



Seattle Office of
Inspector General

Force Review Board Assessment

Phase II Sustainment Period Plan, *U.S. v. City of Seattle*, 12 Civ. 1282 (JLR), Dkt. 444

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Summary

In furtherance of the sustainment effort, OIG undertook this assessment of the Force Review Board (Board) from April to June 2019. OIG determined the Board generally met the requirements of Seattle Police Department (SPD) Policy 8.500, which reflect the tenets of the Settlement Agreement between the City of Seattle and U.S. Department of Justice on police accountability. Board composition and training mandates were fulfilled. In a review of five Board meetings, OIG found the Board had satisfactory discussions that covered all elements of the policy.

OIG identifies opportunities for improvement in encouraging robust Board deliberations and following up on implementation of Board recommendations. OIG offers a range of suggestions which may enhance the effectiveness and efficiency of the Board.

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Review Authority and Scope

On January 10, 2018, the City was found by the federal Court to be in “full and effective compliance” with the Seattle Police Department (SPD) Consent Decree.¹ On March 13, 2018, the Court approved a two-year Sustainment Period Plan (Plan). The Plan calls for, among other things, an assessment by SPD of the Board.

As the Board already performs a review function within SPD, the department reasoned the most objective assessment of the Board would come from an outside party. SPD requested that OIG perform the assessment required by the Plan. OIG accepted the responsibility with the approval of the U.S. Department of Justice (DOJ) and the federal court-appointed Monitor (Monitor).

The goal of this effort was to “assess the current state of the Board and its compliance with Paragraphs 119-125 of the Settlement Agreement as addressed by SPD Policy 8.500.”² The Settlement Agreement and SPD Policy 8.500 - *Reviewing Use of Force* identify elements of Board activities necessary for “timely, comprehensive, and reliable” use of force review.³

Essentially, the Board serves two primary functions: (1) ensuring individual accountability for officer performance and (2) providing lessons learned for continual improvement of the department. To assess the Board’s ability to fulfill these functions, OIG modeled portions of its assessment on the original Board assessment conducted by the Monitor in 2015, titled the *Second Systemic Assessment*. This assessment is based on Board activities that occurred in calendar years 2018 and 2019.

The assessed areas can be summarized into five chapters:

- [Board Composition](#);
- [Board Training](#);
- [Review of All Required Cases](#);
- [Board Deliberations](#); and
- [Effectiveness of Board Recommendations](#).

¹ *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR). On May 21, 2019, the federal court found that SPD was partially out of compliance with the Consent Decree regarding certain accountability systems. However, in the same order, the judge wrote, “The court does not find that the City is out of compliance with any of the areas listed in the Phase II Sustainment Plan that are covered by the Audits.” Thus, at the time of this assessment by OIG, SPD was still in compliance with the Consent Decree with regard to Force Review Board activities.

² See Appendix A, *Approved Methodology*, pg. 28.

³ Settlement Agreement, Paragraph 119.

Methodology

OIG utilized a variety of methodologies, including observing five meetings of the Board with eight incidents under consideration; reviewing Board member training records; analyzing and validating past Board recommendations; and interviewing 18 present and past Board members.

For the meeting observations, OIG assessed Board deliberations using a template adapted from the tool used by the Monitor in the *Second Systemic Assessment*. The Monitor's assessment spanned an observation period of three months, from June 2, 2015 to August 25, 2015, and included 13 meetings of the Board. The OIG assessment is a follow-up that observed eight cases over five weeks. Although the shorter observation period limited the ability of OIG to analyze how Board case review may have changed over time, OIG added Board member interviews allowing OIG to consider impressions of Board effectiveness over time from those who have firsthand experience with many cases and Board history.

The OIG methodology approved by DOJ and the Monitor can be found in Appendix A.

Background

The following is a summary of how force is classified and reviewed by SPD. This overview is meant to provide context for readers unfamiliar with SPD classification and review of force.

SPD Force Classification

Whenever SPD personnel use force, SPD policy requires review of that force to ensure compliance with policy. The level of this review varies depending on the severity of the force used. SPD classifies force using four categories: *de minimis* force, Type I, Type II, and Type III. Details about each of these categories can be found in Appendix B.

In general, Type I force involves brief pain to the subject. It also includes use of specific equipment that does not otherwise result in physical harm, such as use of a hobble restraint or pointing of a firearm at a subject. Type II force is force that causes, or is reasonably expected to cause, physical injury greater than temporary pain, but less than great or substantial bodily harm. Examples of Type II force include use of TASERs, physical injuries such as scrapes or bruises, and use of impact weapons. Type III force is force that causes, or is reasonably expected to cause, great bodily harm or death. Lethal force, any force that results in loss of consciousness, and any force that results in serious injury are examples of Type III force. Additionally, cases that involve potential criminal conduct by the officer or serious policy violations relating to the use of force are escalated to Type III for purposes of review.

Force Review Board

Force Review Board Members

The Board is a designated group of SPD personnel who meet regularly to review certain uses of force. Voting members include representatives from Patrol Operations; Training Section; Audit, Policy and Research Section; and Investigations Bureau. The Force Review Unit (FRU) Captain is the standing chair of the Board, but the Deputy Chief or an Assistant Chief may also chair the Board.

Regular observers of the Board include the Director of the Office of Police Accountability and the Inspector General for Public Safety. Other authorized observers include SPD personnel with the rank of captain or higher and representatives from the Legal Unit. In the case of officer involved shootings, a civilian observer appointed by the Mayor attends the associated Board, and a representative from the involved officer's union may also attend. For all cases, the Board may enlist the aid of subject matter experts (SMEs) to provide information about specialized units, tactics, or other topics, but these experts are not permitted to stay for deliberations unless they also happen to be Board members. All other individuals must obtain permission from the Assistant Chief of the Professional Standards Bureau before attending the Board.

Force Review Board Activities

The Board does not investigate uses of force. Administrative use of force investigations are conducted by the chain of command or the Force Investigation Team (FIT), depending on the level of force used. The quality of those investigations is not within the scope of this assessment, but will be assessed in forthcoming review by SPD, DOJ, and the Monitor.

By policy, the Board is charged with determining whether a given administrative investigation of force is thorough and complete.⁴ The Board votes on whether the use of force was consistent with policy, training, and core principles, and considers whether there are any issues that need to be addressed regarding supervision, department policy, training, equipment, or best practices.

⁴ This does not include administrative investigations conducted by the Office of Police Accountability, which investigates allegations of misconduct. It also does not include criminal investigations.

The Board reviews all Type III investigations,⁵ as well as specific sub-categories of Type II investigations, including:

- Serious policy violations;
- Scenes where FIT was contacted for a Type III screening and declined to investigate (typically because FIT deemed it to not be a Type III incident);
- Use of less-lethal tools on a subject;
- Canine contact with a subject; and
- Ten percent of all other Type II investigations.

The Force Review Unit Captain and Lieutenant can refer other cases to the Board at their discretion,⁶ as can the Chief of Police.⁷

The Force Review Unit

The Force Review Unit gathers information on uses of force within SPD. The Unit conducts an administrative review of all Type II uses of force and coordinates logistics for Force Review Board meetings. The Unit also issues the Force Review Board findings reports and tracks the implementation status of recommendations made by the Board. As noted earlier, the Force Review Unit Captain is the standing chair of the Force Review Board.

Results

The following is a discussion of the five main assessment areas.

Board Composition

OIG finds that SPD met Board composition requirements, including use of subject matter experts where appropriate.

Details

OIG attended five sessions of the Board as part of this assessment. At each session, the Board met the composition requirements outlined by 8.500-POL-4, including:

- One supervisor from the Training Section;
- Three representatives from the Patrol Operations Bureau;
- One representative from the Audit, Policy and Research Section; and
- One representative from the Investigations Bureau.

⁵ Certain firearm discharges can receive an expedited review without presentation to the full Board, at the discretion of the Assistant Chief. These cases are limited to unintentional discharges that do not strike people or cause concerns for public safety, and discharge at an animal. See 8.500-POL-5, *Use of Force – Expedited Summary Review*.

⁶ SPD 8.500-POL-3.9

⁷ SPD 8.500-POL-4.2

The Board was also attended by a representative from the Crisis Intervention Team, although this representative does not have a voting role.

When needed, the Board employed SMEs to provide applicable information for the cases at hand. Experts consulted by the board during the observed sessions included a firearms instructor who provided information about the type and nature of training provided to officers. Board members also had varied backgrounds that could inform the discussions. For example, when reviewing a crowd management case, the Board benefited from the insights of a member who had significant experience working on bicycle patrols in the downtown Seattle area. Since Board members rotate, SPD should have an articulated process for continuing to ensure subject matter coverage.

Other Observations

The Board may benefit from additional perspectives and input. For example, the Board currently does not have a representative or sitting expert from the Communications Section. OIG observed one case in which insight into the training and tactics of dispatch personnel would have resulted in more informed deliberation by the Board.

The Board also does not have a representative who is charged with considering the community perspective. OIG recognizes that the Board is not a public-facing body and that the confidential nature of its deliberations is crucial to achieving the type of self-reflective analysis desired by the accountability partners. However, when deliberating use of force incidents, it is worth considering how the officers' actions may be interpreted by the community and any attendant harm that might be done to public trust in SPD.

Input from Board Members

OIG conducted structured interviews with 18 of the past and current Board members who served in 2018 and 2019. The purpose of these interviews was to add additional context for OIG ratings of required elements, gather Board member perspectives on the effectiveness of the Board process, and identify areas where Board members perceive opportunities for improvement. Inclusion of this information is not in and of itself an endorsement by OIG of the viewpoints expressed, but rather a chance to convey candid feedback from members and provide background and context to more fully inform the assessment.

While the Board met required composition elements, OIG interviews suggest that the Board may benefit from broader representation. Interviewees felt that precincts or patrols without a Board representative are at a disadvantage in understanding Board expectations regarding chain of command use of force investigations, and they may not benefit from lessons learned by the Board in a timely fashion. OIG observed that there is currently no representative from the South precinct on the Board. According to SPD, they have been working for several months to secure a participant from South Precinct and have identified a candidate.

Interviewees suggested several ways of increasing communication about Board activities. For example, the Board could ensure that all five precincts have representatives on the Board who might be able to disseminate appropriate information about Board operations and decision-making. Some members commented that previous iterations of the Board allowed patrol to sit in. However, with one exception, Board members acknowledged that leaving attendance completely open might stifle discussion.

Suggestions

- Ensure all precincts have at least one Board representative to provide a dedicated resource and conduit for information to improve chain of command investigations and to disseminate lessons learned in a timely manner.
- Evaluate ways in which Board decision-making processes could be made more transparent to SPD in a way that preserves the quality and confidentiality of Board discussions.

Board Training

OIG finds that the Board met minimum training requirements established by 8.500-POL-4, and that some members had exceeded these requirements by attending tactics training beyond those required for their position.

Details

Per 8.500-POL-4, members of the Board must attend a minimum of eight hours of annual Force Review Board training, as well as all required department training, and must have received training in crisis intervention techniques. Familiarity with current patrol tactics assists the Board in critically evaluating use of force incidents.

OIG requested and reviewed the training records for all Board members since the beginning of 2016 (from January 1, 2016 to April 14, 2019). As part of this review, OIG verified that all Board members attended mandatory department training for calendar year 2018 and year-to-date 2019. OIG also confirmed that all Board members had either attended the 2018 Force Review Board annual training or were scheduled to attend make-up training.⁸

According to SPD, all sworn personnel undertake a mandatory eight hours of crisis intervention training as part of their initial department training, and all personnel who were hired before the requirement was instituted attended the training retroactively. This would give all Board members the required amount of crisis intervention training by default. That initial eight-hour training was not contained in the records reviewed by OIG,

⁸ One member had been appointed to the Board after the 2018 training had occurred and was scheduled to attend one-on-one training with the Captain of the Force Review Unit.

which only extended to the beginning of 2016. OIG confirmed via records review that all Board members attended the department 2018 crisis intervention training, which focused on autism and law enforcement.

Certain Board members interviewed by OIG said Board members should receive more training regarding patrol tactics. They asserted that, as several Board members do not serve in a direct patrol capacity, the Board would benefit from more exposure to the current tactics and techniques taught to patrol personnel. Some interviewees requested additional training or briefings regarding less-lethal tools and associated SPD tactics to better evaluate whether officers were complying with SPD policy and training.

Based on OIG review of training records, patrol officers, sergeants, and detectives were required to attend four in-person tactics courses in 2018 that were not required for lieutenants and above.⁹ OIG identified that two of the three patrol representative lieutenants had pursued training beyond the minimum requirements by attending tactics training that was only mandatory for sergeants. There are also other means of gaining exposure to current tactics, such as working in the Training Section.

Suggestions

- Poll Board members to determine if increased training for any less lethal tools or specialty unit tactics would be beneficial. This could include consideration of the role of subject matter experts.
- Assess the various ways in which Board members receive knowledge of patrol tactics and how SPD can systematically ensure that existing and incoming members will remain current as patrol tactics change.

Review of All Required Cases

OIG finds that while the Force Review Unit and Force Review Board reviewed 99.6 percent of required cases during the period of review, one Type III canine case was not reviewed by either the Unit or the Board.

Details

Per 8.500-POL-4, the Board must review all Type III incidents, as well as certain sub-categories of Type II incidents referred by the Force Review Unit. OIG reviewed SPD records to compare all Type II and Type III force incidents that occurred in 2018 to the cases

⁹ These courses are Crowd Control/Firearms/Defensive Tactics, Firearm/Advanced Rescue Tactics, Less Lethal Recertification/Defensive Tactics Core Principles Review, and Active Threat Response/De-escalation Tactics. Lieutenants and above attend an abbreviated overview of these courses that do not always feature the hands-on portion of training, per SPD.

reviewed by the Force Review Unit and the Board in 2018 and early 2019. OIG found that, with one exception, the Board reviewed all required cases (232 out of 233).

The case not reviewed by the Board was a Type III canine bite incident that occurred in August 2018. SPD stated this case was not presented to the Board, but rather was deferred to OPA in consultation with OPA Director Myerberg. SPD explained that, at the time of this incident, standard Board practice was not to discuss any aspect of an active OPA investigation.

Declining Board review for the referenced Type III case appears to be inconsistent with 8.500-POL-3 and 8.500-POL-4, which states all Type III cases “will” be reviewed by the Board, and all cases involving physical contact between a canine and a subject “shall” be referred to the Board. Further, the Sustainment Plan states, “Court-approved SPD policies mandate that all Type III uses of force be investigated by SPD’s Force Investigation Team (‘FIT’) and reviewed by SPD’s Force Review Board (‘FRB’).”¹⁰

Two of the core functions of the Board, as outlined in 8.500-POL-4, are as follows: “Identify instances, trends, or patterns of deficiencies regarding policy, training, equipment, or tactics,” and “Monitor all aspects of the Department’s use-of-force practices with the goal of continual improvement.” By not reviewing this incident, SPD may have missed opportunities to identify and resolve policy, equipment, or training issues that may affect future use of force incidents.

OIG has observed that the Board now discusses use of force incidents related to active OPA investigations, including officer involved shooting cases. In each case, the Board has been able to discuss aspects of the case, including broader organizational issues, without voting on the specific issue under investigation.

Board Deliberations

Overall, OIG finds that the Board met requirements to discuss all areas mandated by policy.

- **The Board welcomed internal debate and dissent and maintained a high level of professionalism.**
- **Board members took their responsibilities seriously, expressing strong belief in the overall value of the Board and dedicating significant time to research and preparation.**

SPD should examine ways to enhance the depth of critical analysis with respect to de-escalation, tactics, and decision-making.

¹⁰ Sustainment Plan, pg. 5.

Details

SPD Policy 8.500-POL-4.1 requires the Board to consider certain elements for each incident, including whether the following occurred:

- The chain of command investigation was thorough and complete;
- The force used was consistent or inconsistent with law, SPD policy, training, and core principles;
- The Board considered if there are any issues that need to be addressed regarding de-escalation, supervision, equipment, tactics, training, policy, or other department best practices;
- The chain of command has appropriately identified and taken actions to correct any observed deficiencies;
- Uniform standards were applied in use of force practices;
- There were any noted deficiencies, including trends or patterns, concerning policy, training, equipment, or tactics; and
- The Board's discussion considered the use of force with an eye towards continual improvement of the departmental use of force practices (as opposed to an incident-specific level of discussion).

OIG assessed the decision-making and deliberations of the Board through two major mechanisms. First, OIG observed five Board meetings and assessed the discussion of each incident using a scoring matrix.¹¹ Three members of OIG observed each Board meeting and discussed each case before developing an overall rating. Second, OIG interviewed multiple past and current members of the Board to gather their input.

Board Observation and Assessment – Methodological Considerations

To assess the quality of Board discussions, OIG observed five successive meetings of the Board from April 23, 2019 to May 21, 2019, covering eight different use of force incidents. The meetings covered a range of different types of force, including crowd management, an officer-involved shooting, physical takedowns, and use of the 40 mm less-lethal launcher.¹²

Although observing Board meetings was a necessary part of this assessment, the technique had inherent limitations:

- 1) The time frame for this assessment necessitated a small sample size of five meetings;
- 2) The scheduling of two or fewer incidents per meeting resulted in the review of only eight incidents during the assessment period;

¹¹ This matrix is a slightly modified version of the tool used by the Monitor in the *Second Systemic Assessment*.

¹² The 40 mm launcher fires a foam round. The incident reviewed by the Board was the first time patrol personnel had used the launcher in the field (it has previously been used by specialized units, such as SWAT).

- 3) The range of cases selected by SPD, while highlighting a variety of scenarios, may not reflect the typical slate of cases reviewed by the Board, such as the review of “ten percent” of Type II incidents; and
- 4) The presence of observers who do not normally attend and the unusual opportunity for those observers to ask questions of subject matter experts may have affected Board discussion.

An issue with the sample size of this assessment is the relative inability to determine whether observed issues are indicative of patterns or are simply outliers. OIG expects that, as in any system, there will be outliers. The strength of a system lies in its ability to learn from any inadequate instance and not repeat it. A longer-term analysis of the Board, perhaps in the form of a performance audit, would give OIG greater confidence in determining whether observed issues are indicative of larger trends, and whether the Board appropriately recognizes and responds to these incidents.

Observed Deliberations Were Thorough with Some Limitations

The overall assessment of OIG is that the Board, in almost every case, discussed the information categories required by policy. OIG noted the quality and rigor of many reviews. Each incident reviewed received an overall discussion or adjudication rating of “adequate”¹³ or better. However, the Board did not always discuss issues at a depth to which OIG felt was adequate. OIG highlights noteworthy trends and concerns below.

OIG comments and suggestions are not meant to second-guess or question the ultimate decisions made by the Board, but rather to address the richness of the process and the thoroughness of discussion leading up to those decisions. OIG defers to SPD’s expertise in Board decisions about force, but offers suggestions so that issues attendant to uses of force, such as de-escalation and proportionality, are fully explored.

Board Professionalism and Willingness to Engage in Critical Discussion

Board members demonstrated a high degree of professionalism in their efforts. Members tasked with presenting cases were well prepared, delivering objective summaries of events and identifying relevant video segments for the Board to consider. It was clear the ensuing discussion was based on careful prior review of files, as Board members would often reference specific segments of officer statements or chain of command investigations. Board members returned to case files repeatedly throughout their deliberations,

¹³ The term “adequate” is used by OIG in this document as a rating based upon the initial scale developed by the Monitor in the *Second Systemic Assessment*. The scale used in that initial evaluation, and again by OIG here to maintain consistency, includes the following: 1) thorough, accurate, unbiased, and complete; 2) adequate; or 3) inadequate.

demonstrating a commitment to accuracy and fact-based analysis (notwithstanding some speculative discussion, as referenced below).

Board members informed OIG that they spend many hours preparing for Board meetings in addition to their normal responsibilities. Board members estimated that between six to eight hours of preparation was needed prior to an average meeting. This work consists of detailed review of case files and body-worn video in order to identify any major issues that were not flagged by the chain of command investigation.

OIG was encouraged by the willingness of Board members to engage in debate, hear alternate perspectives, and voice dissent. For example, the Board had an extended debate during one meeting over whether officers had deployed appropriate tactics in terms of how they arrived on a scene. It was clear certain Board members had diverging opinions deriving from a combination of differing experiences and philosophies. The resulting debate, while heated, remained respectful and confined to the issues at hand.

Interviews with Board members reflected the value that members place on vigorous discussion. Most interviewed members commented that some of the most effective parts of the Board are the diversity of experiences, and that the Board is able to have disagreements in a productive and professional setting.

Speculation Regarding Officer State of Mind and Decision-Making

OIG found that the Board engaged in speculative discussion in four of the eight assessed incidents. By “speculation,” OIG is not referring to considerations of alternate tactics, which OIG encourages as part of any critical analysis of how SPD can improve. Rather, OIG characterized “speculation” as theorizing about what the involved officers were thinking or why certain decisions were made. This most frequently occurred when the Board was considering how officers assessed threats and determined what level of force to use. Speculation is undesirable in these circumstances because the Board members may be incorrect in their interpretation and assumptions, leading to a flawed evaluation of the incident. The perception of the involved officer is critical in evaluating force decisions and cannot be supplied via Board speculation and supposition.

For example, OIG observed Board discussion of one case in which officers chased a shoplifting suspect. The subject got on their knees and raised their hands in the air, but the officers performed a takedown resulting in the head of the subject striking the pavement. The Board engaged in lengthy speculation about whether the suspect might have been part of a larger shoplifting ring and officers’ intentions to possibly perform a gentler takedown. However, this information was not contained in the officers’ own statements regarding their decision-making and use of force.

The Board also speculated about officer state of mind when reviewing a case involving deployment of the 40 mm less lethal launcher. OIG observed extensive discussion concerning officer perceptions and the decision-making about when to fire the 40 mm round. Not all the conversation was supported by officers' written statements. Conversely, the Board did not engage in extensive discussion of potential alternative scenarios. For example, the Board did not discuss how officers could have approached the situation if the 40 mm launcher had not been available. This latter form of theorizing might have been productive for identifying lessons learned or training issues.

In a Board review of an officer-involved shooting, the Board speculated at length regarding why officers chose to pursue a fleeing subject. Board discussion was hindered by insufficient information on officer decision-making from the FIT investigation. Consequently, instead of being able to evaluate the merits of officers' decisions, the Board was left to speculate about why officers made certain choices. The Board ultimately recognized the information deficit and made a series of referrals to FIT in order to improve the quality of future investigations.¹⁴ However, time spent on extended speculation may have resulted in missed opportunities to review proportionality and tactics prior to the foot pursuit in greater depth.

Significantly, in each referenced case, Board members would eventually recognize the speculative nature of the discussion and re-direct the conversation to focus on what the officers wrote in their statements. Thus, OIG determined that no formal Board decision was based on conjecture. However, a large amount of discussion time was spent on speculation rather than concrete analysis of facts at hand, and incomplete information provided an incomplete basis for evaluation of the underlying issues.

Crisis Intervention Techniques

The Board did not always fully consider the impact of cognitive impairment or mental health crisis when deliberating about whether officers deployed sufficient de-escalation tactics or considering whether de-escalation was feasible.

For example, in the case involving the 40 mm launcher discussed above, the involved officers were familiar with the subject and were aware that the subject had a history of mental health crisis. However, Board deliberations did not adequately address whether communication with the subject during the incident was effective. The Board also did not evaluate the subject and the subject's response through the lens of crisis intervention principles.

¹⁴ OIG noted that the Board has made very similar recommendations to FIT in the recent past, as discussed in the *Recommendations* chapter.

In a second case discussed in more detail below, officers encountered a subject who appeared to be cognitively impaired. The Board did not acknowledge the possible impairment and how it may have affected the subject's interactions with officers. Further, elements of the scene also indicated that the subject may have been suffering from a mental health or cognitive concern, which was also not addressed by the Board. Assessing how much training the Board receives regarding interacting with persons with cognitive impairment and whether this training is sufficient may be helpful.¹⁵

Even when including these elements in the discussion does not change the conclusion of the Board regarding officer decision-making, doing so is an opportunity to identify organizational improvements, such as training recommendations or reminders.

De-Escalation

Another issue in the case referenced immediately above was the Board's evaluation of whether de-escalation tactics were safe and feasible.

In this incident, four officers handcuffed an elderly individual, who may have been experiencing cognitive issues, under the belief that the individual may have been an intruder in a residence. When officers began to apply the handcuffs, the individual loudly stated that they had a shoulder injury and began repeatedly exclaiming in pain. The individual resisted the handcuffing and officers applied control holds to complete the maneuver.

The individual had complied with all officer instructions up to the point of handcuffing. The officers ultimately determined that the individual had not committed any crime and was in fact the homeowner, releasing the individual at the scene. In the chain of command investigation, the precinct captain requested that the officers involved be given feedback that discretion could be applied when determining whether to use handcuffs.¹⁶ For example, officers could use two handcuffs, or not apply handcuffs at all, depending on their evaluation of the scene.

Despite the Board acknowledging the officers had made less-than-ideal tactical decisions which caused them to feel more threatened by the presence of the individual, the Board did not find issue with the de-escalation techniques used by officers. Of greater concern, the Board disagreed with the feedback offered by the precinct captain regarding discretion

¹⁵ This case involved officers responding to a call regarding a potential wellness check and/or burglary. Upon arrival at the location (a residence), officers noted that the door was open, a window appeared to be broken, and the stove was on. While the Board identified these signs as indications that a burglary may have been in progress, it is also important to note that these could be indications of a person experiencing a change in mental status such as stroke or dementia.

¹⁶ OIG notes the discussion failed to account for assessing a proper legal basis for handcuffing.

and rejected the idea of evaluating existing training practices to determine if officers could be better prepared to handle such an issue in the future.

OIG would have liked to see the Board discussion of de-escalation include a deeper analysis of how the subject's mental state may have affected the person's ability to comply with officer demands. Additionally, the Board could have made a stronger connection between the tactical decisions of the officers and the creation of an environment in which the officers felt they had to use force to protect themselves.

To give an alternate positive example, OIG witnessed a different Board discussion that successfully made such a connection. The relevant case involved a foot chase occurring after the subject fled the initial scene, where he had been mistakenly released by non-SPD security personnel. The Board spent an extended amount of time discussing how the officer's tactics in approaching the initial scene and talking with the security personnel contributed to the eventual foot chase and takedown. Such in-depth discussions are beneficial in identifying opportunity for wider department improvements.

Without further study, OIG cannot determine why the Board appeared to depart from its ordinarily introspective focus in the first referenced case. However, it is worth noting that in the Board member interviews, at least one Board member stated that the Board is not in agreement on key definitions, such as what "de-escalation" means. Ensuring the Board has a common understanding of such critical concepts may help to diminish future concerns. OIG interviews with Board members identified two additional themes that may underlie some of the observed Board behavior.

Tension Between Board Purpose and Potential for OPA Referral

OIG found that Board members did not have a consistent understanding of the purpose of the Board and SPD policy does not provide clarity. While SPD Policy 8.500 – *Reviewing Use of Force* includes broad statements such as "the Department learns important lessons from every significant force incident," the section of policy describing Board activities lists topics to be discussed without clearly stating the purpose of review (see list at the start of this section).¹⁷ The list ranges from policy violations to best practices.

A detailed description of the Board laid out by the Monitor in the *Second Systemic Assessment* states:

[The Board] serves two broad functions. The first is to review force investigations, critically consider them, and reach a determination as to 'whether the specific conduct' during a force incident amounts to possible 'misconduct under SPD policy' such that an internal,

¹⁷ SPD Policy 8.500 – *Reviewing Use of Force*. See opening preamble, and 8.500-POL-4 for policy on Board activities.

administrative investigation by the Office of Professional Accountability [OPA] should be initiated [...] the Board's second general function [...] is to consider what the Department can learn from force incidents.¹⁸

When interviewed by OIG, Board members often articulated one of these purposes, rather than both. For example, several members stated that the purpose of the board was to analyze both the force used and the investigation conducted by the chain of command. These Board members emphasized that the Board was there to provide accountability, ensure that the existing force review process is effective, and offer relevant recommendations or findings. Other Board members noted that while the Board was supposed to review uses of force, it was also an opportunity to look at the incident more broadly and identify areas for improvement regarding SPD policies and systems.

To paraphrase the sentiments of several Board members, it appears that the Board wrestles with reconciling its two obligations: to review the use of force from the perspective of a reasonable officer at the time of the event, and to apply the benefit of hindsight to determine how SPD might improve its operations in similar future situations. Board members argued that it is difficult to do the latter while worrying about incurring unintended punitive action against officers.

By example, one Board member related an experience of reviewing a case and highlighting one officer's actions. The intent of the Board member was to clarify how officers were trained and possibly identify broader lessons learned for the future. However, an OPA referral resulted from the discussion. The Board member stated that this outcome would decrease willingness to engage in similar discussions going forward.

Some Board members stated that the Board will "hold back" from certain discussions that have a high likelihood of resulting in a referral to OPA for a minor policy violation. These members stated that if the chain of command, OPA, and OIG had reviewed the case without identifying a minor policy issue,¹⁹ SPD personnel would have trouble understanding why the Board initiated a referral.

Without weighing in on the merits of a particular OPA referral, any negative impact on the quality of Board discussion – and therefore the quality of Board review – diminishes the utility of the Board to SPD. Some of the most useful Board insights occur during robust discussion of alternate scenarios, i.e., when the Board is applying hindsight to evaluate how

¹⁸ *Second Systemic Assessment*, pgs. 2-3.

¹⁹ Board members emphasized to OIG that if the Board identifies major misconduct, the Board should initiate an OPA referral – and OIG observed the Board undertaking just such an action during the period under review. However, members pointed out that due to chain of command investigations, it is unusual for a case involving major misconduct to reach the Board without an OPA investigation already underway.

SPD could better address such scenarios in the future. For example, OIG observed lengthy conversations during the assessment in which Board members debated such topics as different techniques for arriving at a particular high-risk location, or how an officer could have improved coordination with retail security.

OIG understands that SPD is working with OPA on alternative methods to address minor misconduct within the chain of command without compromising oversight or accountability. These changes, if adopted, may alleviate some of the inherent disincentives in the process.

SPD may also consider adjusting the template used to facilitate Board deliberation to more clearly delineate between assessment of individual officer actions and discussion of hypotheticals used in analysis of systemic issues.

Quality of Force Investigation

As discussed in the *Background* section of this report, use of force incidents are first investigated by either the relevant chain of command or FIT prior to being reviewed by the Board. It is notable that the Board had concerns regarding the quality of the force investigation in four of the eight observed cases. In one case, the Board recommended training feedback be provided for the chain of command due to extensive areas of concern.²⁰

If the Board is not supplied with the proper facts and information, it cannot effectively identify underlying issues and form appropriate recommendations to address those concerns. Although use of force investigation is outside the scope of this assessment, it is concerning that so many issues of insufficient investigation surfaced over five Board meetings. The forthcoming use of force investigation assessment will provide useful information as OIG continues to monitor this issue.

Suggestions

- Produce a clear mission statement regarding the purpose of the Board and ensure consistent understanding of key concepts, such as de-escalation, used in Board deliberations.
- Review the template used to facilitate Board discussions and consider distinguishing the discussion of individual actions from discussion of hypothetical alternatives with the goal of systemic improvement.

²⁰ In this case, Board concerns with the chain of command investigation included incomplete reviews by the Admin Lieutenant, lack of sufficient analysis on the part of the Watch Commander and Captain, and failure by the chain of command to identify unclear and insufficient officer statements.

- Evaluate ways to mitigate Board concerns regarding OPA referrals for minor misconduct. This step may not be necessary given forthcoming work with OPA regarding the minor misconduct investigation process.

Effectiveness of Board Recommendations

OIG finds that SPD does not have a formal process to assess implementation of Force Review Board recommendations.

Board recommendations are not systematically shared with SPD personnel, limiting improvement opportunities.

SPD should follow up on implemented Board recommendations to ensure that the desired changes are achieved.

Details

Board insights are a crucial mechanism of improvement for SPD, as identified in the Monitor's *Second Systemic Assessment*:

"Other areas of SPD need to take seriously the FRB's referral – treating the response to referrals of issues from the FRB with the utmost of importance and urgency...SPD must benefit Department-wide from the FRB's critical analysis and robust discussion of force."²¹

Indeed, SPD policy regarding the Board mandates that policy, equipment, and training issues are referred for follow up.²² These recommendations are not binding – the recipients can disagree or decline to implement the recommendation – but recipients are expected to explain the reasons for any disagreement. SPD reported to OIG that there is no follow up conducted to ensure that recommendations are implemented as reported.

OIG reviewed 294 recommendations made by the Board from January 1, 2018 until April 22, 2019. Of the 294 recommendations reviewed by OIG, 172 (59 percent) were referrals to Bureau Commanders, 70 (24 percent) went to the chain of command responsible for an individual case, 25 (9 percent) went to the Training Section, and 25 (9 percent) went to the Audit, Policy, and Research Section. See Exhibit 1, below.

²¹ *Second Systemic Assessment*, pg. 18.

²² See SPD 8.500-POL-4.13: "The FRB Chair will refer policy, equipment, and training issues to the Assistant Chief of the Professional Standards Bureau as an FRB Action in Blue Team."

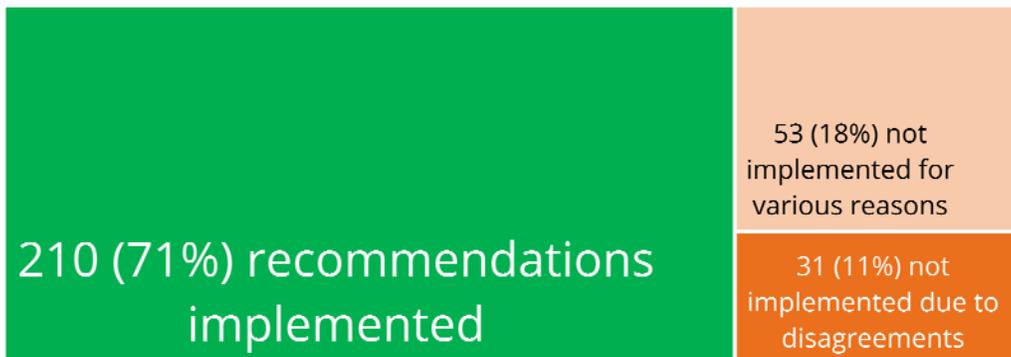
Exhibit 1: Recipients of 294 Recommendations by the Force Review Board



Source: List of Board recommendations provided by SPD to OIG.

Based on review of recipient responses to recommendations, OIG determined that 210 (71 percent) of the recommendations were reported as implemented, although OIG was not able to verify implementation from SPD documentation (see Exhibit 2). Of the 84 recommendations not implemented, OIG found that 31 (11 percent) were not implemented because the recipient disagreed with the substantive nature of the recommendation. Of the 31 recommendations not implemented over substantive disagreement, a single individual was responsible for 20 instances.

Exhibit 2: Implementation Status of 294 Recommendations



Source: List of Board recommendations provided by SPD to OIG.

When faced with a significant number of recommendations that have not been implemented, SPD should evaluate and address the root cause. Reasons may include resource concerns, misunderstandings about the intent of a recommendation, or disagreement with the recommendation. When non-implementation of a significant recommendation is based upon disagreement, the Board should ensure that the underlying priorities are addressed. Failure to implement important recommendations may require intervention by the Chief.

Suggestion

- Analyze recommendation implementation status to identify trends. If there are a significant number of non-implemented recommendations, evaluate and address the root cause.

SPD Does Not Have a Formal Process for Follow-Up on Recommendations

SPD relies on the information reported by recommendation recipients to update its tracking of recommendation status. Recipients sometimes upload supporting documents to Blue Team, but this is not required standard practice. Without following up on implemented recommendations, SPD cannot have a reliable understanding of whether a recommendation has achieved the desired impact.

As part of its due diligence, OIG selectively sampled 28 of the 210 recommendations reported as implemented in order to verify implementation. OIG was able to verify that SPD had implemented 13 (46 percent) of the recommendations in the sample. SPD was not able to provide documentation to substantiate that the other 15 (54 percent) had been implemented. Examples of recommendations OIG was unable to verify include training recommendations for the Canine Unit, reminders about working with non-SPD agencies and task forces, and feedback on chain of command use of force investigations.

The accuracy of reporting recommendation implementation is not at issue. Rather, the Board or appropriate body within SPD should take responsibility for demonstrating the recommendation was implemented as intended. For example, the respondent may have misinterpreted the intent of the recommendation. Alternatively, the recommendation may have been implemented as written, but the intended change may not have been achieved because the correct root cause was not targeted. If the recommendation failed to accomplish the intended change, the underlying issue will not be resolved.

OIG is not alone in identifying the need for SPD to follow up on recommendations. In the *Second Systemic Assessment*, the Monitor stated the following:

[The Monitor] previously identified some problems with the Department 'lack[ing] a mechanism for following up on the broader policy, training, procedure, business process, and other systemic issues that the FRB flags...'²³

The need for recommendation follow-up is more broadly recognized as part of any effective internal control system. The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*, for example, states:

²³ *Second Systemic Assessment*, pg. 18.

[There must be] a follow-up process to monitor and ensure that management actions have been effectively implemented or that senior management has accepted the risk of not taking action.²⁴

The Government Accountability Office's *Standards for Internal Control in Federal Government*, which sets standards for how agencies should manage themselves, echoes the need to follow up on recommendations and reported deficiencies, noting that the resolution process ends only when:

...action has been taken that (1) corrects identified deficiencies, (2) produces improvements, or (3) demonstrates that the findings and recommendations do not warrant management action. Management, with oversight from the oversight body, monitors the status of remediation efforts so that they are completed on a timely basis.²⁵

The Government Accountability Office emphasizes a resolution to the underlying problem, rather than compliance with the exact text of a recommendation. Management should strive to ensure the core issue is resolved rather than relying on testimony that the recommendation was implemented.

During the assessment period, OIG found one instance of a significant recommendation that was made twice in 2018 and then again during the review period, indicating that the identified problem persists.

On June 22, 2018, the Board requested that the following feedback be provided to FIT:

FIT did not consistently ask the involved officers during their interviews exactly why they shot. The Force Review Board noted that the cognitive portion of the interview often resulted in the involved employee stating in detail what they did. The Board believed that the follow-up questions should have focused more on why the officers took certain actions.

Similarly, shortly thereafter on July 2, 2018, the Board recommended that the following feedback be provided to FIT:

The FIT interviews did not ask probative questions. Most of the follow-up questions appeared to be leading rather than open-ended to gather additional facts...

These actions were both reported as implemented on July 25, 2018, with feedback being relayed to FIT in a June 2018 meeting with an Assistant Chief. OIG requested documentation or other evidence supporting the implementation status of these recommendations but was informed that no documentation was available.

²⁴ The Institute of Internal Auditors, *International Standards for the Professional Practice of Internal Auditing (Standards)*, 2500.A1.

²⁵ Standards for Internal Control in the Federal Government, pgs. 68-69.

On May 7, 2019, the Board recommended feedback to FIT that appears substantially similar to the two recommendations offered in 2018:

...it would have been helpful for the review of this incident if the FIT interviewer had focused on the critical aspects of the incident after conducting the cognitive interview with the involved officers. Additionally, running through the questions included in Type II UOF officer statement templates (legal authority, lawful purpose, contact/de-escalation, decision made, etc.) and the FRB PowerPoint of review topics would have ensured the officers provided the specific information the Board considers during its review.

OIG was present for the May 7, 2019, discussion and observed that the Board was concerned with the same issues regarding FIT interviews that the Board raised in its 2018 recommendations. FIT performs a critical role for the department in investigating its most severe uses of force. If SPD cannot ensure that Board recommendations for a key area are implemented, then the Board significantly reduces its ability to achieve change within the department.

Board Findings Are Not Widely Distributed, Which May Limit Opportunity for Improvement

After each meeting of the Board, the Force Review Unit prepares a findings report. This report is distributed to SPD captains, some lieutenants, and those individuals or chains of command specifically affected by a recommendation in the report. Some lieutenants and sergeants on the Board do not receive a copy of the findings report.

Board members stated that captains forward the findings report at their discretion, and most patrol personnel are only alerted to Board actions if they are the subject of a recommendation. Interviewees maintained that, as a result, patrol personnel are often unclear about the activities of the Board, except when they are the subject of punitive action.

Per OIG interviews with Board members, the limited distribution of Board findings hinders the ability of the Board to communicate its conclusions or broader lessons learned to the rest of SPD. Board members perceive that the lack of broad distribution contributes to a “rumor mill” regarding Board actions and potentially diminishes the trust of department personnel in the Board.

Multiple interviewed Board members praised the communication model of OPA as an alternative distribution method. OPA sends a regular digest of its summarized investigation activities, which OPA calls “Case & Policy Updates,” which includes any relevant trends or major conclusions to SPD personnel. Board members commented this regular communication allows SPD personnel to feel more comfortable with OPA activities due to increased familiarity.

In reviewing SPD policy, OIG observed that SPD already requires the Board to produce a monthly report that, among other elements, includes information on “themes, trends and

learning opportunities identified”.²⁶ This report is to be distributed by precinct captains as roll-call training and via email throughout the precinct. Given that Board members appeared to be unaware of this report – including patrol representatives who would presumably receive copies – it seems that SPD could improve the content and distribution of this report.

Suggestion

- Enhance distribution of Board insights and lessons learned to all SPD personnel while respecting the privacy of officers involved in the incidents.

Conclusion

OIG finds that, overall, the Board met its requirements in terms of SPD Policy 8.500, which reflect the tenets of the Settlement Agreement. Board composition and training mandates were fulfilled. In its review of five Board meetings, OIG raters generally agreed that the Board had adequate discussions which covered all elements of the policy.

However, OIG identified opportunities for growth. The two purposes of the Board are individual accountability and systemic improvement. The fact that discussing alternative courses of action for an incident can lead to identification of potential minor policy violations acts as a disincentive for robust and critical discussion.

Thorough discussions can provide opportunity for organizational improvement, which can enhance public trust in the work of SPD. The Department should evaluate how to mitigate Board concerns about making OPA referrals for minor misconduct in order to ensure the Board can maintain its role in identifying systemic improvements.

OIG identified two action items:

- 1) **SPD should examine ways to enhance the depth of critical analysis with respect to de-escalation, tactics, and decision-making.** Consideration of alternative approaches to force encounters is an important way for the Board to provide a means for continued systemic improvement.
- 2) **SPD should follow up on implemented Board recommendations to ensure that the desired changes are achieved.** SPD does not have a formal system for follow up on the implementation of Board recommendations, as was previously noted by the Monitor in the *Second Systemic Assessment*. The ability to observe and track implementation efforts is critical to achieving and demonstrating sustained improvement.

²⁶ See SPD 8.500-POL-2, *Use of Force – Command Review of Force*, Part 15.

In the interest of continuous improvement, OIG identified several suggestions for SPD to consider:

Board Composition

- Ensure all precincts have at least one Board representative to provide a dedicated resource and conduit for information to improve chain of command investigations and to disseminate lessons learned in a timely manner.
- Evaluate ways in which Board decision-making processes could be made more transparent to SPD in a way that preserves the quality and confidentiality of Board discussions.

Board Training

- Poll Board members to determine if increased training for any less lethal tools or specialty unit tactics would be beneficial. This could include consideration of the role of subject matter experts.
- Assess the various ways in which Board members receive knowledge of patrol tactics and how SPD can systematically ensure that existing and incoming members will remain current as patrol tactics change.

Board Deliberations

- Produce a clear mission statement regarding the purpose of the Board and ensure consistent understanding of key concepts, such as de-escalation, used in Board deliberations.
- Review the template used to facilitate Board discussions and consider distinguishing the discussion of individual actions from discussion of hypothetical alternatives with the goal of systemic improvement.
- Evaluate ways to mitigate Board concerns regarding OPA referrals for minor misconduct. This step may not be necessary given forthcoming work with OPA regarding the minor misconduct investigation process.

Board Recommendations

- Analyze recommendation implementation status to identify trends. If there are a significant number of non-implemented recommendations, evaluate and address the root cause.
- Enhance distribution of Board insights and lessons learned to all SPD personnel while respecting the privacy of officers involved in the incidents.

Appendix A: Approved Methodology

The following is the OIG methodology used for this assessment, as approved by the Monitor and DOJ.

Summary

On January 10, 2018, the City was found by the federal Court to be in “full and effective compliance” with the Seattle Police Department (SPD) Consent Decree. On March 13, 2018, the Court approved a two-year Sustainment Period Plan. The Plan calls for, among other things, an audit by SPD of the Force Review Board (“Board”). In furtherance of this, OIG proposes the following methodology for the Board audit scheduled to commence in April 2019.

OIG has reviewed the Settlement Agreement, Sustainment Plan, Seattle Police Department (SPD) Policy 8.500 - Reviewing Use of Force, and the *Second Systemic Assessment* conducted by the Monitor. OIG proposes the following methodologies for assessing the current state of the Board and its compliance with Paragraphs 119 – 125 of the Settlement Agreement as addressed by SPD Policy 8.500.

OIG will assess whether the Board has reviewed all applicable cases by comparing the population of cases that occurred in calendar year 2018 to the cases presented to the Board. This analysis will include both a consideration of whether the Board reviewed all required Type II and Type III cases, as well as a ten percent sample of other Type II cases.

The composition of the Board, including the availability of subject matter experts, as well as Board training requirements will be assessed through a combination of physical observation and a review of applicable training records.

The quality and comprehensiveness of Board reviews will be assessed through a combination of physical observation and interviews. OIG will attend no less than five Board meetings during the period of review. Three OIG personnel will evaluate Board composition, deliberations, and decision-making using a prescribed template. OIG will supplement these observations with interviews of Board members.

OIG will assess SPD implementation of Board recommendations by reviewing all recommendations issued in calendar year 2018. OIG will conduct validation testing on a sample of recommendations marked as “implemented.” To provide additional context, OIG will interview Force Review Unit and SPD command staff responsible for Board recommendation tracking and implementation.

In accordance with standard OIG practice, OIG will share its draft results with SPD as the subject of the assessment. OIG will provide the department an opportunity to provide both feedback and a written response. Due to time and resource limitations, OIG will be

conducting this assessment as a special project rather than a full-scale performance audit.²⁷

Scope of Assessment

The Sustainment Plan as approved by the Court contemplates that SPD will model each audit on the assessment of the same topic area that was conducted by the Monitor during the pre-compliance phase of the Consent Decree, although the SPD reviews may be of more limited size and scope as to the data or time period sampled.

This Board assessment is modeled after the systemic assessment of the Board conducted by the Monitor.²⁸ Consistent with the Sustainment Plan, this methodology focuses on continued department compliance with the procedural aspects of the Court-approved policies set forth in Manual Policy 8.500 concerning the Board.

There are differences between the Settlement Agreement and current SPD policy regarding the composition and chairing of the Board, as well as the type of cases reviewed by the Board. The relevant sections of Policy 8.500 were submitted to the Court by the Monitor and approved by the Court. OIG understands that for the purposes of the composition and chairing of the Board, Policy 8.500 is the guiding document. Thus, when Policy 8.500 differs from the Settlement Agreement regarding requirements or includes additional detail, OIG will base criteria on Policy 8.500.

Please refer to Attachment II for a table with each applicable paragraph of the Settlement Agreement and corresponding SPD policy, along with the testing methodology proposed by OIG.

Timeline

The OIG assessment will be conducted in accordance with the following deadlines established by the Sustainment Plan:

- 3/30/2019: Draft methodology submitted to DOJ/Monitoring Team by OIG
 - 4/16/2019: Feedback due back to OIG
- 6/15/2019: Draft results submitted to DOJ/Monitoring Team by OIG
 - 7/02/2019: Feedback due back to OIG
- 7/31/2019: Final OIG report filed with Court.

²⁷ OIG audits are conducted in accordance with the Generally Accepted Government Auditing Standards (GAGAS), which outline specific requirements regarding staffing, planning, directing, performing, and reporting audit work. GAGAS is published by the Government Accountability Office and is considered to be best practice for government audits.

²⁸ Seattle Police Monitor. *Second Systemic Assessment: Force Review Board*, November 2015

Cases Reviewed by the Board

Per Paragraph 119 of the Settlement Agreement, the Board is required to conduct timely, comprehensive, and reliable reviews of all Type II and Type III uses of force. With respect to Type II cases, SPD Policy 8.500-POL-3.9 only requires the Force Review Unit to refer a subset of Type II cases to the Board, including the following cases:

- Serious policy violations
- Cases in which FIT was contacted for a Type III screening and declined to respond or investigate
- Cases in which less-lethal tools (such as a Taser) were used on the subject
- Cases in which a canine made physical contact with the subject.

The Force Review Unit is also to consider issues such as severity of injury and severity of the crime in determining whether to refer a case for Board review (SPD Policy 8.500-POL-3.9). In addition, the Board is to review an additional ten percent random sample of Type II cases (SPD Policy 8.500-POL-3.10).

OIG will assess whether the Board is reviewing all required cases, as well as the timeliness of its reviews, by comparing the population of Type II and Type III cases against the cases reviewed by the Board. (Please note that the comprehensiveness of reviews will be assessed through means discussed in a subsequent section titled *Board Deliberations and Decision-Making*.) OIG will do the following:

1. Review the population of Type III incidents that occurred in calendar year 2018, and ensure all cases were either presented to the Board or are scheduled for Board review.²⁹
2. Review the population of Type II incidents that occurred in calendar year 2018, and ensure all incidents that fall in the subset specified above were either presented to the Board or are scheduled for Board review.³⁰
3. Interview the Force Review Unit Captain and applicable staff to determine the Force Review Unit methodology for obtaining the ten percent random sample of other Type II incidents.
4. Request and review documentation from the Unit indicating that this methodology was followed for a sample of Board meetings that occurred in 2018.

²⁹ Complex cases that occurred near the end of 2018 may not yet have been presented to the Board. The Board also does not review King County Correctional Facility in-custody deaths, investigation of other agency officer-involved-shootings, or unintentional or animal firearm discharges undergoing expedited summary review under 8.500 POL-5.

³⁰ Ibid.

Board Composition and Training

Paragraphs 120 through 122 of the Settlement Agreement contain provisions regarding Board composition, training, and expertise.³¹ OIG will observe the composition of the Board at no less than five meetings of the Board and evaluate whether the attendees meet the requirements laid out by Policy 8.500-POL-4. OIG will note whether the following attendees are present:

- Chair (Force Review Captain or any Assistant Chief)
- Supervisor from the Training Section
- Three or more representatives from the Patrol Operations Bureau
- One representative from the Audit, Policy, and Research Section
- One representative from the Investigations Bureau

OIG will also determine whether the Board has sufficient subject matter expertise available to conduct effective deliberations. For example, if the Board is reviewing an incident involving a canine, the Board may have questions that require a canine subject matter expert. This determination will be made for each incident discussed by the Board and will be a qualitative decision made by OIG auditors in consultation with the Inspector General.

OIG will assess composition and expertise using a template modeled after the protocol established by the Monitor in the *Second Systemic Assessment*. Please see Attachment I for a copy of the template.

Board Member Training

OIG will review the training records for all Board members for the past twelve months (3/1/2018 - 2/28/2019) and determine whether the requirements outlined in the Settlement Agreement and Policy 8.500-POL-4 have been met. OIG will evaluate whether:

- All Board members have attended at least eight hours of training in the past twelve months, including legal updates regarding the use of force and curriculum used by the Training Section regarding use of force (Settlement Agreement Paragraph 121);
- All Board members attended all required Department training in the past twelve months (Policy 8.500-POL-4); and
- All Board members have received the eight-hour initial course in crisis intervention techniques (Policy 8.500-POL-4).

Board Deliberations and Decision-making

Paragraphs 123 and 124 of the Settlement Agreement describe the elements that the Board should include in each reviewed use of force incident. SPD Policy 8.500-POL-4 adds detail to the requirements referenced in the Settlement Agreement, such as an explicit

³¹ The table in Attachment II crosswalks the Settlement Agreement language with the requirements of Policy 8.500-POL-4. The OIG assessment is based on the requirements of Policy 8.500-POL-4.

consideration of de-escalation tactics. OIG will determine whether the Board is conducting comprehensive reviews of each incident, including the requirements specified by both the Settlement Agreement and Policy 8.500-POL-04, through a combination of physical observation and interviews with Board members.

Observation

To assess the quality of deliberations regarding specific incidents, OIG will attend no less than five meetings of the Board during the period of review. OIG will use a modified version of the review protocol established by the Monitor in the *Second Systemic Assessment*, as discussed previously. The template scores multiple aspects of the review process used by the Board, including case presentation, board makeup, board deliberations, follow-up and reporting, and an overall assessment of each case brought before the Board. Specific elements of the OIG review include, per the elements of Policy 8.500-POL-4.1:

- Whether the chain of command's investigation is thorough and complete;
- Whether the force used was consistent or inconsistent with law, SPD policy, training, and core principles;
- Whether the Board considered if there are any issues that need to be addressed regarding de-escalation, supervision, equipment, tactics, training, policy, or other department best practices;
- Whether the chain of command has appropriately identified and taken actions to correct any observed deficiencies;
- Whether uniform standards were applied in use of force practices;
- Whether there are any noted deficiencies, including trends or patterns, concerning policy, training, equipment, or tactics; and
- Whether the Board's discussion considered the use of force with an eye towards continual improvement of the departmental use of force practices (as opposed to an incident-specific level of discussion).
- Whether, if applicable, subject matter experts were available to provide to Board with technical knowledge to assist with deliberations.

Three members of OIG will score the presentation and deliberation of each incident presented to the Board during the designated meetings. If the rater selects a score of "No," or "UTD" (Unable to Determine) is applied, the rater will need to cite specific reasoning. The raters will review and compare results at the conclusion of each Board meeting. If there is disagreement and the raters cannot come to a mutual decision, the Inspector General will be consulted for a final determination. The Inspector General can also clarify any technical or legal questions the OIG team may have regarding a specific incident.

The intention of OIG in scoring each incident is not to second-guess specific decisions made by the Board, but rather to evaluate whether the Board's system of review, including its

deliberations, fulfill the requirements of Paragraphs 123-124 of the Settlement Agreement and the requirements SPD set for itself in Policy 8.500-POL-4.

At the conclusion of the observation period, OIG will review the consolidated template data and conduct trend analysis. The outcomes will be included in the final report, along with a discussion of relevant qualitative observations. OIG does not anticipate that any advanced statistical methodology will be necessary due to the type of data collected and the length of the observation period.

Interviews

OIG proposes conducting structured interviews with Board members to gather input and perspectives regarding the quality of discussion, the effectiveness of the review process, and any identified opportunities for improvement. This feedback will assist OIG in determining whether the Board is conducting thorough reviews in accordance with Settlement Agreement paragraph 123, based on the Board members' self-evaluation. OIG may conduct follow-up interviews as appropriate. The results of these interviews will be summarized in a matrix and any trends will be noted in the final report.

Board Recommendations and Effectiveness

Paragraph 125 of the Settlement Agreement refers to the ability of the Board to issue recommendations regarding policy, equipment, or training, as well as referrals to OPA if misconduct is discovered. The Monitor's *Second Systemic Assessment* flagged recommendations as a priority issue for future observation, noting that if Board recommendations are not put into practice, "all of the good work of the Board in reviewing and identifying issues will be for naught."³²

OIG will review the universe of Board recommendations made in calendar year 2018 (1/1/2018 - 12/31/2018) and summarize results regarding implementation status and timeliness of implementation. This summary will include any noted patterns of recommendations that were declined or otherwise not implemented by SPD.

After reviewing the complete body of recommendations, OIG will select and validate a small sample of recommendations reported as "implemented." Validation will consist of gathering evidence, including documentation and conducting interviews as appropriate, to ensure the recommendation was implemented as described. The exact size and nature of the sample will depend on the contents of all recommendations. The OIG report will include the results of the validation testing.

OIG also plans to interview SPD staff responsible for maintaining and monitoring Board recommendations, as well SPD command staff who play key roles in the implementation process. These interviews will provide contextual information that will help OIG determine

³² Seattle Police Monitor. *Second Systemic Assessment: Force Review Board*, November 2015. pg. 4.

the effectiveness of the current recommendation and implementation process. If relevant, OIG will reference these interviews in the OIG assessment report.

[Review with SPD](#)

At the conclusion of the OIG assessment, OIG will communicate the results of the assessment to SPD. The department will be given a set time window to offer feedback and provide a written response.

Attachment II to Methodology: Settlement Agreement, SPD Policy, and OIG Oversight Crosswalk³³

Settlement Agreement Language	SPD Policy Excerpts	OIG Test of Policy
<p>119. SPD has established a use of force committee. For purposes of this Agreement, this committee is referred to as the Use of Force Committee (“UFC”). SPD may rename the committee. This committee will conduct timely, comprehensive, and reliable reviews of all Type II and Type III uses of force.</p>	<p>8.500-POL-4.1: The FRB will conduct timely, comprehensive, and reliable reviews of Type II cases referred by the FRU, and all Type III cases.</p>	<p>OIG will observe the composition of the Board at no less than five meetings of the Board and evaluate whether the attendees meet the requirements laid out by Policy 8.500-POL-4.</p>
<p>120. Committee Membership: The UFC will consist of: an Assistant Chief or his designee (who will chair the Committee); supervisors from the Training Section; one representative from each involved precinct, selected by each precinct captain; and a representative from the PSS. The Chair may include any subject matter experts the Chair feels would be helpful in reviewing particular incidents.</p>	<p>8.500-POL-4.6: The Force Review Captain is the Standing Chair of the FRB The Deputy Chief or any Assistant Chief (or designee) may chair the FRB as required by Departmental needs. The Chair has operational control of the FRB.</p> <p>8.500-POL-4.3: The FRB shall be comprised of the following:</p> <ul style="list-style-type: none"> • One supervisor from the Training Section • Three representatives from the Patrol Operations Bureau 	<p>OIG will use a checklist on each case to ensure that the board is comprised according to SPD policy. The checklist will ensure each case is heard by the required number and type of representatives to the board.</p>

³³ This attachment was included in the approved methodology.

	<ul style="list-style-type: none"> • One representative from the Audit, Policy and Research Section • One representative from the Investigations Bureau 	
<p>121. Training: Each member will receive a minimum of eight hours of training on an annual basis, including legal updates regarding use of force and curriculum utilized by the Training Section regarding use of force.</p>	<p>8.500-POL-4.5 Each Standing FRB Member is Required to Attend a Minimum of 8 Hours of Annual FRB Training</p> <p>Basic annual training for FRB standing members will focus on use-of-force practices, including but not limited to:</p> <ul style="list-style-type: none"> • Legal updates regarding use-of-force • Use-of-force investigation • Curriculum utilized by the Education and Training Section regarding use-of-force and de-escalation <p>Standing members must also, at a minimum:</p> <ul style="list-style-type: none"> • Attend all required Department training • Receive training in Department Crisis Intervention techniques • 8-hour initial course • Additional refresher training as required by the Crisis Intervention Team program, in consultation with the Captain of the 	<p>OIG will review the training records for all Board members for the past twelve months (3/1/2018 - 2/28/2019) and determine whether the requirements have been met.</p>

	Education and Training Section	
<p>122. The UFC may consult with other advisors as necessary.</p>	<p>8.500-POL-4.8: Consultants include any subject matter experts, beyond Standing Members, whom the Chair feels would be helpful in reviewing particular incidents.</p>	<p>OIG's checklist will evaluate, if applicable, whether subject matter experts were available to provide the Board with technical knowledge to assist with deliberations</p>
<p>123. Review: The UFC will review each use of force packet to determine whether the findings from the chain of command regarding whether the force used is consistent with law and policy and supported by a preponderance of the evidence, whether the investigation is thorough and complete, and whether there are tactical, equipment, or policy considerations that need to be addressed.</p>	<p>8.500-POL-4.1: The FRB will conduct timely, comprehensive, and reliable reviews of Type II cases referred by the FRU, and all Type III cases, and will determine:</p> <ul style="list-style-type: none"> • Whether the investigation is thorough and complete. • Whether the force was consistent or inconsistent with SPD policy, training, and core principles. • Whether, with the goal of continual improvement, there are considerations that need to be addressed regarding, among other concerns: <ul style="list-style-type: none"> ○ De-escalation ○ Supervision ○ Equipment ○ Tactics ○ Training ○ Policy ○ Department best practices • Review each use-of-force packet to determine whether the chain of command has 	<p>OIG will evaluate each case before FRB and determine:</p> <ul style="list-style-type: none"> • Whether the chain of command's investigation is thorough and complete; • Whether the force used was consistent or inconsistent with law, SPD policy, training, and core principles; • Whether the Board considered any issues that need to be addressed regarding de-escalation, supervision, equipment, tactics, training, policy, or other department best practices; • Whether the chain of command has appropriately identified and taken action to correct any observed deficiencies; • Whether uniform standards were applied in use of force practices; • Whether there are any noted deficiencies, including trends or patterns, with regards to

	<p>appropriately identified and taken actions to correct any deficiencies in the way the incident was handled</p> <ul style="list-style-type: none"> • Confirm that uniform standards are applied in Use-of- Force practices • Identify instances, trends, or patterns of deficiencies regarding policy, training, equipment, or tactics • Monitor all aspects of the Department's Use-of- Force practices with the goal of continual improvement 	<p>policy, training, equipment, or tactics; and</p> <ul style="list-style-type: none"> • Whether the Board's discussion considered the use of force with an eye towards continual improvement of the departmental use of force practices (as opposed to an incident-specific level of discussion). • Whether, if applicable, subject matter experts were available to provide to Board with technical knowledge to assist with deliberations.
<p>124. Review of FIT Investigations: The review of FIT investigations is the same as for Type II investigations, except the FIT investigation review will be chaired by a Deputy Chief. The Monitor and SPD will explore ways to include others in the review of FIT investigations, including civilian observers. Consistent with current practice and the provisions above, the UFC will document its findings and recommendations for FIT investigations. Unless an extension is granted by the Chair, the review should be conducted within seven</p>	<p>8.500-POL-4.12: Type III Use-of-Force Investigations Will Be Presented to the FRB by the Captain of the Force Investigation Team, or Their Designee</p>	<p>OIG will review all cases before the board in the same manner and will assess the same requirements of the board.</p>

<p>days of the FIT presentation to the UFC.</p>		
<p>125. Corrective Action: The UFC will not make recommendations concerning discipline; however, the Chair of the UFC is obligated to ensure a referral to OPA is made if potential misconduct is discovered in the review process. Should policy, equipment, or training deficiencies be noted in the review process, the UFC Chair will ensure that they are brought to the attention of the relevant commanding officer for appropriate action. The Bureau Commander of the officer involved with the use of force will have the final responsibility regarding retraining or recommending discipline to the Chief.</p>	<p>8.500-POL-4.10: FRB Chair Shall Refer Serious Policy Violations to OPA. The FRB will not make recommendations concerning discipline. 8.500-POL-4.13: The FRB Chair Will Refer Policy, Equipment, and Training Issues to the Assistant Chief of the Professional Standards Bureau. Individual training recommendations will be referred to the chain of command of the involved officer for follow-up.</p>	<p>OIG will review the entirety of Board recommendations made in calendar year 2018 (1/1/2018 - 12/31/2018) and summarize results concerning implementation and timeliness. This summary will include any noted patterns of recommendations that were declined or otherwise not implemented by SPD.</p>

Appendix B: Force Classification

The following table is based on SPD Policy 8.400 – *Use of Force Reporting and Investigation*. It summarizes how SPD classifies different possible injuries into categories of force.

Category	Threshold
<i>De Minimis</i>	<ul style="list-style-type: none"> Physical interaction meant to separate, guide, and/or control that is not reasonably likely to cause pain or injury
Type I	<ul style="list-style-type: none"> Transient Pain Disorientation Aiming of firearm at a subject Deployment of a Blast Ball away from people Complaint of pain during the application of handcuffs Use of a hobble restraint
Type II	<ul style="list-style-type: none"> Physical injury (greater than temporary pain) Reasonably expected to cause physical injury Complaint of injury Use of CEW (TASER) Use of OC spray Use of impact weapon causing less than Type III injury K9 deployment with less than Type III injury or complaint of less than a Type III injury Vehicle tactics causing less than Type III injury Deployment of Stop Sticks against a vehicle, other than a motorcycle, and regardless of any injury or vehicle contact but not causing Type III injury Pursuit intervention technique Deployment of a Blast Ball toward people causing less than Type III injury
Type III	<ul style="list-style-type: none"> Great bodily harm Substantial bodily harm Deadly force Loss of consciousness Intentional application of neck and carotid holds Criminal conduct by officer(s) related to the use of force Serious policy violation related to the use-of-force Use of Stop Sticks against a motorcycle Impact weapon strike to the head

Source: SPD 8.400-POL-1, last updated 5/7/2019 at time of this report.

Appendix C: DOJ and Monitoring Team Review

VALIDATION – DOJ AND MONITORING TEAM REVIEW

In Phase I of the work of under the Consent Decree, DOJ and the Monitoring Team reviewed SPD's compliance with the requirements of the Consent Decree through 10 assessments, covering the roughly six topic areas of the Consent Decree: force investigation and reporting, crisis intervention, supervision, Early Intervention System ("EIS"), use of force, and stops and biased policing. By the end of 2017, the Monitoring Team and DOJ found the City of Seattle to be in compliance with each area. On that basis, the Court issued a finding of "full and effective compliance" with the requirements of the Consent Decree. By the terms of the Consent Decree, the City of Seattle is now required to demonstrate that it can sustain compliance with those requirements for a period of two years.³⁴

During Phase II of the Consent Decree work, the City of Seattle has taken over the lead role in conducting assessments of the six core topic areas of the Consent Decree. By taking this lead role, SPD must demonstrate not only sustained compliance, but also a willingness and ability to critically self-assess their own progress in these areas, which are central to effective and constitutional policing.

This does not mean, however, that the work of DOJ and the Monitoring Team is done. In Phase II, DOJ and the Monitoring Team are reviewing the City's proposed methodologies for each audit and are conducting their own independent analysis or "look behind" of the City's review.

For this audit, DOJ and the Monitoring Team consulted with SPD and the Office of Inspector General ("OIG") and ultimately approved the methodology used by the OIG in conducting the assessment. DOJ and the Monitoring Team, together with their subject matter experts, conducted a comprehensive review of the activities of SPD's Force Review Board ("FRB") to assess compliance with the Consent Decree. This included consulting with leaders of the FRB regarding their work, reviewing the force reports and investigative files FRB was considering, and observing the FRB

³⁴ Although the Court found that the City has fallen partially out of full and effective compliance with the Consent Decree in its May 21, 2019 Order, the Court did not find that the City has fallen out of compliance in any area covered in the Phase II Sustainment Plan. See Dkt. 562 at 2. The Court indicated that it "remains hopeful that the City can complete these assessments and discharge these areas of the Consent Decree within the two-year sustainment period." *Id.* These assessments, and DOJ's and the Monitoring Team's review of these assessments, is therefore unaffected by the Court's May 21, 2019 Order.

meetings dealing with those incidents over a five-week period in April and May 2019. DOJ and the Monitoring Team subsequently conferred about their findings and, based on their Phase II reviews, concluded as follows:

- The City of Seattle has maintained compliance with the Consent Decree, including, in most instances, adequate reviews of Type II cases referred to the FRB and Type III uses of force investigations by the Force Investigation Team.
- The Board has continued to improve since its inception, especially in the quality of its documentation, and in most instances appropriate referrals to OPA.

In the interest of continuous improvement, however, DOJ and the Monitoring Team offer the following technical assistance to SPD based upon issues spotted during their respective reviews. Although none of these issues rose to the level of systemic non-compliance with the terms of the Consent Decree, DOJ and the Monitoring Team encourage SPD, and the Inspector General, who has taken over the audit function for this topic area, to give attention to these matters going forward:

- There were a number of instances in which the Chair affirmatively prompted responses from the Board members for each discussion question, which seemed to stifle more organic conversation among members of the Board.
- For reviewed cases involving crowd control and management, SPD should continue to use a tailored set of prompt questions to be used for these encounters, and modify the prompt questions related to de-escalation. The default prompt questions could offer greater assistance to the Board in furthering their review and discussion of crowd control and management.
- The Board should continue to review the applicable policies and training standards relevant to the case being reviewed. DOJ noted that the relevant policies were projected on a screen during the June 17, 2019 Board meeting and this change did prompt more fulsome discussion among the Board.

- SPD should consider, consistent with OIG's conclusions in the Force Review Board Assessment, whether revisions to SPD policies concerning the Board's requirement to refer minor policy violations to the Office of Police Accountability would be beneficial. DOJ and the Monitoring Team believe that eliminating this referral requirement would allow for more productive and candid discussions by the Board about underlying policies, officers' decisions, training needs, equipment concerns, how certain types of calls and situations are handled, and new approaches being used by other law enforcement agencies. This change could result in more meaningful organizational learning and more robust discussion about the critical questions facing the Board.