



# CLEVELAND DIVISION OF POLICE

## GENERAL POLICE ORDER



EFFECTIVE DATE: JANUARY 27, 2021	CHAPTER: 2 - Legal	PAGE: 1 of 7	NUMBER: 2.01.06
SUBJECT: USE OF FORCE - SUPERVISORY REVIEWS AND INVESTIGATIONS			
CHIEF: <i>Calvin D. Williams, Chief</i>			

**PURPOSE:** To establish guidelines for supervisors of the Cleveland Division of Police relative to reviewing, investigating, and accounting of every Level 1 and Level 2 use of force.

**POLICY:** *It is the policy of the Cleveland Division of Police* that supervisors investigating use of force incidents conduct fair, thorough, timely and objective reviews of Level 1 and Level 2 uses of force. Supervisors shall evaluate attempts to de-escalate, objective reasonableness, and necessity of actions taken by the officers, along with proportionality of force used in relation to the level of resistance encountered. All Level 3 uses of force shall be investigated by the Force Investigation Team (FIT).

**PROCEDURES:**

I. General Guidelines

- A. Officers who use any level of force while on-duty, off-duty acting in an official capacity within the City of Cleveland, or while working secondary employment, shall contact the Communication Control Section (CCS) and request a supervisor in accordance with General Police Order 2.01.03 Use of Force - General.
- B. An immediate supervisor of the officer who used force while on-duty shall respond, as required, to the scene of the use of force incident (Refer to GPO 2.01.03).
- C. A supervisor from the district of occurrence shall respond, as required, to officer uses of force occurring while off-duty acting in an official capacity within the City of Cleveland or while working secondary employment (Refer to GPO 2.01.03).
- D. If a supervisor cannot determine the level a use of force should be categorized as, the supervisor shall immediately contact the next supervisor in their chain of command or contact the FIT via CCS for guidance.
- E. A supervisor who was involved in any Level 1 or Level 2 use of force by witnessing, participating in, or ordering the use of force shall not review or investigate the incident and shall not review the use of force entries for approval or disapproval.
- F. If a supervisor uses Level 2 force, a supervisor of a higher rank shall respond to the location of occurrence and comply with the requirements of this section. If necessary, supervisors from neighboring districts may be contacted for this purpose.
- G. In cases where officers assigned to multi-agency units or task forces are involved in a use of force incident, the Division supervisor of the task force, who is next in the chain of command that did not observe, participate in, authorize, or was not otherwise involved, shall assume investigative responsibilities of the use of force.

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H. Supervisors failing to adequately review/investigate and document use of force incidents, and/or having material omissions or misrepresentations in their review/investigation when completing use of force reviews/investigations, shall be subject to the disciplinary process.

## II. Responding Supervisor Responsibilities

A. Supervisors responding to any officer use of force shall:

1. Inspect and observe subjects for complaints of pain or injury resulting from the use of force response and immediately obtain necessary medical care, if not already requested.
2. Determine if the force response used is a Level 1, Level 2, or Level 3 response and make the proper notifications as needed via CCS (e.g., FIT).
3. If a supervisor determines that an officer's use of force reveals evidence of potential criminal conduct, the supervisor shall immediately:
  - a. Request the FIT via CCS and suspend any investigation.
  - b. Secure the scene pending the arrival of the FIT (Refer to GPO 2.01.07 Force Investigation Team).
4. Conduct a complete, thorough, and impartial review/investigation of the use of force incident considering whether the force used was objectively reasonable, proportional to the level of resistance, necessary, and whether the involved officer(s) took all reasonable measures to de-escalate the incident and reduce the likelihood or level of force.

## III. Level 1 Use of Force Review

A. For all Level 1 use of force responses, the reviewing supervisor shall:

1. Ensure the completion of a use of force entry by each officer using force and the completion of an incident report, if necessary (Refer to GPO 2.01.05 Use of Force - Reporting).
2. Ensure that all officers witnessing a use of force incident by another officer complete a narrative statement and any other assigned reports (Refer to GPO 2.01.05 Use of Force - Reporting).
3. Address any concerns with the use of force entry, returning the entry to the officer for needed revisions. If a use of force entry is returned to the officer for revision, all revisions and additional reviews shall be completed within five days of the use of force.
4. Supervisors may review wearable camera system (WCS) recordings as necessary to assist in addressing concerns with the use of force entry.

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5. If not returned to the officer for revision, review and approve the use of force report with a brief summary of the incident, conclusions, and recommendations in the entry, by the end of their tour of duty.

6. Initiate corrective action within the Division tracking software as necessary.

B. Supervisors shall elevate and investigate any Level 1 use of force that appears to have been improperly categorized as a Level 1 (Refer to GPO 2.01.01 Use of Force - Definitions and GPO 2.01.05 Use of Force - Reporting). If the supervisor cannot determine whether a use of force should be elevated, the supervisor shall consult with their superior.

#### IV. Level 2 Use of Force Investigations

A. For all Level 2 use of force responses and Level 1 use of force responses alleging excessive force, the responding supervisor shall, as soon as practical and no later than by the end of their tour of duty:

1. Ensure the subject is receiving necessary medical attention.

2. Interview the subject for complaints of injury resulting from the use of force. Advise the subject that the interview pertains only to the use of force and not to any underlying alleged crime and that the subject need not answer questions.

3. Conduct a complete, thorough, and impartial investigation of the use of force incident.

4. Conduct interviews with involved officers and any officers on scene when the force was used.

a. Ensure that involved officers are interviewed separately and apart from one another. Group interviews are prohibited.

b. Supervisors shall not ask officers or other witnesses leading questions that suggest legal justification for the officers' conduct where such questions are contrary to appropriate law enforcement techniques.

5. Ensure that a canvass for civilian witnesses is conducted and interview all civilian witnesses.

a. Supervisors shall either record the interview or encourage civilian witnesses to provide and sign a written statement in their own words.

b. If witnesses do not want to be interviewed, the supervisor shall attempt to document their contact information if practical and reasonable, if not recorded on the WCS.

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6. Photograph, if feasible, the subject and/or officers allegations of injury or the absence of injury. Include photos of the area of the alleged injury, an overall photo of the subject and/or officer, or document the reasons photographs were not taken.
  7. Ensure that any evidence that could establish material facts related to the use of force, including audio and video recordings, photographs, and other documentation of injuries or the absence of injuries, is collected to include but not be limited to:
    - a. Proper download of an officer's CEW if deployed.
    - b. Proper download of the WCS for officers present at the use of force.
    - c. A canvass for additional/private owned video, documenting the efforts.
    - d. WCS recording of the scene and any damage to property as necessary.
    - e. Subject and/or officer medical paperwork if applicable.
  8. Ensure the completion of a use of force entry by each officer using force and completion of an incident report before the end of their tour of duty (Refer to GPO 2.01.05 Use of Force - Reporting).
  9. Ensure that all officers witnessing a use of force incident by another officer complete a narrative statement and other assigned reports before the end of their tour of duty (Refer to GPO 2.01.05 Use of Force - Reporting).
  10. Provide a brief synopsis to their Commander via email, copying their immediate supervisor, documenting the supervisor's preliminary determination of the appropriateness of the use of force.
- B. Within five tours of duty of the use of force, the investigating supervisor shall complete and document their investigation within the use of force entry. Any extension to this deadline must be authorized by a commander via email. The investigating supervisor shall:
1. Ensure that all use of force reports include all the required information and review computer aided dispatch information to identify all officers who were involved in the incident, witnessed the incident, or were on the scene when it occurred.
  2. Make all reasonable efforts through the review process to resolve material inconsistencies between the officer, subject, and witness statements, as well as inconsistencies between the level of force claimed by the officer and the subject's injuries, and any inconsistencies between multiple officers.
  3. Consider all relevant evidence, including circumstantial, direct and physical evidence as appropriate, making and explaining credibility determinations, if feasible.

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4. Review all evidence relevant to the use of force, to include WCS recordings, and evaluate that evidence to determine whether the use of force was consistent with Division policy, and/or raises any policy, training, tactical, or equipment concerns.
  5. Complete the narrative description of the use of force incident, including (if not included in the dropdown menus in the Division tracking software):
    - a. The supervisor's description of the incident, including a precise description of the evidence that either justifies or fails to justify the officers' conduct based on the supervisor's independent review of the facts and circumstances of the incident.
    - b. Documentation of all evidence gathered, including names, phone numbers, and addresses of witnesses to the incident in the Division tracking software menus). In situations in which there are no known witnesses, the report shall specifically state that fact. In situations in which witnesses were present but circumstances prevented the supervisor from determining the identification, phone number, or address of those witnesses, the report shall state the reason why. The report shall include all available identifying information for anyone who refused to provide a statement.
    - c. The names of all officers who used force or witnessed the use of force.
    - d. The investigating supervisor's evaluation of the use of force, based on the supervisor's review of the evidence gathered, including:
      - i. A determination of whether the officers' actions appear to be within policy and consistent with state and federal law;
      - ii. An assessment of the incident for policy, training, tactical or equipment concerns; and
      - iii. Whether the use of force may have been avoided through the use of de-escalation techniques or lesser force options.
    - e. Document any corrective action taken or misconduct discovered during the investigation of the use of force.
  6. Investigations shall not be delayed due to extended absences from duty (e.g., furloughs, illness, etc.). The Platoon Commander or Unit OIC shall ensure another supervisor is designated to complete the investigation prior to any extended absences from duty to avoid undue delay.
- C. Supervisors shall elevate any Level 2 use of force that appears to have been improperly categorized as a Level 2 (Refer to GPO 2.01.01 Use of Force - Definitions and GPO 2.01.05 Use of Force - Reporting) and make proper notification of the FIT via CCS. If the supervisor cannot determine whether a use of force should be elevated, the supervisor shall consult with their superior and the FIT.

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V. Chain of Command Review of Investigation

- A. Supervisors shall forward their completed use of force review or investigation, via the use of force tracking software, through their chain of command to the District/Unit Commander.
  - 1. Each level in the chain of command shall review the report within three tours of duty of receiving it to ensure that it is complete and that the findings are supported using the preponderance of the evidence standard.
    - a. Investigations shall not be delayed due to extended absences from duty (e.g., furloughs, extended illness).
    - b. The Patrol Section Captain or Unit OIC shall ensure another supervisor is designated to complete reviews of investigations prior to any extended absences from duty to avoid undue delay in the completion of the investigations.
- B. Reviewing supervisors in the chain of command shall address any discrepancy and order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings.
- C. Any reviewing supervisor may re-categorize a use of force investigation as appropriate:
  - 1. Use of force investigations re-categorized as a Level 1 or Level 2 shall be returned to the investigating supervisor.
  - 2. Use of force investigations re-categorized from Level 2 to Level 3 requires the immediate notification of the FIT.
- D. Where the findings of the use of force investigation are not supported by a preponderance of the evidence, the investigating supervisor's chain of command shall document the reasons for this determination and shall include this documentation as an addendum to the original investigation.
  - 1. The reviewing supervisor shall counsel the investigating supervisor regarding the inadequately supported determination and of any investigative deficiencies that led to it, returning the investigation to the investigating supervisor for revision.
  - 2. Significant or repeated failures in the adequacy of Use of Force investigations may result in additional training or the imposition of discipline up to and including demotion or termination.
- E. Any investigation returned to the investigating supervisor shall address the reason(s) for return. The investigation shall be returned through the chain of command within three tours of duty.
- F. Commanders shall be responsible for the accuracy and completeness of use of force investigations prepared by supervisors under their command.

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- G. When the commander finds that the Level 1 review is complete and the evidence supports the findings, the review shall be considered complete and shall be promptly forwarded via use of force tracking software, routed to and maintained by the Internal Affairs Unit.
- H. When the commander finds that the Level 2 investigation is complete and the evidence supports the findings, the investigation file shall be promptly forwarded via use of force tracking software, routed to the Internal Affairs Superintendent.
- I. Internal Affairs shall review Level 2 investigations to ensure that they are complete and that the evidence supports the findings. When Internal Affairs completes its review, it shall route Level 2 investigations via the use of force tracking software as follows:
  - 1. Level 2 investigations without a determination of misconduct shall be routed to the appropriate Deputy Chief's Office for review.
  - 2. Level 2 investigations with a determination of misconduct shall be routed to the Case Preparation Unit and copying the appropriate Deputy Chief and Commander
- J. After investigation, if a use of force is found to be out of policy, the Case Preparation Unit shall direct and ensure the appropriate disciplinary process.
- K. Upon the completion of the Deputy Chief's review or completion of the disciplinary process, Level 2 investigations shall be closed, routed to Internal Affairs and maintained in the use of force tracking software.
- L. At the discretion of the Chief, Chief's designee, or Internal Affairs, a use of force investigation may be assigned or re-assigned for investigation to the FIT or to another supervisor, whether within or outside of the district in which the incident occurred, or may be returned to the district for further investigation or analysis. This assignment or re-assignment shall be explained in writing and routed via the Division tracking software.

**THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.**