2-58 FORCE REVIEW BOARD

Related SOP(s):

2-20 Hostage Situations, Barricaded Individuals, and Tactical Threat Assessments
2-52 Use of Force
2-53 Electronic Control Weapon (ECW)
2-54 Use of Force Reporting and Supervisory Force Investigation
2-55 Use of Force Appendix

2-58-1 Purpose

The purpose of this policy is to define the Force Review Board (FRB), its purpose, and its processes of operation. The FRB reviews and evaluates use of force investigations, tactical deployments, and use of force statistics to identify concerns and deficiencies regarding policy, training, tactics, equipment, and/or supervision.

2-58-2 Policy

The Department conducts reviews and evaluations of all Level 3 use of force (formerly known as serious use of force) investigations; a 10 percent (10%) sample of all Level 2 use of force investigations; and all specialized tactical deployments in an effort to maintain high-quality investigations and adherence to best practices. The Department ensures that use of force investigations are complete and supported by the preponderance of the evidence.

The FRB will identify and report concerns, deficiencies, and/or successes found in use of force investigations and tactical activations. Quarterly updates regarding concerns, deficiencies, referrals to the Internal Affairs Professional Standards (IAPS) Division, and/or successes will be sent to the Training Academy as part of a needs assessment for future use of force training.

When the FRB identifies concerns, deficiencies, and/or successes, it shall make a referral or referrals to the appropriate bureau or division for resolution. This may include modifying equipment, policy, training, tactics or supervision.

The FRB shall follow up on referrals to assure they are resolved through the appropriate corrective action.

2-58-3 Definitions

A. Presenter

The presenter is the investigator or supervisor who has specific knowledge of the investigation and will provide an explanation of the incident.

B. Concern

A concern is any identified issue of importance not addressed by policy or training.

C. Course of Business Document

A course of business (COB) document is any routine document(s) created by or produced in an official capacity to describe or assess a routine business practice to indicate a plan or solution. This can also include, but is not limited to, memoranda, forms, and/or police reports, and documents reflected in routine course-of-business files, e.g., e-mails, automated dating protocols, and centralized storage systems with system-assigned dating and delivery protocols. For example, a single document photocopied with a given date is not sufficient; however, a "forwarded e-mail" with a COB date and time or copy from a central server is sufficient.

D. Deficiency

A deficiency is an identified failure or shortcoming to meet a requirement by policy, law or best practices, or a failure or shortcoming in training, policy, equipment, tactics, and/or supervision.

E. Designee

A designee is an individual who may sit on the FRB as a replacement for a voting member who is unable to attend a meeting. To be a qualified designee, a member must have completed Department-approved FRB training.

F. Representative

An individual who provides answers to questions posed by the FRB within the area of their expertise.

G. FRB Report

A report summarizing the voting outcome and discussion by the FRB for the Chief of Police. Once approved by the Chief of Police, a copy of the report will be sent to the Executive Director of the Civilian Police Oversight Agency (CPOA).

H. Material Discrepancy

A material discrepancy is a lack of compatibility between two or more facts that could change the outcome of an investigation.

I. Misconduct

A violation of Department policies or procedures; violation of federal, state, or local criminal laws; constitutional violations, whether criminal or civil; violation of personnel rules; or violation of administrative rules or regulations.

J. Non-member attendees

Non-member attendees are members for which attendance is not mandatory. Non-member attendees include administrative support staff, representatives, and the Executive Director of the CPOA.

K. Non-voting members

Non-voting members are attendees whose attendance is mandatory but do not have voting authority. At the discretion of the FRB Chair, non-voting members may ask questions, answer questions from the FRB voting members, and participate in discussion of matters before the FRB.

L. Success

A response within policy that results in a positive outcome and can be used as a training opportunity and/or a commendation by the Chief of Police.

M. Voting Member

Voting members are attendees whose attendance is mandatory and who have voting responsibility.

N. Referral

A referral is a decision to require further action by specific Department personnel that has been voted on and approved by the FRB. All referrals shall be assigned to a specific person to remediate an identified deficiency or concern.

O. Level 3 Use of Force FRB

The FRB meeting that reviews Level 3 (formerly known as serious) uses of force.

P. Level 2 Use of Force FRB

The FRB meeting that reviews a ten percent (10%) sample of Level 2 uses of force.

Q. Tactical Activation FRB

The FRB meeting that reviews all specialized tactical unit deployments to analyze and evaluate response protocols and uses of force.

R. Ten Percent (10%) Sample

The ten percent (10%) sample is the selection of Level 2 uses of force that will be reviewed by the FRB. The ten percent sample is based on the number of completed Level 2 use of force investigations for a given month. A list of investigations that are completed in a given month will be numbered and the data entered into an online random sample generator.

S. Preponderance of Evidence

The preponderance of the evidence is greater weight of evidence; evidence that establishes that a fact is more probable than not.

2-58-4 Responsibilities of the FRB

The FRB shall identify whether the incident raised policy, training, equipment, tactical and/or supervisory deficiencies or concerns that require documentation and/or remediation. The FRB will also document any successes observed during each review.

A. The FRB will review each Level 3 use of force investigation completed by the Internal Affairs Force Division (IAFD). The FRB administrative support staff will provide the FRB the case materials, and the FRB will review the case within thirty (30) days of the FRB members receiving the case materials.

B. The FRB will review a ten percent (10%) sample of Level 2 use of force investigations closed in the previous month.

C. The FRB will review each tactical unit deployment to analyze and critique specialized response protocols and uses of force.

D. The FRB will review use of force data, on a quarterly basis, to discuss trends and patterns identified by the data analyst.

E. The FRB will evaluate:

1. Whether the investigation is thorough and complete. This will be done by FRB members reviewing the investigation materials and presentation;

2. Whether the findings are supported by the preponderance of the evidence;

3. Whether any use of force was consistent or inconsistent with Department policy and training;

4. Whether the incident raised policy, training, equipment, tactical and/or supervisory deficiencies or concerns; and

5. Whether or not the chain of command appropriately identified and took actions to correct any deficiencies or concerns.

F. The FRB will refer a case for additional investigation when the FRB concludes that additional evidence, if available, is necessary to resolve inconsistencies or improve the reliability or credibility of the use of force investigation findings. The referral will be added to the use of force case file.

2-58-5 Composition of the FRB

The Chief of Police will appoint the chair of the FRB and their designee.

A. The FRB will be comprised of the following voting members:

1. Deputy Chief of the Administrative Services Bureau or designee: Commander from the Administrative Services Bureau or Deputy Chief from the Support Services Bureau;

2. Deputy Chief of the Field Services Bureau or designee: Commander from the Field Services Bureau or Deputy Chief from the Support Services Bureau;

3. Deputy Chief of the Investigative Bureau or designee: Commander from the Investigative Bureau or Deputy Chief from the Support Services Bureau;

4. Field Services Commander or designee: other Field Service Commander; and

5. Academy Division Commander or designee: Academy Lieutenant.

B. The FRB will be comprised of the following non-voting members:

1. FRB chair or FRB chair designee (except in a tie vote);

2. FRB administrative personnel; and

3. Legal Advisor or designee: attorney from the City Attorney's Office.

C. Non-voting attendees:

1. Administrative support staff;

2. Executive Director of the CPOA; and

3. Representatives from:

a. Internal Affairs Force Division;
b. Internal Affairs Professional Standards Division;
c. Tactical Section;

d. Training Academy;
e. Crisis Intervention Unit;
f. Accountability and Oversight Division; and
g. Crisis Negotiations Team.

2-58-6 FRB Member Responsibilities

A. The FRB Chair or designee shall:

1. Call the meeting to order;

2. Facilitate the meetings of the FRB;

3. Ensure that the previous meeting minutes are approved;

4. Ensure all FRB members vote; and

5. Provide the tie-breaking vote when there is a tie.

B. FRB administrative personnel shall:

1. Document the minutes, to include:

a. Identified deficiencies, concerns, and successes;
b. Votes on the deficiencies and concerns
c. Referrals;
d. Votes on referrals; and
e. Absent FRB members and their attending designee.

2. Complete voting sheets;

3. Provide FRB referral(s) to the appropriate bureau or division;

4. Prepare and provide the FRB report to the Chief of Police within fifteen (15) calendar days of the investigation presentation and within forty-five (45) calendar days of the FRB members receiving the file;

5. Monitor the assignment and closure of referrals by the FRB;

6. Provide status reports to the FRB on the progress being made to close referrals from the FRB; and

7. Provide copies of Level 3 Use of Force FRB documents to the CPOA within fifteen (15) calendar days for its review.

C. Voting members or designee shall:

1. Review related investigation material in its entirety prior to attending FRB meetings;

2. Attend FRB meetings

a. If unable to attend the FRB meeting, notify FRB administrative personnel prior to the meeting, via email and identify the designee who will attend; and

3. Review previous minutes and referral updates, when applicable.

D. Non-Voting members or designee shall:

1. Review related investigation material in its entirety prior to attending FRB meetings and;

2. Attend FRB meetings

a. If unable to attend the FRB meeting, notify FRB administrative personnel prior to the meeting, via email and identify the designee who will attend; and
b. Review previous minutes and referral updates, when applicable.

E. Legal Advisor or designee shall:

1. Provide a legal opinion on the investigation, policy issues, and advise regarding the FRB process, if necessary.

F. Non-Voting Attendees shall:

1. Provide answers to questions posed by the FRB within their area of expertise.

a. Attendance is mandatory if requested by FRB administrative personnel.

2. The Administrative Support Staff shall:

a. Assist with the PowerPoint presentation, if needed;
b. Prepare an agenda identifying investigations that will be presented to the FRB; and
c. Prepare the investigation documents for the FRB to review.

3. The Executive Director of the CPOA will be provided an opportunity at the end of the presentation to make a statement and/or ask questions of the presenter/representative.

2-58-7 Training Requirements for FRB Members

A. Voting and non-voting members, to include designees, shall complete the following training:

1. Mandated Department use of force training and refresher updates; and

2. FRB training course and FRB refresher course(s).

2-58-8 FRB Meeting and Voting Procedures

A. The attendance of three (3) voting members is required to establish a quorum and take action as a Board. An FRB meeting shall be rescheduled if a quorum is not present.

B. The Chair shall adjourn the meeting and reschedule if more than two (2) voting members must leave (due to emergencies, call-outs, etc.).

C. Voting

1. No voting member shall attend any portion of an FRB case review when:

a. That member was involved in any part of the incident being reviewed. An involved individual is an officer who applied, participated in, or ordered the use of force; or
b. That member has a relationship with an involved Department employee who is a family or household member, spouse, or domestic partner or any other relationship that in reality or appearance suggests improper influence between the voting member and the Department employee. Otherwise, no voting member shall abstain from voting.

2. A majority vote is necessary for the FRB to:

a. Identify a deficiency, concern, or success; and
b. Make a referral.

3. Where there is a tie, the FRB Chair (or designee) shall provide the tie-breaking vote.

D. When a case is presented to the FRB, no officer who is involved in, a witness to, or who has been or is being investigated for that case shall be present. An involved individual is an officer who applied, participated in or ordered the use of force.

E. Regardless of the above section, the Tactical Lieutenant may present tactical activations.

F. The FRB Chair has the discretion to approve additional individuals to attend and observe an FRB meeting (with the exception of the officer(s) involved in the investigation being reviewed).

1. Individuals in an observational capacity may not participate in any of the meeting discussions nor provide any opinions, suggestions, proposed deficiencies, or referrals to the Board, unless called on by the FRB Chair.

2. The chair of the FRB may require an observer to leave for any reason.

3. Should the FRB Chair determine that confidential legal advice is necessary, the FRB Chair may suspend the meeting to receive legal advice. The FRB Chair will determine the individuals from the Department that should be present during the discussion of legal issues. After receiving the legal advice, the FRB Chair will determine whether to continue to review the case or to table the case for a future FRB meeting.

G. FRB administrative personnel shall document all deficiencies, concerns, successes, and referrals in the FRB report and minutes.

2-58-9 Identifying Deficiencies or Concerns

A. The FRB shall follow the standards below in evaluating any policy, training, equipment, tactics, or supervisory deficiencies or concerns:

1. Policy deficiency or concern

a. Deficiency: In evaluating a deficiency in policy, the FRB shall consider whether changes are required by law, or best practices, training, and policies regarding equipment use and tactics. However, FRB cannot make a referral regarding a violation of policy that is defined by policy as misconduct. Misconduct must be referred to IAPS for investigation.
b. Concern: In evaluating a concern regarding policy, the FRB shall consider whether changes should be made to policy either to clarify an ambiguity or to modify the policy as it applies to situations similar to the one under review. If the FRB identifies a policy violation not identified in the investigation, this violation shall be referred to IAPS for investigation.

2. Training deficiency or concern

a. Deficiency: In evaluating a deficiency in training, the FRB shall consider whether there was a shortcoming in the training or adherence to the training by an officer, unit, division, or the Department. However, the FRB cannot make a

referral for training if the deficiency is defined by policy as misconduct. Misconduct must be referred to IAPS for investigation.

b. Concern: In evaluating a concern regarding training, the FRB shall consider whether additional training would be beneficial for an officer, unit, division, or the Department.

3. Equipment deficiency or concern

a. Deficiency: In evaluating a deficiency in equipment, the FRB shall consider whether the equipment available to the officer(s) was inadequate to address the situation, for example, based on best practices. However, FRB cannot make a referral regarding the failure to use equipment that is defined by policy as misconduct. Misconduct must be referred to IAPS for investigation.
b. Concern: In evaluating a concern regarding equipment, the FRB shall consider whether additional or other equipment would be beneficial to better address a situation.

4. Tactics deficiency or concern

a. Deficiency: In evaluating a deficiency regarding tactics, the FRB shall consider whether the officer's decision-making properly considered officer safety, de-escalation opportunities, time, distance, adherence to best practices, safety of the individual, and the safety of the public. However, FRB cannot make a referral regarding a tactical deficiency that is defined by policy as misconduct. Misconduct must be referred to IAPS for investigation.
b. Concern: In evaluating a concern regarding tactics, the FRB shall consider whether changes in tactics would be beneficial to the safety of the officer(s), individual(s), and the public.

5. Supervisory deficiency or concern

a. Deficiency: In evaluating a supervisor deficiency, the FRB shall consider whether the supervisory response was appropriate and consistent with policy, training, and adherence to best practices. However, FRB cannot make a referral regarding a supervisory deficiency that is defined by policy as misconduct. Misconduct must be referred to IAPS for investigation.
b. Concern: In evaluating a supervisory concern, the FRB shall consider whether changes in supervisory practices would be beneficial to the officer(s), and/or the Department.

2-58-10 Deficient Investigations

A. Where the FRB determines that an investigation is deficient or findings are not supported by the preponderance of the evidence, the FRB will document the concerns and order an additional investigation through a referral.

1. The FRB will document the specific evidence (or lack of evidence) from the incident that supports its finding that an investigation was not supported by the preponderance of the evidence.

2. FRB administrative personnel shall forward the original use of force investigation, as part of a referral, to the appropriate bureau or division for additional investigation.

3. The receiving bureau or division is responsible for the additional investigation and shall respond in writing documenting proposed corrective measures within seven (7) calendar days of receiving the referral. The additional investigation shall be added to the use of force case file, titled “addendum”.

   a. If the additional investigation or proposed corrective measures cannot be completed within seven (7) calendar days, the receiving bureau or division shall send a memorandum to FRB personnel informing them of the expected date of completion.

B. If the FRB identifies potential misconduct, FRB administrative personnel shall send a referral to IAPS.

2-58-11 Referrals and Responses

A. All referrals will be tracked and maintained by the Department.

B. FRB administrative personnel shall generate and send the referral to the appropriate bureau or division.

C. The referral shall contain:

1. The deficiency, concern, or success identified;

2. The action the Board votes to be taken;

3. The bureau or division employee responsible for completing the referral;

4. The supervisor that will receive, consider, and take appropriate action on the response through the chain command;

5. The date the response to the referral is due back to FRB administrative personnel.

6-7 D. The responsible bureau or division employee will address and implement any referrals given by the FRB within the timeframe designated. In the response, the identified bureau or employee will document in writing:

1. The identified deficiency, concern, or success;
2. Any background information that is necessary;
3. The action taken in response to the deficiency, concern or success; and
4. The supervisor to whom the response was provided.

6-7 E. The bureau or division employee responsible for completing a response to a referral shall attach all COB documents supporting proof of completion.

F. The response to the referral shall be labeled “Response to Referral.”

6-7 G. If a referral cannot be completed by the due date, the responsible bureau or division employee shall provide the reason and proposed date of completion via memorandum, and sent to FRB administrative personnel.

2-58-12 Reports and Records

A. Internal Affairs Force Division shall be the custodian of all records generated by the FRB. The following documents shall be included in the BlueTeam entry:

1. Agenda;
2. Sign in sheet;
3. Minutes;
4. Voting sheets;
5. FRB report;
6. PowerPoint presentations;
7. Referral(s);
8. Response to referral(s); and
9. Any other COB documents that are deemed necessary by the FRB.