

8.400 - Reviewing Use-of-Force¹

Effective Date: DRAFT

This section applies to all use-of-force reports, except to those involving the discharge of a firearm or death.

8.400-POL 1 – Use-of-Force Review Process

This policy applies to all use-of-force reports, except to those involving the discharge of a firearm or death.

1.a. Department Supervisors Shall Review all Use-of-Force Reports

1.b. The Reporting Officer's Lieutenant Shall Review Type I Use-of-Force Reports

Unless the investigation of the use-of-force incident is re-classified, no further review of a Type I report is necessary.

1.c. The Reporting Officer's Chain of Command and the Use-of-Force Review Board (UOFRB) Shall Review all Type II and Type III Use-of-Force Investigations²

Incidents will be routed for review in the following order:

1. Sergeant, if other than UOF investigator
 - Review for supervisory purposes and/or concerns only
2. Lieutenant
3. Captain
4. UOFRB
5. Bureau Chief

2. Department Personnel Shall Evaluate Use-of-Force With Regard to Department Policy and Existing Statutes and Laws

¹ Per Settlement Agreement, Master Tracking List 90, Para. 107, Page 27, Line 1

² Per Settlement Agreement, Master Tracking List 129, Para. 119, Page 33, Line 10

3. Department Personnel Reviewing a Use-of-Force Investigation Shall Review All Relevant Video Available

Reviewers are cautioned that, although extremely useful, video does have inherent differences from normal human vision:

- Video lacks depth perception
- A video camera may capture an image with better or worse resolution than a human eye under the same lighting conditions
- Some video systems may capture images with too low a frame rate to capture quick action

Human perception and memory work much differently than video cameras.

Discrepancies between human accounts of an incident and video footage of an incident are normal and expected and do not necessarily indicate dishonesty or wrongdoing.

4. Department Reviewers Shall Review All of the Documentation and Acquired Evidence to Insure That it Is Thorough and Complete, As Well As Consistent With the Statements of All Involved Parties

5. Department Reviewers Shall Address Any Discrepancy, Confusion or Lack of Relevant Information Prior to Completing the Use-of-Force Review Form

Means of addressing these issues include:

- Supplementary statements from officers
- Supplementary statements from subjects or witnesses
- Requiring additional investigation

If such issues cannot be resolved, the issue will be noted on the Use-of-Force Review form.

6. Reviewers Shall Return Use-of-Force Reports to the Investigator if it is Determined That an Investigation is Not Thorough or Complete

7. A Supervisor Will Immediately Address Concerns That Arise During Use-of-Force Investigation or Review and/or Recommend Additional Action

The supervisor will evaluate the incident and address any concerns with the involved officer.³ The supervisor will

³ Per Settlement Agreement, Master Tracking List 59, Para. 102, Page 21, Line 18

document supervisory actions and recommendation of actions on the Use-of-Force Review form.

For example:

- "I counseled Officer A about the proper use of the 'Contact and Cover' tactic."
- "I recommend Officer A be referred to training for review of the 'Contact and Cover' tactic."

8. Supervisors Shall Notify the OPA of Intentional Misconduct

If at any time during investigation or review of a Use-of-Force incident a supervisor discovers evidence of intentional misconduct, the supervisor shall immediately notify the Office of Professional Accountability.⁴ See 8.300-PRO 1

The supervisor will note the OPA referral on the Use-of-Force Review form.

9. Department Reviewers Who Identify Concerns Which Have Not Been Sufficiently Addressed Will Address Those Concerns

The reviewer will take appropriate action and/or recommend a course of action, such as:

- Supervisory counseling
- Referral to Training
- Referral to OPA

Identified concerns and supervisory actions will be documented on the Use-of-Force Review form.

10. Any Supervisor May Re-Classify a Use-of-Force Investigation to a Higher Level

If an investigation is re-classified, it will be returned to the appropriate investigator (supervisor or FIT) for necessary action.

The FIT Commander will determine whether a FIT Investigation will be conducted for any use-of-force incident.

⁴ Per Settlement Agreement, Master Tracking List 60, Para. 102, Page 21, Line 19

11. The Reviewing Lieutenant Will Make Determinations Regarding the Use-of-Force

The lieutenant will address the following elements, and document them on the Use-of-Force Review Form:

- Whether the Use-of-Force report is thorough and complete
- Whether the force used was necessary and reasonable
- Whether the force used was consistent with Department policy
- Whether previously identified concerns have been sufficiently addressed
- Identification of any additional concerns and the action taken to address them

Exception: For review of force used by a lieutenant or above, the designated primary reviewer will be a supervisor of higher rank in the employee's chain of command.

12. The Lieutenant Shall Complete Review and Forward Reports to the Precinct or Section Commander Within 72 Business Hours

If a report is delayed beyond this time limit, the reason for the delay will be documented on the Use-of-Force Review form.

13. The Precinct or Section Commander Will Review Type II and Type III Use-of-Force Investigations

The commander's review will include the following aspects, documented on the Use-of-Force Review form:

- Determination of whether the investigation and documentation are thorough and complete
- Determination of whether the findings of the reviewing lieutenant are supported by a preponderance of evidence
- Determination of whether previously identified concerns have been sufficiently addressed
- Identification of any additional concerns and the action taken to address them

14. The Commander Shall Complete Review and Forward Reports to the Criminal Investigations Bureau (CIB) Within 72 Hours⁵

If a report is delayed beyond this time limit, the commander will document the reason for the delay on the Use-of-Force Review form.

15. The UOFRB Will Review All Type II and Type III Use-of-Force Reports

The function of the UOFRB is to conduct an administrative review of all Department Use-of-Force incidents for the following purposes:

- To confirm that Use-of-Force reporting, investigation and review are thorough and complete
- To confirm that uniform standards are applied in Use-of-Force practices
- To monitor all aspects of the Department's Use-of-Force practices with the goal of continual improvement

See 8.420 – Use-of-Force Review Board

16. Type III Use-of-Force Investigations Will Be Presented to the UOFRB by the Commander of the Force Investigation Team

17. The UOFRB Will Review Use-of-Force Reports and Deliberate on Certain Topics

The topics of deliberation are as follows:

- Whether the investigation is thorough and complete
- Whether the reviewing lieutenant's determinations are supported by the preponderance of evidence
- Whether there are considerations that need to be addressed regarding:
 - Tactics
 - Training
 - Policy

18. The Chair Shall Make and Record All Determinations

The Chair will be responsible for the following determinations, and will document them on the Use-of-Force Review form:

⁵ Per Settlement Agreement, Master Tracking List 96, Para. 110, Page 27, Line 21

- Whether the investigation is thorough and complete
- Whether the reviewing lieutenant's determinations are supported by the preponderance of evidence
- Whether there are considerations that need to be addressed regarding:
 - Tactics
 - Training
 - Policy⁶

19. The UOFRB Will Not Make Recommendations Concerning Discipline; However, the Chair is Obligated to Ensure a Referral to OPA is Made if Potential Misconduct is Discovered in the Review Process⁷

20. The UOFRB Will Document its Findings and Recommendations for Type III Investigations⁸

21. Unless an Extension is Granted by the Chair, the Review of Type III Investigations Shall be Conducted Within Seven Days of the FIT Presentation⁹

22. The Chair Shall Forward Use-of-Force Reports to Appropriate Bureau Commanders Within 72 Business Hours of the UOFRB Meeting

If the report is delayed beyond this time limit, the Chair will document the reason for the delay on the Use-of-Force Review form.

23. The Chair Shall Forward Concerns Regarding Department Training or Equipment to the Captain of the Education and Training Section¹⁰

24. The Chair Shall Forward Concerns Regarding Department Policy and Procedure to the Captain of the Audit, Policy and Research Section¹¹

25. The Bureau Chief Will Make Final Determinations on Use-of-Force Incidents

The Bureau Chief of the involved personnel will review the Use-of-Force report and make the following determinations and record them on the Use-of-Force Review form:

⁶ Per Settlement Agreement, Master Tracking List 132, Para. 123, Page 34, Line 1

⁷ Per Settlement Agreement, Master Tracking List 137, Para. 125, Page 34, Line 13

⁸ Per Settlement Agreement, Master Tracking List 135, Para. 124, Page 34, Line 9

⁹ Per Settlement Agreement, Master Tracking List 136, Para. 124, Page 34, Line 10

¹⁰ Per Settlement Agreement, Master Tracking List 138, Para. 125, Page 34, Line 15

¹¹ Per Settlement Agreement, Master Tracking List 138, Para. 125, Page 34, Line 15

- Whether the investigation and documentation are thorough and complete
- Whether the findings of the reviewing lieutenant are supported by a preponderance of evidence
- Whether previously identified concerns have been sufficiently addressed
- Identification of any additional concerns and the action taken to address them¹²

26. The Office of the Assistant Chief of Staff Shall Conduct a Documented Annual Analysis of All Reported Uses of Force by the Seattle Police Department¹³

¹² Per Settlement Agreement, Master Tracking List 139, Para. 125, Page 34, Line 17

¹³ Per Settlement Agreement, Master Tracking List 54, Para. 99, Page 20, Line 18

Seattle Police Manual

8.400 – Reviewing Use-of-Force

Effective Date: Draft

This section applies to all use-of-force reports, except to those involving the discharge of a firearm or death.

8.400-POL 2 – Use-of-Force Review Board

This policy governs the Use-of-Force Review Board (UOFRB), which will conduct timely, comprehensive, and reliable reviews of all Type II and III uses of force, except those involving discharge of a firearm¹.

1. The Assistant Chief of the Investigations Bureau is the Standing Chair of the UOFRB²

The Chair will have operational control of the UOFRB.

2. The Following Representatives Will Be Standing Members of the UOFRB

- At least two supervisors from the Training Section³
- One representative from each precinct, selected by each precinct captain⁴
- A representative from the Audit, Policy & Research Section⁵
- A representative from the Investigations Bureau, selected by the Investigations Bureau Chief

3. Each Standing UOFRB Member is Required to Attend a Minimum of 8 Hours of Annual Training⁶

Standing members must, at a minimum:

- Attend Department Street Skills each year
- Receive and maintain certification in Department Crisis Intervention Techniques
 - This involves:
 - 40 hour initial course
 - Additional refresher training as required by the Crisis Intervention Response Team

¹ Per Settlement Agreement, Master Tracking List 129, Para. 119, Page 33, Line 12

² Per Settlement Agreement, Master Tracking List 130, Para. 120, Page 33, Line 14

³ Per Settlement Agreement, Master Tracking List 130, Para. 120, Page 33, Line 15

⁴ Per Settlement Agreement, Master Tracking List 130, Para. 120, Page 33, Line 16

⁵ Per Settlement Agreement, Master Tracking List 130, Para. 120, Page 33, Line 17

⁶ Per Settlement Agreement, Master Tracking List 131, Para. 121, Page 33, Line 19

Additional training for UOFRB standing members will focus on Use-of-Force practices, including but not limited to:

- Legal updates regarding Use-of-Force
- Use-of-Force investigation
- The Department curriculum utilized by the Training Section

4. The Chair Has Discretion to Include Ad-Hoc Members

Ad-hoc members include any subject matter experts, beyond Standing Members, whom the Chair feels would be helpful in reviewing particular incidents.⁷

The UOFRB may consult with other advisors as necessary.⁸

5. The UOFRB Will Review Each Use-of-Force Packet⁹

The UOFRB will review each use-of-force report to determine:

- Whether the force used is consistent with law and policy and supported by a preponderance of the evidence¹⁰
- Whether the investigation is thorough and complete¹¹
- Whether there are tactical, equipment, or policy considerations that need to be addressed¹²

6. UOFRB Reviews of Type III Investigations Will Be Conducted Within 7 Days¹³

Unless an extension is granted by the Chair, the review should be conducted within seven days of the FIT presentation to the UOFRB¹⁴.

7. UOFRB Chair Will Refer Misconduct to OPA¹⁵

The UOFRB will not make recommendations concerning discipline; however, the Chair of the UOFRB is obligated to

⁷ Per Settlement Agreement, Master Tracking List 130, Para. 120, Page 33, Line 17

⁸ Per Settlement Agreement, Master Tracking List 130, Para. 122, Page 33, Line 22

⁹ Per Settlement Agreement, Master Tracking List 132, Para. 123, Page 34, Line 1

¹⁰ Per Settlement Agreement, Master Tracking List 132, Para. 123, Page 34, Line 2

¹¹ Per Settlement Agreement, Master Tracking List 132, Para. 123, Page 34, Line 3

¹² Per Settlement Agreement, Master Tracking List 132, Para. 123, Page 34, Line 4

¹³ Per Settlement Agreement, Master Tracking List 136, Para. 124, Page 34, Line 11

¹⁴ Per Settlement Agreement, Master Tracking List 136, Para. 124, Page 34, Line 11

¹⁵ Per Settlement Agreement, Master Tracking List 137, Para. 125, Page 34, Line 14

ensure a referral to OPA is made if potential misconduct is discovered in the review process¹⁶.

The Bureau Commander of the officer involved with the use-of-force will have the final responsibility regarding retraining or recommending discipline to the Chief¹⁷.

8. UOFRB Chair Will Refer Policy, Equipment, and Training Issues to the Appropriate Commanders¹⁸

Should policy, equipment, or training deficiencies be noted in the review process, the UOFRB Chair will ensure that they are brought to the attention of the relevant commanding officer for appropriate action¹⁹.

¹⁶ Per Settlement Agreement, Master Tracking List 137, Para. 125, Page 34, Line 14

¹⁷ Per Settlement Agreement, Master Tracking List 139, Para. 125, Page 34, Line 17

¹⁸ Per Settlement Agreement, Master Tracking List 138, Para. 125, Page 34, Line 15

¹⁹ Per Settlement Agreement, Master Tracking List 138, Para. 125, Page 34, Line 15