Mesa Police Department for 26 years, currently assigned as the Special Operations Division Commander. Special Operations supports the Mesa Police Department through major crime investigations, tactical, apprehension and undercover operations. Michael has a bachelor's degree in Political Science from the University of Arizona and a Masters in Leadership from Northern Arizona University and is a graduate of the FBI National Academy Session-266.

Michael Bellows

Commander, Training

Commander Mike Bellows has been a member of the Mesa Police Department since 1990 and has served in a broad range of assignments across operations, investigations, and administration. He is currently assigned to the Mesa Police Training & Wellness Division which is responsible for the basic training academy and field training programs, advanced officer training to include firearms range and driving track operations, employee wellness and peer teams, and reserve officer program. Commander Bellows holds a Bachelor's Degree in Education from Northern Arizona University and is a graduate of the Northwestern University Staff and Command School.

Will Biascochea

Police Officer, Patrol

Will is a Patrol Officer with 23 plus years of experience in policing. Will has been assigned to Special Investigations, a Field Training Officer, and is a certified member of Force Science (Use of Force) and the Crisis Intervention Team. Will is currently the President of the Fraternal Order of Police Lodge #9 (Labor Organization). Will's present focus is to bridge the gaps between community perspective, city management, and officer wellbeing. Will has a Master's in Organizational Leadership from Grand Canyon University.

Britney Brimhall

Police Officer, Policy

Detective Britney Brimhall joined the Mesa Police Department in 2011 as a sworn patrol officer and worked in every Patrol Division. She most recently has taken the role of Policy and Inspections Detective in the Office of the Chief of Police and has been part of the Use of Force Committee, researching and working closely with Subject Matter Experts (SMEs) to provide evidence-based guidance for best practices. She graduated from Arizona State University (ASU) with a B.A. in German and is currently finishing her Master of Business Administration (MBA) at ASU's W.P. Carey School of Business.

Lee Coking

Police Officer, Patrol

Officer Lee Coking started his law enforcement career with the Mesa Police Department in 2001. Lee has worked various assignments to include Patrol, School Resource Officer, Criminal investigations Unit. Currently Officer Coking is assigned to the Chief's Office.

Jason Coon

Lieutenant, Patrol Division

Lieutenant Jason Coon has nineteen years' experience with the Mesa Police Department. He holds a Bachelor's Degree in Criminal Justice from Benedictine University. Lieutenant Coon is currently assigned to the Mesa Police Department Superstition Patrol District. He has experience in Professional Standards, Gangs, Criminal Intelligence, Tactical Flight Officer, School Resource Officer, and Patrol.

Gregory Love

Sergeant, Professional Standards

Sergeant Greg Love started with the Mesa Police Department in October of 2000 where he worked as a patrol officer and a field training officer over his first ten years with the department. Having served in several roles, including district detective, Sergeant to the Fiesta Criminal Investigations Unit and the Mesa Police Department Homicide Unit, Sergeant Love transferred to the Professional Standards Unit in February 2020, where he looks forward to continued learning as he furthers his career in this new position. Sergeant Love is married with three children. Prior to his career in law enforcement, Sergeant Love made a living performing and teaching music in various bands. In his free time, he enjoys coaching little league baseball, family vacations and playing drums, guitar, piano and bass guitar with his church worship team.

Scott Martin

Lieutenant, Policy

Lieutenant Scott Martin has a vast range of experience as a 28-year veteran of the Mesa Police Department. He has supervised and lead numerous areas of the department from the positions of Policy Lieutenant, Patrol Lieutenant, Operations Lieutenant, Criminal Investigations Sergeant, Gangs/Street Crimes Sergeant, and Community Action Team Sergeant. As an officer/detective he worked as Field Officer Trainer, a SWAT member, an undercover narcotics detective including Clan Lab Clean Up and Asset Forfeiture with the Phoenix DEA Task Force.

Lieutenant Martin holds a Bachelor of Arts degree in Justice Studies from ASU and has taken additional Justice Studies courses with Pima Community College and Rio Salado Community College. He is an AZPOST General Instructor, a Firearms Instructor, and was on the Board of Directors for AZORCA. He is a graduate of the Arizona Leadership Program and is working on completing the FBI Law Enforcement Executive Development Association's Trilogy Program.

Lieutenant Martin is proud to be a police officer and to serve the community of Mesa. He is passionate to see organizational improvement through transparency with the community and through employee development.

Glenn Pearson

Sergeant, Street Crimes

President of the Mesa Police Association (Labor Organization)

Lee Rankin

Assistant Police Chief

Assistant Chief Lee Rankin is a 25 year veteran of the Mesa Police Department. He serves as the Investigations Chief responsible for major investigations, special operations, aviation and emergency management. He has served in various investigative and supervisory assignments throughout his career. Assistant Chief Rankin was instrumental in pioneering the evaluation and implementation of body worn cameras in 2012. He earned a Masters of Public Administration from Arizona State University in 2008 and is a graduate of the FBI National Academy #275.

Jason Redwing

Lieutenant, Homicide

Lieutenant Jason Redwing is a 20-year veteran with the Mesa Arizona Police Department. He started his career after graduation from the Mesa Police Academy as a patrol officer where he worked for six years. During that time he was

a Gang Liaison Officer and a Field Training Officer. He received specialized training as a less lethal shotgun and AR15 operator. He is a AZPOST Certified Instructor and a Spanish Instructor, as he is fluent in Spanish.

Lieutenant Redwing has a Bachelor of Science degree from Arizona State University and a Master's degree in Educational Leadership from Northern Arizona University. He also serves in the community of Mesa where he has lived for over 20 years. He enjoys coaching local youth sports teams and served for many years in his church as a youth leader.

Aaron Spicer

Lieutenant, Professional Standards

Lieutenant Aaron Spicer has over 22 years' experience in police work in both Virginia and Arizona. He holds a Bachelor Degree in Criminal Justice from Radford University and a Master's Degree in Educational Leadership from Northern Arizona University. Lieutenant Spicer is a graduate of Northwestern School of Police Staff and Command, Arizona Leadership Program, FBILEEDA Leadership Trilogy, and the University of Arizona Fundamentals of Government Leadership Program.

Lieutenant Spicer is currently assigned to the Mesa Police Department Professional Standards Unit, however he has experience supervising personnel assigned to patrol, criminal investigations, training, street crimes, homicide, special events, photo safety, towing, financial crimes, vehicular crimes, court liaison, community interaction, crime analysis, crime prevention and pawn units.

Charles Trapani

Sergeant, Patrol

Chuck began his career with the Mesa Police Department on January 1995. During his twenty-five years with the Department he has had the opportunity of being assigned to several diverse police units, including Patrol Officer with the Central and Superstition Patrol Districts and Patrol Supervisor in the Falcon and Superstition Patrol Districts, as well as roles as the department's Public Information Officer, supervisor for the Phoenix-Mesa Gateway Airport Unit and supervisor to the East Valley Gang and Criminal Information Fusion Center. Sergeant Trapani is currently assigned to the Phoenix-Mesa Gateway Airport Unit

Prior to his career with the Mesa Police Department, Sergeant Trapani served as a Non-Commissioned Officer in the United States Air Force. He was enlisted in the Air Force for over eight years as a Security Police Officer and is a veteran of Operations Desert Shield and Desert Storm. He also holds a Bachelor of Arts degree in Criminal Justice from the American Military University.

Timothy Walker

Commander, Patrol Division

Commander Tim Walker has been with the Mesa Police Department for almost 22 years. He is currently assigned to the Red Mountain Patrol Division where he oversees 124 sworn and professional staff members. The Red Mountain Patrol Division is home to Falcon Field Airport and The Boeing Company. It serves 150,930 residents over approximately 39 square miles. Red Mountain Patrol Division believes in working with the community, relentlessly fighting crime, and constant professionalism.

Commander Tim Walker has served in several areas of the department and in every rank leading up to commander. These assignments include: Patrol, School Resource Officer, SWAT Team, Criminal Investigations, Support Services, Advanced Training, and Tactical Team Lieutenant. Tim has a Master of Administration degree from Northern Arizona University with an emphasis on leadership and a Bachelor of Science degree in finance from Arizona State University. Tim is active in the community and volunteers' numerous hours throughout the year mentoring youth.

Elizabeth Wiltrout

Management Assistant, Risk Management

Elizabeth Wiltrout is the Records and Risk Management Administrator for the Mesa Police Department. She is responsible for overseeing the Records, Teleserve, and Risk Management Sections within the department. She has served in several leadership roles throughout her career including within the Crime Scene Unit in the Crime Laboratory, Chief's Office Administrative staff as well as her current role. She is an Arizona native and has been with the Mesa Police Department since 2007.

Elizabeth has a Bachelor of Science Degree in Justice and Social Inquiry from Arizona State University and a Master's Degree in Public Administration with an emphasis in government and policy from Grand Canyon University.

Kina Harding

Attorney at Law

Kina Harding is a dedicated family law attorney who is passionate about progress in Mesa. In 2010, Attorney Harding founded The Harding Firm. While she has built her legal career on focusing on all of loves tragic side effects - divorce, custody, parenting time, child support, and grandparent's rights, all of her passion projects are focused in the City of Mesa.

Attorney Harding has been inducted into the "Top 40 under 40" Trial Attorneys. She attended American University, Pepperdine University School of Law, and she completed her doctoral coursework in criminology at Arizona State University. She is licensed in Federal District court as well as the Court of Appeals. She has been practicing in both Maricopa and Pinal Counties for several years. She spends her time speaking, teaching, and volunteering.

Kina Harding loves Mesa and resides locally, with her son Bryce, her Boerboel D'Ogee, and her tortoise named Bird. She has coined the motto, "Choices change lives. Choose wisely," and she believes it applies to all aspects of life.

Helen Hunter

Reverend

Helen Hunter, Community Organizer, Social Justice Advocate, Seasoned Pastor, Board-Certified Chaplain, and Businesswoman - is a COMMUNITY PARTNER. She has worked for underserved populations for 30+ years, in partnership with ALL community stakeholders, particularly in the areas of community policing, housing, homelessness, and healthcare.

As a Chaplain, Helen provides multi-faith and multi-denominational spiritual and pastoral care to Arizona hospitals, organizations, clergy, and health care professionals. As a pastor, Helen provides street ministry and feeding programs in Mesa and Phoenix. She recently acquired a transitional housing facility. Helen's vision is to provide permanent, affordable housing and homeownership opportunities for low-moderate income families.

Helen is confident that ALL Arizonans can and must commit to solve social problems TOGETHER. Working, serving, giving, living, and winning ... TOGETHER. She strongly believes in practicing the Golden Rule - TREATING OTHERS AS WE WANT TO BE TREATED - with integrity, dignity, compassion, and respect.

Charles Katz

Arizona State University

Charles Katz is the Watts Family Director of the Center for Violence Prevention and Community Safety and is a Professor in the School of Criminology and Criminal Justice at Arizona State University. His work focuses on police transformation and strategic responses to crime. He currently serves as a research partner to the Phoenix Police Department to evaluate their agency's BJA sponsored initiatives related to body-worn cameras and its Crime Gun Intelligence Center. He also currently serves as principal investigator of the Arizona Violent Death Reporting System sponsored by the CDC and regularly collaborates with USAID and UNDP to develop comprehensive strategic plans to reform international police agencies. He recently completed several research projects for the US Department of Homeland Security and USAID in El Salvador and Honduras on issues involving MS13 and gang and delinquency prevention.

Andy Keeler
Business Owner

Ozetta Kirby
Reverend

Rev. Ozetta Kirby is a native of Sebree, Kentucky. She gave her life to the Lord at the age of 10, and attended Bridwell AME Church weekly, with her grandparents. Her family moved to Racine, Wisconsin in 1962 for a better quality of life. Mother and children united with Wayman AME Church immediately. She graduated from Park High School, Dominican College of Racine, and The University of Wisconsin-Milwaukee. She received her BA in Elementary Education, MS in Educational Psychology, and Certification as an Elementary Principal. She worked for the Racine Unified School District as an assistant teacher, teacher, assistant principal, and principal for 32 years. In 2002, she retired and moved to Chandler, Arizona. Once again she felt the lure of the classroom, and worked in the Chandler Unified District for seven more years, retiring again in 2009.

Ozetta received her call to preach in 1993, from God, at Wayman African Methodist Episcopal Church-Racine, Wisconsin. and was ordained as an Itinerant Deacon in 1996 and was ordained as an Itinerant Elder in 1998. In 2002 she joined Holy Trinity Community AME Church in Mesa, Arizona. and served four years under the excellent leadership of Rev. Melvyn Payne. In 2006 Bishop John R. Bryant appointed her as Senior Pastor of Holy Trinity Community AME Church, where she currently serves.

Betty McGee
Pastor

Pastor Betty was born and raised in Calhoun, LA. She and her husband of forty three years, Tyronne are both retired United States Air Force Veterans. They are the proud parents of three adult children and nine grandchildren, one of which is an LSU Tiger.

Pastor Betty graduated Bible college and seminary, as well as the Chaplaincy (CPE) Program, Banner Desert Hospital and Cardon Children's Hospital and Medical Center, with a total 1200 clinical hours and 400 academic hours.

She became an ordained Pastor, 26 Oct 2006, under the ministry of Dr. Albert Peyrerfitte, House of the Lord, Inc., Moreno Valley, CA. She presently serves along side Pastor Andre Miller, New Beginnings Church, Mesa, AZ, and as well as Glory of Zion Ministries, Corinth, TX.

Andre Miller Sr.
Pastor

Pastor Andre Miller is a veteran of the U.S. Army and native of Detroit Michigan. He has attended Rio Salado Community College, Grand Canyon University and the top-rated Lancaster Bible College. Pastor Andre is not only the first African-American police chaplain for the Apache Junction Police department, he is also a vital member of the East Valley NAACP's Legal Redress Committee and recipient of the 2019 East Valley NAACP Dr. Martin Luther King Award for Religious Leadership. Pastor Andre is a leader who believes in leading by honest example, strongly embracing all individuals without prejudices, and being a powerful and proactive leader in the church and in the community.

Serving as the Senior Pastor of New Beginnings Christian Church Mesa, Pastor Andre is continually engaged by and with the community and the media to bridge the massive gaps between policymakers and community members, and to address the terrible inequities of policing and other social ills.

Lynn Runyan

Community Advocate

Lynn Runyan is a 20+ year resident of Mesa, Arizona. Lynn is an active advocate in the community, serving on two local non-profit boards, Mesa Leadership Training and Development and Oakwood Creative Care.

Professionally, Lynn has been employed at Salt River Project for just under 25 years. Most of that time in the Commercial Telecom Division.

In addition to her professional and community activities, Lynn recently completed her Masters' Degree. In her spare time, Lynn enjoys being in nature, mountains, ocean, desert, enjoys off-roading, and traveling with her granddaughter.

Michael Scott

Arizona State University

Michael Scott is a clinical professor at Arizona State University's School of Criminology & Criminal Justice and the director of the Center for Problem-Oriented Policing, a research center that produces and disseminates information about how police can effectively and fairly address specific public-safety problems. Scott was formerly a clinical professor at the University of Wisconsin Law School; chief of police in Lauderhill, Florida; special assistant to the chief of the St. Louis, Missouri, Metropolitan Police Department; director of administration of the Fort Pierce, Florida, Police Department; a senior researcher at the Police Executive Research Forum (PERF) in Washington, D.C.; legal assistant to the police commissioner of the New York City Police Department; and a police officer in the Madison, Wisconsin, Police Department. In 1996, he received PERF's Gary P. Hayes Award for innovation and leadership in policing. Scott holds a law degree from Harvard Law School and a bachelor's degree from the University of Wisconsin-Madison.

Lubna Tabassum

Victim Services Specialist

Ms. Tabassum is a multilingual public service professional, who has more than 20 years of job experience in the areas of Gender Studies, Behavioral Health, Diversity and Inclusion, Contract Compliance, and Project Management. Ms. Tabassum came to the United States of America with graduate assistantship for higher studies and she obtained master's in arts degree in Gender Studies from Northern Arizona University. She also holds a master's in social science degree in Applied Sociology with special emphasis in Social Statistics, Social Change and Behavioral Health from Dhaka University, Bangladesh.

Ms. Tabassum worked for the State of Arizona over 18 years, and has been with the Mesa Police Department since 2018 as a Victim Services Specialist at the Superstition Station District. She provides culturally sensitive trauma informed advocacy to Domestic Violence and Sexual Assault Victims, through collaboration with service providers and crisis response teams and participates in culturally specific outreaches to mainstream organizations. Additionally, she takes pride in representing the Mesa Police Department on the Muslim Police Advisory Board, on the Recruiting team, and at other outreach events. She is on the Mesa Police Department Use of Force Review and Implementation Committee and has taken her committee understanding back to her work at the Superstition station where she is aiming to increase the number of effective law enforcement trauma informed responses.

William Terrill

Arizona State University

Dr. William Terrill is Associate Dean in the Watts College of Public Service and Community Solutions, and Professor in the School of Criminology and Criminal Justice at Arizona State University.

He earned his B.S. in Criminal Justice in 1992, from the School of Public Affairs Penn State Harrisburg, and his M.A. and Ph.D in Criminal Justice in 1994 and 2000, from the School of Criminal Justice Rutgers Newark. Professor Terrill's early experience as a Military Police officer translated to an interest in policing from both a practitioner and academic perspective. His research centers on police behavior, with an emphasis on police use of force and police culture. Over the past 20 years, Professor Terrill has worked with various local and state law enforcement agencies, has directed several federal and locally funded research studies, has served as a consultant on a multitude of projects, and been

retained as an expert witness. He has published dozens of scholarly articles, chapters, and reports, as well as two books titled *Police Coercion: Application of the Force Continuum* and *Police Culture: Adapting to the Strains of the Job*. Professor Terrill is formerly the Chairperson for the American Society of Criminology Division of Policing and served on the Sub-Committee to President Barack Obama's 2015 Task Force on 21st Century Policing. He is presently the North American Editor for *Policing: A Journal of Policy and Practice* published by Oxford University Press.

Mark Tompert

Community Advocate

Mark Tompert is a 15 year member of the City of Mesa's Human Relations Advisory Board. He has worked for COPA Health (Marc Center) as Director of Facilities and Transportation for 38 years and has been the owner of Sustainable Environmental Technology, Inc 28 years. Mark has been married for 37 years and has 4 Children and 10 Grandchildren. He also enjoys sports and reading.

Jeff Wojnar

Project Manager

Jeff Wojnar is a project management consultant with over 30 years of experience championing projects for businesses in the airline, banking, consumer electronics, education, public safety, and technology research sectors. Attributable to Jeff's expertise with project management practices, Jeff has been selected for opportunities in product development, implementation of enterprise level systems and currently, the evaluation and realization of best practices in public safety operations. An entrepreneur at heart, Jeff is seeking his third US patent, for a software product to better conceal personal information for one's valuable resources. Jeff likes getting together with his kids and grandkids and enjoys fitness, tennis, and golf activities when time permits. Jeff has a bachelor's degree in mechanical engineering from The College of New Jersey and a master's degree in computer science from the University of Illinois.



APPENDIX D

Consolidated Use of Force Policy
DPM 2.1.1

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1. PURPOSE

This order sets forth Mesa Police Department (MPD) policy and procedures for the use of force, guided by and consistent with applicable state and federal law, the Arizona Constitution, the U.S. Constitution, and U.S. Supreme Court precedent.

2. PHILOSOPHY

2.1 Sanctity of Life

The department's highest priority is the sanctity of life. In all aspects of their conduct, department members will act with the foremost regard for the preservation of life and the safety of all person's involved, human rights, the dignity of every individual, and the Constitution of the United States and the State of Arizona.

2.2 Public Cooperation

A strong partnership with the public is essential for effective law enforcement. Inappropriate or excessive uses of force damage that partnership and diminish the public trust that is a cornerstone of policing in a free society. Department members will act:

- A. With a high degree of ethics, professionalism, and respect for the public; and
- B. In a manner that promotes trust between the department and the community it serves.

2.3 De-escalation

The goal of de-escalation is to increase voluntary compliance, slow down the situation so that the subject can be guided toward a course of action that will not necessitate the use of force, reduce the level of force necessary and allow time for additional personnel or resources to arrive.

When reasonable under the totality of the circumstances, members should gather information about the incident, assess the risks, assemble resources, and coordinate a response. In their interaction with subjects, members should use warnings, verbal persuasion, and employ proper tactics. Members should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others.

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3. DEFINITIONS

Deadly Force: Any application of force that is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use creates a substantial risk of causing death or serious physical injury.

Focused Fire (formerly Suppression Fire): A controlled volume of weapons fire directed toward a suspect, allowing a member to move. This tactic can be deployed against a target specific threat (i.e., active shooter) or toward a specific threat area (i.e., known area occupied by the suspect).

Immediate or Imminent Non-Deadly Threat: When it is objectively reasonable to believe that:

- A subject's actions are immediately likely to cause physical injury to the member or others unless action is taken;
- The subject has the means or instruments to cause physical injury; and
- The subject has the opportunity and ability to cause physical injury.

Immediate Deadly Threat or Imminent Deadly Threat: When it is objectively reasonable to believe that:

- The subject's actions are immediately likely to cause serious physical injury or death to the member or others unless action is taken; and
- The subject has the means or instruments to cause serious physical injury or death; and
- The subject has the opportunity and ability to cause serious physical injury or death.

Less Lethal Force: Force, other than deadly force, which by design and application is less likely to cause serious physical injury or death than deadly force. Less lethal force has the possibility of causing death or serious physical injury in rare circumstances.

Non-Involved Supervisor: A supervisor who may be at the scene and witnessed the incident but was not directly involved in the application of force.

Objectively Reasonable: Reasonableness is not capable of precise definition or mechanical application. The main issue in evaluating every use of force is whether the amount of force used by the member was objectively reasonable in light of the totality of the circumstances faced by the member on the scene. Factors to be considered by the member include, but are not limited to:

- The nature of the offense, including the severity of the crime and the level of violence;

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- The immediate threat posed by the suspect to the safety of officers or others;
 - This is the most important factor to be considered.
- Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Physical Force: Force used upon or directly toward the body of another person and includes confinement but does not include deadly physical force.

Physical Injury: The impairment of physical condition ([ARS 13-105.33](#)).

Serious Physical Injury: Includes physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb ([ARS 13-105.39](#)).

Resistance: A subject's failure to comply with a member's attempt to establish control.

Weapons & Control Methods: Equipment and verbal or physical techniques, used by members when objectively reasonable based on the totality of the circumstances, to control a non-compliant or actively resistant subject. These include but are not limited to:

Carotid Control Technique: Bilateral vascular restraint where pressure is applied to the sides of the neck, resulting in diminished oxygenated blood flow to the brain without compressing or restricting the airway.

Chemical Agents: Substances that cause a physiological response to the eyes and/or respiratory passages, including OC Spray and SWAT chemical munitions.

Control Holds: Techniques used to control a subject that have a minimal chance of injury. These include the OCCS control technique, pressure points, empty-hand escort controls, takedowns, and firm grips.

Dangerous Instrument: Anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury ([ARS 13-105.12](#)).

Deadly Weapon: Anything designed for lethal use, including a firearm ([ARS 13-105.15](#)).

Impact Weapon: Instrument by design used to apply force through physical contact. Impact weapons can include the expandable baton, side-handle baton, flexible baton (bean bag shotgun), FN303 Less Lethal Launcher, and 40mm Specialty Impact Weapons.

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Less Lethal Weapon: Device which by design is less likely to cause serious physical injury or death than a deadly weapon.

Strike: Techniques that have more than a minimal chance of injury. (Examples: Kicks, elbow, palm or knee strikes, and punches). The officer will consider the totality of circumstances in evaluating which area of the body to strike.

Limited Strike: Impact push or strike applied to limited target areas, including the brachial plexus tie-in, radial, medial, femoral, common peroneal, and tibial nerves, and major muscle groups.

TASER Conducted Energy Weapon (CEW): An electro-muscular disruption device that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor dysfunction to a subject. Synonymous with TASER, Electronic Control Device (ECD), and Electronic Control Weapon (ECW).

4. USE OF FORCE

4.1 Authorized Force

Officers may use **objectively reasonable** force to:

- A. Protect themselves;
- B. Protect others;
- C. Affect a lawful detention;
- D. Affect a lawful arrest;
- E. Conduct a lawful search.

4.2 Use of Force Guidance

- A. Officers shall use only the force that is **objectively reasonable** to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.
- B. The decision to use force requires careful attention to the facts and circumstances of each particular case, to include the nature of the offense, including the **severity of the crime** and the level of violence, whether the suspect poses an **immediate threat** to the safety of the officer or others (*the most important factor*), and whether he is **actively resisting arrest** or attempting to **evade arrest** by flight. (*Graham v Connor*)
- C. In addition, "the 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the

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20/20 vision of hindsight...the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them." (*Graham v Connor*)

5. FORCE & DEADLY FORCE

5.1 Force

When de-escalation techniques are not effective or appropriate and force is authorized, members may use force to control a non-compliant, actively resistant, or actively aggressive subject using department approved control methods and equipment.

- A. Once a subject no longer resists, the member will reassess the level of force used and apply only the level of force objectively reasonable to maintain control.
 - 1. Both the need for and the level of force that would be reasonable are dictated by the subject's actions and may increase or decrease based on compliance or non-compliance from moment to moment. When the subject is under full control, force must terminate.
- B. When feasible, members shall make every reasonable effort to identify themselves as law enforcement and give commands and warnings before resorting to force.

5.2 Deadly Force

A member is authorized to use deadly force when the member perceives it as objectively reasonable under the totality of the circumstances:

- A. In defense of life; or
- B. When necessary to prevent the escape of a dangerous fleeing felon and the member has **probable cause** to believe that:
 - 1. The subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death; and
 - 2. The escape of the subject would pose an imminent threat of death or serious physical injury to the officer or to another person.
- C. When feasible, members shall make every reasonable effort to identify themselves as law enforcement and give commands and warnings before resorting to deadly force.
- D. Whenever a firearm is discharged, exercise reasonable caution for the protection of the lives of innocent persons and for the protection of property.

6. LEVELS OF RESISTANCE

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It is important for members to consider that a subject may be resisting a Fourth Amendment seizure or may be unresponsive for many reasons. The subject may not be capable of understanding the gravity of the situation. Officers must consider several factors when dealing with a non-compliant subject. Non-compliance may be due to a medical condition, mental, physical, or hearing impairment, language barrier, drug interaction, or emotional crisis and have no criminal intent. These situations may require a change in tactics that will be more effective while maintaining officer safety or to protect the public. Levels of resistance include:

- A. **Compliant:** A person contacted by an officer who acknowledges direction or lawful orders given and offers no resistance or aggression.
- B. **Passive Resistance:** Physical actions that do not prevent an officer's attempt at control; may include verbal responses, going limp, but does not include attempts by the subject to actively resist.
- C. **Active Resistance:** Physical actions on the part of a subject who is not complying with verbal commands and actively attempting to prevent the officer's control, but do not constitute an assault (e.g.; pulling away, pinning arms under the body, thrashing around, and/or body going rigid).
- D. **Danger to Self:** Physical actions on the part of a subject resulting in self-inflicted injuries or that indicate intent to harm oneself or commit suicide.
- E. **Active Aggression:** Assault or attempted assault with non-deadly physical force. The aggression may manifest itself through a subject taking a fighting stance, punching, kicking, striking, or other actions which present an immediate threat of physical harm to the officer or another.
- F. **Aggravated Active Aggression:** Assault or imminent assault with deadly force. The subject's actions are likely to result in the death or serious physical injury to the officer or another. These actions may include a firearm, use of blunt or bladed weapon, and physical force likely to result in serious physical injury, physical incapacitation, unconsciousness, or death.

7. FORCE PROHIBITIONS

7.1 General Prohibitions

- A. The use of **excessive** or **unlawful** force by a department member is prohibited.
- B. Department members are prohibited from using force based on **bias** or any other legally protected characteristics.
- C. Force used as **punishment** or **retaliation** is prohibited.
- D. Force used in response to a person's mere lawful exercise of First Amendment rights (i.e., protected speech, lawful demonstrations, observing

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or filming police activity, or criticizing a department member or conduct) is prohibited.

- E. Physical force on a **restrained** subject is generally unjustified, except in circumstances when the subject's actions must be immediately stopped to prevent injury, active aggression, escape, or destruction of property and doing such is objectively reasonable.
 - 1. Subjects who are refusing to get out of a department vehicle may be forcibly/physically removed after reasonable attempts to gain voluntary compliance have failed.
- F. **Face, head and neck** strikes are prohibited absent active aggression/aggravated active aggression.
- G. The **Carotid Control Technique** is prohibited absent aggravated active aggression.
- H. Deadly force may not be used against a person who is only a danger to self.

7.2 Firearm Use Prohibitions

- A. Shooting at or from a moving vehicle is prohibited. The only exceptions are:
 - 1. An apparent act of terrorism when the vehicle is used as a weapon of mass destruction or is being used as a dangerous instrument.
 - 2. Someone inside the vehicle is using or threatening deadly physical force.
- B. Warning shots are prohibited as they may prompt a suspect to return fire and may endanger innocent bystanders.
- C. Focused fire is prohibited except under exigent circumstances when:
 - 1. The member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or another person, and the subject has demonstrated the ability to cause death or serious physical injury to others (i.e., downed officer or citizen rescue).
 - a. This tactic shall not be employed if it would place innocent bystanders or victims in greater harm than the actions of the suspect.

8. DUTY TO INTERVENE

Any officer present and observing another officer using force clearly beyond what is objectively reasonable under the circumstances shall, when there is a realistic opportunity and means to do so, safely intercede to prevent the use of such excessive force. Officers shall promptly report these observations to a supervisor.

9. MEDICAL ATTENTION

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- A. Once the scene is safe and as soon as practical, ensure appropriate medical aid whenever:
 1. An individual has sustained visible injury, complains of injury or continuing pain, or requests medical attention;
 2. A subject has been rendered unconscious; and/or
 3. A conducted energy weapon (CEW), impact weapon, and/or the Carotid Control Technique has/have been deployed on a subject.

10. INITIAL RESPONSIBILITIES AFTER USE OF FORCE

The following protocols will be followed by involved members and supervisors when force is used:

10.1 Involved Member

- A. Apprehend suspect(s) and secure the scene.
- B. Request/provide appropriate medical aid, if necessary.
- C. Notify a supervisor.
- D. Identify witnesses to include their information in related reports.
- E. Request a Crime Scene Specialist (CSS) to take photographs of injuries sustained by the subject, or complained areas of injury, as well as overall photographs.
 1. If a CSS is not available for an extended period, members should take initial photographs and request CSS follow-up photographs as soon as practical. See [DPM 3.4.15 Evidentiary Recordings](#).
- F. Each member that uses reportable force will complete an incident report or supplemental report, unless directed not to by a lieutenant or Homicide supervisor. See **Section 11, Use of Force Reporting** for definitions of reportable force and reporting guidelines.

10.2 On-Scene Response by a Supervisor

- A. On-scene response by a non-involved supervisor is required to all:
 1. Strikes to the face, head, or neck; or
 2. Deployment of a(n)/the:
 - a. Conducted Energy Weapon (CEW);
 - b. Impact Weapon;
 - c. Police Service Dog (PSD) which results in a bite;
 - d. Carotid Control Technique; or
 3. Any other use of force causing the subject to be treated at the hospital for a physical injury, as defined in policy.

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- B. For all other incidents, on-scene response by a supervisor is optional.

10.3 Supervisor Investigatory & Notification Responsibilities

- A. Obtain basic facts from the involved officer(s).
- B. Ensure appropriate medical aid has been/is provided/requested, if necessary.
- C. Conduct initial review of the use of force.
 - 1. If there is an allegation of **excessive force**:
 - a. Obtain the subject's statement to include clarification of the allegations being made related to the use of force.
 - b. Conduct preliminary review of available facts, on-officer body camera video and/or witness statement(s).
 - c. Immediate notification by phone to the on-duty patrol or specialty unit lieutenant is required if the subject is transported to the hospital for a serious physical injury or is complaining of serious physical injury.
 - d. The on-duty patrol or specialty unit lieutenant will immediately notify the affected Division Commander or Duty Commander. ~~PS-Lieutenant.~~
 - 2. If force meets the definition of a **Category 1** or **Category 2 Critical Incident**, including **excessive force**, follow the protocols described in [DPM 2.1.11 Concurrent Investigations](#).
 - 3. For police incidents involving death/serious injury, officer involved shootings, or in-custody death, see [DPM 2.1.10](#) for additional responsibilities regarding on-officer body cameras, public safety statements, etc.
- D. Ensure:
 - 1. Overall photographs are/have been taken, as well as areas involving visible injury or complaint of pain;
 - 2. All necessary evidence has been/is collected; and
 - 3. All members who used force complete an incident report and/or supplemental report(s) prior to the end of shift and are approved by a supervisor.
- E. Complete MPANS when required. See [DPM 2.8.100 Mesa Police Activity Notification System \(MPANS\)](#).

11. USE OF FORCE REPORTING

11.1 Reportable Uses of Force

- A. All **uses of force**, including takedowns and pressure points.
 - 1. Exceptions which do not require reporting unless a subject is injured, thought to be injured, or the person complains of injury and requests medical aid include:
 - a. Verbal commands;

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- b. Handcuffing (including OCCS holds); and/or
- c. Empty hand escort control holds.

11.2 Notification

- A. Members shall verbally report all uses of force to an immediate or functional supervisor as soon as practicable.

11.3 Documentation

- A. Member:
 1. Each member shall document the use of force in an incident report or supplemental report, as soon as possible but prior to the end of shift, unless directed not to by a lieutenant or Homicide supervisor.
 - a. Articulate the specific facts and circumstances to explain the member's own decision to employ the particular use of force.
- B. Non-Involved Supervisor:
 1. For **uses of force**, one BlueTeam Use of Force Report shall be completed per incident.
 - a. In the report, include:
 - All involved officers;
 - Subject(s) on which reportable force was used;
 - Circumstances surrounding the use of force;
 - Results of the use of force;
 - Supervisor's actions taken in the investigative process;
 - Who was interviewed;
 - Name or description of materials reviewed; and
 - Justification for not speaking with any subject alleging excessive force.

12. OFF-DUTY USE OF FORCE REPORTING

12.1 Off-Duty Incidents | Includes Off-Duty Employment

- A. Any member who uses reportable force in an off-duty incident **within or outside** the City of Mesa (COM) shall:
 1. Immediately notify an on-duty supervisor (via radio, 911, etc.).
 2. Notify the chain of command when practical.
 3. Follow documentation procedures outlined above.
 4. Immediately notify the appropriate local authorities

13. REVIEW OF USE OF FORCE

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13.1 Sergeant Review in BlueTeam

- A. Completion dates:
 - 1. Injury or complaint of injury to any individual, including officers: prior to the **end of shift**.
 - a. **Note:** A Conducted Energy Weapon (CEW) puncture site only (unless probes are in soft tissue areas such as the neck, face, female breast, and/or groin) is not considered an injury for purposes of this policy.
 - 2. No Injury: **within two shifts** but prior to regular days off.
- B. Review all applicable on-officer body camera footage, reports, and materials related to the use of force.
- C. If any issues other than use of force are discovered during the review, document action taken in BlueTeam.
 - 1. Examples: Tactical concerns, discourtesy, legal issues, or any other policy issues.
- D. Indicate the appropriate determination in the “instructions” box when forwarding the incident to the next level in the chain of command:
 - 1. “No issues identified”; or
 - 2. “Additional review required”.
- E. Forward the completed Use of Force Report to the member’s lieutenant, or an equivalent lieutenant in the Division if the chain of command is unavailable for an extended period, and copy (cc) the Division Commander.

13.2 Lieutenant Review in BlueTeam

- A. Completion dates:
 - 1. If marked “Additional Review” during the first level review, complete by the **next shift**.
 - 2. If marked “No issues identified after initial review”, complete within **four shifts** but prior to regular days off.
 - 3. Any deviation from the time requirement will be approved by a commander and documented in BlueTeam.
- B. Conduct a second level review of all applicable reports and on-officer body camera footage.
- C. Indicate the appropriate determination in the “instructions” box when forwarding the incident to the next level in the chain of command:
 - 1. If determined “No issues identified after initial review”:
 - a. Provide final comments and forward to **PDUseofForce** in BlueTeam;
 - b. Copy (cc) the Division Commander.
 - 2. If determined “Additional review required”:
 - a. Forward the completed Use of Force Report via BlueTeam to the Division Commander;

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- b. Copy (cc) **PDUseofForce** in BlueTeam.

13.3 Commander Review in BlueTeam

- A. Completion dates:
 - 1. Complete within **two business days** but prior to regular days off.
 - a. Any deviation from the time requirement will be documented in the BlueTeam review.
- B. For all Use of Force Reports designated as “Additional review required”, conduct a third level review of all applicable reports and on-officer body camera footage.
- C. Consult with the sergeant and lieutenant regarding recommendations for additional actions to be taken such as:
 - 1. Tactical debriefing;
 - 2. Officer training;
 - 3. Squad training;
 - 4. Supervisor training;
 - 5. Counseling/Work Station File (WSF) entry;
 - 6. Corrective Action Plan (CAP); and/or
 - 7. Formal Administrative Investigation.
- C. Provide final comments in the “instructions” box when forwarding the use of force incident in BlueTeam to **PDUseofForce**.
- D. If a determination is made to conduct an Administrative Investigation, notify the:
 - 1. Professional Standards (PS) Lieutenant; and
 - 2. Affected Bureau Chief.

13.4 Proficiency Skills Unit

The Proficiency Skills Unit receives each completed Use of Force Report sent to the **PDUseofForce** inbox.

- A. If the information is incomplete, route the report to the originating supervisor for corrections.
- B. If the information is complete, mark as “complete” and transfer to IAPro.
 - 1. Report will be assigned a file number (i.e., “UOF2021-178”).
 - 2. Mark the report as “complete” in IAPro.
 - 3. Change the report disposition to “completed” in IAPro.

14. TRAINING DIVISION RESPONSIBILITIES

The Training Division will monitor trends and emerging issues by tracking data found in Use of Force Reports. Specifically, the Training Section will monitor the types of force

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being used and the reasons for use of force. This review will allow instructors to identify needs for future training sessions.

14.1 Training Lieutenant Responsibilities

- A. Assist Division Commanders as requested with:
 1. Tactical debriefing;
 2. Officer training;
 3. Squad training;
 4. Supervisor training; and/or
 5. Corrective Actions Plans (CAPs).
- B. Review and keep statistics on department use of force.
- C. Provide to Executive Staff:
 1. Monthly use of force reports, due on the 15th of the following month (or closest work date to the 15th), reference:
 - a. Department overview of use of force.
 - b. Division overview of use of force by shift and squad; and
 - c. Identified use of force trends.
 2. Recommendations for department training to include:
 - a. Officer specific training;
 - b. Supervisor specific training; and
 - c. All sworn member training.

REFERENCES

- [ARS 13.105.12, 13,105.15, 13-105.33 & 13-105.39](#)
- [DPM 2.1.10 Police Incidents Involving Death/Serious Injury, Officer Involved Shootings, and In-Custody Death Investigations](#)
- [DPM 2.1.11 Concurrent Investigations](#)
- [DPM 2.1.20 Firearms Use](#)
- [DPM 2.1.25 Impact Weapons](#)
- [DPM 2.1.30 Chemical Agents](#)
- [DPM 2.1.35 Conducted Energy Weapon \(CEW\) Protocols](#)
- [DPM 2.1.40 Less-Lethal Shotgun Protocols](#)
- [DPM 2.1.50 FN303 Less Lethal Launcher Protocols](#)
- [DPM 2.1.60 40mm Specialty Impact Weapon](#)
- [DPM 2.8.100 Mesa Police Activity Notification System \(MPANS\)](#)
- [DPM 2.10.30 Police Service Dog \(PSD\)](#)
- [DPM 3.4.15 Evidentiary Recordings](#)
- [Graham v Connor, 490 U.S. 386 \(1989\)](#)

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APPENDIX E

Conducted Energy Weapon (CEW) Protocols

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1. PURPOSE

This policy provides Mesa Police Department (MPD) members with direction and guidelines for the use of the Conducted Energy Weapon (CEW).

2. DEFINITIONS

Smart Cartridge: A replaceable cartridge for the CEW which uses compressed nitrogen to fire two barbed probes on thin connecting wires sending a high voltage/low current signal into a subject.

AFIDs: Confetti-like pieces of paper that are expelled from the cartridge when fired. Each anti-felon identification (AFID) tag contains an alpha numeric identifier unique to the cartridge used.

CEW Deployment: An officer has “deployed” a CEW if the officer has displayed the test arc, fired the probes, or applied a drive stun. This does not include displaying the test arc to determine if a CEW is operational.

Drive Stun: A drive stun is a secondary function intended to gain compliance by placing the cartridge bay of the CEW in contact with a subject while the CEW is activated and cycling.

TASER Conducted Energy Weapon (CEW): An electro-muscular disruption device that disrupts the body’s ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject. Synonymous with TASER, Electronic Control Device (ECD) and Electronic Control Weapon (ECW).

3. GENERAL GUIDELINES

3.1 Authorized Equipment

- A. Authorized members shall only use a Department-owned and issued TASER. This is the only CEW authorized for use by the Department.
- B. CEWs are issued to Department members by the Training Section.
- C. Only those members who have satisfactorily completed the Department’s approved training will be authorized to carry and use the CEW.
- D. District Coordinators are responsible for:
 1. The possession and issuance of unused cartridges.
 2. All cartridges shall be logged into the District’s log sheet.
 3. Completed log sheets shall be sent to the Training Section.

3.2 Authorized Use

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- A. The use of the CEW is authorized in accordance with [DPM 2.1.1 Use of Force](#) policy.
- B. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of the officer and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force which a reasonably prudent officer would use under the same or similar circumstances.
- C. CEWs can be used on subjects when:
 1. Subject(s) are displaying active aggression.
 2. Subject(s) are placing an officer or a third party in reasonable apprehension of immediate or imminent (non-deadly) physical injury (per [DPM 2.1.1 Use of Force.](#))
 - a. Some examples may include, but are not limited to, when there are articulable facts to support:
 - Empty hand techniques have failed; or
 - If hands-on control tactics or other force options would be likely to cause greater injury to the subject than the use of the CEW.
- D. Members may use a CEW against dangerous animals.

4. RESTRICTIONS

- A. Members shall not use a CEW on a subject:
 1. As a form of coercion or punishment.
 2. When known to be or visibly pregnant, elderly, very young, frail, or physically disabled unless deadly force is the only other option.
 3. In an elevated position where a fall is likely to cause substantial injury or death.
 4. In a location where the subject could drown.
 5. In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present (including, but not limited to, OC spray with alcohol or other volatile propellant, gasoline, natural gas, or propane).
 6. Operating a motor vehicle or motorcycle when the engine is running or on a bicycle or scooter in motion, unless the subject is displaying overtly assaultive behavior which cannot be reasonably dealt with in any other safe fashion.
 7. Handcuffed or otherwise restrained, unless displaying assaultive behavior which cannot be reasonably dealt with in any other safer fashion.
 8. To awaken them if unconscious or intoxicated.
 9. To prevent the destruction of evidence.
 10. To escort, prod, or jab.

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11. To gain the attention or voluntary compliance of a group of people except as outlined in crowd dispersal guidelines in [FFS 1.2 Field Force System](#).

5. DEPLOYMENT PROCEDURES

- A. When practical and reasonable, a verbal announcement of the intended use of the CEW and the display of the red aiming laser at the subject shall precede the application of a CEW in order to:
 1. Provide the subject with a reasonable opportunity to voluntarily comply.
 2. Provide other members and individuals with a warning that a CEW may be deployed.
- B. Do not place self or others in jeopardy in order to deliver such warnings.
- C. When practical, have another officer present with available lethal force when utilizing the CEW.
- D. Members should not leave cover or put themselves in an otherwise tactically unsafe position in order to deploy the CEW.
- E. Initial use of the CEW shall be a standard five-second cycle and then the officer will evaluate the need to apply a second five-second cycle after providing the subject a reasonable opportunity to comply.
- F. Each subsequent five-second cycle requires separate justification. The justification shall include consideration of the enhanced risks to the subject being exposed to multiple and/or prolonged CEW cycles. The justification for each application of the CEW shall be documented in a departmental report.
- G. Once the subject has been exposed to three cycles, the CEW shall be deemed ineffective and another use of force option will be considered unless exigent circumstances exist.

5.1 Smart Cartridge and Drive Stun Targeting

- A. The primary target area is the back of the subject, below the neckline.
- B. The secondary target is the front (lower center mass) of the subject.
- C. Officers shall not intentionally target the groin or above the neckline.

5.2 Handling Subjects After Deployment

- A. Do not approach the subject until it can be done safely in accordance with any other high-risk arrest.
- B. Members should take advantage of the window of opportunity while the subject is under the effects of the CEW to handcuff and take the subject into custody.

6. POST DEPLOYMENT PROCEDURES

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6.1 Medical Assistance

- A. As soon as it can be done safely, members shall have medical personnel examine any subject exposed to a CEW activation.
- B. If the probes penetrated the skin, the puncture site should be brought to their attention.
 - 1. Only medical personnel shall remove the CEW probes that are embedded in soft tissue areas such as the neck, face, female breast, and groin.
 - 2. Decisions to remove from other areas are at the discretion of the member carrying the CEW.
- C. Use a restraint technique that does not impair the subject's respiration, especially in possible excited delirium cases.
- D. Notify Detention Staff if a CEW was deployed on the subject being booked into MPD Holding Facility.

6.2 Documentation

- A. Anytime a CEW is deployed (except in training activities), whether a subject is struck or not, members shall notify a supervisor and document the use of force incident in a department report (GO), regardless of injury as outlined in [DPM 2.1.1 Use of Force](#).
- B. A supervisor will complete a Use of Force Report in BlueTeam as outlined in [DPM 2.1.1 Use of Force](#).

6.3 Evidence Collection & Handling

- A. Probes that have been used should be treated as a biohazard and handled accordingly, unless needed as evidence.
- B. In cases where a subject exposed to CEW activation received serious physical injury, death, or displays behavior associated with excited delirium, the contents of the CEW cartridge shall be collected as evidence.
- C. The contents of the cartridge must be collected by a Crime Scene Specialist (CSS) or as directed by the scene supervisor.
 - 1. The collected items must include probes, wires, cartridge body, blast doors, and at least one AFID.
 - 2. The collected probe wires from a deployed cartridge should not be wrapped. Gather the wires and other materials and place in an evidence bag.

7. CARRYING & SECURITY

7.1 Carrying

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- A. All members working in a uniform (sworn or civilian) capacity, who have been assigned a CEW, shall carry the CEW on their person while on duty.
- B. The carrying of a CEW is optional for detectives, unless the detective position has been designated for mandatory carrying of the CEW.
- C. The CEW shall be carried in:
 - 1. A secured manner on the support side of the body.
 - 2. A CEW holster or a secured pouch on the support side of an exterior carrier vest.

7.2 CEW Authorized Positions

- A. The Training Section Lieutenant maintains a list of positions that have been authorized by the Chief of Police to carry a CEW.
- B. Members who leave an authorized CEW position shall return their assigned CEW, CEW holster, and cartridges to the Training Section once they leave their authorized position.
- C. All CEWs shall be inspected and information downloaded by the Training Section prior to reissuing the CEW.

7.3 Security

- A. Members assigned a CEW will ensure due care in the security of all Department-issued CEWs.
- B. Any Department-issued CEW not in the immediate possession of the member is to be locked:
 - 1. In a secure location within a MPD building; or
 - 2. In a personal vehicle in a locked garage; or
 - 3. In the member's home when the member is not working.
- C. Do not secure CEWs in an assigned Department-owned/leased vehicle when not working.

8. INSPECTION & REPAIRS

8.1 Inspections

- A. Members carrying CEWs will spark test and inspect their CEWs prior to the start of their shift.
- B. CEW inspections shall be conducted on an annual basis by the Training Section to ensure that all CEWs are operable, to conduct information downloads, and perform any necessary maintenance or repairs.

8.2 Maintenance & Repairs

A CEW requiring outside maintenance or repair must be taken to the Training Section and the internal data must be downloaded before the CEW is serviced.

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9. TRAINING

- A. All members issued a Department CEW shall attend training and annual recertification as directed by the MPD Training Section.
- B. The Training Section manages the CEW Program and is responsible for updating, ordering, and distributing equipment as needed.
- C. The Training Section keeps any and all records on the CEW Program and completes an annual status report to the Chief of Police.

REFERENCES

- [DPM 2.1.1 Use of Force](#)
- [FFS 1.2 Field Force System](#)



APPENDIX F

Concurrent Investigations

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1. PURPOSE

The goal of the Concurrent Investigation is to determine whether the member's actions conform with applicable criminal law ("Criminal Investigation") and the policies, procedures, and training ("Administrative Investigation"). This policy may also apply to the investigation of situations in which a person dies while in police custody, while a member is attempting to effect an arrest, or other uses of force. Both the Administrative and Criminal Investigations are intended to promote community trust and enhance transparency.

An Administrative Investigation into allegations of misconduct and evaluation of training will be conducted at the same time as the Criminal Investigation. Information obtained from the Criminal Investigation can be given to the Administrative Investigation. Information obtained from the Administrative Investigation cannot be given to the Criminal Investigation.

This policy establishes the guidelines for investigating and reviewing the pre-defined critical incidents listed in this policy and the guidelines for concurrent Administrative and Criminal Investigations.

2. DEFINITIONS

Administrative Investigators: Select members of the Professional Standards Unit (PS) and the Advanced Training Unit responsible for Administrative Investigations or reviews of critical incidents.

Administrative Review Findings: A conclusion, based upon a preponderance of the evidence, as to whether a member's conduct during an incident violated departmental policy and whether any training or equipment needs were identified.

Bifurcated Investigations: Separate Administrative and Criminal Investigations that occur concurrently.

Categorical Incident: Any incident that involves action by a member resulting in:

- **Category 1 Critical Incident:** An incident requiring immediate scene response by administrative investigators.
- **Category 2 Critical Incident:** An incident requiring a post-scene administrative review.
- **Category 3 Incident:** All other reportable instances in which a department member uses force that is not defined as a Category 1 or Category 2 Critical Incident. Follows the protocols set forth in [DPM 2.1.1 Use of Force](#).

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Note: The Concurrent Investigations [Addendum](#) at the end of this chapter provides specific Category 1-3 Incident examples.

Critical Incident Review Board (CIRB): Members of the department who are responsible for reviewing the reports prepared by the Homicide Unit, Training Unit, and PS. The CIRB forms non-binding opinions related to whether the actions of the involved member(s) were within departmental policy, as well as regarding policy, equipment, training, supervision, and member(s') actions.

Deadly Force: Force that is used which caused death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.

Hospitalization: Refers to the admittance to a hospital or medical facility for treatment of a serious physical injury that resulted from a member's use of force. This does not include a treat-and-release situation for a minor injury or held for observation.

In-Custody Death (ICD): The death of an individual while in-custody or while an attempt to effect custody was made.

Non-Involved Supervisor: A supervisor who may be at the scene and witnessed the incident but was not directly involved in the application of force.

Physical Injury: Physical injury means the impairment of physical condition. For the purposes of this policy, physical injury is described as temporary, but substantial disfigurement; temporary but substantial loss or impairment of any body organ or part; or a fracture of any body part.

Serious Physical Injury: Physical injury that creates a reasonable risk of death or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

3. PROCEDURES

The initiation of an Administrative and/or Criminal Investigation is based on the incident notification protocols for Category 1 - 3 Incidents.

3.1 Notifications

The following procedures shall apply:

- A. The supervisor, after being notified of a **Category 3 Incident**, shall follow the procedures set forth in [DPM 2.1.1 Use of Force](#).

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- B. The supervisor, after being notified of a potential **Category 1 or Category 2 Critical Incident**, shall immediately respond to the scene and conduct a preliminary investigation.
 - 1. The supervisor on-scene of the critical incident shall ensure safety and security of the scene.
 - 2. A non-involved supervisor shall visibly inspect the subject(s) for injury, interview for complaints of injuries, and ensure needed medical attention is received.
- C. Upon determining there was a circumstance as defined by a **Category 1 or Category 2 Critical Incident**, the on-scene supervisor shall notify department members as outlined below.
 - 1. If a supervisor determines, at any stage of an investigation or review process, that there is apparent criminal misconduct by a member, the supervisor shall immediately notify their chain of command.
 - 2. The Criminal Investigations Commander, in consultation with the PS Commander, will determine the proper course of action to be taken.

In addition to circumstances that require notification to criminal investigators, **the PS Lieutenant shall be notified on all Category 1 or Category 2 Critical Incidents.**

- A. The PS Lieutenant shall:
 - 1. Be notified no later than one hour after the actual time of the incident.
 - 2. After consulting with the Homicide Lieutenant, determine what investigative resources will be needed for the investigation and if investigators will respond to the scene or conduct a post-scene review.
 - 3. The PS Lieutenant will make the proper notifications to the on-call Administrative Investigators.

3.2 Responsibilities

A. General

- 1. Where Criminal and Administrative Investigations are proceeding concurrently, the Criminal Investigation takes precedence over Administrative Investigations.
 - a. Criminal investigators have first opportunity to interview witnesses and review evidence.
 - b. Criminal and Administrative investigators will control their own separate investigations, respectively.
 - c. A definitive separation will be maintained between the Criminal and Administrative Investigations.

B. Sharing of Information/Disclosure of Information

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1. Information obtained from the Criminal Investigation can be shared with administrative investigators, but administrative investigators shall not disclose to criminal investigators any information obtained from their separate Administrative Investigation.
2. No information from a Garrity-protected administrative interview or any information derived from the Garrity-protected interview shall be shared with the Maricopa County Attorney's Office (MCAO) for purposes of their review or prosecution of the Criminal Investigation.
 - a. The purpose of this order is to prevent the intentional or inadvertent use of a member's compelled statement in criminal prosecution against the member.

C. Criminal Investigation

1. The role of the Criminal Investigation is to investigate the incident for criminal violations.
 - a. The completed investigation will be submitted to the MCAO for review, and a copy will be forwarded to PS.
 - b. The original reports will be filed in the Records Division.

D. Scene Walk-Through

1. The purpose of the scene walk-through with an involved member is to help investigators develop an understanding of the scene and identify potential physical evidence.
2. Administrative investigators shall not accompany criminal investigators during a crime scene walk-through with a member who was directly involved in a use of force, traffic collision, or an in-custody death.
 - a. After the involved member(s) is/are released from the scene, the criminal case agent will provide the administrative investigators a briefing on scene.
 - b. Administrative investigators will not interview member(s) the same day of the incident, unless approved by the Chief of Police or designee.

E. Administrative Investigation

1. In addition to all other investigations associated with a **Category 1 or Category 2 Critical Incident**, the department will conduct an internal Administrative Investigation to determine conformance with departmental policy.
 - a. The Administrative Investigation is intended to determine whether violations of departmental policy, procedures, or training have occurred and, if so, whether disciplinary action is recommended or modifications to policy, procedures, or training is required. Whenever an

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Administrative Investigation could result in disciplinary action, the Department will follow and comply with [DPM 1.4.10 Disciplinary Process](#) and **ARS 38-1101, et. seq.**

- b. The purpose of the review is to improve both individual and agency performance by examining what happened prior to the incident, why it happened, and what can be done differently to improve operations.

2. Purpose of the Optional Scene Response by PS and Advanced Training is to accomplish the following:

- a. Receive a briefing from the on-scene personnel;
- b. Interview civilian witnesses;
- c. Canvas the scene;
- d. Walk through the scene before the scene is lost;
- e. Inspect department equipment;
- f. Review other safety issues.

3. PS Responsibilities

- a. In evaluating issues of concern regarding policy, PS will consider whether the policy is appropriate and whether changes should be made to clarify any ambiguity.
- b. In evaluating issues of concern regarding supervision, PS will consider whether the supervisory response was appropriate and consistent with policy.

4. Interviews

a. Purpose

- When PS investigators respond to the scene of the incident, they will not speak with involved member(s) regarding the incident unless directed to by the Chief of Police or designee.
 - PS investigators may conduct additional interviews at a later time to include taking statements if additional information is deemed necessary.
- When a member provides a statement to criminal investigators, PS may adopt those statements for their purposes and decide if any additional questions need to be asked, based upon the needs of the administrative review. This alleviates the need for the members to provide multiple statements to questions previously asked/answered.
- In the event an involved member has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct a compelled administrative interview to determine all relevant information.

b. General

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- Although this interview should not be unreasonably delayed, care should be taken to ensure that the member's physical and psychological needs have been addressed before commencing the interview.
- Interviews of members shall adhere to [DPM 1.4.25 Professional Standards](#).
- Involved members are obligated to provide a statement to PS investigators as a condition of employment.
 - The statement will be for administrative purposes only and, with the exception of perjury, cannot be used in a subsequent criminal prosecution, nor can the information be disclosed to criminal investigators.
 - Criminal investigators shall not be present during PS questioning.
 - Involved members will be given an administrative order to provide full and truthful answers to all questions during any related interview with a PS investigator.
- The Training evaluator may monitor the PS interview after being admonished. This observation will assist the evaluator in conducting a thorough training evaluation.

5. Investigative Report

- a. PS shall complete its investigation within 60 days, unless an extension is granted by the Chief of Police or designee.
- b. Upon completion of the Administrative Investigation, PS will prepare a written report of its findings to the CIRB.

F. Training Evaluation

1. In addition to the internal Administrative Investigation conducted by PS, **the Advanced Training Unit will concurrently complete a training evaluation of all Category 1 or Category 2 Critical Incidents.**
 - a. It is intended to determine whether recommendations or modifications to training and equipment should be considered.
 - b. The purpose of the review is to improve both individual and agency performance by examining what happened prior to the incident, why it happened, and what can be done differently to improve performance.
2. **Training Bureau responsibilities:**
 - a. In evaluating issues of concern regarding training, the Advanced Training Unit will consider not only whether the involved member should receive additional training, but also the scope of the training and whether all members should receive additional training.

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- b. In evaluating concerns regarding equipment, the Advanced Training Unit considers whether:
 - The member had access to the right equipment to resolve the situation;
 - It appeared to function properly or improperly;
 - Changes in equipment type should be made in the future; AND
 - Policy and training adequately address the equipment members will use in similar situations.
- c. In evaluating tactical issues, the Advanced Training Unit will consider whether the member's decision-making properly considered:
 - De-escalation opportunities;
 - Timing and space considerations;
 - Best practices; AND
 - Safety of the subject, member and public.
- d. Matters deemed to be of an urgent nature will be addressed expeditiously.

3. Evaluation Report

- a. The Advanced Training Unit shall complete its evaluation within 60 days.
- b. After completing its review, the Advanced Training Unit shall submit a written report to the CIRB.

G. Executive Debrief

1. Purpose & Timeline

- a. Following a critical incident, an Executive Debrief may be scheduled within 3 to 7 days, or as otherwise directed by the Chief of Police, to provide the Chief of Police or designee with preliminary information about the incident.
- b. Upon the initial review, criminal and administrative investigators will discuss employed tactics, the performance of equipment, the need for additional or specialized equipment, and an evaluation of applicable departmental policy.

2. General

- a. The criminal case agent will provide a presentation describing what is known about the incident.
 - At the conclusion of the update, all criminal investigators will leave the room.
- b. The Advance Training and PS units will be prepared to verbally discuss/provide input as to their initial assessment of the tactical, training and administrative factors involved.

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3. Members Present

- a. The Executive Debrief will be comprised of the following members:
 - Chief of Police;
 - Assistant Chiefs;
 - Legal Advisor;
 - Involved Member(s)' Division Commander;
 - Homicide or Traffic Unit Representative;
 - PS Representative;
 - Advanced Training Representative;
 - Risk Management Representative.

H. Critical Incident Review board (CIRB)

1. Purpose

- a. The CIRB is convened to conduct an administrative review of circumstances surrounding **Category 1 or Category 2 Critical Incidents**.
- b. The CIRB seeks to promote trust and legitimacy within the community by including community representation, fostering transparency in department actions, constantly striving to improve police services, and helping hold the agency and its members accountable by issuing non-binding advisory opinions.

2. General

- a. The CIRB:
 - Reviews the use of force and tactical deployments to issue non-binding opinions related to compliance with departmental policy;
 - Evaluates decision-making, tactics used, the use of force, and supervision;
 - Identifies training needs for the individual member, squad, unit, section, or on a department-wide basis;
 - Issues non-binding opinions on any policy violations, and/or any necessary changes to policies and practices.
- b. The Chief of Police may direct the CIRB to review matters of particularly heightened community interest or concern.
- c. The CIRB will examine the following:
 - All **Category 1 Critical Incidents**.
 - The Chairperson will review all **Category 2 Critical Incidents** before the Board convenes to determine the necessity for a Board review of the incident.
 - o The Chairperson may, at his or her discretion, choose not to convene the Board.

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- If the Chairperson determines a review is not necessary, a memorandum shall be written with a brief explanation of the Chairperson’s rationale for deferring the Board’s review.
- The memorandum will be forwarded to the Chief of Police or designee for approval.

3. Membership and Term Limitations

a. Board membership should consist of five members with varying ranks, with most members assigned to the patrol function.

- The review board shall be comprised of:
 - Chairperson;
 - Co-chair;
 - Patrol Operations Bureau Sergeant;
 - Patrol Operations Bureau Officer;
 - Special Operations or Investigations Bureau Sergeant.
- **Term Limits**
 - Board members are to serve a term of two years. The Chairperson will establish a replacement schedule, so no more than three members leave in a calendar year.

b. **Alternate Members**

- At least two alternates, the rank of lieutenant or below, will be identified from the Patrol Bureau and Special Operations Bureau.
- These members will be present during all board meetings as advisory, non-voting members.
- Alternates become voting board members as board member terms expire.
- Should any member of the CIRB recognize a conflict of interest on an individual case or be unavailable to attend a meeting for any reason, the Chairperson will temporarily appoint an alternate as a voting member for that particular hearing.

c. **Advisory Members**

- Advisory members will consist of representation from the labor association(s), Advance Training, a Legal Advisor, and two civilian members.
- An advisory member’s role is to answer the questions of voting members and to bring to the attention of the CIRB clarifying facts within their area of expertise. Advisory members will not provide opinions or information outside of their areas of expertise.
- The Chairperson of the Board may request the presence of additional department members if specialized or technical expertise is required.

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- o The Advanced Training representative shall:
 - Be qualified to give expert testimony in use of force, escalation of force and tactics, and be knowledgeable with the different types of weapons and the characteristics of those weapons carried by members.
 - Provide the Board with up-to-date training and shooting records of the involved member(s).
 - Be responsible for assembling any additional training or subject matter experts (SMEs) to provide testimony to the Board.

d. **Civilian Member Requirements**

- A citizen may serve two separate two-year terms or continuously for four years.
- All citizen members of the Board shall satisfactorily complete the Mesa Police Department's (MPD) Citizen Police Academy (CPA), Community Engagement Academy, or be a member of a Department Community Forum.
- Successfully complete a criminal history records check prior to appointment with:
 - o No felony convictions; AND
 - o No misdemeanor convictions involving moral turpitude.
- A minimum of two civilians will be selected from a pool of candidates approved by the City Manager's Office. At the discretion of the Chief of Police, a third civilian member may be added.
 - o These members are appointed on a rotating basis and do not have voting authority.

4. Confidentiality

- a. Once a Board member receives notice from the Chairperson or designee that a critical incident is to be reviewed by the appropriate CIRB, the Board member is not to discuss the incident with anyone, except other CIRB members, until the Board has made a finding.
- b. Documentation provided to the CIRB necessary to perform its function has the same legal character as documentation in the possession of PS. No member of the CIRB may release any information regarding its review of a specific incident to anyone not authorized to review the information without the authorization of the Chief of Police or designee.
- c. If a Board member is also an involved member whose reportable use of force is under review by the CIRB, that Board member shall not discuss the incident with other Board members and shall not participate in the review of their reportable use of force.

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d. Civilian members shall agree to and sign a non-disclosure agreement.

5. Convening the Board

- a. The CIRB meets monthly and as scheduled by the Chairperson to address the responsibilities described in this policy.
- The CIRB Chairperson is responsible for setting the meeting date, time, and location, and for notifying all affected members, observers, and witnesses.

6. Case File Distribution

- a. PS shall ensure all reports and materials needed by the CIRB are assembled and distributed to the Board members in a timely manner.
- Any investigative reports and training evaluations shall be distributed to Board members one week before the scheduled meeting.
 - PS shall be responsible for the filing and storage of all reports.

7. Presentation to Board

- a. A presentation to the Board may occur before a Criminal Investigation, Training Evaluation, or an Administrative Investigation is initiated, but once an Administrative Investigation is initiated by service a Notice of Investigation upon the involved member, a presentation shall not occur until the Administrative Investigation is complete. If either the Criminal and Administrative Investigations or the Training Evaluation are complete, a summary of each will be submitted or presented to the CIRB for review. For the purposes of this policy, completion of each investigation occurs when criminal investigators, PS, or the Advanced Training Unit are no longer investigating the facts of the incident.
- The CIRB will review any written case reports.
 - If the Criminal and/or Administrative Investigation is complete, the criminal and/or administrative investigative units will present facts of their investigation to the Board.
 - If the Training Evaluation is complete, the Advance Training Unit will present facts of the evaluation to the Board.
 - The CIRB members will discuss the report(s) or evaluation and question the investigator(s) to gain a clear understanding of the incident.
 - The CIRB will ensure each member has a full understanding of the facts and circumstances surrounding the incident.

8. Non-Binding Opinions

- a. The CIRB shall review any completed investigative process or evaluation, the facts and circumstances surrounding the incident, and

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form a non-binding opinion whether the actions of the involved member(s) were within departmental policy, procedure, or training.

- b. The CIRB may form non-binding opinions based on all reports, photos, documents, videos, or other evidence.
- c. All reports, photos, videos, documents, or other evidence shall be made available to the Board for examination.
- d. The Board will prepare a written non-binding opinion to the Chief of Police or designee, evaluating and opining on the following:
 - Adequacy of policy;
 - Violation of policy or law;
 - Use of force (reasonableness, necessity, proportionality, and circumstances leading up to the event/use of force);
 - Tactics and decision-making;
 - Member actions and conduct;
 - Communication;
 - Supervision;
 - Training issues and needs;
 - Equipment deficiencies or needs; and
 - Any other issues that played a role in the incident.
- e. The Board's examination must be broadly focused and should thoroughly consider the following factors as they apply to each incident:
 - Instances, trends, or patterns of deficiencies regarding policy, training, equipment, or tactics;
 - All aspects of the department's use of force practices with the goal of continual improvement.
- f. After the presentation of the facts of the case, all non-voting observers will vacate, and the voting members will convene into a private session to discuss the presentation.
- g. After the private session, all Board members and observers will reconvene for a final majority vote. Five voting members must be present for the vote to occur.

9. Type of Opinions

- a. After considering all the facts and circumstances surrounding the incident under review, the Board shall formulate a non-binding opinion including, but not limited to, the following categories. Since some inquiries may involve multiple issues and members, the Board, at its discretion and as may be necessary, may elect to list any and all non-binding opinions for each issue or member involved. The following non-binding opinions are available to the Board:

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- **Inquiry Should Be Administratively Closed**
 - The review determines the member(s') conduct does not meet the criteria for a department Administrative Investigation.
- **No Facts to Support**
 - The Criminal or Administrative Investigations or Training Evaluation revealed no facts to support that the conduct reviewed actually occurred.
- **No Violation**
 - The Criminal or Administrative Investigations or Training Evaluation revealed the reviewed conduct did occur but did not violate MPD policies, procedures or training.
- **Insufficient Facts**
 - There are insufficient facts to decide whether the reviewed conduct occurred or violated MPD policies, procedures, or training.
- **Violation Occurred**
 - The Criminal or Administrative Investigations or Training Evaluation revealed that the reviewed conduct did occur, and the actions of the member violated MPD policies, procedures or training.
- **Policy Failure**
 - The Criminal or Administrative Investigations or Training Evaluation shows the reviewed conduct did occur, but the actions of the member were consistent with the MPD policies, procedures or training.

10. Additional Investigation

- a. By majority vote, the CIRB may request that investigations be returned to the investigating entity for additional investigation necessary to reach a non-binding opinion. The investigating entity:
 - May make reasonable attempts to conduct the additional requested investigation;
 - Should make reasonable attempts to conduct the additional investigation or obtain the additional information within 10 business days or provide a written statement to the CIRB explaining why additional time is needed.
- b. At the conclusion of any follow-up examination, the investigators shall supplement the original report. This will be forwarded to the Chairperson, who will disseminate to the voting Board members.

11. Unrelated Policy Violations

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- a. If the chairperson determines an incident under review by the Board involves possible policy violations unrelated to a use of force, the Chairperson will refer the matter to PS for review to determine if an investigation is warranted.

12. Opinions Issued

- a. At the conclusion of the CIRB review, a memorandum shall be provided outlining the non-binding opinion(s) formed by the CIRB to the PS Commander and the Legal Advisor.
- The summary shall be completed within 30 days of the CIRB meeting and include:
 - The CIRB's non-binding opinion(s), including any dissenting opinion from the voting and non-voting members;
 - A brief explanation of the Board's rationale for its non-binding opinion(s), including any optional explanation of the non-binding opinion(s) proposed by a member or members voting in the minority when the decision is not unanimous; AND
 - Any policy, training, or supervisory issues raised by the CIRB.
 - Any member whose conduct is reviewed by the CIRB shall be sent a copy of the memorandum indicating the non-binding opinion(s) of the Board no later than 24 hours after the memorandum is issued.
- b. Any non-binding opinions of the CIRB shall be made a permanent part of a PS report as applicable and shall be filed in the PS Unit.

REFERENCES

- [DPM 1.4.10 Disciplinary Process](#)
- [DPM 1.4.25 Professional Standards](#)
- [DPM 2.1.1 Use of Force](#)
- [INV 2.10 Major Incident Detective Response](#)
- [Concurrent Investigations Addendum](#)

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CONCURRENT INVESTIGATIONS ADDENDUM

Force Type	Threshold Examples	Components of Notification, Investigation, and Review
Category 1- Bifurcated Investigation	<ul style="list-style-type: none"> • An incident involving deadly force. • Use of force resulting in serious (permanent) physical injury. • Use of force incident resulting in death. • Intentional head strikes with an impact weapon or device. • In-custody death. • Driving operations that result in death to driver or other party. • An incident involving serious physical injury or death to a department member. 	<ul style="list-style-type: none"> • Immediate on-duty supervisory response and screening at scene. • Immediate notification to Homicide/Traffic on-call members and PS Lieutenant. • Response to the scene and Criminal Investigation by Homicide/Traffic/District Detective as defined in INV 2.10 Major Incident Detective Response. • Response to the scene and an Administrative Investigation by PS and Advanced Training Unit. • Use of Force Report completed by PS, if applicable. • Mandatory review by CIRB.
Category 2	<ul style="list-style-type: none"> • Allegation of excessive force. • Application of Carotid Control Technique. • Unintentional (inadvertent or accidental) head strikes with an impact weapon or device. • Department canine deployment resulting in hospitalization. • Officer-involved animal shootings. • Unintentional firearm discharges. • Use of force resulting in temporary physical injury as defined above. 	<ul style="list-style-type: none"> • Immediate on-duty supervisory response and screening at scene. • Immediate notification to PS Lieutenant. • Post-scene administrative review by PS and Advance Training Unit. • Use of Force Report completed by non-involved supervisor. • Discretionary review by CIRB.
Category 3	<p>All other reportable instances in which a department member uses force that is not defined as Category 1 or Category 2 Critical Incident.</p> <p>Application of:</p> <ul style="list-style-type: none"> • Chemical Agent • Control Methods • Impact Weapons • Less Lethal Weapons • Limited Strikes • Strikes • TASER Conducted Energy Weapon (CEW) 	<ul style="list-style-type: none"> • Use of Force Report completed by non-involved supervisor. • Supervisory responsibilities as defined in DPM 2.1.1 Use of Force Reporting Protocols.

APPENDIX G

Disciplinary Process

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1. PURPOSE

This policy provides guidance to members regarding the process for recommending and assigning corrective action when an allegation of misconduct against a member is sustained. Corrective action encompasses disciplinary and non-disciplinary actions. This policy is to be used in conjunction with [DPM 1.4.5 Administrative Investigations](#).

The purposes to be achieved by the imposition of discipline in a particular case are properly dependent on all the facts and circumstances of that case. Those purposes may vary based upon a consideration of numerous factors including, but not limited to, the nature and seriousness of the misconduct, the circumstances under which the misconduct was committed, the harm or prejudice arising from the misconduct, and the existence of any relevant mitigating or aggravating factors.

The overall objectives of this disciplinary process are to facilitate the orderly functioning and operation of the Mesa Police Department; to ensure employee adherence to reasonable and acceptable standards of performance and conduct; and to provide fair and equitable consequences for failing to adhere to those standards. [DPM 1.4.10F1 Disciplinary Guide](#) (this is a guide to the citizen complaint process) serves to ensure that corrective action and discipline are applied in an impartial and consistent manner.

2. DEFINITIONS

Corrective Action Plan (CAP): A written plan, which alerts a member about a performance problem and provides a period of time to correct the performance problem. The plan outlines the supervisor's performance expectations, any scheduled training, the steps to be completed by the member, and warns the member of the potential consequences for failing to complete the plan successfully.

Department Investigation: An internal investigation, either conducted by command staff or Professional Standards.

Disciplinary Advisory Panel (DAP): A panel of Department members, and at the discretion of the Chief of Police, up to one non-department member, appointed by the Chief of Police or designee to make a recommendation as to appropriate discipline to impose against a subject member for misconduct.

Disciplinary Corrective Action (Formal Discipline): Corrective action that is considered a formal discipline under [Section 810](#) of the City's Personnel Rules. These include written reprimand, disciplinary probation, suspension, involuntary demotion, and dismissal.

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Disciplinary Probation: Disciplinary probation is a form of disciplinary corrective action, which may result from a sustained finding of misconduct and a violation of City Personnel Rules [Section 510](#), Standards of Conduct.

Disciplinary probation cannot exceed 12 months and cannot be extended beyond its original length. Disciplinary probation is intended to notify the member that any prohibited act(s) by the member, occurring while the member is on disciplinary probation, may be grounds for demotion or dismissal. While on disciplinary probation, an employee will not receive a step pay increase or compete in any promotional testing opportunity.

Dismissal: Separation of employment from the City of Mesa (COM).

Involuntary Demotion: A reduction in rank based on a sustained finding of misconduct or for other reasons listed in [Section 830](#) of the City Personnel Rules. Disciplinary probation is for one year.

Misconduct: Any conduct by a Department member that violates policy or the law.

Non-Disciplinary Corrective Action: Corrective action that is not considered formal discipline. These actions include, but are not limited to, oral counseling, training, memorandum of understanding, written counseling, or a corrective action plan. Supervisors may choose to initiate non-disciplinary corrective action in response to first-time performance deficiencies or other minor offenses.

Pre-Deprivation Hearing: A hearing provided to a subject member facing disciplinary action of a suspension, demotion, or dismissal that provides the member the opportunity to provide reasons, orally or in writing, as to why the proposed discipline is not warranted.

Preponderance of the Evidence: For administrative purposes, the standard of proof is preponderance of the evidence.

Black's Law Dictionary defines a preponderance of the evidence as, "...evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Professional Standards (PS): A unit of the Mesa Police Department that investigates allegations of misconduct by Department members.

Progressive Discipline: The practice of implementing the lowest appropriate level of discipline and advancing to higher levels in response to repeated misconduct or poor performance. Progressive discipline may not be appropriate in all cases, depending on

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the seriousness of the misconduct. Progressive discipline need not start over for subsequent misconduct of a different nature.

Subject Member: The Department member accused of misconduct and/or the subject of a complaint or Department investigation.

Suspension: A form of discipline where a member is released from duty without pay for a specified period of time (no greater than 240 hours in any twelve-month period) due to a sustained finding of misconduct in violation of Department policy or [Section 510](#) of the City Personnel Rules. While on suspension, sworn members are relieved of all police duties and authority as Mesa Police Officers until restored to duty. o

Sustained: The evidence shows, by preponderance of the evidence, that the alleged conduct did occur, and the actions of the member violated Department policies, procedures, or training.

Sustained: No Discipline: The evidence shows, by preponderance of the evidence, that the alleged conduct did occur, and the actions of the member violated Department policies, procedures, or training. The alleged policy violation was related to first time performance deficiencies or other minor offenses. Supervisors may choose to engage in one or more non-disciplinary corrective actions.

Training: For the purposes of this chapter, training is a non-disciplinary corrective action used to educate a member about a specific topic or to provide the opportunity to improve a member's specific skill set. Training received as part of corrective action should be documented and is not considered a form of discipline.

Verbal Counseling: A discussion between a supervisor and a member where the supervisor notifies a member about a problem and counsels him/her about potential consequences should the problem continue. A verbal counseling should be documented and is not considered a form of discipline.

Written Reprimand: A form of discipline resulting in a written warning explaining the violation(s) and expectations regarding future behavior of a Department member.

3. GENERAL GUIDELINES

3.1 Disciplinary Corrective Action

- A. The following disciplinary corrective actions are recognized for sustained Department investigations concerning Department members:
 1. **Written Reprimand**
 2. **Disciplinary Probation**
 3. **Suspension**

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4. Involuntary Demotion

5. Dismissal

- B. The Chief of Police has final authority on all Department discipline.
- C. The Department may deviate from this process from time to time for good cause. Such deviation does not violate any procedural or substantive rights of any member unless the deviation violates a specific right guaranteed by law.

4. DISCIPLINARY GUIDE

[DPM 1.4.10F1 Disciplinary Guide](#) is intended to address acts of misconduct by Department members and shall be used as a guide in determining the sanction imposed on any member for violations of Department policies.

The existence of the Disciplinary Guide does not preclude the Department from taking the action necessary to respond to a member's failure to perform assigned duties or failure to comply with conditions of employment.

Disciplinary sanctions are based on the complaint classification definitions below.

VIOLATION LEVEL	DESCRIPTION (Refer to DPM 1.4.10F1, Disciplinary Guide)	DISCIPLINE RANGE
Level 1 Violation	Policy violations that are egregious or seriously undermine community trust, public safety, or the professional image of the Department.	Dismissal from employment or involuntary demotion.
Level 2 Violation	Policy violations that negatively impact operations, serious misuse/abuse of authority, ethical offense, or unprofessional behavior.	BASELINE: 50 hours suspension from duty UP TO: 240 hours suspension from duty AND/OR Involuntary Demotion
Level 3 Violation	Policy violations with minor operational impact, not involving misuse/abuse of authority or an ethical offense. More serious offense than a Minor Policy Violation.	BASELINE: 10 hours suspension from duty UP TO: 40 hours suspension from duty
Minor Policy Violation	Policy violations with minor operational impact or minor performance issues where behavior is likely to be corrected or	BASELINE: Non-disciplinary corrective action

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	improved through non-disciplinary corrective action or low-level discipline.	UP TO: Written Reprimand
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4.1 Mitigating and Aggravating Factors

The presumptive penalty assigned to each discipline level may be increased or decreased based upon mitigating or aggravating circumstances. The adjudicator must take into account all of the circumstances of a case and weigh mitigating and aggravating factors in the final disciplinary action. Nothing in this policy prohibits a subject member from providing a written response to the allegation at any point in time before final adjudication.

In addressing disciplinary action, the following factors should be considered:

- A. Mitigating factors may include:
 1. Efforts were made to correct the problem.
 2. Subject member receptive to correction/displayed proper attitude.
 3. Acts would not have come to light without self-report.
 4. Subject member new to the assignment.
 5. Tenure.
 6. Exemplary record.
 7. System/policy/training issue.
- B. Aggravating factors may include:
 1. High degree of operational impact.
 2. Subject member unreceptive to corrective action (displays poor attitude).
 3. Subject member refuses to cooperate with the administrative investigation.
 4. Delayed report or attempt to conceal.
 5. High value/dollar loss.
 6. Speed (vehicular collisions).
 7. Bias or harassment-based action.
 8. Rank tenure or position.
 9. Lack of due regard.
 10. Violation of civil rights/constitutional protections.

4.2 Progressive Discipline

- A. Violations requiring progressive discipline:
 1. Based on a two-year period beginning with the date the first complaint was initiated:
 - a. Failure to appear for court.
 - b. Unexcused tardiness in reporting for duty.
 - c. Failure to appear for required Department training.
 - d. Responsible motor vehicle accident as defined by Vehicle Operation Review Board (VORB) policies.

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2. First Offense
 - a. Disposition should be Sustained; Non-Disciplinary Corrective Action, unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Member shall receive verbal counseling and workstation file documentation from the member's immediate supervisor.
 - c. First offense motor vehicle collisions with minor/property damage only, and under \$5,000, will result in Non-Disciplinary Corrective Action and may be documented in BlueTeam as an inquiry.
3. Second Offense
 - a. Disposition should be Sustained, with a written reprimand unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Counseling and/or training from the member's Division Commander.
4. Third Offense
 - a. Disposition should be Sustained, with suspension and disciplinary probation, unless there are aggravating circumstances which may dictate more severe discipline.
 - b. Counseling and/or training from the member's Division Commander.
5. Fourth Offense
 - a. Disposition should be Sustained, with higher suspension or demotion or dismissal, if aggravating circumstances support.
 - b. Counseling and/or training from the member's Assistant Chief.

5. PRE-DEPRIVATION HEARING PROCESS (LEVEL 1 TO LEVEL 3 VIOLATIONS)

A Pre-Deprivation Hearing will be provided to a subject member who has recommended discipline of suspension, disciplinary probation, involuntary demotion, or dismissal.

5.1 Suspension of 40 Hours or Less

- A. For suspensions of 40 hours or less, the subject member's Division Commander/Manager will serve as the hearing officer.
 1. Within 5 calendar days, absent extraordinary circumstances and after receipt of the file, the hearing officer or designee will serve the subject member with a [DPM 1.4.10F15 Notice of Intent to Discipline/Pre-Deprivation Hearing](#), setting forth the date, time, and location of the hearing. Absent extraordinary circumstances, the hearing will be scheduled and take place a minimum of 48 hours, but not more than 10 calendar days, after service of the notice.
 2. The subject member may request an extension by submitting a written memorandum to the hearing officer or designee.

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- B. The hearing will be recorded by the hearing officer, and this recording will be added to BlueTeam and will be the official recording of the hearing. Subject members and their representative are permitted to take notes and record the hearing using their own recording device if they notify the hearing officer in advance that they are recording.
- C. The subject member and/or representative will have a maximum of 30 minutes to present their case as to why the recommended discipline should not be imposed.
- D. After the hearing, the hearing officer may consult with the Professional Standards Commander, the Department’s Human Resources Analyst, and the City Attorney’s Office on the appropriate discipline.
- E. In the event the hearing officer decides to change a disciplinary findings recommendation, including moving the discipline recommendation from a Level 3 to a Minor Policy Violation, they shall consult with and get approval from the affected Assistant Chief.
- F. Within 10 calendar days after the hearing, the hearing officer will complete [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#), which shall include the finding for each allegation (i.e., sustained), the discipline to be imposed, and any supplemental corrective action (e.g., training, corrective action plan). [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#), [DPM 1.4.5F16 Notice of Investigation Disposition Form](#), and the case file will then be returned to Professional Standards electronically for final processing.
 - 1. Professional Standards staff and/or City Human Resources staff will prepare, complete, and process all final discipline documents and notifications within eight working days after receiving [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#) from the hearing officer. Within two days all required signatures will be obtained, and the subject member will be provided an electronic copy of final discipline documents for their records.

5.2 Suspension is Greater than 40 Hours, Involuntary Demotions, and Dismissals

- A. For suspensions of greater than 40 hours, demotions and dismissals, the subject member’s Assistant Chief will serve as the hearing officer.
 - 1. Within five calendar days, absent extraordinary circumstances and after receipt of the file, the hearing officer or designee will serve the subject member with a [DPM 1.4.10F15 Notice of Intent to Discipline/Pre-Deprivation Hearing](#), setting forth the date, time, and location of the hearing. Absent extraordinary circumstances, the hearing will be scheduled and take place a minimum of 48 hours, but not more than 10 calendar days, after the service of the notice.
- B. The subject member may request an extension by submitting a written memorandum to the hearing officer or designee.

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- C. The hearing will be recorded by the hearing officer, and this recording will be added to BlueTeam and will be the official recording of the hearing. Subject members and their representative are permitted to take notes and record the hearing using their own recording device if they notify the hearing officer in advance that they are recording.
- D. The subject member and/or representative will have a maximum of 30 minutes to present their case as to why the recommended discipline should not be imposed.
- E. After the hearing, the Assistant Chief may consult with the Professional Standards Commander, the Department's Human Resources Analyst, and the City Attorney's Office on the appropriate discipline.
 - 1. Within 10 calendar days after the hearing, the hearing officer will complete [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#), including the finding for each allegation (i.e., sustained), the discipline to be imposed and any supplemental corrective action (e.g., training, corrective action plan). [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#), [DPM 1.4.5F16 Notice of Investigation Disposition Form](#), and the case file will then be returned to Professional Standards electronically for final processing.
- F. Professional Standards staff and/or City Human Resources staff will prepare, complete, and process all final discipline documents and notifications within eight working days after receiving [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#) from the Assistant Chief. Within two days all required signatures will be obtained, and the subject member will be provided an electronic copy of final discipline documents for their records.

6. DISCIPLINARY ADVISORY PANEL (DAP)

The Chief of Police, in his/her sole discretion, may convene a Disciplinary Advisory Panel (DAP) in any case. The purpose of the DAP is to make a recommendation as to the discipline to impose against the subject member and convenes upon conclusion of any Pre-Deprivation Hearing.

6.1 DAP Composition

The DAP will consist of a five-member panel appointed by the Chief of Police.

- A. One Assistant Chief to preside over the meeting.
- B. Two officers at the rank of Commander.
- C. Two officers at the rank of Lieutenant.
- D. Equivalent rank professional staff may be included.
- E. At the discretion of the Chief of Police, one sworn officer at the rank of Commander or above may be from an outside Law Enforcement agency.

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- F. The Police Staff Attorney will provide legal counsel and advice to the DAP but will not be a voting member.

6.2 DAP Hearing

- A. The DAP shall provide the subject member with written notice of the time, date, and place of the hearing not less than three City business days before the hearing.
- B. The subject member may attend the hearing with their union representative or attorney and may make a statement to the DAP regarding the severity of the penalty, although a statement is not required.
- C. The DAP hearing will be closed to the public.

6.3 Panel Recommendation

- A. A majority of the DAP members must reach consensus on the recommended discipline.
- B. The presiding Assistant Chief will draft the recommendation and provide it to the Chief of Police within 30 calendar days after the DAP hearing. The recommendation will state the DAP's concurrence or non-concurrence with the disciplinary recommendation. A copy of the recommendation will be provided to the subject member.
- C. The Chief of Police or designee will review the DAP's recommendation and document concurrence or non-concurrence with the recommendation on the [DPM 1.4.10F16 Notice of Investigation Disposition](#).
 - 1. The decision of the Chief of Police or designee is final for purposes of Department adjudication.
- D. The completed forms shall be sent to the Professional Standards Unit for processing.

7. GRIEVANCES AND APPEALS

- A. All grievances shall be filed in accordance with the [City of Mesa Personnel Rules](#).
- B. For cases involving suspension, demotion, or termination, the subject member may request an in-person meeting with the Chief of Police within five calendar days after receipt of the final adjudication.
 - 1. This meeting will not change the final adjudication. It is intended to provide the subject member an opportunity to discuss the administrative investigation with the Chief of Police.

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2. A request for a meeting with the Chief of Police pursuant to this subsection shall not delay or change the timelines set forth in City of Mesa Personnel Rules pertaining to filing grievances and appeals.

REFERENCES

- [ARS 38-1104](#)
- [COM Management Policy #339](#)
- [COM Personnel Rules](#)
- [DPM 1.4.5 Administrative Investigations](#)
- [DPM 1.4.5F16 Notice of Investigation Disposition](#)
- [DPM 1.4.10F1 Discipline Guide](#)
- [DPM 1.4.10F15 Notice of Intent to Discipline/Pre-Deprivation Hearing](#)
- [DPM 1.4.10F5 Notice of Investigation Supplement Memo](#)
- [DPM 1.4.10F11 Notice of Disciplinary Suspension](#)
- [DPM 1.4.10F12 Notice of Restoration](#)
- [DPM 1.4.25 Professional Standards](#)

APPENDIX H

Sprint Checklist

Day	Task
1 - Monday	<input type="checkbox"/> Send policy documents to the civilian committee members <input type="checkbox"/> Schedule presentation review sessions (Thursday Week 1) <input type="checkbox"/> Update record status on repository (previous sprint status) <input type="checkbox"/> Update invitation to Chiefs meeting <input type="checkbox"/> Update tracking chart and PowerPoints slides (previous sprint status)
2 - Tuesday	<input type="checkbox"/> Send Sprint Status Report (add to SharePoint) – Active recommendations
3 - Wednesday	<input type="checkbox"/> Prepare/request webpage update
4 – Thursday	<input type="checkbox"/> Preliminary Review of Presentations <input type="checkbox"/> Review Presentations to Committee with Executive Sponsor <input type="checkbox"/> Update project weekly status report
5 – Friday	
6 – Saturday	
7 – Sunday	
8 – Monday	<input type="checkbox"/> Review Guidance Presentations
9 – Tuesday	<input type="checkbox"/> Send Sprint Status Report (add to SharePoint) – Active recommendations <input type="checkbox"/> Prepare Master Committee Meeting presentation <input type="checkbox"/> Prepare Document for Meeting Minutes <input type="checkbox"/> Prepare Recommendations for Civilian Committee Members <input type="checkbox"/> Identify/Prepare Email for Policy Document for the Civilian Committee Members <input type="checkbox"/> Prepare presentations (updates) to Chiefs binders
10 – Wednesday	<input type="checkbox"/> Committee Review Meeting <input type="checkbox"/> Send committee presentations to Legal for review
11 – Thursday	<input type="checkbox"/> Update project weekly status report <input type="checkbox"/> Backup repository <input type="checkbox"/> Chiefs Review Meeting <input type="checkbox"/> Send guidance presentations to Legal for review
12 – Friday	
13 – Saturday	
14 – Sunday	

APPENDIX I

Process Checklist

Use Of Force Best Practices Project Process Checklist

Activity	Project Resources	Description
Review Recommendation <input type="checkbox"/>	Repository – Fundamentals Tab	The Fundamentals tab includes the actual recommendation and relevant additional information provided in the original source, alongside the recommendation.
	Repository – Background Tab	The Background tab links related current policy, lesson plan documents and supporting documents identified in the original source.
	Source Document(s)	The Source documents are located on the project file share (X: > PD-UseOfForceProject) in the source data folder. The Details field on the Fundamentals tab identifies where in the original source document the recommendation and additional information were obtained.
	Additional Resources	In the research folder on the project file share are two documents, “The President’s Task Force on 21 st Century Policing” and “Mesa Police Department in the 21 st Century”. A contact list for reference agencies is available as well.
Identify Questions <input type="checkbox"/>	Discovery Questionnaire	(Optional) The Discovery Questionnaire is located on the project’s SharePoint site* in the templates folder. This document can be used to list all of the anticipated questions by the Committee and Chief for which answers are discovered during your evaluation/research.
Create Tasks <input type="checkbox"/>	Repository – Support Tab	For each question (or related group of questions), create a task on the Support tab identifying the task to be completed to gather the answer(s), who is assigned to complete the work, and a start and target date. Capturing the effort to research the recommendation is an important step.
Evaluate/Research Best Practices <input type="checkbox"/>	Repository – Support Tab	Execute each task created on the Support tab and record your findings in the Summary field. Cite your [industry] reference(s) and agency referrals in the References field. (Instructions can be found in the uof project kickoff presentation addendum on the project’s SharePoint site*.)
Identify Implementation Steps <input type="checkbox"/>	Repository – Implementation Tab	Capture the [high level] implementation tasks on the Implementation tab required to operationalize the recommendation at the MPD. List any dependencies required to complete each implementation task. (Note: A dependency is an action/task that MUST be completed before the implementation task can be accomplished.)
Organize/Summarize Findings <input type="checkbox"/>	Presentation Template	The Presentation Template is located on the project’s SharePoint site* in the templates folder. This template provides a standard format from which to present/summarize the findings obtained during the Evaluation/Research step. Additional slides can be added as needed.

		(Optional) Schedule a review meeting to review your presentation prior to presenting it to the Review Committee.
Conduct Committee Review <input type="checkbox"/>	Project Committee	Deliver your presentation to the Review Committee (on your scheduled date). Capture appropriate discussion points, additional (unanswered) questions and contested/debated topics for consideration in your final guidance to the Chief. (Relevant questions raised and unanswered must be captured as tasks and represented in the final guidance). This is a 30-minute presentation.
Prepare Guidance <input type="checkbox"/>	Repository – Decision Tab	Develop your final guidance to the Chief considering the findings from your research (the presentation to the Committee) and feedback from the Review Committee. Enter the Guidance on the Decision tab. Update the Status to READY. If necessary, update your presentation to reflect proper/relevant points from the Review Committee.
Finalize Deliverables <input type="checkbox"/>	Repository – Recommendation Details Report Presentation	Review the Recommendation Details Report and verify your Guidance and all findings/research tasks are accurately represented. This is a good time to update any formatting issues with your content. (Print the report and review online. To correct content, copy the content into Word, edit and paste into the proper field in the repository) Upload your presentation into the final decision queue on the project's SharePoint site*.
Conduct Chiefs Review <input type="checkbox"/>	Chief and Assistant Chiefs	Deliver your final presentation to the Chief and Assistant Chiefs (on your scheduled date). This is a 15-minute presentation. As a result of this presentation, if unaddressed concerns are raised that require additional research, update the Repository, presentation and Guidance as necessary and be prepared to return to the Chief's Review at the next scheduled meeting.
Prepare Final Decision <input type="checkbox"/>	Repository – Recommendation Details Report	Upon the Chief reaching a decision and recording any additional thoughts in the Final Decision field, the Recommendation Details Report will be printed and couriered for signatures and final recording in a master binder. Your presentation will be included with the Recommendation Details Report as well.

APPENDIX J

Discovery Questionnaire

Discovery Worksheet

Use of Force Best Practices

Recommendation

Current State

What does the current [relevant] policy specify as it relates to the details outlined in the recommendation?

What do the current lesson plan(s) (and associated PowerPoints) train relative as it relates to the details outlined in the recommendation?

Is there current case law relevant to the recommendation?

Recommendation

Is the recommendation fully understood; are the specific details straightforward?

Are the exact changes to the current operation known if the recommendation was to be implemented?

Will there be any changes in training if the recommendation was to be implemented?

Industry References

What additional references, beyond the original sources (PERF, Merrick Bobb, LAPD and Romley) are available to endorse the recommendation as a best practice?

Is the recommendation referenced on the International Association of Chiefs of Police (IACP) website?

Implementation

Is the recommendation fully implemented at MPD?

If not, what are the key tasks required to fully implement the recommendation at MPD?

What units will be impacted if the recommendation is implemented?

What units will most likely share responsibility for the implementation efforts?

Who will need to be consulted prior to moving ahead with implementation?

What is the cost of implementing the recommendation?



APPENDIX K

Committee Presentation:
Concurrent Investigations

Title Page



Use of Force Recommendation 01

CONCURRENT INVESTIGATIONS

Agenda



Agenda

- Objectives
- Recommendation Highlights
- Investigation Comparison
- Current Process
- Recommended Process
- Consecutive vs Concurrent
 - Advantages and Disadvantages
- Industry Trends
- Proposed Action
- Decision Points
- Questions



Objectives



Objectives

- To implement an investigative framework that requires a prompt administrative review of **ALL** critical use of force incidents by a multidisciplinary investigative team, identified as Force Investigation Team.
- To implement timely updates to policy, equipment and training protocols thereby mitigating the effects or reducing the number of similar critical incidents.
- To align critical incident investigations at MPD with industry best practices and other agencies.



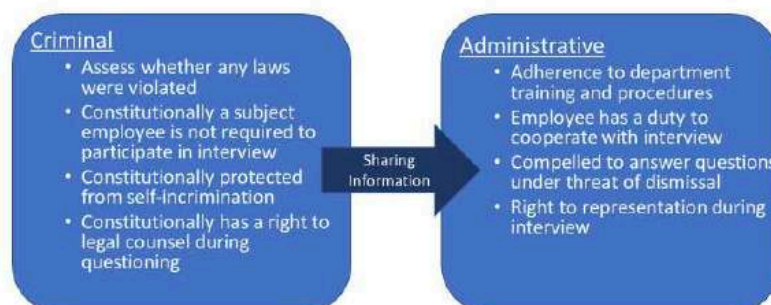
Recommendation Highlights

- Form a dedicated team comprised of multi-disciplinary investigators from Training and Professional Standards to conduct administrative investigations.
- Conduct administrative and criminal investigations concurrently for ALL qualified use of force incidents.
- Attain timely resolution of deficiencies identified during the administrative investigation relative to policy, training, and risk management implications.

Merrick Bobb
Police Assessment Resource Center (PARC)

Investigation Comparison (Background)

Differences Between Investigations



Current Process

Current Process



Recommended Process



Consecutive – Advantages and Disadvantages

Consecutive Investigations

Advantages

- Protects the organization from claims of cross contamination of investigations.
- Due to the sequence of investigations, there is no confusion on the part of the subject officer as to the purpose of an interview in which he or she is participating.

Disadvantages

- Administrative investigations are reactive, and the investigator must piece together the facts of the case.
- A lengthy delay undermines public trust and confidence in remedying misconduct
- The longer discipline is postponed, the less effective and meaningful it will be.
- The time delay has a negative impact on the memory and availability of witnesses.
- Ability to gather evidence of disciplinary infraction
- Delay in corrective action; increasing likelihood incident may be repeated



Concurrent – Advantages and Disadvantages

Concurrent Investigations

Advantages

- Scene response by the administrative investigator provides a valuable insight into the details of the investigation.
- Faster resolution facilitates greater public trust in the department
- Timely administrative interview of the involved officers.
- Both the criminal and administrative investigation can be provided to the Use of Force Board.
- Correct employee and department deficiencies with timely feedback.
- Minimizes any delay having a negative impact on the memory and availability of witnesses.

Disadvantages

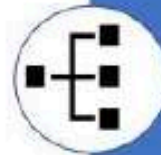
- There is a risk that an officer can reasonably believe they are required to answer questions during a criminal investigation when concurrent investigations are conducted simultaneously.
- Requires specific measures be put in place to ensure separation between the criminal and administrative investigations in order to avoid any commingling.



Industry Trends

Major Cities Chiefs Association (MCCA)

- Officer-involved shootings and in-custody deaths should be the subject of administrative investigations.
- Statistics from 2018 MCCA publication
 - Of the reporting agencies, 83% conduct concurrent investigations.
 - 67% were conducted by Internal Affairs
 - 16% by an internal task force team
 - 89% have an internal shooting review board make recommendations on discipline



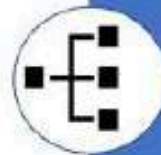
Industry Trends (Continued)

Industry Trends

Office of Community Oriented Police Services (COPS)

US Department of Justice

- Use of force incidents, as defined by the agency, should generate an immediate response to the scene and an investigation conducted by Internal Affairs, or a team of investigators with special training.
- An administrative review should consider the risk management implications of any such incident, including whether changes to policy, procedures, equipment, or training might mitigate the effects or reduce the number of similar incidents in the future.



Proposed Action

Proposed Action & Decision Points

Define and implement policies and procedures in support of concurrent investigative framework:

- Force Investigation Team
- Notifications
- Scene Response
- Scene Responsibilities
- After-Action
- Investigation
- Use Of Force Board

Proposed Action Decision Point 1

For the Mesa Police Department to form a Force Investigative Team (FIT) to promptly conduct administrative reviews of all critical use of force incidents.

Force Investigation Team (FIT) roles consist of:

- Professional Standards Lieutenant
- Professional Standards Sergeant
- Professional Standards Detective
- Homicide Supervisor
- Homicide Investigator(s)
- Proficiency Skills Training Officer

Concurrent Investigations Framework

Decision Point	Description	Title Page
✓ Force Investigation Team (FIT)	Team responsible for investigating critical use of force incidents	
Notification	Types of critical use of force incidents requiring FIT response	
Scene Response	FIT roles called upon based on incident notification	
Scene Responsibilities	Scope of actions on scene of FIT members based on area of expertise	
After-Action	Prompt review of incident to identify solutions for immediate operational improvement	
Investigation	A thoughtful examination to determine the facts of the incident	
Use Of Force Review Board	An advisory panel to issue recommendations based on investigation results	

Discussion within Committee



Discussion

APPENDIX L

Guidance Presentation:
Concurrent Investigations



Use of Force Recommendation 01

Guidance for
Concurrent Investigations



Agenda

- Recommendation Highlights
- Gap Analysis
- Discussion Points
- Committee Feedback
- Final Guidance



Recommendation Highlights

- Form a dedicated team comprised of multi-disciplinary investigators from Training and Professional Standards to conduct administrative investigations, identified as Force Investigation Team.
- Conduct administrative and criminal investigations concurrently for ALL qualified use of force incidents.
- Attain timely resolution of deficiencies identified during the administrative investigation relative to policy, training, and risk management implications.

Merrick Bobb
Police Assessment Resource Center (PARC)

Gap Analysis- Current Process



Gap Analysis- Recommended Process



Discussion Points

Pros

- Scene response by the administrative investigator provides a valuable insight into the details of the investigation.
- Faster resolution facilitates greater public trust in the department
- Timely administrative interview of the involved officers.
- Both the criminal and administrative investigation can be provided to the Use of Force Board.
- Correct employee and department deficiencies with timely feedback.
- Minimizes any delay having a negative impact on the memory and availability of witnesses.

Cons

- There is a risk that an officer can reasonably believe they are required to answer questions during a criminal investigation when concurrent investigations are conducted simultaneously.
- Requires specific measures be put in place to ensure separation between the criminal and administrative investigations in order to avoid any commingling.



Committee Feedback

Topic	Recommendation
Training	Training Sergeant or supervisor should be included among the FIT team.
Training	Training member should have the opportunity to rely on instructors and subject matter experts for recommendations.
Oversight	A separate and independent civil service entity with oversight on the thoroughness of a critical use of force investigation.
Oversight	Comprised of a member from another law enforcement agency with oversight on the thoroughness of a critical use of force investigation.
Oversight	Administrative investigation should not be completed by the same agency as the involved member. Recommend the creation of an agency with regional investigative authority.
Team Composition	Diversify the team composition among more units within the Department and not solely based on the three proposed units.



Force Investigation Team vs. Role Based Investigations

- Multiple committee members voiced approval for concurrent administrative investigations, but stressed the need to distinguish the investigator's role and responsibilities.
- FIT investigators are more adept in agencies with a dedicated full-time team.
- Discussion among the committee and sub-committee members consisted of avoiding an investigative team concept and establish clearly delineated responsibilities between the criminal and administrative investigators.

Final Guidance

- It is the recommendation of the committee to conduct concurrent administrative and criminal investigations for all qualified use of force incidents.
- Investigations shall be completed by the individual units under their respective discipline or area of expertise.



Questions



USE OF FORCE REVIEW
THE PATH TO IMPLEMENTING
BEST PRACTICES

MESA POLICE DEPARTMENT