



DEPARTMENTAL  
GENERAL  
ORDER

K-4.1

Index as:

Force Review Boards

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## FORCE REVIEW AND EXECUTIVE FORCE REVIEW BOARDS

The purpose of this order is to set forth Departmental policy and procedures for police boards to review Level 1 and Level 2 Use of Force incidents and investigations, In-Custody Death incidents and investigations and Vehicle Pursuit Related Death incidents and investigations.

The Department convenes two categorical review boards to accomplish this objective:

1. Force Review Board (**FRB**)
2. Executive Force Review Board (**EFRB**)

### I. FORCE REVIEW BOARD AND EXECUTIVE FORCE REVIEW BOARD

- A. Force Review Boards are convened to analyze and assess performance of Oakland Police Department members in the following:
  1. Use of Force (**UOF**) incidents and investigations
  2. In-Custody Death (**ICD**) incidents and investigations
  3. Vehicle Pursuit Related Death (**VPRD**) incidents and investigations
  4. Use of Force incidents, investigated administratively and/or criminally by the Department or outside law enforcement agency, at the direction of the Chief of Police (**COP**).
- B. The Board shall assess and determine concluding recommendations for the COP about the force used and performance by Department members (e.g. use of PDRD, on-scene preliminary investigation, etc.) and whether it was compliant, as applicable, with Department policies, procedures and training when considering objectively reasonable standards and the law.

- C. The Board shall analyze the UOF incident, to include the circumstances and performance of Department members during and proximate to the event (e.g. including force options and discretionary decision making, etc.), and identify any and all necessity, deficiency or exceptional performance as they relate to:
1. Department policy or procedure revision;
  2. Department policy or procedure origination;
  3. Justification for the original encounter, detention or arrest, as applicable;
  4. Training revision or origination, to include:
    - a. Sphere in which training shall be provided;
    - b. Fundamental curricula;
    - c. Method of presentation of the training;
    - d. Requirements for testing or demonstrated performance;
    - e. Timelines for implementation and conclusion of training; and
    - f. Process for monitoring Department member performance subsequent to policy and/or training revision or origination;
  5. Supervision, Management and Leadership;
  6. Investigative deficiencies, to include objective evidence analysis, related to:
    - a. On-Scene and preliminary investigation; and
    - b. Follow-up investigation;
  7. Assignment to the Criminal Investigative Division (**CID**), Internal Affairs Division (**IAD**), or other investigative entity;
  8. Equipment:
    - a. Functionality;

- b. Procurement; and
  - c. Elimination;
9. Consideration of exemplary, commendable, or otherwise notable performance by Department members.
- D. Force Review Board

The FRB is convened to analyze and assess the factual circumstances during and proximate to all Level 2 UOF incidents and to establish concluding recommendations to the COP from those circumstances.

- E. Executive Force Review Board

The EFRB is convened to analyze and assess the factual circumstances during and proximate to all:

- 1. Level 1 UOF incidents and investigations;
- 2. ICD incidents and investigations;
- 3. VPRD incidents and investigations; or
- 4. UOF incidents, investigated administratively and/or criminally by the Department or outside law enforcement agency, at the direction of the COP; and

Establish concluding recommendations to the COP from those circumstances.

NOTE: A firearm discharge at an animal shall be reviewed by the EFRB at the direction of the COP.

## **II. AUTHORITY AND TRAINING OF FORCE REVIEW AND EXECUTIVE FORCE REVIEW BOARDS**

- A. Force Review and Executive Force Review Boards shall have the authority to:
- 1. Direct Department personnel to appear before the Board;
  - 2. Request any private person to appear as a witness;

3. Access, in accordance with legal parameters and respect for confidentiality:
  - a. CID investigations;
  - b. IAD investigations;
  - c. Use-of-Force investigative reports; and
  - d. Any reports, documents, recordings, transcripts, diagrams, testimony and evidence which directly relate to the Board's responsibility;
4. With a majority vote, determine findings, conclusions and recommendations to be provided to the COP;
5. Recommend the COP direct the Criminal Investigations Division to originate or supplement an investigation;
6. Direct the Internal Affairs Division to originate or supplement an investigation; and
7. Complete steps necessary to fulfill the responsibilities of the Board as specified in Part I.

B. Board Member and Commander Training

1. The Training Section Commander shall ensure that all designated Force Review and Executive Force Review Board members receive continuing professional training, to include but not limited to:
  - a. Department UOF policies and procedures;
  - b. Force application;
  - c. Curricula and demonstrations regarding arrest and control techniques used for the Academy, CPT, line-up and other related training;
  - d. Departmental force investigation procedures;
  - e. Legal updates on force law; and

- f. Executive Force Review Board members shall also receive updates about officer-involved shootings, vehicle pursuits and in-custody death investigations.
2. Frequency of training
    - a. Board members shall minimally receive the above training on an annual basis, or as deemed necessary by the COP, and the training shall be logged and tracked by the Training Section.
    - b. All Captains of Police and higher ranks shall minimally receive the above training on an annual basis, or as deemed necessary by the COP, to ensure their readiness to serve as a board member. The training shall be logged and tracked by the Training Section.
  3. The Board Chairperson shall ensure Board members are provided information obtained from force incidents which have occurred in various jurisdictions to enhance their knowledge and expertise.

### III. CONVENING FORCE REVIEW AND EXECUTIVE FORCE REVIEW BOARDS

- A. Review boards shall not be convened if any incident or complaint which involved the use of force remains under investigation by the Internal Affairs Division and/or the Criminal Investigations Division, if the investigation or allegation reasonably relates to the issues to be analyzed by the Board.
- B. Upon notice of a scheduled FRB or EFRB, the Internal Affairs Division Commander or Bureau of Field Operations Administration (**BFO Admin**), as applicable, shall provide the relevant investigative files to the Board Chairperson within four (4) calendar days of receipt.
- C. Scheduling Responsibility of Board Chairpersons
  1. The FRB Chairperson shall convene an FRB within 90 days of receipt of the Use of Force Report packet from the IAD and/or BFO Admin.
  2. The EFRB Chairperson shall convene an EFRB within 45 days of receipt of the UOF/ICD/VPRD Report from the IAD.
  3. The COP, with cause, shall revise the Board hearing dates as deemed necessary, on a case by case basis.

D. A BFO Admin Commander, as designated by the COP, shall be responsible for ensuring the tasks of Force Board Coordinator (**FBC**) are completed in accordance with this order. The designated Commander shall assign the position of FBC to a member or employee from within BFO Admin. The FBC shall track the status of all force review boards to include, but not limited to:

1. Date, time and location of the Board;
2. Board members in attendance;
3. Names, identification numbers, assignment and case numbers of the incident being heard by the Board;
4. Names, identification numbers, assignment and role of all individuals presenting to the Board;
5. Roster of all evidence presented, e.g. audio, video, diagrams, replicas, sketches, transcripts;
6. Date the Force Review Board Report is submitted to the COP;
7. Findings and recommended conclusions of the Board;
8. Implementation of the approved recommendations in accordance with the provisions in Part V of this order; and
9. The FBC shall review all force board cases for issues specific to training and forward such issues to the Training Division Commander. The Training Division Commander shall be responsible to implement training recommendations by the Board to the individual, unit or Department upon receipt, as specified in Part VI of this order. The Training Division Commander shall be prepared to discuss training related issues at that Board.

#### **IV. FORCE REVIEW AND EXECUTIVE FORCE REVIEW BOARD MEMBERSHIP**

A. The FRB is comprised of the following participants:

1. Voting Board Members

The COP shall designate three (3) commanders, Captain of Police or higher rank, as voting members. The COP will designate one of the voting board members as the Chairperson.

2. Non-voting Board Members
    - a. Training Section Commander
    - b. Legal representative from the Office of the City Attorney
    - c. Investigative representative from the IAD, if case was investigated administratively by the IAD.
  3. Mandatory Presenters
    - a. Investigator of the Use of Force incident;
    - b. Involved personnel, as directed by the Chairperson; and
    - c. Other personnel, as directed by the Chairperson.
  4. The Chairperson or their designee shall have the authority to direct the presence of any Department member to an FRB. The Chairperson shall have the authority to request the presence of individuals not employed by the Oakland Police Department.
  5. In the event any of the three Board members is unable to attend the scheduled FRB, the COP or the Assistant Chief of Police (**ACOP**) shall designate another Captain of Police of higher rank in their place.
  6. All Board members shall be physically present at each hearing (e.g. no call-in or off site participation.)
- B. The EFRB is comprised of the following participants:
1. Voting Board Members:

The COP shall designate one (1) Deputy Chief of Police or higher rank and two (2) commanders, Captains of Police or higher rank, as voting members. The COP will designate one of the voting board members as Chairperson. The Chairperson shall be a Deputy Chief of Police or higher rank.
  2. Non-voting Board Members:
    - a. Training Section Commander;

- b. Legal representative from the Office of the City Attorney;  
and
    - c. IAD Commander
3. Mandatory Presenters
  - a. Investigator of the Use of Force Report;
  - b. Homicide investigator(s) assigned to the case;
  - c. CID Commander;
  - d. Traffic Investigator (if VPRD); and
  - e. Involved personnel, as directed by the Chairperson
4. The Board Chairperson or their designee shall have the authority to direct the presence of any Department member to an EFRB. The Board Chairperson shall have the authority to request the presence of individuals not employed by the Oakland Police Department.
5. In the event any of the three Board members is unable to attend the scheduled FRB, the COP or ACOP shall designate another Captain of Police of higher rank in their place.
6. The Board Chairperson shall ensure a Department member/employee is present at Force Review and Executive Force Review Boards to take thorough and accurate minutes of the hearing.
7. The Board Chairperson shall ensure that only essential members and employees are present at the hearing, and shall ensure the highest regard for issues of confidentiality given the role of individuals who are present.
8. The Board Chairperson shall ensure that all members and employees conduct themselves in a professional manner and maintain a professional bearing throughout the proceeding (See Manual of Rules Section 314.07, CONDUCT TOWARDS OTHERS-DEMEANOR.)

**V. FRB and EFRB RESPONSIBILITIES**

A. Review Board Preparation

1. Force Review Board

a. The FRB Chairperson shall contact the IAD to ascertain whether a force complaint investigation is in process. If a force complaint investigation is in process, the FRB Chairperson shall schedule the Board after the completion of the internal investigation, but prior to the determination of Finding by the Office of the Chief of Police.

1) The COP has the authority to make a determination of finding without convening an FRB; however the COP may, after making a determination of finding, send the case to an FRB to address risk management issues (e.g. training, tactics, equipment, etc.)

b. The FRB Chairperson shall ensure FRB voting and non-voting members are provided copies (electronic versions may suffice) of the following at least seven (7) calendar days prior to the Board:

1) The Use of Force Report;

2) A copy of the appropriate offense report;

3) Ancillary documents, to include but not limited to:

a) Supplemental Reports;

b) Technician Reports; and

c) Written statements;

4) Detail of involved personnel;

5) Communications Section audio tape;

6) PDRD video, if available;

7) CAD purge;

- 8) Medical reports;
- 9) Photographs;
- 10) Training records and use of force records of involved personnel; and
- 11) Applicable Department policies and publications.

2. Executive Force Review Board

- a. The EFRB Chairperson shall contact the IAD to ascertain whether a force and/or force complaint investigation is in process. If a force and/or force complaint investigation is in process, the EFRB Chairperson shall schedule the Board after the completion of the internal investigation, but prior to the determination of Finding by the Office of the Chief of Police.
- b. The EFRB Chairperson shall contact the CID to ascertain whether a criminal investigation is in process. If a criminal investigation is in process, the EFRB Chairperson shall schedule the Board after the completion of the CID investigation.
- c. The EFRB Chairperson shall ensure each voting and non-voting member receives copies (electronic versions may suffice) of the following information at least seven (7) calendar days prior to the Board:
  - 1) UOF, ICD or VPRD Report;
  - 2) Homicide Follow-Up Investigation, when appropriate;
  - 3) Vehicle Pursuit Report, when appropriate;
  - 4) Appropriate offense report;
  - 5) Ancillary documents;
    - a) Vehicle Collision Report, when appropriate;
    - b) Follow-up investigation;

- c) Supplemental Reports;
  - d) Technician Reports; and
  - e) Written statements;
- 6) Transcripts of recorded statements;
  - 7) Daily Detail of involved personnel;
  - 8) Communications Section audio tape;
  - 9) PDRD video, if available;
  - 10) CAD purge;
  - 11) Medical/Coroner reports;
  - 12) Scene diagram;
  - 13) Photographs;
  - 14) Training and use of force history of involved personnel; and
  - 15) Applicable Department policies and publications.
3. The FRB and EFRB Board Chairperson shall ensure each Board member has reviewed all relevant documentation and evidence prior to the hearing. The Chairperson shall ensure each Board member is prepared for discussion at the hearing, and has prepared a roster of anticipated points-of-interest and inquiry.
  4. The FRB and EFRB Board Chairperson shall ensure that cross contamination of information and data does not occur during the course of the hearing (e.g. CID personnel becoming aware of information obtained by IAD during the administrative interrogation of the subject Department member.)
  5. The FRB and EFRB Board Chairperson shall ensure that all documents, evidence, and methods of presentation (e.g. PowerPoint, expert documents, etc.) are retained with the custodian of records for the hearing.

**VI. FORCE REVIEW AND EXECUTIVE FORCE REVIEW BOARD  
PROCEDURES AND RESPONSIBILITIES**

- A. The FRB/EFRB Chairperson shall preside over hearing regarding the analysis of the use of force incident, to include but not limited to:
1. A presentation by assigned investigators and review of the use of force investigation report and all relevant documents and materials;
  2. As determined by the EFRB Chairperson, prior to the EFRB, the voting members may conduct a walk-through of the incident at the scene with the IAD or CID Investigators;
  3. Board discussion regarding:
    - a. Assessment and determination of concluding recommendations for the COP about the force used and performance by Department members (e.g. use of PDRD, on-scene preliminary investigation, etc.); and
    - b. Whether it was compliant, as applicable, with Department policies, procedures and training when considering objectively reasonable standards and the law.

NOTE: The Force Review and Executive Force Review Board Chairperson shall make every diligent effort to ensure the presentation, discussion, contemplation, analysis, assessment and recommended findings are based upon objective facts and reasonableness;

4. Analysis of the UOF incident, to include the circumstances and performance of Department members during and proximate to the event (e.g. including force options and discretionary decision making, etc.), and identify any and all necessity, deficiency or exceptional performance as they relate to:
  - a. Department policy or procedure revision;
  - b. Department policy or procedure origination;
  - c. Justification for the original encounter, detention or arrest, as applicable.
  - d. Training revision or origination, to include:

- 1) Sphere in which training shall be provided;
  - 2) Fundamental curricula;
  - 3) Method of presentation of the training;
  - 4) Requirements for testing or demonstrated performance;
  - 5) Timelines for implementation and conclusion of training; and
  - 6) Process for monitoring Department member performance subsequent to policy and/or training revision or origination;
- e. Supervision, Management and Leadership;
- f. Investigative deficiencies, to include objective evidence analysis, related to:
- 1) On-Scene and preliminary investigation; and
  - 2) Follow-up investigation;
- g. Assignment to the Criminal Investigative Division, Internal Affairs Division, or other investigative entity;
- h. Equipment:
- 1) Functionality;
  - 2) Procurement; and
  - 3) Elimination; and
- i. Consideration of exemplary, commendable, or otherwise notable performance by Department members.
5. If additional follow-up is required, to come to a recommendation of finding, the FRB/EFRB Chairperson shall advise and direct the appropriate entity of the specific issues to be addressed, and shall assign a due date not to exceed 30 calendar days. Upon completion of the follow-up investigation the FRB/EFRB shall be re-convened for additional presentation and a vote.

- a. The Board Chairperson may consult with the COP to not reconvene an FRB or EFRB, upon completion and review of the follow-up investigation. The COP has the authority to make a determination of finding without re-convening an FRB or EFRB.
6. A vote(s) regarding policy compliance:
    - a. If a majority vote for non-compliance is reached on any Department policy issue, the Board Chairperson shall identify the violation and MOR section, and determine whether it is a Class I or Class II violation.
    - b. The Board Chairperson shall forward any recommendation for a non-compliance sustained finding, or any other sustained findings, to the COP.
    - c. Subsequent to the approval of the FRB/EFRB report by the COP, discipline shall be determined in accordance with Department General Order V-T, DEPARTMENT DISCIPLINE POLICY.
    - d. Follow-up of Board recommendations shall be accomplished in accordance with the provisions of Part VI of this order.
  7. Any determination of criminal misconduct shall be documented and forwarded to the COP, without delay. The COP shall determine the appropriate course of action, to include options such as referral to the Criminal Investigations Division or request for outside law enforcement entities to conduct a criminal investigation. Considerations shall include but are not limited to:
    - a. Nature and scope of the offense;
    - b. Statute of limitations;
    - c. Number of internal Department and external personnel who may be involved as potential suspects or witnesses;
    - d. Evidence;
    - e. Criminal allegations which are in process of investigation or which investigation has been completed;

- f. Administrative investigations which are in process of investigation, are pending investigation, or which investigation has been completed;
  - g. Internal Department timelines regarding administrative processes;
  - h. Confidentiality, whistle-blower and Department expertise considerations; and
  - i. Ethical, legal and professional interaction between the criminal investigators and internal affairs investigators.
8. Any and all additional allegations of misconduct that were identified during the review and cannot be resolved without further administrative investigation shall be referred to the COP, without delay. The COP shall determine an appropriate course of action. Considerations shall include but are not limited to:
- a. Nature and scope of the alleged misconduct;
  - b. Statute of limitations;
  - c. Number of internal Department and external personnel who may be involved as potential suspects or witnesses;
  - d. Evidence;
  - e. Criminal allegations which are in process of investigation or which investigation has been completed;
  - f. Administrative investigations which are in process of investigation, are pending investigation, or which investigation has been completed;
  - g. Internal Department timelines regarding administrative processes; and
  - h. Confidentiality, whistle-blower, and Department expertise considerations.
9. The Board Chairperson shall document and forward to the COP, without delay, when a determination is made by the Board that potential criminal and/or administrative conduct, either by the Department member directly involved in the UOF event or by Department members who were associated with the event:

- a. Was identified and investigated by the appropriate entity, but not to the reasonable satisfaction of the Board, or
- b. Was not identified nor investigated when it should reasonably have been.

The COP shall determine an appropriate course of action, to include, but not limited to, informal and formal discipline.

10. Force Review and Executive Force Review Board Report

The Board Chairperson shall be responsible for the completion, staffing and provisions of the FRB/EFRB report. The original report shall be provided to the COP within **30 calendar** days following the completion of the FRB/EFRB hearing.

- a. The content of the FRB/EFRB report shall include, but not be limited to:
  - 1) Summary of the incident;
  - 2) Summary of the Board's deliberations and investigative steps;
  - 3) Rationale for the majority vote. If the vote is not unanimous, the rationale for the dissenting vote will be documented as well;
  - 4) Individual recommended findings determined by the Board regarding the Use of Force and associated administrative misconduct allegations, which are determined by majority vote, and shall be either:
    - a) Compliant with Department policy; or
    - b) Not Compliant with Department policy

If Not Compliant with Department policy, the report shall include the factual circumstances regarding the determination;

- 5) In either a majority determination of recommending a Compliant or Not Compliant Use of Force and other associated administrative allegations, the Board Chairperson shall ensure the report factually and thoroughly documents the considerations and arguments made by all Board members who assent and dissent in the final determination;
  - 6) Allegations of administrative misconduct or criminal activity which are alleged as a result of the Board hearing;
  - 7) Information directly related to considerations outlined in Part I of this order;
  - 8) Recognition of superior tactics or techniques;
  - 9) Recommendations to update current equipment inventory, or study, test and procure new equipment; and
  - 10) Recommendations to develop or revise Departmental policy and procedures.
11. The COP shall review each Force Review and Executive Force Review Board Report and make a determination regarding:
- a. Necessity for additional follow-up; and
  - b. Concurrence with the Board's recommended finding(s); or
  - c. Non-concurrence with the Board's recommended finding(s)
- If the COP does not concur with any of the Board's findings or recommendations, the basis for such disagreement shall be documented as addenda to the report.
12. Upon a final determination and direction by the COP, BFO Admin shall distribute copies of the Force Review or Executive Force Board Report, sans redactions, to:
- a. ACOP;
  - b. Deputy Chiefs of Police or Directors;

- c. Chain-of-Command of involved member(s) or employee(s);
- d. Each involved member or employee, as deemed appropriate by the COP;
- e. Office of Inspector General;
- f. Internal Affairs Division; and
- g. Any additional distribution as determined appropriate and relevant (e.g. Training Division, Field Training Program, Communications, etc.)

NOTE: The COP may consider providing a summary of the report when considering the content, issues of legal and ethical confidentiality and role of the report recipient.

- 13. BFO Admin shall be the custodian of record and shall maintain the endorsed **original** Force Review Board Report. BFO Admin shall enter the findings of the specific Board and make adjustments, as necessary, to the database.
- 14. Upon a final determination by the COP, the Board Chairperson shall ensure all letters of commendation, supervisory note entries, awards recommendations and related, which are recommended by the Board and endorsed by the COP, shall be completed and the Department member/employee notified.

## VII. BOARD RECOMMENDATION FOLLOW-UP

- A. When the Force Review or Executive Force Review Board Report includes a recommendation(s) for non-disciplinary corrective measures for specific personnel (e.g., training, referral to counseling, etc.), the recommendation shall be reviewed by the COP. Upon approval or modification, the responsibility for implementation shall be assigned to the appropriate Deputy Chief of Police.
  - 1. The assigned Deputy Chief of Police shall ensure the approved recommendations are implemented then prepare and forward a memorandum documenting the completion of the recommendations to the Board Chairperson, the COP, the BFO Admin and the Training Section Commander within 60 calendar days of receipt, unless extended by the COP.

2. Training need requests and assessments shall be made in accordance to Training Bulletin V-B, TRAINING NEEDS ASSESSMENT.
- B. When the report includes Board recommendations for Department-related service (e.g., policy revision, equipment evaluation, new Training Bulletin), and such recommendations are approved by the COP, such tasks shall be assigned to the appropriate Deputy Chief of Police or Director, at the discretion of the COP. The BFO Administrative Unit shall be notified of such assignment.

The Deputy Chief of Police shall ensure timely implementation of the approved recommendations and present a status update to the command staff on an on-going basis at executive staff meetings. Recommendations shall be placed on the agenda as deliverables until completed.

- C. The BFO Admin shall monitor, document and advise the COP, via the chain of command, the status of the implementation of Board recommendations and advise the COP when:
1. Implementation is completed;
  2. An extension has been requested and the reason for the extension request; or
  3. Implementation has not been completed within 60 calendar days following the assignment to do same.

## VIII. RECORDS RETENTION AND REPORTING

- A. The custodian of record shall merge the **original** FRB and EFRB Reports and additional documents/material placed in the Force Review Binder or packet with the Control File. The custodian of record shall retain the file consistent with the Department records retention policy.
- B. The Chairperson shall be responsible for ensuring both the FRB and EFRB conduct a monthly review and analysis of all uses of force and in-custody death investigations examined by the Board to identify any patterns and practices that may have policy, procedure, or training implications. Focus of the Boards shall include but not be limited to both positive and deficient aspects of:
1. Supervision
  2. Management

3. Notifications
4. Training, policy and procedures
5. On-scene investigation
6. Scope as it relates to Part I of this order

The Board Chairperson shall be responsible for the preparation and provision of the monthly analysis report to all Chief Officers and Director(s) no later than 10 calendar days from the date of the Board's review of previous month's data.

- C. The IAD shall serve as the custodian of records for the **original** Level 1 Use of Force, In-Custody Death, or Vehicle Pursuit-Related Death Report packets and original Force Review Board Report, unless otherwise directed by the COP. BFO Admin shall serve as the custodian or record for all remaining Use of Force investigation packets.

By order of



Sean Whent  
Chief of Police

Date Signed: 5-20-14