USE OF FORCE COMMUNITY WORKING GROUP RECOMMENDATIONS
September 25, 2020

General Order 03-02-02,
Incidents Requiring the Completion of a Tactical Response Report

The Working Group provides the following recommendations specific to its review of the General Order G03-02-02, but incorporates all previous recommendations submitted to the Executive Steering Committee.

Recommendation 1: Defining Purpose of Use of Force Reports

The directive must clearly state that overarching purpose of Use of Force Reports (presently called Tactical Response Reports) is to document, investigate, evaluate, and analyze officer uses of force.

Recommendation 2: Changing Tactical Response Reports to Use of Force Reports

Tactical Response Reports should instead be called Use of Force Reports, consistent with the above-listed purpose. Officers should not create use of force reports for the purpose of documenting each instance in which a community member uses force, obstructs, or resists an officer. Rather, officers must be required to complete a force report every time they use force, whether justified or not. CPD’s current TRR policy is framed to focus the report on the behavior and actions of the community member, as opposed to evaluating the officer’s use of force. CPD’s framing is problematic and contributes to the CPD code of silence, in that the reports are designed to justify uses of force as “tactical responses” to the actions of community members and provide cover for abuses of force, rather than to document and thoroughly evaluate officer uses of force.

Recommendation 3: Incidents Requiring the Completion of a Use of Force Report

CPD members must be required to complete a Use of Force Report to document each time an officer uses force beyond compliant cuffing and searching. No exceptions.

a. CPD members must be required to document in Use of Force Reports any force used against people in crowds or civil disturbances.
b. CPD members must be required to document in Use of Force Reports every instance in which they point a firearm at a person. Current CPD policy and Consent Decree requirements do not go far enough. Pointing a firearm at a person is a use of deadly force and must be documented as such in a Use of Force Report.
c. CPD policy must be clarified to require officers to complete a Use of Force Report each time they fire a Taser or ECW, whether or not its probes make contact with a person.
d. CPD members must be required to document in Use of Force Reports all non-physical actions taken by officers that denigrate a person or are designed to intimidate a person.
e. CPD policy currently requires officers to complete TRRs only when the officer alleges that the person stopped or arrested threatens, assaults, batters, or obstructs a police
officer. According to CPD policy, an officer is not required to complete a Use of Force Report when he/she/they shoot and kill a person, when the person’s only act of resistance is fleeing. This must be changed. The purpose of Use of Force Reports is to document and evaluate officer uses of force, not to document uses of force by community members. There are other appropriate reports to document instances when community members assault or batter an officer, such as Officer Battery Reports and Case Reports in support of criminal charges. When completing a Use of Force Report, however, an officer should record the reasons for their use of force, and this may include a community member’s use of force or other actions taken against an officer or another person.
f. CPD policy currently exempts officers who shoot and/or kill people from having to complete the narrative section of the TRR, including providing any description of the force incident, the reasons why they shot and/or killed the person, and efforts that they used to de-escalate or mitigate the need to use force. This must be changed. It should go without saying that it is critically important to require officers who shoot and/or kill people to complete a written narrative to account for what they did, even more so than it is for officers who use lesser degrees of force.

Recommendation 4: Duty to Notify COPA/COPA Responsibility to Investigate

COPA must have primary jurisdiction and the affirmative responsibility to investigate all Level 2 and 3 uses of force. CPD must require its officers to immediately notify COPA after any Level 2 or 3 use of force, and COPA must be required to respond.

Level 2 and 3 are all serious uses of force, which should be subject to independent investigation and evaluation from CPD.

Recommendation 5: Review of Video

Officers who use force or witness other officer uses of force must complete Use of Force Reports (presently “TRRs”) before they are permitted to review any video footage related to the incident. Use of Force Reports are different from police reports in which the author is investigating a crime by a third-party. The purpose of a Use of Force Report is to document, investigate, and evaluate the officer’s use of force. Officers who are the perpetrators of the force or witnesses to officer uses of force are not and should not be the people who are investigating or evaluating the use of force. They are the subjects of or witnesses to the investigation. Accordingly, it is critical that the subject and witness officer narratives in the Use of Force report record their own statements, based on and limited to what they personally observed and did, not based on what the video shows.

Recommendation 6: Eliminate Aspects of Policy that Contribute to CPD Code of Silence

Current CPD policy requires supervisors to help officers who use force against a community member to clean up their Use of Force Reports and statements to eliminate inconsistencies. This is inappropriate and contributes to the CPD code of silence. A primary purpose of this General Order must be to develop procedures that ensure the objective evaluation of officer uses of force. Rather than help an officer who uses force against a person tell a better and more consistent story
consistent with a desired official narrative, eliminate inconsistencies from his or her official report, and hide inconsistencies from the victim, public, and courts, the supervisor’s role is to evaluate the propriety of the officer’s use of force and to ensure that such force and the officer’s justifications are documented in the Use of Force Report. Inconsistencies and other items that raise suspicion in an officer’s Use of Force Report are evidence of potential false reporting and inappropriate uses of force, and thus should be noted by the investigating supervisor as a part of their evaluation of the force. CPD policy must be modified to make clear that these inconsistencies are grounds for a disciplinary investigation, rather than an occasion to work with the officer to make their story appear more credible on paper and make inconsistencies disappear, so that the courts, prosecutors, victims of police force, and public would never know they existed.

Recommendation 7: Fifth Amendment Privilege Against Self-Incrimination

CPD policy must be reviewed and modified as appropriate to ensure that the Fifth Amendment self-incrimination rights of victims of CPD use of force are adequately protected in Use of Force investigations. There are Fifth Amendment self-incrimination issues with respect to interviews of victims of police force in CPD custody. CPD must ensure that its policy and procedures include appropriate safeguards, including the requirements of *Miranda* warnings, limiting any questions to the police use of force, and prohibiting interrogation about the underlying alleged crime or incident.

Recommendation 8: Prompt Interviews

The investigating CPD supervisor and COPA investigator should be required to promptly interview officers who use force and officers who witness another officer use force. CPD must eliminate any barriers to the City’s ability to conduct prompt interviews in the next FOP contract.

Recommendation 9: Supervisor Evaluations of Deadly Force

Supervisors *must* be required to evaluate the propriety of officers’ use of deadly force, just as they are required to do with all other uses of force. In fact, it is even more important that supervisors evaluate the most serious uses of force by officers. CPD policy currently prohibits supervisors from evaluating whether officer use of deadly force is justified. This must be changed. Supervisors must review and be responsible for evaluating deadly uses of force by their subordinate officers; otherwise, they are abdicating their jobs and responsibility as supervisors. The fact that COPA has primary jurisdiction over the investigations of the use of deadly force does not absolve supervisors of their responsibility to supervise their subordinate officers, especially when they kill or use force that is designed to kill another human being. COPA has primary jurisdiction to investigate other uses of force, such as when community members bring complaints or a police officer strikes someone with a Taser, but CPD does not strip supervisors of their duty to evaluate their officers’ uses of force in those less lethal circumstances, and there is even less reason to do so here.
**Recommendation 10: Tracking Video of Officer Uses of Force**

CPD policy fails to address the procedures to save, organize, and manage video and audio evidence that relate to officer uses of force. CPD must provide clear directives to officers about these procedures, which must include detailed steps to track, tag, and save video and audio evidence and tie it to the particular Use of Force (currently “TRR”) report.

CPD record keeping and tracking of video related to officer uses of force has been abysmal and sorely needs to be corrected to enable thorough investigation of use of force incidents and ensure compliance with transparency and accountability provisions in the Consent Decree. That begins with implementing policies and procedures that specifically track all relevant video to Use of Force Reports.

**Recommendation 11: Documenting Efforts to De-Escalate**

CPD policy must be amended to require officers who use force to document in their Use of Force Reports their actions and tactics to attempt to de-escalate the situation and prevent the need for any use of force, as well as to reduce the level of any force used as the threat diminished.

**Recommendation 12: Tasers as Level 3 Uses of Force**

The use of a Taser against a person should be elevated to a Level 3 use of force, because of the number of incidents in which Tasers have been found to have contributed to the death of a human being and CPD’s documented abuse and overuse of Tasers as weapons of convenience. See Appendix 1, Taser Working Group Research Memo. The use of Tasers must be treated, documented, and investigated for the serious uses of force that they are.