

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

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SUBJECT: Manual Revision – 5-303 Use of Force Review			APPROVED BY:

MP-8806

Introduction:

Effective with the issuance of this Special Order, Section 5-303 of the MPD Policy and Procedure Manual shall be amended as follows:

5-303

Use of Force Review

(02/08/24) (01/01/26) (xx/xx/xx)

Revisions to prior policies: (10/16/02) (08/17/07) (12/15/09) (04/16/12) (09/08/20) (12/22/20) (03/12/21) (01/01/23)

I. Purpose

Supervisors play a critical role in promoting the humanity, dignity, and civil rights of people, ensuring that discriminatory policing is not tolerated, and that force is used legally, consistent with MPD policy, and in a manner that will promote community trust in MPD. Supervisor reviews of uses of force are essential to identify necessary individual and departmental corrective action, as well as opportunities for improvement.

II. Policy

A. Required Reviews

All reportable uses of force will be reviewed by a supervisor.

1. Supervisors may, at their discretion, respond to the scene when notified of level 1 reportable force, but they are not required to do so.

a. A supervisor who responds to level 1 reportable force may, at their discretion, complete a Type 2 Force Review, but they are not required to do so.

- b. If the supervisor does not complete a Type 2 Force Review, they will complete a Type 1 Force Review for the level 1 reportable use of force. (See [III-C])
 - c. If the supervisor determines that the reportable use of force should be categorized as level 2 reportable force or level 3 reportable force, the supervisor shall complete the Type 2 Force Review.
2. All level 2 ~~reportable force~~ and level 3 reportable ~~uses of~~ force, other than critical incidents (P&P 7-810), must be reviewed by a force responding supervisor through a Type 2 Force Review ([III]), and by a force secondary reviewer through a Supervisor Force Review, and through a Secondary Force Review ([IV]).

B. Recollections May Differ

In circumstances where multiple members report on a use of force, the review process recognizes that different members may have varying information and recollections. Accordingly, differences in reporting do not automatically indicate a lack of truthfulness.

C. Policy Violations

All policy violations from any review shall be reported in accordance with P&P 2-101 Duty to Report.

This includes the immediate notification requirements for force that appears to be prohibited force and instances of discriminatory policing. In such cases, the supervisor shall make direct contact with the Internal Affairs Commander immediately by phone (no voicemail messages or text messages), in accordance with P&P 2-101.

D. Feedback for Growth and Improvement

1. If any supervisor conducting a review identifies opportunities for growth or improvement, they shall provide the feedback to all applicable members, including to the member who used force, that member's supervisor, or to a supervisor who reviewed the force. The reviewing supervisor shall make any necessary referral to the Commander of the Training Division within 72 hours of their review of the incident, absent documented exceptional circumstances.
2. If any supervisor conducting a review is making a referral to Training and also reported a violation to Internal Affairs, the supervisor shall inform the Commander of the Training Division so they can coordinate with Internal Affairs.

III. Procedures

III. Force Responding Supervisor Force Reviews

A. Supervisor Force Review (SFR)

1. Supervisor Force Review purpose

The purposes of a Supervisor Force Review (SFR) are to:

- a. ~~Collect and document information and evidence regarding the use of force; and~~
- b. ~~Assess whether, based on the information available to the reviewing supervisor, the force used appears to have been consistent with MPD policy, including whether the force appears to have been objectively reasonable given the totality of the circumstances.~~

A. Force Responding Supervisor Rank Requirements

- 1. The supervisor who responds to the scene shall hold a permanent rank of Sergeant or higher. Sergeants working in a detail shall not serve as a force responding supervisor.
- 2. The supervisor who responds shall be at the same rank or above that of the highest-ranking member who engaged in the reportable use of force.

2.B. No Review of Own use of Force or Witnessed Force

Supervisors shall not conduct a Supervisor Type 1 or Type 2 Force Review on their own use of force, or for any use of force they participated in, authorized, or observed, subject to the narrow exception below. The review shall be conducted by an uninvolved supervisor.

- a.1. If a supervisor uses, participates in, or observes reportable force (P&P 5-302) that requires a supervisor notification per policy, they shall not conduct any Supervisor Force Review serve as the force responding supervisor for any other sworn employees members at the scene.
- b. ~~If an individual in a supervisor's custody suffers an injury or illness not from force, the supervisor shall not conduct any Supervisor Force Review for the in-custody injury or illness.~~
- e.2. A Any other supervisor of any equal or higher rank who did not use, participate in, or observe such force or have custody shall conduct the Supervisor Force Reviews force reviews.
- 3. If another supervisor is unavailable within a reasonable period of time, a supervisor who observed the reportable use of force (but did not participate) may serve as the force responding supervisor after documenting the efforts made to request another supervisor at the scene.

C. Type 1 Force Review

1. Requirement for a Type 1 Force Review

- a. Supervisors who are notified of level 1 reportable force have discretion on whether to respond to the scene, and if responding to the scene, the supervisor has discretion whether to conduct a Type 2 Force Review ([III-D]). The supervisor may decide that the incident would benefit from a more comprehensive review, for example if there are challenges determining the appropriate level of reportable force, to determine if feasible de-escalation techniques and tactics were used, if the person complained that the force was not reasonable, etc.
- b. If the supervisor does not complete a Type 2 Force Review or does not respond to the scene, they shall complete a Type 1 Force Review for the level 1 reportable force.
- c. Type 1 Force Reviews shall only be used for level 1 reportable force.

2. Supervisor responsibilities

For a Type 1 Force Review, the supervisor shall:

- a. Review all members' reports and supplements related to the use of force or injury incident for completeness and accuracy.
- b. Determine the level of the reportable force, independent of how the force was reported to the supervisor.
- c. Determine whether the force used and all conduct and actions leading up to and connected to the use of force appear to have been consistent with MPD policy, including whether the force was objectively reasonable, necessary, and proportional. The review shall not be limited to whether force was authorized at the moment it was used.
- d. For all Type 1 Force Reviews involving firearm pointing, the supervisor shall review relevant BWC video associated with the incident and other relevant evidence, to determine if the member used feasible de-escalation techniques and tactics prior to pointing the firearm, and whether the force was objectively reasonable, necessary, and proportional.
- e. For all other Type 1 Force Reviews not involving firearm pointing, if necessary to properly assess one of the factors listed above the supervisor shall review any relevant BWC video and other evidence.
- f. Report all policy violations and make notifications in accordance with [II-C].

3. Review for non-discriminatory policing

When reviewing the incident, the supervisor shall also identify whether members violated the non-discriminatory policing policy (P&P 5-104).

4. Documentation

- a. All force responding supervisors' Type 1 Force Review documentation and forms regarding a reportable use of force incident shall be completed as soon as practical, but prior to the end of the shift, unless an extension is approved by the supervisor's Inspector or Commander. Any extensions shall be documented via email, including the reasons for the extension.
- b. The supervisor shall complete and submit the "Type 1 Force Review" form.
 - i. It is the force responding supervisor's responsibility to ensure that all of their assessments and supporting information are included in the Summary, and that all other relevant information is entered in the appropriate sections of the report. This includes documenting their own personal observations and assessments.
 - ii. If the supervisor concludes that the use of force was not within policy, the supervisor shall:
 - State in the Summary that they believe the use of force requires further review.
 - Describe the reasons they determined the force was inconsistent with MPD policy, including any determinations that the force was not objectively reasonable, necessary or proportional.
 - Notify the Commander of Internal Affairs of their findings that the force requires further review ([II-C]).
 - iii. If the supervisor concludes that feasible de-escalation techniques and tactics were not used prior to the pointing of a firearm, the supervisor shall follow the above steps in [III-C-4-b-ii]. If the supervisor determines the firearm pointing was consistent with policy but the member could benefit from further training, the supervisor shall provide feedback and make the appropriate referrals per section [II-D].

D. Type 2 Force Review

1. Requirement for Type 2 Review

- a. Supervisors who are notified of level 2 reportable force or level 3 reportable force shall complete the Type 2 Force Review, as described below.
- b. Supervisors who are notified of level 1 reportable force have discretion whether to respond and whether to conduct a Type 1 Force Review ([III-C]) or a Type 2 Force Review (as described below). The supervisor may decide that the incident would benefit from a more comprehensive review, for example if there are challenges determining the appropriate level of reportable force, the person complained that the force was not reasonable, etc.

3.2. Force responding sSupervisor responsibilities

For a Type 2 Force Review, tThe force responding supervisor who is notified of and responds to a level 2 or level 3 use of force or In-Custody Injury or Illness incident by any sworn MPD employee shall:

- a. Upon notification, Ddetermine if the incident meets the criteria for a Critical Incident. If so, follow the Critical Incidents policy (P&P 7-810).
- b. Upon notification, Iinstruct the involved employees-members involved in the use of force to request the subject person remain on-scene until the supervisor arrives, if it is reasonable to do so.

- If the subject person does not remain on-scene, the supervisor shall go to the subject's person's location, if necessary and if the location is known, to complete the investigation. This includes if the person was booked, taken to the hospital, etc. before the supervisor arrived.

- c. Immediately respond to the incident scene and conduct a preliminary investigation of the use of force or In-Custody Injury or Illness incident.

- i. Identify the members on-scene during the incident. This includes identifying which members were involved in the use of force, which members were witnesses to the use of force, and which members were otherwise on scene.

- ii. Debrief the employeemembers(s) who engaged in the use of force. The debriefs shall be conducted individually.

- iii. Note-Document any reported injury or alleged-complaint of injury to any individual-person involved.

- iv. Note-Document any medical aid/EMS rendered to any individual-person involved, and take reasonable steps to offer MPD employees-members and community members appropriate medical care.

- v. Coordinate or assist with any non-City government entity that is conducting a lawful independent review (such as the BCA), as requested.

- vi. Locate, collect (when applicable), and review any evidence related to the force or injury incident (e.g. BWC, MVRin-car camera, CCTV, security video, private cameras, etc.).

- vii. Ensure any on-scene evidence is preserved and collected.

- viii. Interview the person forced was used on, if they consent.

After advising the person that they are being interviewed because of the use of force and only if the person voluntarily consents to an interview, the force responding supervisor shall interview the person solely about the reportable use of force. The supervisor shall document the consent or declination in their review

- ix. Visually inspect the person force was used on and document and photograph any injuries observed.
- x. Photograph the immediate area of the force event, and damage to equipment or uniforms caused by the force event.
- xi. Visually inspect the members involved in the use of force, and document and photograph any injuries observed.
- xii. Photograph any other person involved in the force event, if they consent, including any injuries identified.
- vi. Photograph:
- ~~the force subject, including any visible injuries~~
 - ~~the immediate area of the force event~~
 - ~~injuries to any other individual involved in the force event~~
 - ~~damage to equipment or uniforms caused by the force event~~
- ~~vii.xiii.~~ Locate and ~~identify~~ document witnesses to the use of force to the extent reasonably possible, including known witnesses and witnesses who consent to be identified, and document their identities in the report ~~or injury incident.~~
- ~~viii.xiv.~~ Obtain statements from Interview witnesses who consent to an interview, request that the interviews be conducted individually, and document the interviews in the report ~~to the use of force or injury incident.~~
- xv. Debrief members who witnessed the use of force individually and include the information obtained in the report.
- ~~ix.xvi.~~ Review all ~~sworn employees'~~ members' reports and supplements related to the use of force ~~or injury incident~~ for completeness and accuracy.
- ~~x.xvii.~~ Determine ~~if whether~~ the force used and all conduct and actions leading up to and connected to the use of force appear to have been ~~was consistent with MPD policy, including whether feasible de-escalation techniques and tactics were used, whether the stop or detention, search, arrest, or citation was justified and whether that justification was properly documented, and whether the force was objectively reasonable, necessary, and proportional~~ reasonable or unreasonable, or if it appears to constitute possible misconduct. The supervisor shall contact the Internal Affairs Commander immediately by phone if the force used appears to be unreasonable or appears to constitute possible misconduct. The review shall not be limited to whether force was authorized at the moment it was used.
- xviii. Determine the level of the reportable force, independent of how the force was reported to the supervisor.
- xix. Report all policy violations and make notifications in accordance with [II-C].

xx. Notify Internal Affairs when a member used level 3 reportable force (in accordance with P&P 2-101).

xxi. Notify Internal Affairs when a member used any reportable force against a handcuffed person other than control pressure (in accordance with P&P 2-101).

3. Review for non-discriminatory policing

When reviewing the incident, the supervisor shall also identify whether members violated the non-discriminatory policing policy (P&P 5-104).

xi.4. Documentation

a. All force responding supervisors' Type 2 Force Review documentation and forms shall be completed and submit the "Use of Force Review" template as soon as practical, but prior to the end of that the shift, unless an extension is approved by the force responding supervisor's Inspector or Commander. Any extensions shall be documented via email, including the reasons for the extension.

d.b. The force responding supervisor shall complete and submit the Type 2 Force Review form.

- i. It is the force reviewing responding supervisor's responsibility to ensure that all actions taken in the preliminary investigation process and the information obtained from these actions are included in the Summary, and that all other relevant information is entered in the appropriate sections of the report. This includes documenting their own personal observations and assessments.
- ii. ~~It is the reviewing supervisor's responsibility to assess whether, based upon the totality of the information available at the time of the report, the use of force was consistent with MPD Policy.~~ If the supervisor concludes that the use of force was ~~or may have been unreasonable or~~ not within policy, the supervisor shall:
 - State in the Summary that they believe the use of force requires further review ~~;~~ and
 - Describe the reasons they determined the force was inconsistent with MPD policy, including any determinations that the force was not objectively reasonable, necessary or proportional.
 - Notify the Commander of Internal Affairs of their findings that the force requires further review ([II-C]).

e. ~~Record the incident information on the approved MPD electronic form prior to the end of the shift, so that a Secondary Force Review can be completed.~~

4.E. Force Responding Supervisor Force Reviews in Ceivil Disturbances and Assemblies

1. During civil disturbances ~~or and~~ assemblies (in accordance with P&P 7-805), reviewing force responding supervisors shall complete the ~~Supervisor Force Review~~ force review

requirements to the best of their ability, with the information available to them (which may be limited).

2. Type 1 and Type 2 Force Review documentation during civil disturbances and assemblies shall be completed as soon as practical, but prior to the end of the shift, unless an extension is approved by the force responding supervisor's Inspector or Commander. Any extensions shall be documented via email, including the reasons for the extension.

3. -If circumstances during such an event prevent the supervisor from completing a full review, the supervisor shall ensure their review still includes the following, aAt a minimum, the review should include:

- The type and degree of force used.
- ~~The amount of force used.~~
- The approximate number of people force was used on.
- The basis for the force used.
- Whether, based upon the totality of the information available at the time of the report, the use of force was consistent with MPD policy.
- Documentation of the circumstances that prevented the supervisor from conducting all of the steps required in the full review.

B.IV. Secondary Force Reviews

A. 3-Force Secondary Reviewer Rank Rrequirements

[Moved from [III-B-3]]

Secondary Force Reviews shall be completed by a supervisor at least one rank above that of the highest-ranking ~~employee member~~ who engaged in the reportable use of force, as designated by the Inspector or Commander in the chain of command for the ~~initial SFR~~force responding supervisor.

a.1. The force secondary reviewer shall be at the rank of Lieutenant or higher.

2. In some instances, the force secondary reviewer may be an appointed rank, when designated.

b.B. No Review of Own Review, Own Force, or Witnessed Force

e.1. Supervisors cannot complete a Secondary Force Review of their own ~~SFR~~Type 2 Force Review.

2. Supervisors cannot complete a Secondary Force Review of ~~an SFR~~a Type 2 Force Review of their own use of force, or any use of force they participated in, authorized, or witnessed.

~~d.C. Secondary Force Reviews for Type 2 Force Reviews~~

1. Secondary Force Reviews shall be completed for all Type 2 Force Reviews, including any that were completed for level 1 reportable force.

1. ~~Secondary Force Review purpose~~

2. The purposes of ~~a~~Secondary Force Reviews are to:

a. Confirm that the SFR-Type 2 Force Review included all required collection and documentation of evidence.;

and

b. Review all available evidence, and perform an additional, separate review of whether the use of force appears to have been consistent with MPD policy.

~~5. Secondary Force Review required~~

~~Secondary Force Reviews shall be completed for all SFRs.~~

~~6. Reviewer requirements~~

[Moved to [IV-A]]

~~Secondary Force Reviews shall be completed by a supervisor at least one rank above that of the highest ranking employee who engaged in the reportable use of force, as designated by the Inspector or Commander in the chain of command for the initial SFR supervisor.~~

~~c. The secondary reviewer shall be at the rank of Lieutenant or higher.~~

~~d. In some instances, the secondary reviewer may be an appointed rank, when designated.~~

~~e. Supervisors cannot complete a Secondary Force Review of their own SFR.~~

~~f. Supervisors cannot complete a Secondary Force Review of an SFR of their own use of force.~~

~~D. Requirements for Secondary Reviews~~

~~7. Thorough review~~

~~a.1. The force secondary reviewer shall review all of the reasonably available information reasonably available regarding the use of force review Type 2 Force Review, including BWC recordings made during the on-scene Supervisor-Type 2 Force Review, written reports, video, audio recordings, witness statements, photographs, and other evidence or information collected by the force responding supervisor.~~

~~b.2.~~ The force secondary reviewer is independently responsible for a thorough and substantive review of the evidence ~~and an independent analysis of whether the use of force appears to have been consistent with MPD policy.~~

3. The force secondary reviewer shall review the steps taken and documentation compiled during the Type 2 Force Review to ensure the force responding supervisor conducted a thorough and complete review.

4. The force secondary reviewer shall make an independent determination of whether the force used and all conduct and actions leading up to and connected to the use of force appear to have been consistent with MPD policy, including whether the force was objectively reasonable, necessary, and proportional. The review shall not be limited to whether force was authorized at the moment it was used.

5. The force secondary reviewer shall report all policy violations and make notifications in accordance with [II-C].

~~e.6.~~ The force secondary reviewer is independently responsible for determining the level of the reportable use of force and for re-classifying the level if necessary.

~~d.7.~~ The force secondary reviewer shall review the documentation and data entered by the employee-member who used the force to ensure that the documentation and data is sufficient and complete.

~~8. Determine if notifications are required~~

~~The secondary reviewer shall determine, based on the information reviewed, if the use of force requires a notification to Internal Affairs, and make any required notifications.~~

9.E. Timeliness of the Secondary Force Review

Secondary Force Reviews and the associated documentation shall be completed as soon as practical, but no later than within 5 calendar days (this includes non-business days) of the completion of the ~~initial-SFR~~Type 2 Force Review, unless an extension is approved by the force secondary reviewer's Inspector or Commander. Any extensions shall be documented via email, including the reasons for the extension.

10.F. Documenting the Secondary Force Review

After the Secondary Force Review is completed, the Secondary Force Review process shall be documented by recording the required information on the approved MPD electronic form. This includes the force secondary reviewer's detailed assessment of compliance with MPD policy, any feedback for growth and improvement, and any additional required or recommended action.

11.V. Internal Affairs Reviews

A. Review a Sample of Type 1 Force Reviews

Internal Affairs will review a sample of Type 1 Force Reviews to ensure that the reviews and documentation were completed properly.

B. Type 2 Force Reviews

~~a.~~ After the Secondary Force Review for a Type 2 Force Review is completed, Internal Affairs will check to ensure that all previous levels of review and documentation were completed properly.

C. Referrals

~~b.~~ After Internal Affairs has checked the ~~Secondary Force Review~~reviews for completeness, they will determine whether the incident will be referred for further investigation by OPCR ~~and or~~ Internal Affairs, or whether the review will be closed without further investigation.

Nothing in this review process precludes any person from filing a complaint or from a complaint being investigated (P&P 2-104).

11.VI. Deputy Chief Reviews

A. Following the ~~S~~secondary ~~Force R~~review, the MPD Deputy Chief of Internal Affairs shall review all level 3 reportable ~~uses of force~~ and as well as any level 2 reportable ~~uses of force~~ that involve a strike to the head or neck, ~~for compliance with policy and law, the use of tactics, and for any need to change policy or training.~~

B. These Deputy Chief Reviews shall include determinations regarding:

- Compliance with policy and law.
- Appropriate use of tactics.
- Any need to change policy or training.

C. The Deputy Chief review shall be documented through the approved MPD electronic form.

Glossary

Force Responding Supervisor: The supervisor who responds to the scene after being notified of reportable force. The force responding supervisor conducts applicable Type 1 or Type 2 Force Reviews.

Force Secondary Reviewer: The supervisor who conducts a Secondary Force Review, which includes a review of the Type 2 Force Review and the reportable use of force incident.

Secondary Force Review: ~~Secondary Force Reviews are W~~when the ~~initial Supervisor Force Review (SFR)~~Type 2 Force Review and reportable use of force incident undergo ~~a further~~ review

by another supervisor. This process ensures that each use of force gets thorough scrutiny and sets the expectation for accountability, performance coaching and mentoring in the chain of command.

Type 1 Force Review: When a supervisor is notified of level 1 reportable force and completes a review of the incident and documentation. The supervisor is not required to respond to the scene to complete the review.

Supervisor Type 2 Force Review: ~~Supervisor Force Reviews (SFRs) are~~ When ~~the a~~ a force responding supervisor who ~~was~~ is notified of ~~a~~ level 2 reportable force or level 3 ~~use of~~ reportable force by ~~an employee~~ a member responds to the scene, investigates the force incident, and documents their findings. Type 2 Force Reviews are required for level 2 reportable force and level 3 reportable force. Supervisors have discretion to complete either Type 1 or Type 2 Force Reviews for level 1 reportable force.