CDP 2020 Force Review Board (FRB) Training

Slide #1

Recommended Time: 4 hours

Primary Audience: Chief of Police or designee, BOC Cmdr., two selected supervisors from each District, Training Section supervisors, OPS Administrator, DAAC, IA Superintendent, specialized unit supervisors

Module Goal: To instruct members of the FRB on the purpose and role of the FRB and to train members on the policy and tasks of the Board.

Required Materials: Digital presentation (Power Point), lesson plan, FRB GPO, UOF scenario BlueTeam investigation for each student and sign in sheet

Recommended Time Allocation		
	Unit	Recommended Time (minutes)
1.	**Module 1** Review of FRB GPO, purpose, expectations of the FRB and responsibilities	45 min
2.	Questions and Discussion about FRB GPO	15 min
3.	**Module 2** FRB Use of Force Review scenario's A. Review of UOF Blue Team report B. Reports and incident related documents C. Review of UOF scenario video	45 min
4.	Questions and Discussion about the UOF scenario	15 min
5.	**Module 3** Completion of the FRB Checklist	90 min
6.	Questions and Discussion about FRB Checklist Conclusion	30 min

Total	240 minutes (4 hours approximately)

Module 1

I. Force Review Board (FRB) Training

A. Instructor will give overview of how long the course will be (i.e. 4 hours)

B. Instructor will provide timeline of what will be discussed during the training blocks.

C. Explain to class that this is not UOF training. FRB students should have already received 2019 Use of Force training. However, we will be going over UOF concepts during the course of the investigative file review

II. Housekeeping

Slide #2

A. Cell Phones on silent and put them away

B. If you have to answer a phone call quietly leave the room

C. Use of facilities as needed

D. Clean up any mess you make

E. Ensure everyone is signed in

III. Introduction and FRB Training Goals

Slide #3

A. Overview of the FRB, its purpose, role and policy

1. **Instructor will provide overview of FRB purpose. Not verbatim policy and purpose.**

Instructor slide notes

a. **CDP established the FRB to serve as a quality control mechanism to determine if UOF investigations are thorough and complete, and appraise UOF incidents from a tactics, training, policy, and agency improvement perspective.**

b. **The FRB will not recommend disciplinary action, but may recommend non-disciplinary action such as letters of re-instruction, re-training or verbal counseling.**

c. **Members who become aware of any misconduct shall immediately document and report the incident, via the tracking software, forwarding the entry to the Internal Affairs Superintendent for review and assignment in accordance with IA Procedures and the Internal Complaints of Misconduct GPO. The Bureau of Compliance Commander will ensure that any misconduct identified at FRB meetings, that had not been previously identified is forwarded to the Internal Affairs Superintendent.**	Instructor Notes
d. **Why are we doing this? The goal is to produce high quality investigations, identify gaps in policies, training, supervision, equipment, communication, or tactics, and establish community trust and respect.**	
B. To gain an understanding of the expectations and outcomes of the FRB	
C. To be able to review the FRB UOF scenario, evaluate the scenario impartially and complete the FRB checklist	
IV. Documents necessary for FRB training:	Slide #4
A. Force Review Board General Police Order	
B. FRB checklist	
C. UOF scenario investigation and related reports	
D. UOF GPOs if necessary for FRB member at checklist	Instructor notes
1. Instructor will ensure everyone has listed items	
2. Instructor will distribute the FRB checklist and FRB policy at least 2 weeks prior to the start of the class for any questions related to the checklist. The questions will addressed during the training.	
V. Overall Goal	Slide #5
A. To have Board members understand the purpose and role of the FRB	
B. To have Board members feel comfortable with the review of the investigations, identification of relevant issues, and FRB voting process	
VI. Learning Objectives	Slide #6
A. Identify the purpose for the Force Review Board	

B. Understand the role and responsibilities of an FRB member C. To have students understand the FRB checklist and how to apply it **VII. Purpose of the FRB** A. To ensure that the Division's investigations of use of force incidents are thorough, comprehensive and of the highest quality, and that the Division continually analyzes tactics, training, policies, processes, and procedures in order to continually improve, regardless of whether the application of force in any given incident was consistent or inconsistent with policy.	Slide #7
VIII. Policy of the FRB A. The Cleveland Division of Police establishes a Force Review Board (FRB) to serve as a quality control mechanism for uses of force and force investigations, and to appraise use of force incidents from tactics, training, policy, and agency improvement perspectives. The FRB shall review selected use of force investigations to determine whether the force investigation was thorough and complete; determine whether there are considerations that need to be addressed regarding de-escalation, supervision, equipment, tactics, training, policy, and best practices; to determine whether the chain of command has appropriately identified and taken actions to correct deficiencies; identify trends or patterns of deficiencies; and monitor all aspects of the Division's use of force practices with the goal of continual improvement. FRB members or their designees are expected to attend all FRB meetings and be fully prepared in advance of the meetings.	Slide #8
IX. Composition of the Board A. The FRB shall be comprised of a representative from the following units/districts, selected by the unit/district Commander/Administrator as the standing members of the FRB. The FRB shall consist of, at a minimum: 1. The Chief of Police or his or her designee, who shall serve as Chair of the FRB; 2. The Bureau of Compliance (BOC); 3. Internal Affairs (IA); 4. A supervisor from the training section; 5. The Office of Professional Standards ("OPS") Administrator;	Slide #9

6. A supervisor from each District serving a minimum term of 12 months, when any involved officer(s) are assigned to their District. 7. The Data Analysis and Collection Coordinator (DACC). The DACC shall serve as a non-voting advisory member of the FRB. B. The FRB may include or consult with any subject matter experts or advisors the Chair believes would be helpful in reviewing particular incidents. Any subject matter experts or advisors shall be non-voting members.	Slide #10
X. Frequency of Force Review Board Meetings A. The FRB shall convene quarterly. B. As necessitated by submitted investigations, the Chair may schedule special meetings more frequently.	
XI. Cases Reviewed by the Force Review Board A. The DACC shall provide the BOC Commander with a list of investigations, pulled from the use of force tracking software, completed since the prior FRB meeting. The following investigations shall be provided for review by the FRB members two weeks prior to a scheduled FRB meeting: 1. **All FIT investigations** 2. **All Level 2 investigations** with a finding of force related misconduct 3. **A random sample of all Level 2** force in which there was no finding of force-related misconduct. The sample will consist of 10 percent of all such Level 2 investigations or five such Level 2 investigations per meeting, whichever is greater. The DACC will specify the method for selecting a random sample of completed investigations of force incidents and will memorialize that method for the FRB.	Slide #11
a. DAAC to explain how investigations are randomly selected.	Instructor note
A. The BOC Commander will provide members a complete copy of investigations to be reviewed during a FRB meeting 2 weeks prior to the meeting. 1. **Instructor will explain to class the expectation that all members of the FRB will be fully prepared for the meetings. All FRB members will receive the selected UOF investigations in BlueTeam for review of all reports and videos prior to the meeting**.	Explain to class importance of being prepared

B. The FRB shall conduct comprehensive and reliable reviews of investigations within 90 days of receipt by the FRB. An investigation is considered received by the FRB when that investigation has been forwarded to the BOC Commander.	for FRB meetings
XII. Responsibilities of Force Review Board Members	
A. FRB Member Responsibilities	Slide #12
1. Each standing member shall serve a minimum term of 12 months, unless specifically relieved due to lack of attendance, changed assignment, or other material cause.	
2. Any FRB member who is unable to attend a meeting shall notify the BOC Commander a minimum 5 days in advance of any scheduled FRB meeting that their assigned designee will be attending.	Note: Alternates will attend if member is unable to attend.
3. FRB members shall complete, the initial training course as soon as practicable upon being appointed to FRB, to include, but not limited to, training on CPD's policies and procedures used by the FRB.	
4. Annually, FRB members shall receive training directly relevant to their role and service on the FRB, which may include but is not limited to:	
1. Legal updates regarding use-of-force;	
2. Updates to CPD's policies;	
3. Use-of-force investigations best practices; and	
4. Curriculum utilized by the Training Section regarding use-of-force.	
B. BOC Commander Responsibilities	
1. The BOC Commander is responsible for ensuring administrative and logistical assistance to the FRB in order to ensure dissemination of materials, smooth operation of FRB meetings, communication of FRB findings to the Chief of Police, and follow-up of FRB recommendations across the Division.	
XIII. Procedure for Review and Adjudication of Cases by the Force Review Board	
A. The Chief of Police, or his/her designee, shall chair the FRB and shall preside over the meeting.	
B. The Chair shall guide the Board through completion of the FRB Checklist. The Chair shall recognize members of the FRB to ask questions.	Slide #13

1. The FRB must vote on the answers to all questions and administratively approve or disapprove for each section, addressing and voting on each question in the order listed.	
C. For each incident it reviews, the FRB shall hear a case presentation from:	
1. The lead FIT investigator for FIT investigations or;	
2. A representative from the District where the force occurred for supervisory investigations involving Level 2 uses of force.	
D. For each review, the FRB shall consider the actions and inactions of all officers, supervisors, commanders, and dispatchers involved in the incident. The FRB's review includes, but is not limited to:	
1. An officer's decision-making at the time that the officer used force, including whether the incident raises any policy concerns;	
2. The circumstances leading up to the use or application of force, including whether the incident raises any policy concerns;	Slide #14
3. Tactical decisions;	
4. Information sharing and communication;	
5. Adequacy of supervision throughout the incident;	
6. Equipment;	
7. Training;	
8. CPD's medical response, when applicable; and	
9. Any commendable actions	
E. The FRB shall also review any material written or recorded evidence from the incident and discuss the case as necessary with the investigator or District representative to gain a full understanding of the facts of the incident.	Slide #15
F. Each FRB review shall include an assessment of the integrity, comprehensiveness, objectivity, thoroughness, and timeliness of all aspects of the use of force investigation. The FRB must ensure that the force investigation is objective and complete, and that investigatory findings are supported by a preponderance of the evidence. Where the findings are not supported by a preponderance of the evidence, the FRB will do either of the following:	

1. **Instructor will define preponderance of the evidence- The standard of proof in most civil cases in which the party bearing the burden of proof shows that the fact to be proven is more probable than not.**	
a. Less than a clear and convincing evidence and proof beyond a reasonable doubt standard	Instructor notes
2. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of force investigations; or	
a. The Chair or his/her designee shall be responsible for returning the investigation back to the primary investigator's appropriate unit with requests for specific information concerning inconsistencies or concerns in the investigation and for ensuring that it is subsequently reviewed by the FRB upon return from the primary investigator's unit as expeditiously as possible.	Slide #16
b. Instructor will advise the class that the returned investigation will be given a due date, so it does not get lost in the system and it will be returned in BlueTeam	
3. Document the reasons for the determination that the findings are not supported by a preponderance of the evidence, including the specific evidence or analysis supporting its conclusions, and forward its recommendations to the Chief of Police.	Instructor note
G. The FRB shall make separate, formal findings of "administrative approval" or "administrative disapproval" for each involved employee in each incident with respect to:	
1. Tactics and decision making;	
2. Use of force;	Slide #17
3. Supervision; and	
4. The underlying use of force investigation.	
H. All findings of the FRB must be supported by a preponderance of the evidence.	
I. The FRB shall not make determinations or recommendations about discipline; however, where appropriate, the FRB may recommend non-disciplinary corrective action to enable or encourage an officer to improve his/her performance.	

1. Instructor will explain to class this includes re-training and non-disciplinary corrective action, such as verbal counseling and/or a letter of re-instruction.	Instructor note
J. Only standing and voting members of the FRB may participate in the deliberations during the FRB meetings.	
K. All FRB determinations shall be made by majority vote.	
1. Only standing and voting members of the FRB are permitted to vote and shall not abstain from voting on any matter unless authorized in advance of the FRB meeting by the Chair or immediately upon the FRB member learning that abstention is necessary to avoid a conflict of interest.	
2. The FRB Chair shall vote in cases where the vote is evenly split.	
L. The Chair, or designee, shall ensure accurate recording of all findings of the FRB, including the determinations on the FRB Checklist [cross-reference].	
M. The Chair shall refer policy, equipment, and training issues to the appropriate Commanders. At the conclusion of each incident review, the FRB Chair shall assign for follow-up any policy, equipment or training recommendations from the FRB.	
a. **Recommendations from the Board will be entered into BlueTeam.**	
N. The Chief or his or her designee shall, if the use of force indicates policy, training, tactical, or equipment concerns, ensure that FRB's recommendations, including any non-disciplinary corrective action, are implemented as appropriate, any necessary training is delivered and that policy, training, tactical, or equipment concerns are resolved.	Instructor note
O. The FRB shall use a tracking system to ensure that each of its recommendations, whether regarding individual employees, training, policy, equipment, communication, or other issues, has been forwarded to the appropriate Division personnel.	Slide #18
1. **Instructor well explain that IAPro will be used to document and track each of the recommendations from the FRB. The BOC Commander will upload the FRB checklist for each involved UOF member and forward to the Chief of Police.**	
P. BOC Commander Responsibilities	

1. The BOC Commander shall ensure that the FRB's findings for each involved employee are documented in a report to the Chief of Police within fifteen days of the presentation of the case to the FRB.	Instructor note
2. The BOC Commander shall maintain a record of all recommendations and the status of implementing each recommendation.	
XIV. Reporting	
A. Quarterly, the BOC Commander shall provide to the FRB a report of the status of the FRB recommendations and Commanders' responses.	
B. At least annually, the FRB shall examine data related to use of force to detect any patterns, trends, and training deficiencies and make recommendations for correction, as appropriate. This analysis will be conducted in conjunction with the Data Collection and Analysis Coordinator.	
XV. Conclusion	
A. Question and answer period.	
Module #2	
I. FRB Use of Force Review Scenario	
A. Materials to be used	
1. UOF Video	
2. BlueTeam investigation	Slide #19
3. Related reports (RMS, Form-1s)	
B. Instructor will ensure each student has the handout material.	
C. Instructor will explain how the scenario is an actual CDP incident and how they will proceed as if they are acting as the FRB to review this incident.	
D. Instructor will explain how we will role play and proceed if they are acting as the FRB to review the incident. We will review the FRB checklist after everyone has reviewed the BlueTeam investigation, reports and viewed the video.	Instructor Slide notes

1. Instructor will reiterate that UOF material will not be reviewed at actual FRB meetings. It will be reviewed prior to the meeting and investigating supervisor will present the UOF incident at the meeting. E. Instructor will play video after everyone has reviewed the BlueTeam investigation and reports. F. Instructor note that UOF occurs at 14:24 G. Show the video: UOF incident 2017-239602 **II. Conclusion** A. Question and answer period regarding the UOF incident. B. Instructor will ensure everyone has reviewed the BlueTeam investigation and related reports. For purposes of the training, students will review the printed BlueTeam investigation and related reports in class. BlueTeam investigations will be routed to FRB members for actual FRB meetings. C. "What if" scenarios for discussion. Use of deadly force, officer injury, lets the suspect go. D. Discussion regarding policy and assessing UOF exceptions. 1. UOF GPO: Differences between the following officer and subject Characteristics: a. Age b. Gender c. Body size d. Skill level e. Relative strength f. Injury or exhaustion (possible factor why or why not?)	Slide #20

Module #3 FRB Checklist	
I. FRB Checklist	
A. Materials to be used	Slide #21
1. FRB Checklist	
2. BlueTeam investigation	
3. Related reports (RMS, Form-1s)	
4. UOF GPOs if necessary	
B. Instructor will ensure everyone has the necessary handouts and again explain how we will role play and proceed if they are acting as the FRB to review the incident.	Instructor notes
C. Instructor involvement will only happen if students need guidance.	
D. The Chair will guide the students through the checklist questions.	
E. Instructor will guide students through page #1 for logistical information related to the checklist.	
F. Instructor will ask if there are any questions related to answering the checklist.	Instructor note

II. FRB Page #1 Acceptable Answers

Slides #22-24

[INCIDENT #2017-239602]

CLEVELAND DIVISION OF POLICE
FORCE REVIEW BOARD
CHECKLIST

INCIDENT INFORMATION	
Incident #:	2017-239602
Date of Incident:	07-26-2017
Involved Officers:	Patrol Officer Kenneth Kirk #572
Classified Level of Force:	☒ **Level II** ☐ **Level III**
INVESTIGATION INFORMATION	
Investigating Supervisor:	Sergeant Andrew Harhay #9136
Investigating Unit:	District 4 Patrol Section
Date Investigation Complete:	09-05-2017
Date Follow-up [if any] Complete:	10-01-2017
BOARD INFORMATION	
Date of Board:	Today's Date
Board Chairman:	Chief Williams
PRESENTATION OF INVESTIGATION TO FRB	
Presenter:	Commander Carney

ALL findings by the Board must be supported by a preponderance of the evidence.

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Instructor Notes

A. Acceptable Answers Continued

1. Instructor involvement will only happen if students need guidance.

2. Instructor will now ask the Chair to complete the FRB checklist as a group.

3. Instructor will review the acceptable answers with class after the checklist has been completed as a group.

Slide #25

[INCIDENT #2017-239602]

A. DECISION MAKING AND TACTICS

1. Did the officer(s) decision making and tactics contribute to the need to use force? **X Yes ☐No**

2. During the whole of the incident, did the officer(s) employ tactics and decision making consistent with:

i. Core principles of the Division? **☐Yes ☒No**

ii. Training? **☐Yes ☒No**

Regardless of whether decision making and tactics are approved or disapproved, summarize follow up action identified:

☐ None
☒ Chain of command for counseling and entry into tracking software.
☒ Recommendation/referral to training section.
☐ Recommendation/referral to policy section
☒ Recommendation of non-disciplinary corrective action (specify):

_____Retraining for UOF reporting and acceptable use of intermediate weapons retraining for P.O.Kirk_____

REVIEW OF DECISION MAKING AND TACTICS: List By Each Involved Officer, supervisor, commander, and dispatcher involved the incident, as appropriate.

Administrative Approval: Based on the documentation provided, the decision-making and tactics employed appear to be consistent with division core principles and training.

Administrative Disapproval: Based on the documentation provided, the decision-making and tactics employed do not appear to be consistent with division core principles and training.

Name and Badge Number	Approved or Disapproved
1.P.O. Kenneth Kirk #572	Disapproved
2.Sgt. Andrew Harhay #9136	Approved
3.Lt. Leonard Poss	Approved
4.Lt. Paul Baeppler	Approved
5.Lt. Timothy Gaertner	Approved
6.Capt. John Sotomayor	Approved
7.Cmdr. Kutz	Approved
8.	
9.	
10.	

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[INCIDENT #2017-239602]

A. DECISION MAKING AND TACTICS COMMENTS:

P.O. Kirk's actions are not within policy. He depoloyed his Taser at a fleeing suspect and also failed to immediately notify a supervisor. His report was also substandard and exaggerates unnessarily. Retraining for P.O. Kirk is recommended regarding the proper deployment of the Taser, supervisor notification and report writing.

UOFRB Chair	Date	Print Name	Badge	Unit #
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Carney		Brian Carney	6127	Bureau of Compliance

Slide #26

[INCIDENT #2017-239602]

B. USE OF FORCE The application of the use of force policy does not, and should not, involve inquiries into the involved officer's subjective intent. Instead, the analysis must be conducted from the standpoint of an objectively reasonable officer encountering the same circumstances as the involved officers.	
3. Did the officer(s) involved use de-escalation techniques when safe and feasible to do so under the circumstances? i. **Did the officer(s) involved take reasonable efforts to de-escalate prior to using force?** ☐Yes ☐No ☒Not feasible ii. **What de-escalation tactics, or additional de-escalation tactics, might have been used in the circumstances? ☒ N/A** ☐ Protective use of distance, cover, concealment, and time (separation, barriers, slowing down incident) ☐ Hearing and listening ☐ Strategic communication or voice commands to de-escalate the situation ☐ Increasing officer presence/calling resources (more personnel, specialized CIT officer, supervisor) ☐ Other iii. **During and/or after using force, did the officer(s) reduce the level of force applied as the nature of the threat diminished?** ☐Yes ☒No ☐Not feasible	• Use of Force: General, Section V • Use of Force: De-Escalation
4. Was the officer's use of force necessary to achieve a lawful objective? ☐Yes ☒No Necessary means "when no reasonable effective alternative to the UOF appears to exist and then only to the degree which is reasonable to effect the intended lawful objective."	• Use of Force: General, Section II
5. Was the officer's use of force proportional to the level of the subject's resistance? ☐Yes ☒No To be proportional, the level of force applied must reflect the totality of the circumstances known to the officer at the time force was applied. Generally, only the amount of force required to control the subject shall be used by the officer.	• Use of Force: General, Section III
6. Was the officer's use of force objectively reasonable? ☐Yes ☒No	• Use of Force: General, Section IV

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Slide #27

B/3 Officer tried to use communications with the subject before using force (gave warning) and discussed distance.

Discuss second activation of the Taser. Why did he use two activations (5 seconds and 2 seconds? What is his rationale (discussion)

Instructor Notes

[INCIDENT #2017-239602]

8. Did the officer use prohibited force?	X Yes ☐No	• Use of Force: General, Section III
1. Use force to subdue a subject(s) who is not suspected of any criminal conduct, other than to protect an officer's or another person's safety?	☐Yes ☒No	
2. Use retaliatory force?	☐Yes ☒No	
3. Use force against subject(s) who only verbally confront officers and are not involved in criminal conduct?	☐Yes ☒No	
4. Use force against subject(s) who are handcuffed or otherwise restrained? If yes, was force nonetheless objectively reasonable and necessary under circumstances to stop an assault, escape, or as necessary to fulfill other law enforcement objectives?	☐Yes ☒No ☐Yes ☐No	
5. Un-holster and display or unholster and point a firearm? If yes, did the circumstances surrounding the incident create an objectively reasonable belief that the situation may escalate to the point at which deadly force would be authorized?	☐Yes ☒No ☐Yes ☐No	
6. Use force to overcome passive resistance? If yes, was force necessary, proportional, and objectively reasonable to achieve a legitimate law enforcement objective?	☐Yes ☒No ☐Yes ☐No	
7. Use force against those who are exercising their First Amendment Rights? If yes, was it necessary and objectively reasonable for the safety of that individual or the public? If yes, was it done with sufficient personnel?	☐Yes ☒No ☐Yes ☐No ☐Yes ☐No	
8. Carry weapons that are not authorized or approved by the Division?	☐Yes ☒No	
9. Use a firearm as an impact weapon?	☐Yes ☒No	
10. Fire warning shots?	☐Yes ☒No	
11. Use deadly force solely to protect property or solely to effectuate an arrest?	☐Yes ☒No	
12. Use neck holds?	☐Yes ☒No	
13. Discharge a firearm from or at a moving vehicle? If yes, was deadly force justified by something other than the threat of the moving vehicle?	☐Yes ☒No ☐Yes ☐No	
14. Reach into, or place themselves in the path of a vehicle?	☐Yes ☒No	
15. Discharge a firearm at a threat that is not verified and visible?	☐Yes ☒No	
16. Use head strikes with hard objects?	☐Yes ☒No	

If yes, to any of the questions (numbers 1 through 16) above:

a. Would a reasonable officer believe that the use of deadly force was objectively reasonable, necessary, and proportional according to this policy? ☐Yes ☐No

b. (Only if yes to (a)): Did the subject's actions constitute an immediate and grave threat to the officer or others?

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☐Yes ☐No c. (Only if yes to (b)): Were there any other force options, techniques, tactics, or choices with the Division's policy available to the officer? ☐Yes ☐No If yes to (c), the "rare and exceptional circumstances" language in Use of Force: General Section III (B) may apply.	
9. Did the officer comply with the Division's policy on providing medical attention following the use of force once the scene is secured? ☒Yes ☐No	• Use of Force: General, Section V

REVIEW OF FORCE APPLIED: List by Each Involved Officer

Administrative Approval: Based on the documentation provided, the force used was objectively reasonable, necessary, and proportional; was consistent with the duty to de-escalate; and consistent with all other provisions of the Use of Force Policy.

Administrative Disapproval: Based on the documentation provided, the force was not objectively reasonable, necessary, and proportional; was consistent with the duty to de-escalate; and/or was not consistent with all provisions of the Use of Force Policy.

Name and Badge Number	Approved or Disapproved
1. P.O. Kenneth Kirk #572	Disapproved
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Slide #29

CDP 2020 Force Review Board

[INCIDENT #2017-239602]

B. USE OF FORCECOMMENTS:

P.O. Kirk discharged his Taser at a fleeing suspect who did not pose a threat of physical harm to the officer. It is a violation of GPO 1.1.01. A.

UOFRB Chair	Date	Print Name	Badge	Unit #
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Carney		Brian Carney	6127	Bureau of Compliance

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C. SUPERVISION	
10. Was there an on-scene supervisor(s)? ☐Yes ☒No **If yes, did the on-scene supervisor(s) provide appropriate tactical guidance and support to the field during the incident?** ☐Yes ☐No	**P.O. Kirk failed to request a supervisor respond immedialy after the UOF**

REVIEW OF INCIDENT SUPERVISION (For Each On-Scene Supervisor)

Administrative Approval: The review board finds that the supervision and direction of the incident appears to be consistent with policy and training.

Administrative Disapproval: The review board finds that the supervision and direction of the incident does not appear to be consistent with policy or training for the following reasons:

Name and Badge	Approved or Disapproved
1. Sgt. Andrew Harhay #9136	Approved
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Discussion or consideration of the officer's reasoning for the delay in notifying a supervisor.
Discuss and assess the overall incident leadership.

[INCIDENT #2017-239602]

C. SUPERVISION COMMENTS:

Sgt. Harhay identified the policy violations involved with the UOF. However, Sgt. Harhay did not timely complete the review and there are no extension requests for the UOF investigation (as required by policy) attached in the BlueTeam investigation. Follow-up recommended to determine if extension requests by Sgt. Harhay exist."

UOFRB Chair	Date	Print Name	Badge	Unit #
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Carney		Brian Carney	6127	Bureau of Compliance

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D. ANALYSIS OF UNDERLYING INVESTIGATION	
11. Was the investigation conducted and reported to FRB in a timely manner? ☒Yes ☐No	☒ **No action. Explanation sufficient.** ☐ **Refer to chain of command for counsel.** ☐ **Refer to Chief's office.**
12. Was the investigation objective and complete? ☒Yes ☐No	**If no, how resolve?** ☐ **Refer to unit.** ☐ **Refer to Chief's Office.**
13. Were the investigation's findings supported by a preponderance of the evidence? ☒Yes ☐No	If no, document reasons for determination, including specific evidence or analysis support Board's conclusions in the comment section, for the Chief of Police.
14. Does there appear to be additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the investigation? ☐Yes ☒No	**If no, how resolve?** ☐ **Refer to unit.** ☐ **Refer to Chief's office.**
15. For Level II investigations, did the Chain of Command properly address and refer the issues identified? • **Sergeant** ☐Yes ☒No • **Lieutenant** ☒Yes ☐No • **Captain** ☒Yes ☐No	☐ **Refer back to chain** ☐ **Refer to Other _____.**

REVIEW OF INCIDENT REPORTING AND INVESTIGATION:

Administrative Approval: The review board finds that the investigation is thorough and complete. The review board finds that preponderance of the evidence supports the reviewer's determinations.

Administrative Disapproval:

- The review board finds that the investigation is not thorough and complete, for the following reasons:
- The review board does not believe that the preponderance of evidence supports the reviewer's determinations for the following reasons:

Name and Badge	Approved or Disapproved
1. Sgt. Andrew Harhay #9136	Disapproved
2. Lt. Leonard Poss	Approved
3. Lt. Paul Baeppler	Approved
4. Lt. Timothy Gaertner	Approved
5. Capt. John Sotomayor	Approved

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4. Lt. Timothy Gaertner	Approved
5. Capt. John Sotomayor	Approved
6. Cmdr. Brandon Kutz	Approved
7.	
8.	
9.	
10.	

D. ANALYSIS OF UNDERLYING INVESTIGATION COMMENTS:

P.O. Kirk unnecessarily exaggerates his exhaustion stating he "used his last breath to notify radio." However, his statements that he "has fresh legs" contradicts his reports. He also suggests running the suspect over with his zone car. This comment was made in the presence of a ride along and diminishes the esteem of the Division. The substandard report writing should be addressed with retraining in the Academy. Sgt. Harhay did not timely complete the review and there are no extension requests for the UOF investigation (as required by policy) attached in the BlueTeam investigation. Follow-up recommended to determine if extension requests by Sgt. Harhay exist.

UOFRB Chair	Date	Print Name	Badge	Unit #
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Brian Carney		Brian Carney	6127	

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Instructor note: Officer expressed that he suffered fatigue…exhaustion was delirious and on his last breath and suffers from conditional asthma; and cited his age. Officer should not have been returned to full duty until medically cleared based on these statements, whether exaggerated or not. For discussion.

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E. ADDITIONAL INVOLVED PERSONNEL ISSUES	
16. Were there any issues identified with respect to information sharing or communication? Were all CDP communications protocols followed? ☒Yes ☐No	

E. ADDITIONAL INVOLVED PERSONNEL ISSUES COMMENTS:				
UOFRB Chair	**Date**	**Print Name**	**Badge**	**Unit #**
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Carney		Brian Carney	6127	Bureau of Compliance

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F. BOARD RECOMMENDATIONS	
17. Were there any policy issues raised by this incident? ☐Yes ☒No	☐ None. ☐ Refer issue to Policy. ☐ Refer issue to Other _____.
18. Were there any training issues raised by this incident? ☒Yes ☐No	☐ None. ☒ Refer issue to Training. ☐ Refer issue to Other _____.
19. Were there any equipment issues raised by this incident? ☐Yes ☒No	☐ None. ☐ Refer issue to _____.
20. Were there any supervisory issues raised by this incident? ☒Yes ☐No 1. Policy ☒Yes ☐No 2. Training ☐Yes ☒No 3. Supervision ☐Yes ☒No	☐ None. X Refer issue to ___Cmdr. Kutz_____.
21. Were there any issues raised by this incident related to CPD's medical response? ☐Yes ☒No	☒ None. ☐ Refer issue to _____.
22. Are there any other issues or lessons learned from this incident that should be communicated? ☐Yes ☒No To whom?	☒ None. ☐ Involved Officers. ☐ Platoon. ☐ District. ☐ Division-Wide. ☐ Training. ☐ Policy. ☐ Public. ☐ Other _____.
23. Were there any actions by involved personnel that warrant commendation? ☐Yes ☒No	☒ None. ☐ Referred for formal commendation.

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	☐ **Referred for informal commendation to** _____.

ADDITIONAL COMMENTS:

Follow up with D4 Cmdr. Kutz to determine if UOF extension requests exist for Sgt. Harhay.

UOFRB Chair	**Date**	**Print Name**	**Badge**	**Unit #**
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Brian Carney		Brian Carney	6127	Bureau of Compliance

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Specific Recommendations and Assignments for Follow-Up

1. **IA/Chain of Command referrals**
   a. Commander receiving referral: Cmdr. Kutz
   b. General reason for referral (for each officer above): Follow-up with extension requests of Sgt. Harhay
   c. BOC to initiate referral via tracking software:

2. **Individual officer training recommendations/Individual referrals**
   a. Officer being referred for training: P.O. Kirk
   b. What follow-up is requested: Retraining for P.O. Kirk as it relates to the proper deployment of the Taser and report writing retraining.
   c. When a response is due: 3-15-20

3. **Department training recommendations**
   a. To whom it is assigned for follow-up:
   b. What follow-up is requested:
   c. When a response is due:

4. **Policy change or clarification recommendations**
   a. To whom it is assigned for follow-up:
   b. What follow-up is requested:
   c. When a response is due:

5. **Procedure change or clarification recommendations**
   a. To whom it is assigned for follow-up:
   b. What follow-up is requested:
   c. When a response is due:

6. **Equipment recommendations**
   a. To whom it is assigned for follow-up:
   b. What follow-up is requested:
   c. When a response is due:

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ADDITIONAL COMMENTS:				
UOFRB Chair	**Date**	**Print Name**	**Badge**	**Unit #**
Forwarded to Chief's Office By	**Date**	**Print Name**	**Badge**	**Unit #**
Cmdr. Carney		Brian Carney	6127	Bureau of Compliance

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II. Conclusion A. Review and Questions 1. FRB policy questions 2. UOF incident questions 3. FRB checklist questions	Slide #40