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INTRODUCTION

The governmentally sanctioned authority allowing a person to use deadly force against another human being is the most profound power conferred upon any individual by any government. With the exception of the military and penal institutions responsible for carrying out death sentences, law enforcement officials are the only professionals in the United States granted such powers.

The consequences of police use of deadly force far exceed the potential for loss of a single life. The use of unauthorized deadly force grossly violates the public trust in the function of police officers, and places officers and the city at risk in subsequent civil or criminal proceedings. Additionally, “every major civil insurrection that has occurred in the United States in the past century was initiated or accelerated by the perception that the police had misused their right to use deadly force. Also the perception that police devalue the lives of some citizens may reduce citizen cooperation in reporting crime or assisting police in investigations and may generally degrade the quality of justice.”¹

The authority and power to intentionally kill another human being carries with it substantial responsibilities. This report by the Integrity and Accountability Office (“IAO”)² of the Philadelphia Police Department (“PPD”) is a comprehensive study of

¹ Underreporting of Justifiable Homicides Committed by Police Officers in the United States, 1976-1998 Loftin, Wiersama, McDowall, Dobrin, July 2003, Vol. 93, No. 7, American Journal of Public Health

² The Integrity & Accountability Office of the Philadelphia Police Department is an independent monitor and auditor of Departmental policies, practices, and operations as they relate to the detection and control of corruption, misconduct, and the excessive use of force. The goal of the IAO is to minimize and deter police corruption and misconduct to the greatest extent possible, and thereby enhance public confidence in the integrity of its police force.

In order to effectuate the broad duties of the Office, the IAO at its discretion, can initiate studies and audits, and if appropriate, make recommendations for change. The IAO has access to virtually all Department records and personnel and is mandated to make its findings public.

By virtue of its essential function to monitor and audit the Police Department, and in order to remain effective and credible, the IAO must exercise independent judgment in reporting findings and making recommendations. This independence also means that the IAO analyses, critiques, and recommendations are solely those of the IAO. This report should not be interpreted as expressing the policies or positions of the government of the City of Philadelphia, or the opinions, views or beliefs of the Mayor, the Police Commissioner, the City Solicitor, or any other official of the City of Philadelphia.

the use of firearms by Philadelphia police officers (hereinafter referred to as “officer-involved shootings”) for a six year period from 1998-2003.³ The purpose of this report is to assess whether the use of deadly force⁴ by Philadelphia police officers is governed, in all respects, by the highest standards and to ensure that the PPD meets its responsibilities and obligations as it relates to deadly force.

There are no rigid formulas that can be applied to determine whether a police shooting was justifiable. Departmental policy, and the law, authorizes officers to fire their weapons only to “prevent imminent death or serious bodily injury to either an officer or another person.”⁵ However, applying this standard to real life situations is complex. Each situation in which an officer fires his or her weapon is unique. These incidents typically occur under rapidly evolving, highly stressful crisis conditions. The Court’s have consistently held that “the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with 20/20 hindsight.”⁶

In this year long study, the IAO did not attempt to determine the reasonableness of individual officer-involved shootings. That responsibility is vested in the Department as manifested in the Department’s “use of force” reporting and investigation policies and practices. **Rather, the primary goal of this report is to assess whether the PPD has effective and meaningful policies and practices in place to insure that deadly force is only used as authorized by law and policy and that when it is not, that the PPD takes all reasonable and necessary measures to address these problematic shootings.**

³ This report does not examine incidents in which officers were fired upon but did not return fire. This report also does not examine firearms discharges by officers for legitimate personal activities such as hunting and target shooting.

⁴ Deadly force is generally defined as force likely to kill or capable of taking life. There are numerous methods of inflicting deadly or lethal force, not all of which involve firearms. This report focuses solely on the use of firearms by police.

⁵ Philadelphia Police Department, Directive 10

⁶ Graham v. Connor, 490 U.S. 386 (1989).

To fulfill this mandate, the IAO focused on answering the following questions:

1. Is the overall use of firearms by Philadelphia police officers reasonable? Are there any problematic trends or issues evident in officer-involved shootings?
2. Do the PPD's formal policies regarding use of deadly force comply with state and federal legal and constitutional standards as well as model guidelines and "best practices" regarding the use of deadly force?
3. Are PPD policies regarding use of deadly force strictly enforced?
4. Are PPD investigations into officer-involved shootings timely, thorough, and impartial?
5. Are the PPD's internal processes and practices for reviewing officer-involved shootings comprehensive and meaningful? When problems surrounding an officer-involved shooting are identified, are appropriate measures taken to prevent recurrences of similar problems?
6. Are the records and data maintained by the PPD regarding officer-involved shootings complete and accurate? Does the Department effectively utilize these data to respond to and address emerging trends and problems related to police use of deadly force?
7. Are the PPD's firearms training programs appropriately resourced? Do these programs effectively prepare officers for the considerable challenges of policing in an urban environment in a manner that minimizes the risks of death or injuries to officers and the public?

Basis for Findings

To answer these questions the IAO relied upon the following sources of information:

- Departmental Directives and policies and "model guidelines" relating to the use of firearms;
- Statistical data relating to officer-involved shootings for the period 1998 through 2003 as maintained by the Department's Internal Affairs Bureau ("IAB");

- All completed IAB investigations of officer-involved shootings in which an officer intentionally or accidentally fired a gun from 1998 through 2003;⁷
- Information pertaining to lawsuits and Settlement Recommendations involving officer-involved shootings that occurred from 1998 through 2003 that are prepared and maintained by the Law Department of the City of Philadelphia;
- The operations, policies, and practices of the PPD's Shooting Investigations Unit;
- The operations, policies, and practices of the Firearms Discharge Review Board ("FDRB");
- Recruit, in-service, and post-discharge firearms training programs related to the use and handling of firearms for the PPD and for other major law enforcement agencies;
- Disciplinary actions for all firearms discharge violations from 1998-2003 and;
- Interviews with pertinent Department personnel and firearms experts outside the PPD, and a review of various studies and model guidelines regarding police use of deadly force.

In November 2004, the IAO presented a copy of its initial findings to the PPD. Since that time the PPD has undertaken significant steps to address certain problems identified in the initial report and to implement some of the IAO's recommendations. These reform initiatives will be detailed in this report.

⁷ Although certain data presented in this report includes officer shootings of dogs, this study does not include an extensive review of IAB investigations into such occurrences.

PATTERNS AND PRACTICES IN OFFICER-INVOLVED SHOOTINGS STATISTICAL ANALYSIS

Key Findings

1. The use of firearms by Philadelphia police officers is not widespread or gratuitous when considered in the overall context of police/citizen contacts that present the greatest likelihood for the use of force by police.

2. In the majority of the officer-involved shootings reviewed for this study, where officers intentionally fired their guns at individuals, the officer(s) had a reasonable basis to believe that they, or others, were in imminent danger of serious injury or death at the moment they fired their weapons. The data indicate that in more than 73% of the intentional police shootings at citizens, the target of the shooting was armed. In more than 92% of the cases where the suspect was armed, the weapon was a firearm.

Basis for Statistical Analysis

The principal sources of information relied upon for this assessment included the IAB shooting database, annual reports prepared by the IAB Shooting Investigations Unit, completed IAB investigations of officer-involved shootings, and databases and Recommendations of Settlement maintained by the Civil Rights Unit of the City Law Department. These sources yielded the following data:

- Total number and type of police shootings
- Total number of shots fired
- Citizen/Police injuries and fatalities
- Demographic profile of intended targets of police shootings
- Demographic profile of officers involved in shootings
- Police shootings by district of occurrence and police unit
- Litigation arising from police shootings

In an attempt to more fully understand and assess statistically significant trends and patterns that emerged as a result of this analysis, the IAO utilized the following additional information sources:

- Arrest data collected and maintained by the Department's Arrest Information System Directory ("ARIS") computer database.
- Police activity and citizen contact data collected by the Department's Incident Reporting System ("INCT") database.
- Race/sex demographic statistics of Philadelphia police officers

Total Number and Type of Officer-Involved Shootings

Table 1 presents data regarding the total number of officer-involved shootings during the six-year period 1998 through 2003. As used in Table 1 and throughout this report, the term "incident" refers to a single event, which may involve multiple officers and/or defendants, while a "shooting" represents a single officer discharging one or more rounds of ammunition.

The data indicate that during this period, 759 Philadelphia police officers discharged their weapons in a total of 596 shooting incidents. Of the 759 officers, 670 officers were "on duty" while 89 were "off duty". Of the 596 shooting "incidents", 285 (48%) involved officers who intentionally fired their guns at one or more individuals, while the remaining 52% involved shootings at dogs and accidental discharges.

Table 1
Total Number of Officer Involved Shootings

	1998	1999	2000	2001	2002	2003	Total	% of Total Shooting Incidents
Total Number of Shooting “Incidents”	99	112	93	84	102	106	596	
Intentional Discharges at Suspects	49	59	48	38	43	48	285	48%
Intentional Discharges at Dogs	38	39	29	32	43	50	231	39%
Accidental Discharges	12	14	16	14	16	12	84	14%
Total Number of Officer’s Discharging their Weapons	125	149	119	103	120	143	759	
Number of Officers who Discharged Firearms while On-Duty	108	133	101	92	102	134	670	
Number of Officers who Discharged Firearms while Off-Duty	17	16	18	11	18	9	89	

In an effort to place these findings in perspective, the IAO attempted to obtain information comparing the rate of shootings by Philadelphia police officers with the rate of shootings by police officers in other major metropolitan areas. Unfortunately, the IAO discovered that there is no uniform standard observed by metropolitan police departments in collecting and categorizing shooting data. Therefore, any attempt to compare the rate of shootings among major cities would be unreliable.

A second approach was to compare officer shooting tendencies with the number of instances in which officers are in contact with citizens under the types of circumstances that are widely recognized as being most likely to give rise to some type of police use of force. These include: pedestrian investigations, vehicle investigations, arrests, and the execution of search warrants. As indicated in Table 2, between 1998 and 2003, there were **2.3 million** potentially problematic police/citizen encounters (59% of these encounters involved vehicle investigations, 21% involved pedestrian investigations, 19% involved arrests, and 9% involved search warrants.) These statistics suggest that 1.2 out of every 10,000 police/citizen encounters that presented the greatest likelihood for the use of force actually resulted in an officer-involved shooting.

Table 2
Categories of Police-Citizen Contacts That May Give Rise to Use of Force

Type of Police Citizen contact	1998	1999	2000	2001	2002	2003	Total
Vehicle Investigations	298,233	251,621	209,049	208,031	204,040	194,239	1,365,213
Pedestrian Investigations ⁸	158,644	96,021	61,209	49,928	54,407	67,088	487,297
Arrests	73,553	76,634	77,221	77,757	69,349	65,787	440,301
Search Warrants	2,131	3,031	3,419	3,516	3,766	4,187	20,050
							2,312,861

Table 3 presents the number of times officers reported being assaulted by suspects in the line of duty over the past five years. The data include both the overall number of assaults and, of those, the number in which an officer was injured by an assailant using a weapon (the term “weapon” includes any instrument that, if used in a dangerous manner, could reasonably be expected to cause bodily injury). Weapons included, among others, guns, knives, bats, clubs, chains, iron bars, wood boards, and mace. They also include instances in which suspects kicked, punched, slapped, grabbed, tackled, and bit officers.

⁸ A significant disparity exists in the number of pedestrian and vehicle Investigations between 1998 and 1999-2003. This has been attributed to the fact that in 1998, a new Departmental policy was instituted which required officers to complete a “75-48A” form for every vehicle and pedestrian investigation. The 75-48A requires officers to provide information on the individual and/or vehicle investigated, as well as the legal basis for the investigation. After this policy was implemented, the number of reported police pedestrian and vehicle investigations plummeted.

Table 3
Aggravated Assaults against Officers⁹

Year	Total Alleged Aggravated Assaults Against Police Officers	Officer's Injured by Assaults Where Suspects used weapons
1999	1,430	459
2000	1,510	548
2001	1,345	434
2002	1133	331
2003	1131	288
Total	6,549	2,060

During the five-year period ending 2003, there were 6,549 instances in which police officers reported being assaulted while in the line of duty, of which 2,060 (31%) resulted in officers being injured by suspects using weapons. Of these aggravated assaults, 94 involved suspects who actually shot at an officer with some type of firearm, while the remainder involved a variety of other types of weapons. These data indicate that the number of officer-involved shootings equal only 14% of the number of instances in which an officer was injured as a result of being assaulted by a suspect using a weapon. While not every one of these assaults put the officer in imminent risk of serious bodily injury, these statistics reveal a large number of cases in which at least some level of force by officers was warranted, but where officers did not fire their weapon in response to the threat.

Number of Bullets Fired by Police in Shooting Incidents

With a muzzle velocity of 1,175 feet per second and lead cored 9 mm bullets designed to expand upon impact, the handgun used by the Philadelphia police officer is clearly capable of injuring and killing citizens and damaging property. This potential arises every time the handgun is discharged, and the existence of bullets that do not hit their target pose a serious threat. Table 4 presents data regarding the number of bullets discharged relative to the 596 shooting incidents for the period 1998 through 2003.

⁹ The data in Table 3 was obtained from the PPD which is required to collect these and other statistics pursuant to the state administered Uniform Crime Reporting Program. This data does not provide specific information on the nature of the assault and the IAO did not examine the underlying arrest reports pertaining to these aggravated assaults on police.

Table 4
Number of Shooting Incidents, Number of Shots Fired

	1998	1999	2000	2001	2002	2003	Total
Total Number of reported shooting incidents	99	112	93	84	102	106	596
Total rounds fired by officers	494	513	402	287	351	406	2,453
Number of rounds fired at citizens only	339	379	307	180	232	228	1,665
Shots that actually struck a suspect	55 (16%)	58 (15%)	51 (17%)	20 (11%)	56 (24%)	52 (23%)	292 (18%) ¹⁰
Number of rounds fired at dogs	144	120	79	92	103	165	703
Rounds fired accidentally	12	14	16	15	16	13	86

The 596 shooting incidents included 2,453 rounds of ammunition, indicating an average of 4.2 shots per incident. However, our review of individual shooting incidents indicates that the number of shots varied widely, so that the average is misleading. For example, at one extreme are the shooting incidents in which a single round was fired that resulted in a fatality. In others, several dozen rounds were discharged, none of them hitting the intended target.

On average, only 18% of the rounds fired by officers actually struck their intended targets. Firearms experts, unaffiliated with the PPD, who were interviewed as part of this study were not surprised that Philadelphia police officers frequently miss their targets. According to these experts, it is difficult for most officers to shoot in a concentrated and deliberate manner in the chaotic conditions that typically exist during shooting incidents. In these circumstances, it can be extraordinarily difficult for even highly skilled marksmen to hit any type of moving target.

Experts also pointed to a sensory and psychological phenomenon known as “tunnel vision” to partially explain the significantly higher number of bullets fired per incident. During a shooting incident, officers’ sensory perceptions can focus intently on the source of danger, thereby limiting or diminishing officers’ awareness of their actions

¹⁰ The mean percentage is based on the number of rounds fired at citizens only.

and surroundings. This may result in an officer continuously pressing the gun's trigger without conscious deliberation, resulting in numerous rounds being fired in rapid succession. It was not unusual to review officer recollections of shooting incidents in which they could not accurately recall how many times they fired or what was happening around them at the time of the shooting.

While these are plausible explanations for the high miss rate previously stated, the dangers are clear. Ongoing and intensive tactical training in the use of firearms in a variety of unpredictable scenarios is essential to develop and maintain the skills necessary to remain concentrated and deliberate during highly stressful situations. With very limited exceptions, Philadelphia police officers do not receive this training.

Injuries and Fatalities Resulting from Officer-Involved Shootings

As reported in Tables 5, 6, and 7 below, 35 civilians were killed and 116 citizens were wounded as a result of police shootings from 1998 to 2003. These statistics include police shootings involving officer's who were both on and off-duty at the time of the shooting incident.

From 1998 through 2003 there was a significant decline in the number of citizens wounded by police gunfire. However, the period of 2003-2004 has seen a dramatic increase in civilians being killed as a result of police shootings. In comparison with an average of 5 civilian fatalities during the five-year period of 1998 through 2002, during 2003 there were 11 civilian fatalities and during 2004 there were 14 civilian fatalities resulting from officer-involved shootings. Thus, nearly **50%** of the 46 fatalities since 1998 have occurred in the past 22 months. This is a troubling trend that warrants close attention and monitoring.

Table 5
Injuries and Fatalities Resulting from Police Shootings

	1998	1999	2000	2001	2002	2003	Total
Officers Wounded by Gunfire in the Line of Duty	4	2	4	7	3	1	21
Officers Killed by Gunfire the Line of Duty¹¹	0	0	0	0	0	0	0
Civilians Wounded by Police Gunfire	25	22	23	16	18	12	116
Civilian Fatalities	5	7	5	2	5	11	35

Table 6
Race/Sex of Citizens Injured/Killed by Police Shootings

1998-2003	White/Male	Black/Male	Hispanic/Male	Asian/Male	Females	Total
Fatalities	6	25	0	1	3	35
Injuries	13	95	5	0	3	116

Table 7
Civilian Fatalities 1998 - 2003

	1998	1999	2000	2001	2002	2003	Total
Civilian Fatalities	5	7	5	2	5	11	35
Shooting occurred On-duty	3	5	4	1	5	10	28
Shooting occurred Off-duty	2	2	1	1	0	1	7

Of the 35 civilian fatalities reported in Tables 5, 6, and 7, 29 (83%) involved officers who were confronted with armed suspects. In 22 of these 29 incidents, suspects were armed with guns and either shot at the officer(s) or pointed the gun at the officer(s). The specific circumstances occurring in these 22 incidents are outlined below:

- **6** fatalities occurred when **off-duty**¹² officers became victims of armed robberies and they shot and killed the perpetrators.

¹¹ Since 1998, firearms caused the deaths of nine officers. In eight of these incidents, officers committed suicide. In the remaining case, an off-duty officer accidentally shot and killed himself while cleaning his revolver.

¹² Unless specifically noted as “off-duty”, the reader can assume that a shooting occurred while the officer was on duty.

- 5 fatalities resulted from incidents in which officers were investigating/arresting suspects for firearms related offenses.
- 3 fatalities occurred when officers were investigating/arresting suspects wanted in connection with armed robberies.
- 3 fatalities occurred while officers were investigating males in connection with illegal narcotics activities.
- 1 fatality occurred when an undercover officer conducting surveillance became the victim of an armed robbery.
- 1 fatality occurred while the officer was serving an arrest warrant.
- 1 fatality occurred while the officer was investigating a radio call regarding a burglary in progress.
- 1 fatality occurred while the officer was in foot pursuit of a suspect wanted on murder charges.
- 1 fatality occurred while the officer was in foot pursuit of a suspect wanted for domestic violence.

Of the remaining 7 remaining instances in which officers were confronted with an armed suspect, 6 involved suspects with knives. According to the IAB investigations, these armed suspects ignored verbal commands to drop their knives and were advancing towards the officers when the officers fired their weapons. In one fatal shooting, an officer confronted a male who advanced towards the officer swinging a heavy metal chain. According to the officer, the suspect ignored repeated commands to drop and was shot and killed by the officer.

Of the 6 fatal shootings where the victim was **unarmed**, 3 occurred when the officer was not engaged in legitimate police actions. The circumstances surrounding each of the 6 fatalities are described below:

- An officer was investigating a motorist for illegal narcotics activities when the suspect suddenly drove off. The officer fired at the moving vehicle, killing the suspect.
- An officer was investigating a suspect for auto theft when the suspect suddenly drove off. The officer fired at the moving vehicle killing a passenger in the car.

- An officer was conducting a vehicle investigation when the suspect/driver made a sudden movement with his arm. Believing that the unarmed suspect was producing a gun, the officer shot and killed the suspect.
- An **off-duty** officer shot and killed an unarmed male during a confrontation in a bar. This officer was arrested on murder charges and dismissed from the force.
- An **off-duty** officer observed a male breaking into his car. During a confrontation with the suspect, the officer shot and killed the suspect.
- An **off-duty** officer shot and killed his wife and then committed suicide.

The extent to which the officer-involved shootings that resulted in fatalities are excessive or unreasonable cannot be determined from these raw statistics alone. The question in each case is whether, in light of all the facts and circumstances surrounding each shooting incident, the officer(s) reasonably believed that the use of deadly force was necessary to prevent imminent death or serious bodily injury to the officer or another person. Accurate resolution of this issue is possible only if the Department's investigations into and reviews of these incidents are thorough and impartial – emphasizing the critical importance of the integrity and professionalism of the post-discharge investigation and review policies and practices.

Precipitating Causes of Officer-Involved Shootings

In an effort to more fully understand the shooting propensities of police officers, the IAO undertook an analysis of the individual shooting investigations for 278 of the 285 intentional discharges at suspects as reported in Table 1. (At the time this report was written, three of the intentional shootings were still under investigation and therefore were not available for review. The IAO also did not examine intentional shootings in which officers committed suicide with their firearms.) This analysis is summarized in Table 9 below.

Table 9

Precipitating Circumstances for Intentional Shootings

	Number of Shootings
Suspect armed with gun	
Firearms offenses	78
Armed robbery	47
Narcotics offenses	25
Vehicle investigations for traffic violations ¹³	7
Stolen vehicle	5
‘Other’ armed with gun	25
Total (armed with gun)	187
Suspect armed ‘other’ weapon	15
Total (armed with all weapons)	202
Suspect unarmed	
Shooting at moving vehicle	53
‘Other’ unarmed	18
Total (unarmed)	71
Miscellaneous	2
Investigation Still Open	3
Total Intentional Shootings	278

¹³ In one case the suspect was stopped for driving with a broken turn signal. In another case the suspect was being investigated for speeding. In a third incident the suspect drove through red light. In a fourth incident the suspect was being investigated for driving in reckless manner. In three cases, suspects were stopped for driving at night without headlights.

Intentional Shootings of Armed Suspects

Of the 278 intentional police shooting incidents in which the target was an individual, more than 73% (202 of 278) involved an armed suspect, and in 187 or 92% of these cases, the weapon was a firearm.

In 78 (42%) of the 187 incidents where the suspect possessed a gun, officers were investigating or arresting suspects in connection with violations of the Uniform Firearms Act. These 78 cases involved scenarios in which officers: (a) actually observed suspects shooting guns, (b) were investigating suspects for their involvement in recent shootings, or (d) observed suspects carrying firearms in public.

In 47 (25%) of the 187 incidents, officers were investigating or arresting suspects in connection with armed robberies. Shootings that occurred during officers' investigations of narcotics offenses (25 cases), vehicle investigations for traffic violations (7 cases), and stolen vehicle investigations (5 cases) represented a total of 20%.

The 25 shootings listed as "Other-Suspect Armed with Gun" involved a wide variety of situations that did not lend themselves to easy categorization. During each of these incidents, which are enumerated below, the suspects either pointed a gun at the officers or actually fired their weapons at the officers.

The 15 shootings listed as "Suspect armed 'Other' weapon" involved suspects who brandished knives (12 incidents), a bat, a hammer, and a metal chain. During each of these incidents, which are enumerated below, the suspects allegedly moved towards the officers and ignored verbal commands to drop their weapons when the officers fired their guns.

Basis for Officer Contact with Suspects Armed with Guns ‘Other’

1. 3 incidents involved “Barricaded man” situations.
2. 3 incidents involved officers arresting suspects wanted for murder.
3. 2 incidents involved officers responding to radio calls for domestic disturbances.
4. “Friendly fire” incident where undercover officer inadvertently shot another undercover officer.
5. Officers were investigating two males who were removing tires from a parked car.
6. An officer observed two males assaulting another male who was bound with duct tape and intervened to stop the assault.
7. An undercover officer chased a suspect who he believed had committed a robbery. The subsequent investigation by the IAB strongly indicated that no armed robbery had occurred.
8. A male called 9-1-1 and reported that he had shot a burglar who had entered his home. Four officers responded to the scene to meet the alleged “victim” who suddenly pulled a gun from his rear waistband and pointed it at the officers. The suspect’s weapon turned out to be a replica of a revolver.
9. An officer was investigating the basement of an abandoned home looking for a “suspicious” male whom he had observed enter the building
10. An officer was responding to a radio call of a burglary in process.
11. An officer observed an assailant raping a female and intervened to stop the assault.
12. An officer observed a male on the street smoking marijuana. The officer went to investigate when the male ran away. A foot pursuit ensued, and the suspect shot at the officer and then car-jacked an occupied van in an attempt to elude apprehension.
13. Officers driving an unmarked car honked their horn in an attempt to locate the owner of an unattended car that was double parked and blocking traffic. The driver of the car got into the car, drove approximately one block and then got out of the car pointing a gun at the officers who returned fire 26 times.
14. An officer was investigating a suspect who was wanted for a rape.
15. An **off -duty** officer observed a “smash and grab” robbery of jewelry store and chased the suspect to the suspect’s van. The suspect pointed a gun at the officer and then sped off.
16. An **off duty** officer was allegedly robbed at gunpoint and he shot at the suspects as they were fleeing in their car.
17. Two **off-duty** officers were involved in a disturbance with a suspect who shot the officer in the leg.
18. An **off duty** officer was working as a security guard at a retail establishment and chased a suspect who committed retail theft.
19. An **off duty** officer got into an argument with a neighbor over a parking space. The neighbor got a gun and shot at the officer who returned fire.

Basis for Contact with Suspects Armed with ‘Other’ Weapons

1. Officer was investigating a suspect for a recent stabbing.
2. Officer was responding to burglary in progress and found the suspect kicking in the door of a residence and swinging a metal chain.
3. Officers responded to a radio call regarding a man armed with knife and found the suspect brandishing knife and threatening to kill a family member.
4. Officers responded to a radio call of a burglary in progress and met a complainant who had been stabbed in the leg. The officer’s confronted the suspect who was armed with a knife.
5. Officers’ were investigating an intruder in the basement of a commercial establishment when the suspect charged at the officer and struck the officer with a hammer in the chest.
6. Officers responded to a radio call regarding a “disturbance” and observed the suspect with a bat assaulting an injured male. When the officer tried to stop the assault, the suspect hit the officer with the bat and tried to hit a second officer.
7. An officer responded to a radio call regarding a person screaming and observed a mentally ill man with a knife next to a dog that he had just stabbed to death.
8. Officers responded to a radio call regarding a man with a knife and observed the suspect holding a female and brandishing a knife. The suspect fled and the officer chased the suspect who suddenly turned toward the officer.
9. Officers responded to a radio call regarding a burglary in progress and were met at the door by a suspect who was armed with butcher knife and lunged at the officers.
10. Officers observed a suspect walking down the street swinging a police style baton. When the officers went to investigate, the suspect fled. During the ensuing foot pursuit, the suspect brandished a knife.
11. Officers observed a suspect stabbing his wife. The suspect ignored the officers’ commands to stop the assault.
12. Officers responded to a radio call regarding a person screaming and observed a suspect armed with a knife. The suspect moved toward the officer and ignored commands to drop the knife.
13. A mentally ill person armed with several knives stabbed a male, refused commands to drop the weapons and then began throwing knives at several citizens who were standing in a doorway.
14. An officer confronted a suspect armed with a butcher knife, who had attempted to stab other residents and then came toward the officer.
15. Police responded to a radio call regarding a female with knife.

Intentional Shootings of Unarmed Suspects

As indicated in Table 9, there were 72 incidents in which officers shot at unarmed suspects. In 74% (53) of these incidents, officers shot at fleeing vehicles being driven by suspects who were attempting to elude apprehension. These shootings violated Departmental policy prohibiting discharging firearms “at or from a moving vehicle unless deadly force is being used against the police officer or another person present, by means

other than the moving vehicle.”¹⁴ The manner in which the Department addressed these violations will be discussed in greater length later in this report.

The circumstances surrounding the remaining 19 of the 72 shootings of unarmed suspects can not be easily summarized and each incident is described below. Two of the 19 involved officers who first shot their spouses and then committed suicide. These are not included below. As noted, in five of these incidents the shootings occurred by off-duty officers, and were not legitimate police actions.

Precipitating Causes of Intentional Shootings of Unarmed Suspects¹⁵

1. An Officer was conducting an investigation of a possible stolen vehicle when the suspect got out of the car and began walking toward the officer. The officer thought she saw something in the suspect’s hand and, believing it was a gun, fired at the suspect who was, in fact, unarmed.
2. An Officer fired at a suspect who was fleeing the scene of an armed home invasion despite the fact that the officer did not observe the suspect in possession of any weapon.
3. An officer fired at an unarmed fleeing felon wanted in connection with armed robbery, in a vehicle pursuit in which the suspect struck several other cars.
4. Several officers were investigating a car that was stopped in the middle of the street, underneath a railroad bridge with its engine running. The driver of the car repeatedly ignored the officers’ commands to show his hands and then made a sudden movement with his arm. Believing that the suspect was armed, one of the officers fired his gun and killed the suspect who was, in fact, unarmed.
5. An officer was investigating a male for urinating in an alleyway when he observed a shiny object in the male’s hand. Thinking the suspect had a gun, the officer fired at the suspect. The suspect threw the object which appears to have been a beer can.
6. Numerous officers were attempting to arrest a suspect who was violently resisting the officers. During the struggle, gunshots were heard. Under the mistaken impression that the suspect had fired a weapon, several of the officers returned fire at the suspect who was in fact unarmed. **(Continued on next page)**

¹⁴ Philadelphia Police Directive 10 - Section I.D. and I.D.1

¹⁵ Two shootings were difficult to categorize. In one incident a Sergeant was investigating a male suspect in connection with a prior robbery. The suspect attempted to grab the Sergeant’s service revolver. During the struggle for control of the weapon, the Sergeant intentionally shot the suspect. In another case, an off-duty officer had mental breakdown and shot and killed two dogs and attempted to set an apartment on fire.

Precipitating Causes of Intentional Shootings of Unarmed Suspects (continued)

7. Several officers were investigating the occupants of a van in connection with a recent shooting. One of the officers observed a passenger reaching for a long object and, thinking it was a gun, fired into the van. The object turned out to be a stick.
8. An officer observed a mugging. The officer intervened and during a struggle, the suspect sprayed something in the officer's face, and the officer fired one time.
9. While attempting to serve an arrest warrant a struggle ensued between an officer and the suspect, during which the officer fired at the suspect.
10. Two officers were conducting an investigation of a suspect in a stolen vehicle. The suspect tried to drive away and ran over one of the officer's feet causing the officer to accidentally discharge his weapon which he had drawn. The second officer believed that the suspect had fired a gun and shot at the suspect while he was driving away.
11. A suspect was arrested for violation of a Protection from Abuse Order and placed in a patrol car when he kicked out the window and tried to escape. While struggling to subdue the suspect, the officer shot the suspect in the foot.
12. An officer was chasing a suspect in connection with an alleged car theft. The suspect made a sudden movement which the officer interpreted as the suspect reaching for a gun and the officer shot at the suspect. The suspect was reaching for a cell phone.
13. An officer was in a foot pursuit of a suspect wanted in connection with an earlier robbery. The officer observed the suspect making motions with his arm. Believing that that suspect was reaching for a gun, the officer shot at the suspect.
14. An **off-duty** officer confronted an intruder in one of the officer's unoccupied properties. The intruder allegedly swung a bag at the officer who shot at the suspect. The suspect fled the scene and was never apprehended.
15. An **off-duty** officer was in a bar and got into an altercation with an unarmed male. The officer shot and killed the male. This officer was arrested for murder.
16. An **off-duty** officer was in a bar and got into a physical altercation with another patron who hit the officer over the head with a beer bottle and then fled. The officer shot at the suspect as he was fleeing.
17. An **off-duty** officer was attempting to apprehend a suspect who was breaking into the officer's car. During the struggle, the officer shot and killed the suspect.

Profile of Targets of Intentional Police Shootings

Intentional targets of officer-involved shootings are classified on the basis of race and sex (Table 10) and age (Table 11). The 285 shooting incidents reported in Table 1 involved 297 suspects (in several shooting incidents, officers fired at more than one suspect.) Of the 297 suspects, 239 (80%) were African American males. Table 11 indicates that 62% of the targets were between the ages of 16 and 25.

Table 10
Race/Sex of Intended Targets of Police Shootings

	1998	1999	2000	2001	2002	2003	Total
Black/male	42	46	40	33	42	36	239
White/Male	4	7	8	3	2	8	32
Latino/Male	5	6	4	2	0	1	18
Female	0	1	1	1	1	2	6
Asian/Male	0	0	0	1	0	1	2
Total	51	60	53	40	45	48	297

Table 11
Age of Intended Targets of Police Shootings

Age of Intended Target	1998	1999	2000	2001	2002	2003	Total
16-20	16	15	17	9	16	14	87
21-25	16	20	15	14	16	17	98
26-30	8	8	8	3	5	7	39
31-35	6	5	3	6	3	7	30
36-40	2	5	1	4	3	1	16
41-45	2	3	5	1	1	0	12
46-50	1	3	0	3	0	0	7
51 +	0	1	4	0	1	2	8
	51	60	53	40	45	48	297

This data must be interpreted with caution. To determine whether a racial bias exists as it relates to the intended targets of officer-involved shootings, the IAO undertook three further inquiries.

The first involved an analysis of “Part 1” crimes (major felonies including murder, manslaughter, rape, aggravated assault, robbery, burglary, and theft.) In theory, commission of a major felony, particularly violent felonies, should be correlated with the tendency to be the target of an officer-involved shooting. Differences by race in the commission of these crimes could account for statistical differences as to the race of targets of police shootings.

As regards Part 1 crimes, from 1998 through 2003, 39,518 white males and 100,589 black males were arrested for violent felonies in Philadelphia. In other words, black males were 2.5 times as likely to be arrested for violent felonies as white males. The fact that black males are 8.5 times as likely as white males to be a target suggests that there are other forces at work.

The second inquiry focused on the fact that officers investigating or arresting suspects for violations of the Uniform Firearms Act (VUFA), armed robberies, and aggravated assaults with guns, were the precipitating circumstances in more than 60% of the officer-involved shootings, as previously presented in Table 9.

Tables 12, 13, and 14 indicate that in the same six year period of 1998 through 2003, black males were the subjects of 81% of all VUFA arrests, 80% of all armed robbery offenses arrests, and 73% of aggravated assaults with guns arrests. **These statistics strongly suggest that the conduct of the suspect may be a more relevant determinant of whether a suspect will be the target of an officer-involved shooting, rather than the suspect's race.**

Table 12
VUFA Arrests by Gender and Race

	1998	1999	2000	2001	2002	2003	Total
B/M	1302	974	999	870	929	1164	6,238 (81%)
W/M	270	207	201	177	150	151	1,156 (15%)
B/F	26	44	48	29	24	23	194
W/F	16	15	13	9	7	15	75
O/M*	9	4	10	6	4	6	39
O/F*	0	1	1	1	0	0	3
Total							7,705

*O/M = "other" male. O/F = "other" female

Table 13
Arrests for Robbery with a Firearm by Gender and Race

	1998	1999	2000	2001	2002	2003	Total
B/M	1339	1090	1079	973	930	955	6,366 (80%)
W/M	193	231	202	207	158	155	1,146 (14%)
B/F	53	55	46	47	34	40	275 (3%)
W/F	6	12	26	16	18	11	89
O/M	12	10	13	15	5	8	63
O/F	0	0	0	1	0	0	1
Total	1603	1398	1366	1259	1145	1,169	7,940

Table 14
Arrests for Aggravated Assault by Gender and Race

	1998	1999	2000	2001	2002	2003	Total
B/M	788	1063	1103	1113	1053	891	6,011 (73%)
W/M	207	216	253	265	232	200	1,373 (17%)
B/F	76	91	114	97	115	100	593
W/F	13	18	37	25	24	17	134
O/M	12	23	21	18	14	10	98
O/F	0	2	0	2	2	0	6
Total	1096	1413	1528	1520	1,440	1218	8,215

The IAO's third inquiry focused on the race of **officers** and the race of the intended target. Table 15 indicates that there is a 48% chance that the target for a white male officer was a black male, while there was a 47% chance that the target for a black male officer was a black male. These findings indicate that there is no significance difference in the propensity of white or black male officers to shoot at black males.

Table 15
Race/Sex of Officers Involved in Shootings
Race/Sex of Their Intended Targets (1998-2003)

Officers' Sex/Race	# of officers shooting	W/M	B/M	L/M	Female	A/M
W/M	191	23	152	8	7	1
B/M	156	9	143	3	1	0
H/M	26	1	19	6	0	1
W/F	7	1	6	0	0	0
B/F	17	0	17	0	0	0
H/F	1	0	1	0	0	0

Profile of Officers Involved in Shootings

Table 16
Rank of Discharging Officers

Rank of Discharging Officer	1998	1999	2000	2001	2002	2003	Total
Police Officer	111	141	109	96	107	133	697 (92%)
Detective	6	0	2	1	3	3	15
Corporal	1	0	1	0	0	0	2
Sergeant	4	8	5	4	10	7	38
Lieutenant	3	0	1	0	0	0	4
Captain	0	0	1	0	0	0	1

Table 17
Length of Service of Discharging Officer

	1998	1999	2000	2001	2002	2003	Total
5 years or less	52	80	57	57	41	41	328
6 to 10 years	37	44	41	22	46	60	250
11 to 15 years	19	18	12	14	19	32	114
16 to 20 years	5	5	4	5	9	7	35
21 to 25 years	4	2	4	1	1	2	14
More than 26 years	5	0	1	4	4	1	15

Table 18
Age of Discharging Officer

	1998	1999	2000	2001	2002	2003	Total
20 to 25 years	17	27	17	10	16	17	104
26 to 30 years	36	47	34	26	30	39	212
31 to 35 years	36	39	37	26	33	48	219
36 to 40 years	16	21	12	14	23	25	111
41 to 45 years	11	12	9	14	6	9	61
46 to 50 years	4	2	7	7	6	4	30
51 plus years	5	1	3	6	6	0	21
Total	125	149	119	103	120	142	758

Table 19
Race/Sex of Discharging Officers (at suspects only)

	1998	1999	2000	2001	2002	2003	Total
White Male	35	33	34	23	33	33	191
Black Male	25	41	28	18	20	25	157
Hispanic Male	7	3	5	4	2	6	27
Black Female	3	6	1	3	1	4	18
White Female	1	1	1	1	1	2	7
Asian Male	0	1	0	0	1	0	2
Hispanic Female	0	1	0	0	0	0	1

Table 20
Average # of Sworn Officers on Force by Race/Sex 1998-2003*

Race/Sex Of Officers	Average # of Officers on Force	Percentage of Force
White/Male	3,505	50%
White/female	579	8%
Black/Male	1453	21%
Black/Female	931	13%
Latino/Male	264	4%
Other	194	3%

Table 21
Number of Prior Discharges by Officer (all discharges)

Year	Total # of Officers who Discharged	Officers with 0 Prior Discharges	Officers with 1 Prior Discharge	Officers with 2 or more prior Discharges
1998	125	98 (78%)	19 (15%)	8 (6%)
1999	149	102 (68%)	35 (23%)	12 (8%)
2000	119	81 (68%)	27 (22%)	11 (9%)
2001	103	77 (74%)	11 (10%)	15 (14%)
2002	120	81 (67%)	28 (23%)	11 (9%)
2003	143	96 (67%)	34 (24%)	13 (9%)
Total	759	535 (70%)	154 (20%)	70 (9%)

As indicated in Table 16, 92% of the shootings between 1998 and 2003 involved sworn personnel in the rank of police officer. Table 17 indicates that nearly 77% of the police officers involved in shootings had been on the force less than ten years. Table 18 indicates that 56% of the officers involved in shootings were between twenty-six and thirty-five years of age.

While statistically significant, these findings are hardly surprising. Newly hired officers, and officers in the first decade of their career are most often between these ages and are typically assigned to patrol and special units that significantly increase the likelihood that they will encounter situations where the use of force may be warranted.

Tables 19 and 20 indicate that from 1998-2003, white/male officers involved in shootings represented 5.5% of the average number of white/males on the force. In that same time period, black/male officers involved in shootings represented 10.8% of the average number of black/males on the force. These statistics indicate that from 1998-2003 black officers were almost twice as likely to shoot.

Table 21 indicates that an average of 70% of the officers had been involved in only one shooting, 20% had been involved in one prior discharge, and 9% had been involved in 2 or more prior discharges.

In reviewing the shooting investigations, the IAO found that officers assigned to the Special Weapons and Tactics Team (“SWAT”), Highway Patrol, and the Narcotics Bureau were more likely to be involved in two or more shootings.¹⁶ The higher rate of shootings by officers in these special units is most likely attributable to the following factors. First, officers assigned to SWAT and Narcotics Bureau are specifically utilized in high-risk situations, significantly increasing the likelihood that the use of deadly force may be necessary. Officers in Highway Patrol have greater discretion in choosing their areas of patrol and the situations to which they respond. This increases their tendency to be involved in higher risk situations, which may necessitate the use of force.

¹⁶Of the total shooting incidents that occurred during 1998 through 2003, 134 (19%) were attributable to officers from these units.

Litigation

To assess the extent to which the City of Philadelphia has incurred financial liability as a result of officer-involved shootings, the IAO examined records pertaining to lawsuits filed against the Police Department as a result of police shootings that occurred from 1998 through 2003.

This information too must be interpreted with caution. The fact that a payment is made by the City to settle a lawsuit does not necessarily mean that the police action was improper. Various factors impact on a decision to settle a case, including the cost of trial and trial preparation, and in particular, the cost implications of a federal law which allows recovery of attorney fees if the plaintiff prevails. In our society, litigation costs are unavoidable; the objective is to minimize those costs. Tables 22 and 23 below present the findings of this review.

Table 22
Settlements for Officer-Involved Shootings

Year of Shooting Incident	Settlement amounts for lawsuits generated as a result of officer Shootings
1998	\$712,000
1998	\$450,000
1999	\$10,000
1999	\$15,000
1999	\$87,500
2000	\$150,000
2000	\$63,500
2000	\$50,000
2001	\$70,000
2001	\$22,500
2003	\$240,000

Table 23
Total Settlement Amounts for Police Actions from 1998-2003

Source of Liability	Settlements
Auto Accidents	\$19,059,929 (36%)
Police Vehicle Pursuits	\$13,010,111 (25%)
Excessive Force/ Assault Battery	\$9,182,619 (17%)
False Arrests	\$6,552,953 (12%)
Civil Rights-Other	\$1,920,785 (3%)
Police Shootings	\$1,696,063 (3%)
Illegal searches	\$691,500
Total	\$52,113,960

At the time this report was written there were 26 active/open lawsuits resulting from officer-involved shootings.¹⁷ For this reason, it is not possible to ascertain the total liability facing the city for officer shootings that occurred during the time period of this study. Recognizing that the available information is incomplete, it appears that shootings have not resulted in significant costs when compared with other police activities. From 1998 through 2003, the City of Philadelphia incurred costs of **\$52,113,960** as a result of lawsuits filed against the PPD. Of this amount, police shootings represented approximately **\$1,936,063 or 4%**, of the total liability costs. With the exception of four cases identified in Table 22, the majority of the cases were settled for modest amounts ranging from \$10,000 to \$70,000.

¹⁷ Of these 27 open suits, 11 represent actual lawsuits that have been filed with the courts. The remainders are “pre-suits” which are potential or pending federal claims of which the Law Department is on notice, but which have not yet resulted in a filed suit.

Conclusion

The data for the period of 1998-2003 suggest that Philadelphia police officers have been reasonably restrained in their use of firearms.

These findings are encouraging. However, each time an officer uses deadly force against an individual, the consequences may be far reaching and the public's perception of the Department's overall respect for human life may be adversely affected. If the perception emerges that the police use deadly force in a callous or reckless manner, **no matter how infrequent**, the public's respect, trust, and confidence will erode and law enforcement efforts will be hindered.

The Department's stated commitment to the overriding value of human life, and its policy of allowing the use of deadly force only in the most limited and extreme of circumstances must be more than lofty ideals and platitudes.

Every time an officer shoots a gun, it is absolutely essential that the Department immediately initiate a thorough and impartial investigation into all aspects of the shooting incident. If inappropriate behavior is identified, effective disciplinary, training, and other steps must be taken to minimize the potential for similar behavior from recurring.

The remainder of this Report will therefore assess how the PPD monitors, investigates, evaluates, and responds to officer-involved shootings, the quality and effectiveness of officer firearms training, and whether the PPD's policies and practices comply with the highest professional standards.

QUALITY OF RECORDS MAINTENANCE AND DATA COLLECTION

Key Findings

With few exceptions, the Department's data collection methodologies and shooting databases are accurate, thorough, and reliable. However, the recording of Departmental violations committed by officers in the context of officer-involved shootings is sporadic.

Discussion

The IAO examined the completed shooting investigation files from 1998 through 2003 and found them to be organized, accessible, and carefully maintained in a centralized and secure location at the IAB.

The IAO also examined the officer-involved shooting database maintained by the IAB. Generally, the shooting data in the database were accurate and reliable, but they also proved to be incomplete.

The IAO discovered that numerous shooting investigations cited officers and supervisors for violations of various Departmental policies. Some of these violations involved important integrity issues, such as failure to promptly report a police shooting, and improper handling of evidence at shooting scenes. These violations were not recorded in the IAB database.¹⁸ Therefore, these officers' and supervisors' IAB records are incomplete and the officers and supervisors have never been disciplined for these violations.

The IAO analysis also revealed a limited number of cases in which the IAB investigative conclusions were improperly recorded in the databases. For example, in some cases, the IAB had concluded that the shooting was not within Departmental guidelines. However, both the shooting and IAB databases indicated "no violations". Case studies illustrating these findings are presented below.

¹⁸ The IAB database, which is called "IA-Pro" collects information on individual officers including officer complaints against police, internal investigations, use of force incidents, police shootings, off-duty actions, protection from abuse orders, drug tests, and disciplinary actions.

Recommendation for Improved Data Collection

All violations of Departmental policies and Directives that are cited against officers and supervisors in the IAB shooting investigations must be included in the shooting database as well as the officer's IAB record. Since the IAO submitted its initial findings to the PPD in November 2004, the IAB is establishing a process to insure that all policy violations that are cited as part of a shooting investigation are entered into both the shooting and IAB databases.

Examples of Shooting Database Errors

1. Undercover Officers "A" and "B" violated Departmental policy when they responded to a radio call of "person with a gun" without notifying Police Radio. Officer "A" was investigating the area with his firearm drawn when he encountered undercover Officer "C" who was already on the scene. Officer C observed Officer A with his gun drawn and mistakenly assumed that Officer A was an armed suspect. Officer C fired 17 shots at Officer A before he realized his mistake. Fortunately, no officers or numerous innocent citizens who were in the area at the time of the shooting, were injured or killed, however several occupied homes were struck by stray bullets. Officer's A and B created a hazardous situation when they failed to notify Police Radio that they were responding to the radio call. These violations were cited in the IAB shooting investigation, yet they were not noted in either the SIU shooting database or the Officer's IAB history.
2. A Sergeant on the scene of an officer-involved shooting failed to immediately notify Police Radio, or his superiors, of the shooting, compromising the integrity of the investigation. The IAB investigation cited this violation of Departmental policy; however, the violations were not included in the shooting database or the Sergeant's IAB history.
3. The first supervisor on the scene of an officer-involved shooting failed to maintain the integrity of the shooting scene by ordering the suspect's weapon cleared. This violation was cited in the conclusion of the IAB shooting investigation but was not included on either the shooting database or the supervisor's IAB record.

4. A Lieutenant on the scene of an officer-involved shooting violated Departmental policies and compromised the integrity of the shooting scene when he mishandled evidence related to a suspect's gun **and** failed to examine the magazines/cylinders of the weapons of each officer present during the discharge to determine if these officers had fired their weapons. These violations were cited in the IAB shooting investigation, yet they were not noted in the shooting database, or the Lieutenant's IAB history.
5. An IAB investigation found that an officer violated Departmental policy when he accidentally discharged his gun. The shooting database indicated "no violations" for this shooting.
6. Officer "A" was one of several officers who witnessed an officer-involved shooting incident in which a suspect was killed. The responding supervisor inspected each of the officers' weapons and found that Officer A's weapon was missing ammunition, indicating that Officer A may have fired his weapon. Officer A claimed that he never fired his weapon. The shooting investigation concluded that Officer A did not fire his gun during this incident, (it did find that Officer A's explanation for the missing ammunition was implausible and suspicious) however, the investigation concluded that Officer A violated Departmental policy for failing to have his weapon fully loaded with city issued ammunition. This violation was not included in either the shooting database or the Officer's IAB history.
7. An **off-duty** officer was in bar when he accidentally discharged his gun. The investigation concluded that the shooting violated Departmental policy. However, both the shooting database and the officer's IAB record indicate that there were **no** violations.
8. Several officers were involved in a vehicle pursuit that ended in a police shooting. The investigation concluded that several officers violated Departmental policy by leaving their area of assignment to participate in the vehicle pursuit that had been terminated due to peak hour traffic conditions. These violations were not included in either the shooting database or these officers' IAB records.
9. The first supervisor to arrive on the scene of officer-involved shooting failed to conduct an adequate inquiry into the incident or to properly establish the crime scene. These omissions led to confusion at the crime scene and significantly hindered the investigation. Neither the shooting database nor the supervisor's IAB records note these violations. Additionally, while the shooting in this matter was deemed accidental and thus in violation of Departmental policy, the shooting

database indicated that the shooting was within policy and failed to note the violation.

10. A Sergeant who responded to the scene of a shooting failed to obtain basic information from the involved officer about the circumstances surrounding the shooting such as where the incident occurred and whether the suspect was armed. As a result, significant time and resources were expended by investigators searching for a weapon that did not exist. Additionally, while the investigation concluded that the shooting was accidental, and thus in violation of Departmental policy, the shooting database categorized this shooting as within policy and failed to note the violations.

DEPARTMENTAL POLICIES REGARDING DEADLY FORCE

Key Finding

The PPD’s policy regarding use of deadly force, as set forth in “Directive 10”, is in compliance with state and federal legal and constitutional standards and incorporates further restrictions on the use of deadly force as recommended by model guidelines and best practices.

Directive 10

Departmental Directive 10, which first went into effect in 1981, governs the use of deadly force by Philadelphia police officers. Directive 10 emphasizes the sanctity and value of human life, recognizes the gravity of using deadly force against another human being, places significant emphasis on officers’ tactical and strategic actions, and holds officers accountable for unnecessarily precipitating the need to use deadly force. Departmental policy also mandates that officers must exhaust other reasonable means of apprehension and control before resorting to deadly force.

Actions expressly prohibited by Directive 10 include:

- Firing weapons in defense of property.
- Firing at fleeing individuals who present no threat of imminent death or serious physical injury to themselves or others.
- Firing at or from a moving vehicle unless deadly physical force is being used against the officer or another person present, by means other than the moving vehicle.
- Firing warning shots.
- The drawing of firearms unless a potential for serious bodily injury or death to the officer or another person exists.

Directive 10 is consistent with the federal and state constitutional standards, and has incorporated nearly all of the model standards established by law enforcement experts as they relate to use of deadly force.

Firearms Discharge Reporting Requirements

Under Departmental policy, **every** officer-involved shooting must be **immediately** reported to the officer's supervisor, Police Radio, and the IAB. These strict reporting requirements apply regardless of the nature of the intended target (person, animal,¹⁹ motor vehicle, etc.) and whether injuries were sustained, the shooting occurred while the officer was on or off-duty, or the shooting was intentional or accidental.

These reporting requirements conform to nationally recognized "best practices". With few exceptions, the IAO audit has revealed overall compliance with these reporting requirements.

¹⁹ **Intentional shootings of injured deer are the sole exception to these immediate reporting requirements.**

INVESTIGATIONS INTO OFFICER-INVOLVED SHOOTINGS

Key Findings

The PPD's model for investigating officer-involved shootings is consistent with best practices, and the majority of Departmental investigations into officer-involved shootings are satisfactory. However, the IAO has found that improvements are needed in the following areas:

- Violations of important Departmental policies that occurred before, during, or after shooting incidents were not consistently identified or addressed.
- Witness interviews are generally formulaic and some are of poor quality. In some cases, investigators did not ask necessary and probing questions regarding issues relevant to the shooting, did not always address inconsistencies and ambiguities, and at times asked improper leading questions. In some investigations, physical evidence and civilian eyewitness statements that contradicted officers' version of events appeared to be disregarded. These practices raise questions regarding the impartiality of some investigations.
- Witness interviews are recorded either by hand or with the aid of word-processing equipment. In some instances, interviews are not recorded verbatim, but rather, are paraphrased or summarized. These outdated and ineffective methods of recording witness interviews are highly problematic and impact adversely on the quality of the investigations.

Introduction

Timely, thorough, and impartial investigations into every officer-involved shooting are necessary to accurately assess whether an officer was justified in using deadly force and to identify training, tactical, supervisory, and other issues that could

minimize the risk of injuries and death to officers and citizens. And, they are essential to establishing and maintaining the public's respect, trust, and confidence that the police are not ignoring, covering up, or sanctioning deadly force incidents that violate the law or Departmental policies. The following section focuses on whether the PPD's investigation practices conform to "best practices" and whether the investigations serve to meet these important goals.

Investigation Procedures and Protocols

The Shooting Investigations Unit ("SIU"), which operates under the auspices of the IAB, is responsible for conducting the PPD's investigations of all officer-involved shootings to determine whether the officer violated any laws or Departmental rules, policies, or procedures.

The Captain of the SIU currently supervises a team of four investigators (1 Sergeant and 3 Lieutenants). SIU investigators generally work in teams of two and respond to **all** officer shootings, except those involving destruction of injured deer. When a shooting occurs, one investigator reports to the SIU headquarters in order to create the case file, make all required notifications, monitor the actions of the officer(s) who discharged their weapons (these officers are transported to the IAB after the shooting), and formally interview the transporting supervisor who, in most instances, obtained a brief description of the incident from the involved officer.

The second SIU investigator reports to the scene where the shooting occurred to participate in the investigation. In every officer-involved shooting incident, a detective assigned to the police district in which the shooting occurred also reports to the scene. The detective's role is to investigate any purported crime (such as robbery, burglary, aggravated assault, narcotics and gun violations) that a suspect may have committed, which may have precipitated the shooting. If the shooting resulted in critical injuries or death, the PPD's Homicide Unit investigates the crime. The SIU investigator, assigned detective, and the PPD's Mobile Crime Scene Unit²⁰ work cooperatively in analyzing

²⁰ The PPD's Mobile Crime Scene Unit, which is staffed with trained technicians, assists the investigators in collecting evidence, taking photographs, and ordering forensic tests, as directed by the SIU investigator and assigned detective.

the crime/shooting scene and organizing the collection of physical evidence. Civilian and police eyewitnesses are identified and transported to detective headquarters where they are interviewed by the detectives. These interviews are monitored by the SIU investigator.²¹

Subsequently, the SIU investigators continue to collect information relevant to the administrative inquiry into the shooting. After the investigation is completed, a process that typically takes several months to over a year,²² a written summary of the findings and a conclusion are prepared. The investigation is reviewed and approved through the IAB chain of command and then forwarded to the Police Commissioner and the Deputy Commissioner of Administration and Training. The completed shooting investigation is reviewed by the Firearms Discharge Review Board and if warranted, forwarded to the Police Board of Inquiry for disciplinary action.

Quality of Shooting Investigations

General Assessment

For this study the IAO reviewed all of the case summaries and officer interviews for the completed SIU investigations from 1998 to 2003 where officers fired at individuals. In approximately 80 of these cases, the IAO examined the entire investigative files.

²¹ If there are numerous witnesses, several detectives assist in obtaining witness statements.

²² An involved officer cannot be interviewed by the SIU until the District Attorney's Office makes a determination as to whether the officer should be prosecuted for the firearms discharge. This decision-making process by the District Attorney's Office can take several months to over a year.

The IAO identified 4 cases in which officers were prosecuted as a result of firearms discharges from 1998-2003. Only one of these shootings occurred in the line of duty. In the first case an off-duty officer shot and seriously wounded his girlfriend's former boyfriend. In the second case the child of an officer accidentally shot and killed himself with the officer's service revolver which the officer had negligently left within the child's reach. In the third case an off-duty officer shot and killed an unarmed person while in a bar. In the last case, an on-duty officer shot and killed an unarmed suspect, an incident that generated significant public outcry.

Investigative files typically contained the following items:

- Copies of the witness interviews that were conducted by the detectives;
- Police Radio transmissions pertinent to officer-involved shootings;
- Shooting scene diagrams or sketches;
- Photographs of the shooting scene;
- Property receipts for all evidence collected at the crime scene;
- SIU interviews of the first supervisor on the scene and all officers who discharged their weapons.
- Ballistic test results.²³

Items less frequently found in the investigative files included the following:

- Bullet trajectory analyses;
- Fingerprint analyses;
- Records from the Department's telephone emergency response system identifying additional witnesses who called 911 regarding the shooting;
- Medical, toxicology, and autopsy records;
- Documented efforts to secure video surveillance camera tapes that may have recorded the area where the shooting occurred.

In many instances, the circumstances surrounding police shootings were clear-cut and these investigative efforts were sufficient to make an informed assessment regarding the appropriateness of the shootings. However, the following flaws in the investigative process occurred with sufficiency frequency to warrant Departmental attention.

Quality of Witness Interviews

The SIU relies heavily on the statements of officers and witnesses in determining whether shootings were both legal and in compliance with Departmental policies. It is therefore essential that all police and civilian interviews be thorough and objective; that they elicit relevant details and explore important issues; and that they thoroughly explore

²³ All locatable fired cartridge casings are numbered and photographed at their resting points and forwarded to the Firearms Identification Unit for analysis and comparison with the involved officers' gun(s) as well as any other gun that may have been recovered from the scene.

contradictions, inconsistencies, and implausible answers. Failing to do so raises questions regarding the thoroughness and impartiality of the investigations.

As part of this study, the IAO reviewed hundreds of officer and witness interviews. Excluding several generic introductory questions, many interviews consisted of an average of 12 to 18 virtually identical questions which were asked in the following, nearly identical sequence:

1. What was your tour of duty and assignment on [date/time]?
2. Will you please go on in your own words and tell us all that you know about this incident?
3. At what point did you draw your weapon?
4. What were the lighting conditions at the place of occurrence?
5. What were the weather conditions at the place of occurrence?
6. Was your line of fire clear?
7. Were you in uniform?
8. Did you identify yourself?
9. Describe the suspect when you first saw him.
10. Where exactly was the suspect when you fired?
11. How far were you from the suspect when you fired?
12. Where were you in relation to the suspect when you fired?
13. Were there any other officers present?
14. Did any other officers fire their weapons?
15. Were there any civilians present?
16. How many shots did you fire?
17. Why did you shoot?
18. Were you injured?
19. Did you notify Police Radio of the discharge of firearm?

Some investigators rarely deviated from this script, regardless of the complexity of the shooting incident. For example, these same questions were asked in cases where officers shot a dog as in cases where an officer shot and killed unarmed individuals. The IAO also found instances in which investigators asked improper, leading questions,²⁴ raising doubts about the investigator's objectivity.

PPD officials argue that SIU interview format is adequate and point to model guidelines that recommend these questions as relevant areas of inquiry in shooting investigations. The IAO does not dispute the relevance or importance of these questions. However, these recommended questions are only a **suggested basic starting point**. The

²⁴ **Leading questions are designed to suggest, or prompt, the witness on how they should respond.**

circumstances surrounding each shooting incident are unique and the interviews must be flexible and expansive to allow for probing and a thorough examinations of these widely varying circumstances. The IAO has found that this is not occurring in a many interviews.

The interviews conducted by the divisional and homicide detectives who work in conjunction with SIU were even more problematic. In many shooting incidents there are numerous police and civilian eyewitnesses to be interviewed. Since only one SIU investigator responds to the scene of the shooting it is not feasible for that investigator to conduct all the witness interviews in the hours immediately following the shooting. As a result, detectives conduct the interviews of police and citizen eyewitnesses. When there are numerous witnesses, as many as five or six different detectives will simultaneously conduct interviews. This results in a lack of coordination of information being gathered and limits the investigator's/interviewer's ability to obtain complete and coherent description of the incident, or to identify or address inconsistencies, ambiguities, and other relevant issues that may emerge during the various interviews.

The detective interviews are even more superficial and cursory, frequently encompassing an average of between 4 and 10 questions.²⁵ These interviews are not always recorded verbatim, but rather are summarized or paraphrased. Many of these interviews were handwritten and were, at times, illegible. As will be discussed below, these interview recording practices have been discredited.

Furthermore, since a detective's primary role in the aftermath of an officer-involved shooting is to investigate whether a suspect committed a crime, these interviews do not address administrative, policy, and tactical issues relevant to the shooting. While SIU investigators are authorized to observe the interview or to re-interview witnesses at a later date, the IAO has found that this rarely occurs.

²⁵ The two questions asked in virtually every interview are: 1) What happened, in your own words? 2) Is there anything else you would like to add to your statement? Some of the interviews reviewed by the IAO consisted entirely of these two questions.

Recording of Witness Interviews

IAB policy requires that any officer who is the subject of an IAB investigation be formally interviewed and the officer's statement be recorded verbatim. Under current practices, SIU investigators record officer interviews using word-processing equipment. Divisional and Homicide detectives record police and citizen statements either by hand or with a typewriter, while other detectives simply prepare handwritten or typed synopses of a witness's statement – essentially paraphrasing the witnesses' words. While Departmental policy requires that every effort should be made by the interviewer to have the statements reviewed and signed by the person who was interviewed, this is not a substitute for ensuring the accuracy of witness statements through live recording.

In contrast, law enforcement agencies throughout the country electronically record witness interviews, either through tape or video recordings. These interviews are regarded as more reliable, useful, and compelling.

Investigative outcomes frequently hinge on the “credibility” of witnesses. This is especially prevalent in those cases where witnesses offer differing and contradictory statements about the circumstances surrounding the shooting. Assessment of a witness's credibility is significantly enhanced by electronically recorded interviews, especially video interviews.

Manual dictation during the interview significantly limits the interviewer's ability to focus attention on the witness's demeanor and other visual non-verbal cues, which are important factors in guiding and directing the interviewer. These non-verbal cues can be as revealing and important as the verbal responses. Obviously, manual dictation (by hand **or** computer) completely fails to capture these significant nuances.

The PPD's interviewing techniques also precludes firsthand observation of the effectiveness of the interview process as well as an independent assessment of exactly what was said, how it was said, or whether the interviewer fairly and accurately summarized the interview. Video and audio recording of the officer and witness allows for an independent review and assessment of the quality of the interview. **The taping of interviews is a standard practice in nearly every industry just for this purpose.**

Electronic recording of interviews will save the City time, money, and energy in trying to defend itself from allegations of coercion, or other allegations of police

misconduct as it will be much more difficult to challenge the accuracy, fairness, effectiveness of the interview.

The PPD is one of the last major law enforcement agencies in the nation that does not audio-tape or video-tape the interviews of witnesses and officers.²⁶ The IAO recognizes that there are labor considerations that must be resolved before the PPD can video or audio tape officers' interviews, the IAO believes that an agreement between the City and the Fraternal Order of Police on this issue will benefit the PPD, the City, and the citizens.

Failure to Note Departmental Violations

While one important mandate of the SIU investigation is to assess whether an officer's use of deadly force was justified, the SIU is also responsible for ensuring that all Departmental policies are being followed before, during, and after the shooting. The IAO has determined that the SIU is inconsistent in its attention to policy violations. These Departmental policies have important implications for the integrity of the investigation as well as for officers and supervisors involved in the shooting incident. Examples of policy violations that the SIU did not identify or address in their investigations include the following:

1. To ensure the integrity of any investigation, PPD policy prohibits moving or tampering with physical evidence at a crime scene. The IAO reviewed several cases in which officers and supervisors moved or handled critical physical evidence, including suspects' weapons, when no legitimate circumstances existed, and the SIU failed to note these violations.

2. PPD policy prohibits off-duty officers from carrying weapons and becoming involved in police actions if they consume alcohol. Any time officers' report for duty impaired or suffering from excessive alcohol consumption, their ability to do their jobs safely and effectively is compromised. Considering the dangerous activities in which

²⁶ The following are just a few of the 238 law enforcement agencies that currently tape witness and suspect interviews: Washington D.C., Pittsburgh, Detroit, Denver, Los Angeles Sheriff's Office and Los Angeles Police Department, San Diego, Portland Oregon, Miami/Dade, Tampa, Dallas, Austin, New Orleans, New York Police Department, Minneapolis, Phoenix, Cincinnati, Seattle.

officers routinely engage, the PPD has a duty to the officers and the public to fully explore issues relating to officer's alcohol consumption and their job performance – especially in the context of the use of deadly force.

The IAO identified several cases in which there were violations of this policy that were not noted in the SIU investigation.

3. To insure the safety of officers and the public, PPD policy requires officers to notify Police Radio prior to taking certain police actions such as vehicle and pedestrian investigations. The IAO reviewed numerous cases in which officers undertook these and other high risk actions without properly notifying Police Radio, and the SIU investigation failed to note these violations.

4. For various safety and integrity reasons, PPD policy allows only specified units to engage in narcotics operations and further requires that all narcotics operations be approved and monitored by a supervisor. The IAO identified several shooting investigations in which officers engaged in unauthorized and improper narcotics operations, without notifying a supervisor or Police Radio, and the SIU investigation failed to note these violations.

5. PPD policy prohibits undercover officers who are driving unmarked police cars from engaging vehicle pursuits or conducting traffic stops for Motor Vehicle Code violations. The IAO identified several cases in which there were violations of these policies which were not included in the SIU investigations.

6. The PPD policy requires that officers immediately report firearms discharges to Police Radio. Several investigations revealed that officers and supervisors failed to report a firearms discharge in a timely and appropriate manner and the SIU investigations failed to note these violations.

Recommendations to Improve Shooting Investigations

- 1. To ensure thorough, professional, and impartial investigations, and to increase public confidence in the integrity of the shooting investigations, the IAO recommends that the PPD include attorneys from one of the city's independent police oversight entities to assist the SIU in the development of shooting investigations.²⁷**
- 2. The SIU should ensure that all violations of Departmental policy are noted in the shooting investigations.**
- 3. The PPD should require more stringent and meaningful supervisory review and oversight of all officer and witness interviews to insure their thoroughness, quality, and impartiality.**
- 4. The PPD should require that all police witnesses submit to audio and/or video taped interviews, as should all civilian witnesses whenever possible.**

²⁷ The PPD would benefit from examining and implementing a civilian oversight model called the Office of Independent Review ("OIR") that currently exists for the Los Angeles Sheriff's Department ("LASD"). The Office of Independent Review is an independent body, comprised of six highly experienced attorneys, with contractual obligations to objectively review and improve LASD policies, practices, and procedures relating to allegations of employee misconduct. OIR attorneys are involved in all phases of shooting investigations to "ensure that LASD's priorities are not damage control or cover-up, but rather a comprehensive determination of the facts, an objective assessment of the deputies' conduct, and a review of any policy and training issues that might be implicated." Office of Independent Review - County of Los Angeles, First Report October 2002

Case Studies

Case Study #1

In violation of Departmental policy, Officer “A” fired his gun at a moving vehicle tragically killing a rear seat passenger. The following excerpt from the SIU interview reveals that the investigator asking improper leading questions and, at one point, improperly attributed words to the officer that he had not spoken. This approach raises concerns about the credibility of the interview as well as investigator bias:

Q. Which direction did you discharge your firearm?

A. I would say straight ahead, eastbound.

Q. Sgt [] indicated that you discharged your firearm two times as you were jumping out of the way of the moving vehicle. Did you discharge your firearm while jumping? (**LEADING**)

A. I may have been jumping to get out of the way of the moving car. I don’t know if I jumped on the wall that is there when I was discharging my gun.

Q. . . . According to Firearms Identification Unit personnel who were at the scene [and based on the evidence they collected] it indicates that the barrel of your firearm was pointed in a southeast direction. Were you firing in a southeast direction? (**LEADING**)

A. Its possible I was firing in a southeast direction but as I indicated earlier, I was moving so I can’t say for sure.

Q. When you fired in a southeast direction, was the stolen vehicle moving?
(*Investigator appears to have completely ignored the officer’s response*)

A. Yes it was moving in reverse towards me.

Q. Who were you firing at when you discharged your weapon?

A. I fired towards the back window. I was aiming for the driver’s side of the window.

Q. Were you shooting at the driver of the stolen car? (**LEADING**)

A. Yes.

Case Study #2

Officer “B” responded to a radio call regarding suspicious males “casing” parked cars. When Officer “B” arrived at the location he observed a single male standing outside a parked car. According to the Officer, the suspect looked in his direction and began to run. Officer “B” jumped out of his patrol car and began chasing the suspect. During the chase, the Officer alleged that the suspect pointed “a black object that appeared to be a gun” in his direction. The Officer shot at the suspect who dropped the object and escaped. In fact, the black object was a cell phone.

During the interview, the SIU investigator completely avoided questions regarding the most pertinent facts: the “object” in the suspect’s hand; whether the male fit the description of any of the suspect’s that had been provided by Police Radio; whether there was any indication that a crime had been, or was about to be, committed; or whether the Officer notified Police Radio before chasing the male.

With no legal basis to arrest or even search the suspect, the officer engaged in a reckless foot pursuit, without a plan of action, radio communications, back-up, without maintaining appropriate cover and a safe distance. These poor tactics caused the officer to panic and overreact when the male turned toward the officer.

None of these issues are addressed in the SIU investigation of this case and this shooting was deemed justifiable.

Case Study #3

Several officers stopped a van occupied by several males that had just fled the scene of a shooting. One of the officers looked into the rear window of the van and saw a passenger in the back of the van with an object. Believing this object to be a gun, the officer fired her weapon directly into the back window at the passenger. The object turned out to be a stick. The following excerpts from the SIU interview clearly reveal improper leading questions and what appear to be attempts to “coach” the Officer:

Q. Did you give any verbal warning to the other officers that you thought the make had a weapon?

A. No.

Q. Why not?

A. I don't know. I just thought he had a weapon and I acted on that.

Q. *Are you sure that you didn't accidentally discharge your weapon?*

A. I honestly believed that he had a weapon and I intentionally fired my weapon.

Q. Was the weapon pointed toward you? (*LEADING*)

Q. Why would the male point a stick at you? (This question is both improper and illogical question since the officer cannot say what was in another person's mind)

Case Study #4

Officers "A" and "B" were in plain clothes and on patrol in an unmarked car when they heard a gunshot and saw two males with guns running from the area where the gunshot had been heard. The males jumped into a parked van and drove away. Officers A and B pursued the suspects until the van was blocked by traffic, at which point the Officers pulled up directly behind the van. According to both officers, two males leaned out of the van and began shooting at the Officers. During their interviews, **both** officers stated that **while they were inside their car with the windows and doors closed**, they fired seven rounds at the suspects through the front windshield of their car. After this gun battle, the suspects took off again and the pursuit continued for several more blocks until the suspects were apprehended with the assistance of other officers who had responded to the vehicle pursuit.

In the ensuing SIU investigation, the officers' spent firearms cartridge casings were discovered lying in the street where the shooting occurred. Physical evidence proved, and firearms experts confirmed, that the Officers' version of events (which were virtually identical) was impossible. The physical evidence conclusively proved that the officers were, in fact, outside of their car when they fired their weapons.

The Officers obviously lied about the circumstances of the shooting yet the SIU excused these fabrications stating: "This is a job where the physical evidence clearly demonstrated that the officers were outside their vehicle when they fired some of their shots however both officers have given statements that they were inside the car when they fired. . . These officers did a good job in apprehending two armed felons. I don't know the reason for their *brain cramp* (*Emphasis added*) in telling us where they were

exactly but I do know that IAB would look ridiculous taking these guys to the front for lying about the exact location of their discharge when they were both under fire.”

Both officers also violated Departmental policy requiring that officers **immediately** notify Police Radio after discharging their weapons. Police Radio transmissions revealed that after the gun battle, the Officers notified Police Radio that the suspects had fired at them but not that they had returned fire. Rather than provide Police Radio with a full description of the suspect’s van and allow marked police cars to apprehend the suspects, the Officer’s blatantly violated Departmental policy by engaging in a vehicle pursuit using an unmarked car. The SIU investigation did not address either of these policy violations.

These Officers made several tactically reckless decisions that put the officers, suspects and the public at risk. Since they were plainclothes and in an unmarked car, the suspects may not even have known that they were being pursued by Police Officers, placing the officers in greater jeopardy. According to Department policy, the Officers should have followed the suspects from a safe distance and should never have pulled up directly behind the suspects’ car leaving them in a vulnerable and exposed position.

In this case the officers showed poor judgment, employed bad tactics, violated PPD policies’ and lied about the circumstances surrounding their discharge. Incredibly, the **SIU** recommended that the Officers be considered for Valor Commendations, which both officers ultimately received.

Case Study #5

Off-duty Officer “A” was out walking late one night when he was physically attacked by several males. Officer A stated that he drew his revolver in self-defense, that the assailants attempted to grab his gun and during the ensuing struggle for control of the gun, Officer A accidentally fired his gun. However, two civilian eyewitnesses independently reported that they observed the officer fire his weapon at the suspects while they were fleeing.

The investigation ruled the shooting accidental, completely ignoring the eyewitness accounts.

Case Study #6

Officers “A” and “B” were conducting a vehicle stop when they observed a weapon in “plain view” in the suspect’s car. According to both Officers, Officer A was attempting to “clear” the suspect’s gun when he accidentally discharged the weapon into the air.

In reviewing the SIU investigation, the IAO found that the Officers failed to properly notify Police Radio of the discharge, but rather called their Sergeant. The Sergeant also failed to notify Police Radio, but rather alerted his Lieutenant using his Mobile Data Terminal. After the supervisors arrived on the scene, they waited **over one hour** before notifying Police Radio. The officers and supervisors violated Departmental policy requiring **immediate** notification of any weapons discharge to Police Radio

In their interviews, the Officers presented radically different versions of the circumstances surrounding the discovery and retrieval of the gun. Additionally, in a voluntary statement to the detective after his arrest, the suspect stated that the officers confiscated a bag of marijuana. However, the illegal contraband was never turned in as evidence, nor was any reference made to the narcotics in any of the arrest reports.

The unexplained delays and improper manner of in reporting the discharge, the missing narcotics evidence, and the fundamental discrepancies in the officers’ accounts of this situation raise serious doubts about the Officers’ credibility and the circumstances surrounding this shooting. The SIU investigation did not address these significant integrity and credibility issues.

Case Study #7

An Officer left work early and was at home when he reported that he accidentally discharged his weapon. According the Officer, it was his routine to unload his service revolver, squeeze the trigger to ensure that the weapon was working (a practice known as “dry-fire”), and then reload it. The Officer stated that, on this particular afternoon, he unloaded his service revolver and then inadvertently conducted the dry fire **after** he reloaded it, causing the gun to accidentally discharge. The bullet lodged into a wall and the spent cartridge casing fell into a trashcan.

As part of the investigation, photographs were taken of the trashcan that, in addition to the fired cartridge casing, revealed several empty prescription vials. Other photographs indicated that the condition of the officer's home was dilapidated, dirty, and in disarray.

The investigation made no effort to determine where the officer had been assigned prior to leaving work, the reason for leaving work early, whether the officer went straight home after leaving work, or if and when he had received permission to leave early. (Coincidentally, the officer's payroll records for the hours in question were changed to "vacation status" within 20 minutes of the shooting being reported.) No efforts were made to ascertain the contents of the medical vials.

A detective apparently interviewed a neighbor who indicated that he heard a loud bang. However, there was no information regarding the exact time the neighbor heard the bang which could have confirmed the officer's statement that he had immediately reported the discharge. A copy of this witness interview was missing from the investigative file.

The investigation also failed to address the fact that the officers' dry-fire "routine" was inappropriate, unsafe, and contrary to PPD training.

And finally, the officer's interview, which is presented below in almost its entirety, was superficial, contained several improper leading questions, and is typical of the inferior quality of some SIU witness interviews:

Q. What was your tour of duty and assignment?

A. I had an assignment at a school, working day work.

Q. Go on in your own words and tell me all that you know about this incident.

A. I had it in my holster and I took the bullets out and put them back in the cylinder and I aimed at the wall and pulled the trigger and it went off and I jumped and then I called Radio.

Q. Where were you when the discharge occurred?

A. Front bedroom [in my home].

Q. Was anyone else home at the time of the discharge?

A. No.

Q. Why did you take the bullets out and then put them back in?

A. Routine.

Q. According to the transporting supervisor, you indicated that you were transferring the firearm from one holster to another, do you recall telling [supervisor] that? **(LEADING)**

A. Yes I did

Q. I am showing you the Crime Scene Unit photographs that were taken inside your bedroom. The photographs depict two holsters on the bed. Are these the holsters that you were using to move the gun from one to the other?

A. Yes

Q. Did you accidentally discharge your service weapon? **(LEADING)**

Q. Is [this location] still your residence?

Q. Who resides at [your residence]?

Q. What were the lighting conditions?

A. Bright

Q. Were there any injuries?

A. No

Q. How soon after the discharge did you notify Police Radio about the incident?

A. Immediately

Case Study #8

Officer A was driving home from work, still in uniform, when he observed what appeared to be a suspect robbing a citizen. The Officer stopped his car and began chasing the suspect. In his interview with the SIU investigator, Officer A stated that he caught up with the suspect, drew his gun, and ordered the suspect to lie down onto the ground. According to the Officer, the suspect failed to comply with the officer's command and instead grabbed the officer's gun causing the weapon to accidentally discharge.

Officer B was the first officer to arrive on the crime scene and he was interviewed that same day. According to Officer B, Officer A told him that he had "accidentally discharged his firearm when he was exchanging the firearm from one hand to the other" and that the suspect was lying on the ground when the discharge occurred. Police Radio transcripts further indicated that Officer B specifically informed Police Radio that: "During the struggle, while the officer was trying to secure his weapon, he accidentally discharged. He struck no one, but he accidentally discharged. . . Actually, what he did was he took the gun out of one hand, he was shifting it to the other and the gun discharged while he was trying to get the guy on the ground."

The SIU investigation completely ignored the more reliable version of events offered by Officer B and concluded that Officer A "discharged his firearm, accidentally, while attempting to wrest his firearm from the grasp of a robbery suspect."

Case Study #9

While investigating a motorist for drug narcotics offenses, Officer A reached into the suspect's car to turn off the ignition. According to Officer A, the suspect grabbed the officer's arm and suddenly drove off causing the officer to lose his balance and accidentally discharge his gun. The suspect was shot in the stomach and seriously injured and while escaping, hit a car occupied by a mother with 5 young children.

In the investigation the investigator specifically noted that: "considering the totality of the circumstances uncovered during this investigation it appears that the shooting was **not** accidental". However, despite the obvious concerns of the investigator, the shooting was still ruled "accidental" with no explanation.

Case Study #10

Officers A and B were investigating several males on the street for illegal narcotics activities. As the Officers attempted to pat down one of the suspects, the suspect elbowed Officer B in the chest and ran away. Both Officers began chasing the suspect. Officer B tripped and fell and Officer A continued the chase alone.

The male entered a narrow alley between two houses. Officer A took several steps into the alley and saw the suspect approximately 30 feet away facing away from the Officer. According to Officer A's statement, the suspect was holding a gun in his left hand and pointing it over his shoulder in the direction of the officer while he was removing his coat. Officer A ordered the suspect to drop the gun and then fired his weapon one time at the suspect.

According to the officer, the suspect then dropped his coat and continued fleeing. The suspect was apprehended a few blocks away by other officers.

In the ensuing investigation, the suspect's gun was recovered from **inside the pocket of the coat** that the suspect had dropped in the alley. This evidence raises serious doubts about the officer's version of the events and indicates that the suspect may never have pointed a gun at the officer. This issue was never addressed in the SIU investigation.

The Officer's conduct in reporting the discharge was also highly suspicious. When the first supervisor on the scene asked the Officer whether he had fired his gun,

Officer A said “no”. Officer A stated that after a second supervisor asked if he discharged his weapon, he checked his ammunition and realized that one bullet was missing and advised this supervisor that he had most likely fired his gun. The investigation revealed that it was actually a Sergeant who examined the Officer’s firearm and noted the missing round. The SIU investigation noted that the Officer’s “explanation that he was unaware that he discharged his firearm is questionable” and cited the officer for several violations of PPD policies regarding notification of firearms discharges.

These violations do not appear in either the SIU shooting database or the officer’s IAB record.

POLICE TACTICS AND JUDGMENT IN OFFICER-INVOLVED SHOOTINGS

Key Finding

Questionable tactics and judgment are being utilized by some Philadelphia police officers – increasing the likelihood and precipitating the need to use deadly force when other less dangerous responses are available.

Case Studies

The following case studies involving PPD officers set the framework for a discussion regarding officer tactics and judgment in the context of the use of deadly force.

Case Study # 1

Officers A and B were on routine patrol when they observed two males in a car operating without headlights. The officers activated their overhead lights and attempted to stop the car when the suspect's car suddenly pulled over to a curb and one of the males jumped out of the car and fled. Officer A immediately jumped out of his patrol car and began chasing the fleeing male while Officer B followed the chase from the patrol car. Officer B saw the suspect clutching his waistband and became concerned that the suspect was armed. However, because Officer A and B had separated, Officer B was unable to alert his partner.

Officer A eventually caught up with and grabbed the suspect's shoulder. The suspect turned around holding a handgun and fired twice at Officer A. Officer A was struck in the leg and fell to the ground and the suspect continued running.

Without stopping to fully assess the gravity of his partner's injuries, Officer B attempted to "head off" the suspect with his patrol car striking both the suspect and a parked car. The suspect staggered and fell, but quickly got up and continued running. Officer B then jumped out of the patrol car and began chasing the suspect. The suspect turned and fired at Officer B who returned fire three times, missing the suspect. Officer B got within a few feet of the suspect who turned again, pointed his gun at the Officer, and pulled the trigger several times. Fortunately for Officer B, the suspect's gun

malfunctioned and did not fire. Officer B fired four more shots striking the suspect in his thigh and buttocks. The suspect fell to the ground and was apprehended by Officer B.

Several citizen eyewitnesses, who were walking in the area during this gun battle, were forced to run for cover when the shooting occurred.

Case Study #2

Late one evening, Officers “A” and “B” were on routine patrol in a high crime area when they observed several males walking down the street. Officer A observed a bulge in the waistband of one of the males and suspected that this male was carrying a gun. The officers pulled their patrol car up to the male who fled into a narrow and poorly lit alleyway.

Officer A immediately jumped out of the patrol car and began chasing the suspect into the alley, while Officer B drove around the block in an attempt to block the suspect’s escape from the one end of the alley. During this time, Officers A and B lost visual and verbal contact with each other.

While Officer A was chasing the suspect, he attempted to notify Police Radio of the situation, but his portable radio malfunctioned and he was unable to make contact. This did not deter Officer A from continuing his foot pursuit down the dark alley. Officer A ran right up to the suspect who suddenly turned with a gun in his hand and shot the officer point blank. The officer was critically wounded and fell to the ground. Before losing consciousness, Officer A was able to un-holster his weapon and return fire, killing the suspect.

Officer B heard the gunshots and began frantically looking for his partner who he soon found bleeding profusely and unconscious, and the suspect lying dead. Officer B notified Police Radio and back-up officers quickly arrived on the scene. Due to the critical nature of Officer A’s injuries, the officers decided not to wait for Medical Rescue to arrive, but instead carried Officer A to a patrol car and drove him to the hospital – actions that most likely saved the officer’s life.

Case Study #3

At approximately 5:00AM Officers A and B were on routine patrol in a marked patrol car when they responded to a radio call of a car theft in progress. When they arrived at the designated location they observed a male standing near a car with a shattered driver's side front window.

Officer's A and B got out of their car and approached the male who fled. Officer A chased after the suspect into a dark alleyway. Officer B ran back to the patrol car, informed Police Radio of the foot pursuit, and then drove around the block to the other end of the alley in an attempt to block the suspect's escape.

After a brief foot pursuit, Officer A caught the suspect who began punching and kicking the officer. The suspect escaped from Officer A's grasp, and Officer A reached for his portable radio to call for assistance when he realized that the microphone cord had been ripped from the radio during the struggle and he was unable to radio for assistance.

The suspect, who was approximately 10 feet from Officer A, reached behind his back, and pulled out a semi-automatic pistol and fired two shots at Officer A. Fortunately Officer A was not hit, but he fell backwards at the same time drawing and firing his gun one time, missing the suspect.

While Officer A was still on the ground, the suspect started walking directly towards Officer A. Officer A attempted to shoot the suspect again but his weapon malfunctioned and did not fire. The suspect tripped and fell, and Officer A used this moment to run out of the alley. The suspect fled in the opposite direction and was later apprehended.

Case Study # 4

Officers A and B were patrolling in an unmarked car at 1:00AM when they heard Police Radio broadcast reports of gunshots in their general area. Shortly afterwards the Officers spotted several males on the corner and observed one of the males remove a handgun from underneath his shirt. This male looked in the officers' direction, concealed the gun underneath his shirt, and began to briskly walk away with another male.

Officer A jumped out of the patrol car and followed the two suspects while Officer B drove around the block to try and cut the males off. The males broke into a run and Officer A chased them. During the chase Officer A attempted to notify Police Radio using his portable radio but he dropped it and continued to run after the two armed suspects without retrieving the radio. The Officer stated that he observed the males reach for their guns and he drew his pistol.

The two suspects ran into an alley and Officer A lost sight of them. Utilizing his flashlight, the Officer entered the alley, however the flashlight stopped working. In the dark, Officer A heard what sounded like someone climbing a fence. Officer A identified himself as an officer and ordered whoever was in the alley to get down on the ground. As he was yelling, he saw a glint of light and another person crouched behind a short fence with a gun pointed at the officer. The suspect stood up still pointing the gun in the officer's direction. Officer A heard a clicking sound which he believed was the suspect pulling the trigger of the gun. Officer A fired at the suspect who ran away.

Case Study #5

Late one night, off-duty Officer A was drinking in a bar when an employee of the tavern alerted the officer to the fact that a group of males with guns were across the street from the bar. The officer asked another patron to call 9-1-1 and went outside to investigate. The employee, who was armed with a gun, followed Officer A.

When they got outside, one of the males in the group fired a gun in the direction of Officer A and the employee. The employee returned fire and a brief gun battle ensued between the Officer, the employee, and the males. Officer A identified himself as a police officer at which point the males ran away and the officer began chasing the suspects. During the foot pursuit, a suspect again fired at the Officer who returned fire. Officer A eventually caught up with the suspect who dropped his weapon and surrendered.

Discussion

PPD Directive 10, which governs use of deadly force, places significant emphasis on officers' tactics and judgment and holds officers accountable for unnecessarily precipitating the need to use deadly force:

"It is the policy of the Department that members will not unnecessarily or unreasonably endanger themselves in applying these guidelines to actual situations. Police officers should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions. (Emphasis added)"

As these, and other, case studies reveal, officers rushed unwittingly into dangerous situations, without a plan or course of action, without assessing their personal safety or that of other officers or the public. **According to a 1997 FBI study, many police officers who were assaulted or killed by a suspect during a foot pursuit had not formulated any plan other than to chase and try and catch the suspect.**²⁸ The officers in these case studies, and others, did not notify Police Radio or request assistance or backup. Officers failed to seek protective cover as they chased armed suspects or to maintain a safe distance between themselves and the suspect so that the officers would have sufficient time to respond effectively in the event that the suspect initiated an attack.²⁹

In several of the cases studies cited above, the officers also engaged in a practice known as "partner-splitting". Partner splitting occurs when: "two [officer] teams deliberately divide up to pursue one or more suspects. A particularly dangerous variant occurs when the passenger [officer] exits the patrol car to chase the suspect on foot while the driver takes the car around the perimeter to cut the suspect off."³⁰ Experience has

²⁸ Pinizzotto, Davis, and Miller, "In the Line of Fire: A Study of Selected Felonious Assaults on Law Enforcement Officers" (FBI 1997).

²⁹ According to the FBI Uniform Crime Reports, the average distance of officers being shot and killed is five feet or less. An assailant with a cutting, stabbing, hacking, or blunt trauma weapon can cover a distance of approximately 21 to 30 feet in about 1.5 seconds. This is also the minimum amount of time required to process the attack information and respond effectively.

In numerous shooting investigations reviewed by the IAO, officers ran right up to armed assailants, without a plan of action except to grab the suspect, significantly increasing the likelihood that they would have no choice but to use their firearms.

³⁰ Police Assessment Resource Center: "The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths" August 2003.

proved that partner-splitting is an ineffective and an unacceptably high risk tactic. When officers separate, they frequently lost visual contact, the ability to communicate, the ability to assist each other should problems arise, and they increase the potential for hazardous cross-fire situations involving other officers and innocent citizens. Because of the numerous risks associated with partner-splitting, experts have recommended that they should almost always be avoided. The IAO has found that partner-splitting is an accepted and common practice in the PPD.

In case study #5, the Officer's poor judgment and tactics are particularly disturbing. Without body armor, back-up, handcuffs, radio communications, or any plan of action, the officer took off alone, in the dark, and ran directly into the path of an armed felon who was obviously not reluctant to shoot the officer. By sheer luck the suspect surrendered, but this scenario could just as easily have ended with the officer, the suspect, or both, being killed. The officer also violated the PPD policy. Memorandum 98-1 Section D and E which states that "In situations where an officer is using intoxicants or taking medications that have impaired his/her physical and mental abilities, the officer will not take action, other than calling 9-1-1 to report the incident." Despite the fact that the Officer had been drinking in a bar when he took these actions, the SIU investigator did not examine or address this important issue.

The questionable judgment and tactics discovered by the IAO in numerous cases violate fundamental officer safety precepts; are contrary to basic PPD training; and result in injuries and deaths to officers, suspects, and innocent citizens. In several cases, where suspects were killed and officers were seriously wounded, the officers took these questionable actions in situations where no crimes had been committed, where no innocent persons were in danger, or where officers had no legal basis for initiating a search or arrest in the first place. **In these cases, poor judgment and tactics placed the officers in unnecessarily exposed and vulnerable positions, virtually assuring the fact that deadly force would be the officer's only option if the situation escalated.**

To understand the motivation for officers engaging in unsound and unsafe tactics, the IAO discussed actual case studies with PPD officers, commanders, and firearms

experts from other law enforcement agencies. Their responses can be summarized as follows:

1. Peer Pressure – Officers, supervisors, and commanders believe that “getting the bad guy”, **at any cost**, is expected of them. Many fear criticism or appearing weak if they fail to take aggressive police actions, despite unreasonable risks. The prevailing attitude was succinctly stated in one commander’s revealing comment: “This is what we are trained to do – to get the bad guy. When everyone else is running away from danger, we are the only ones running toward it.”

2. The PPD’s system of rewards and incentives actually encourages poor tactics. PPD commanders are under constant pressure to improve officer activity and arrest statistics. Officers who make numerous arrests are rewarded by their commanders with desirable assignments, favorable evaluations, and recommendations for Heroism and Valor commendations.³¹ Officers also have financial incentives to make more arrests, since they can earn overtime pay while processing the arrests and attending court hearings in connection with the arrest. These factors do not create a climate or culture that encourages careful scrutiny of the officer’s judgment and tactics.

3. Inadequate Training. When presented with these highly problematic shooting scenarios, many officers and commanders believed that such tactics were reasonable and in most cases the only course of action available. Since these tactics violate basic safety precepts, these attitudes suggest that officers and supervisors are not adequately trained or given clear direction on the appropriate response to situations. In fact, in discussing these different scenarios with personnel assigned to the PPD’s Firearms Training Unit, the IAO found **significant** internal disagreement as to what constitutes sound tactics, good judgment, and appropriate responses.

4. The “John Wayne Syndrome” and “Machismo”. Some officers may be inappropriately aggressive and thrive on danger and the “thrill of the chase.”

³¹ The IAO identified several cases in which officers were awarded commendations for Bravery and Valor for shooting incidents which were highly problematic.

Foot Pursuits and Partner Splitting

The IAO's review of intentional shooting incidents indicated that 134 (48%) were preceded by, or occurred during, foot pursuits - a significant pattern that warrants closer attention. The IAO also identified several shooting incidents in which officers accidentally discharged their guns during foot pursuits.

The foot pursuits identified during this study represent just a small fraction of all foot pursuits initiated by officers. While most foot pursuits do not result in officer-involved **shootings**, many do result in injuries to officers, suspects, and citizens. Foot pursuits are therefore a significant risk management issue deserving of the Department's attention. Despite the risks, the PPD has no policy pertaining to, does not monitor or review, and offers virtually no training in foot pursuits.

The PPD is not unique in this regard. The lack of enforceable policies and training regarding foot pursuits is endemic to law enforcement agencies throughout the country.

Recognizing the urgent need for law enforcement agencies to focus on foot pursuits, the International Association of Chiefs of Police National Law Enforcement Policy Center issued a report and a "Model Policy on Foot Pursuits."³² In this study, law enforcement experts concluded that:

The decision to pursue a fleeing suspect should not be regarded as a required or even prudent action in all instances. The safety of the pursuing officer(s), fellow officers who may respond, and the public is the primary concern. **It is often better that a suspect should escape than that an officer should take unnecessary risks that could pose unreasonable danger to officers and others.** (Emphasis added)

In deciding whether to undertake a foot pursuit, the Model Guidelines suggest that the officer consider a number of factors including the nature of the offense, the area and location involved, the officers' radio communications abilities, apparent physical dangers, the officer's physical condition and abilities, the safety of the officer and the safety of the general public. The guidelines recommend that foot pursuits should **never** be initiated if:

³² Other law enforcement agencies, most notably the Los Angeles Sheriff's Office, the Cincinnati Police Department, and Collingswood New Jersey Police Department have recently implemented formal foot pursuit policies and training. Sample foot pursuit policies are included in the Appendix.

1. The officer is alone and the suspect is known or believed to be armed, unless the suspect presents an imminent threat of serious harm to others;
2. The officer(s) lose sight of a fleeing suspect, in which case the foot pursuits must be terminated in favor of containment efforts;
3. The officer has no means of communicating with Police Radio or other officers. (These Model Guidelines **and** PPD policy mandates that all pursuits be preceded by a detailed broadcast for assistance and acknowledgement that the pursuit is being monitored.)

While each law enforcement agency can and should tailor their policies and procedures to conform to the realities of their jurisdictions, these basic guidelines represent **fundamental** common-sense safety considerations and are designed to protect officers and the public.

PPD officials have expressed sincere concerns that any attempts to monitor or control foot pursuits could have a chilling effect on officers' willingness or ability to fight crime and protect the citizenry. However, these concerns are misguided. PPD policies and training do not mandate or encourage officers to act recklessly or to needlessly put themselves and others in harms way. The purpose for creating clear guidelines on foot pursuits and other tactics such as "partner-splitting" is not to punish officers or make their jobs more difficult, but to encourage safe and sensible policing. When officers are shielded from mistakes from which important lessons can be learned, they are bound to repeat the same mistakes, placing the officers as well as innocent citizens in jeopardy.

Conclusion

It would be unreasonable to expect that officers can or will always respond to critical incidents using the tactics and strategies taught in a classroom environment. The circumstances precipitating the need to use deadly force are simply too unpredictable and varied. However, poor judgment and tactical blunders should not be ignored. Rather they should be regarded as important learning opportunities so that officers can be better prepared, confident, and knowledgeable and that unnecessary shootings can be prevented.

Recommendation

The PPD should immediately establish policies regarding foot pursuits and “partner-splitting.” The PPD should monitor such tactics and provide appropriate training in these areas.

DEPARTMENTAL REVIEW OF OFFICER-INVOLVED SHOOTINGS

Key Findings

1. The PPD's investigative and analytical approaches to officer-involved shootings were, until recently, too limited in scope - focusing primarily on whether officers were justified in firing their weapon at the moment they pulled the trigger. This narrow focus did not include an examination and analysis of tactics, strategy, and the overall judgment exercised by the officer.

Model Guidelines and Departmental Policies

The Model Guidelines pertaining to deadly force as promulgated by the National Association of the Chiefs of Police recommend that internal **investigations** of officer-involved shootings include a thorough evaluation and review of officers' "tactics prior to drawing and discharging; tactics during and following discharge, and the quality of supervision prior to, during and after the shooting incident."

Additionally "best practices" and model guidelines uniformly recommend that law enforcement agencies establish review boards to **"evaluate, in explicit and fact-finding fashion, each aspect of an officer-involved shooting**. Such evaluation will include: a thorough review of the criminal investigation report; a thorough review of the internal affairs report; hearing of direct testimony, if necessary, from officers and witnesses."³³

Model guidelines further recommend that the Review Boards develop findings and make recommendation to the Chief of Police in the following areas: whether the shooting was within policy; tactical considerations; training considerations; quality of supervision; discipline considerations; and the quality of post-shooting investigative processes and practices.

The PPD's Directive 10 which governs use of deadly force also places significant emphasis on officers' tactical and strategic actions and holds officers accountable for unnecessarily precipitating the need to use deadly force:

³³ Kenneth J. Matulia, A Balance of Forces (2nd Edition), 1985, Chapter VIII. Model Use of Deadly Force Policy

“It is the policy of the Department that members will not unnecessarily or unreasonably endanger themselves in applying these guidelines to actual situations. **Police officers should ensure their actions do not precipitate the use of deadly force by placing themselves or others in jeopardy by taking unnecessary, overly aggressive, or improper actions.** (Emphasis added)”

Despite the PPD’s own clearly stated policy and widely accepted “best practices”, the IAO found that, **prior to submitting its findings to the PPD in November 2004, neither** the PPD’s investigations nor the internal reviews of officer-involved shootings examined officers’ tactics and judgment, or other key training, supervision, or policy issues.

Firearms Discharge Review Board

In 1986, the PPD established the Firearms Discharge Review Board (“FDRB”) to conduct reviews of completed shooting investigations and to make formal determinations as to whether officer-involved shootings were justified and within Departmental guidelines. The FDRB, which generally convenes bi-monthly, is comprised of the Chief Inspectors from the Training, Detective, and Internal Affairs Bureaus and chaired by the Deputy Commissioner of Administration and Training.

The Director of the IAO attended two FDRB sessions, interviewed current and former members of the Board, and reviewed hundreds of FDRB determinations. **Based on this review, the IAO determined that the FDRB process was uninspired, perfunctory, and superficial.**

The typical review lasted between 5 and 7 minutes, regardless of the complexity of the shooting incident, with **most** of this time period spent having the SIU investigator read aloud portions of the summary report that the Board members should have read prior to the meeting. The Board then summarily agreed with the investigator’s conclusions with little or no discussion about the quality of the investigation, officer tactics and judgment, policy or training issues, the officers’ prior firearms discharge or use-of-force history, civil litigation arising from the shooting, patterns and trends in officer shootings, appropriate disciplinary responses, or any of the other potentially useful and pertinent

issues that arise from a shooting incident.³⁴ The IAO did not identify a single instance in which the FDRB disagreed with the SIU findings or conclusions, requested additional information, or ordered a further analysis of the case. For all intents and purposes, the FDRB functioned primarily as a “rubber stamp” of SIU investigations. The use of deadly force is far too important to permit such a perfunctory review.

PPD officials initially suggested that the excellent quality of the SIU investigations obviated the need for in-depth analysis and discussion. However, the IAO audit has clearly demonstrated that this is not the case.

Other PPD officials have suggested that since the results of internal investigations may be discoverable in lawsuits against the Police Department, the potential for increased liability was a relevant factor that discouraged the PPD from identifying and documenting facts regarding poor tactics judgment in police shootings.

These concerns are misguided. While courts differ on the issue of municipal liability resulting from poor police tactics, the Pennsylvania courts are generally reluctant to impose liability in instances where an officers’ use of poor tactics resulted in individuals being harmed. **Even more important, the PPD’s paramount concern should be for the safety and well-being of its officers and the public, and not whether the Department could possibly be held legally liable.** In fact, the PPD may **increase** its potential exposure and liability by failing to address recurring tactical problems that result in harm to citizens.

³⁴ Only the FDRB chair is provided with the entire investigative file. The remaining Board members are only given copies of the shooting summaries. While Board members have access to and could review the entire investigative files in preparation for the Board meeting, this does not occur. For this reason, members of the FDRB would not be able to evaluate and discuss the quality and thoroughness of the SIU investigations, even if they were so inclined.

Recommendations to Improve the Firearms Discharge Review Board

The following three recommendations contained in the original IAO report which was submitted for review in November 2004 have been implemented by the Department:

- **The PPD should expand the role and function of the Firearms Discharge Review Board to include a comprehensive and meaningful analysis of deadly force incidents to ascertain training, tactical, policy, supervision, risk management, disciplinary, and other considerations.**
- **The PPD leadership should insure that the FDRB environment encourages vigorous discussion and active participation among FDRB members.**
- **A process should be established that ensures prompt and effective follow-up of recommendations and tasks promulgated by the FDRB.**

The following two IAO recommendations to improve the operations of the FDRB which were offered in the original report have not been implemented by the PPD:

- **A representative from the independent civilian police oversight community as well as an attorney assigned to the Civil Rights Unit of the City Law Department should be included as participants on the FDRB.**
- **Complete investigative files, as opposed to investigative summaries, should be distributed to FDRB members sufficiently in advance of any meeting. FDRB members should be required to review the entire files prior to the Board meetings to facilitate and enhance meaningful and thorough evaluation and discussion.**

TRAINING

Key Findings

1. The PPD's in-service firearms training programs do not adequately prepare officers for the realities and challenges of policing in today's urban environment.

2. The facilities and resources dedicated to the PPD's Firearms Training Unit are obsolete, decrepit, and barely able to meet even rudimentary firearms training needs.

Introduction

While most officers will never be required to shoot at another human being in the line of duty, that possibility always exists, and every effort should be made to assure that the officers will respond appropriately. Officers must possess the skills, judgment, and confidence to make prudent decisions about whether to shoot, and they must be capable of shooting in a controlled and accurate manner to minimize the inherent danger to officers and the public. Achieving and sustaining this level of competence is only possible through effective firearms training.

For this reason, the quality and efficacy the PPD's firearms training and the resources devoted to this function are critical to this review. The Director of the IAO attended the PPD's recruit, in-service, and post-discharge firearms training classes and spent considerable time at the Department's Firearms Training Unit ("FTU") observing and evaluating those operations. The IAO also investigated the firearms training facilities and programs utilized by other law enforcement agencies, consulted firearms training experts, and reviewed studies regarding the most effective firearms training strategies and techniques.

Based on this review, the IAO has determined that after Philadelphia police officers complete their initial recruit training they do not receive ongoing and adequate in-service training in the areas of strategic response, tactics, and the judgment skills necessary to prepare officers for the critical incidents that they are most likely to confront on the streets.

Recruit and In-Service Firearms Training

The firearms training provided to the recruits at the Police Department's Training Academy exceed Pennsylvania State requirements established by Municipal Police Training Act and the Municipal Police Officer's Education and Training Commission ("MPOETC").

MPOETC regulations require that police recruits successfully complete 80 hours of training in the use of force and firearms. The PPD recruit firearms training consists of 105 hours of lectures on legal issues pertaining to use of force, the use of force continuum, tactical self-defense, fundamentals of firearms safety and of handgun shooting, as well as extensive live firing exercises.

However, firearms skills are highly perishable and can deteriorate within six months. Firearms experts maintain that to remain proficient, continual practice and "hands-on" training are essential. The IAO has found that after the initial recruit training, PPD officers do not receive ongoing and adequate in-service training in the areas of strategic response, tactics, and the judgment skills necessary to prepare officers for the critical incidents that they could confront.

The PPD's current in-service firearms training program consists of annual firearms certification as mandated by the Pennsylvania MPOETC. To be recertified, officers are required to shoot 120 rounds of ammunition at a stationary target - from a fixed location in a controlled setting. While useful, this training only addresses basic marksmanship/sight alignment skills.

The MPOETC also offers a variety of "Officer Safety" courses that can address various tactical, judgment, and safety concerns. However, PPD training records indicate that since 1998, PPD officers only received a total of six hours of this type of in-service training.

Experts recommend that firearms proficiency training should, as closely as possible, reflect the circumstances and conditions that officers are most likely to encounter, and should stress continual training in the area of strategic response, tactics, and decision making.

Law enforcement professionals have repeatedly stressed that:

An environment must be created within the police agency that fosters, creates, and facilitates continuing and permanent training and supervisory skill building in tactical thinking, decision-making, and peak performance when confronted with stress-exposure conditions. There is no valid reason to ignore the individual officer's mental, emotional, and physical fitness, because these areas of work fitness will determine the outcome of his or her work and life.³⁵

While the PPD is in compliance with the state mandated firearms training regulations, these regulations represent minimal standards. The PPD has the option of supplementing these basic requirements – as other jurisdictions have done. For example, New York State regulations governing police officer annual firearms certification are less stringent than Pennsylvania. However, the New York Police Department (“NYPD”), whose force exceeds 33,000 officers, voluntarily supplements state requirements with **three full days** of firearms tactical training annually. Prior to the September 11, 2001 terrorist attack on New York City, the NYPD mandated **six full days** of deadly force tactical training courses each year, but the overwhelming demands on the NYPD forced cutbacks in this additional training. Per NYPD officials, their Department is gradually reinstituting bi-annual training.

In 2004, the Firearms Training Unit began offering a 3 day use of force “tactics” course for Highway Patrol officers and a 35 hour tactical/shotgun/taser course for Narcotics Bureau officers. To date, over 100 officers have attended this training. This is clearly a step in the right direction. However, this training primarily emphasized learning to use shotguns and tasers. Little time was actually devoted to tactics, strategy, and judgment. Additionally, inferior training facilities and resources diminished the quality and effectiveness of this training and it is highly unlikely that this advanced training will be supported and sustained on an annual basis. Despite these limitations it was clear that the officers who attended these training sessions greatly appreciated and welcomed the more interactive and “hands-on” training that was provided.

To safeguard the safety of officers and the public, it is imperative that the PPD establish and sustain an in-service firearms training program that includes realistic, well-

³⁵ Lawrence N. Blum, Ph.D., Joseph M. Polisar, IACP President, “When Things Go Wrong in Police Work”, Police Chief Magazine, July 2004

constructed, and interactive training exercises that test a wide range of tactical and judgment skills under situations that they will likely confront on the streets. Officers should be required to demonstrate judgment and competence under realistic conditions and would benefit from the instant feedback and critiques that this training allows.

Furthermore, such training should occur more than once per year. In fact, a recent study by the National Institute of Justice concluded that: “Evidence of inadequate firearms training includes . . . in-service firearms training that took place **only twice a year**, the firearms training did not include shooting at moving targets, the training did not include night shooting, and the training did not account for shooting in populated residential areas.” (Emphasis added)

There are a variety of well-tested, practical, and cost-effective training tools that can provide this type of training to large numbers of officers. For example, Firearms Training Simulators (F.A.T.S.),³⁶ Simunitions training equipment, and state-of-the-art “Shooting Houses” offer realistic, role-playing scenario-based training that enables large numbers of officers to directly and dramatically experience the consequences of their strategies and judgment under conditions that they will likely confront in the field.

Training on deadly force also need not be confined to the Firearms Training Unit. Every district roll call should be regarded as a training opportunity. The PPD should consider selecting qualified personnel from each of the police districts and special units to serve as training officers. A process could easily be established to keep training officers apprised of issues and developments relating to use of force. These training officers could, on a regular basis, involve officers in dynamic interactive discussions about shooting incidents. Such training sessions should highlight not only mistakes, poor tactics, and bad outcomes, but also incidents in which officers demonstrated excellent judgment and competence.

Personnel from the Training Bureau also receive summary sheets for police discharges which contain numerous significant details regarding the circumstances of

³⁶ The PPD purchased 2 Firearms Training Simulators in the late 1980’s and invested in upgrades in 1997. However, significant advances in technology have rendered these simulators obsolete and generally ineffective as training tools for officers who have experienced the simulator one time. Additionally, space limitations only permit the operation of only one simulator which has also been unavailable at times since the trailer space housing this simulator is in disrepair and also doubles as storage facilities.

each officer-involved shooting. These summary sheets are an additional valuable source of information that can be used to assess training, policy, and risk management issues.

However, these summary sheets are ignored. At the very minimum, the PPD should insure that there are regular reviews of the deadly force summary sheets by the appropriate personnel to ascertain training and policy needs. Consideration should also be given to revising these summary sheets to collect additional data such as the precipitating causes of the shooting, whether there was a foot pursuit or partner-splitting, issues pertaining to radio communications, and other important issues that the Training Bureau and the PPD Safety Office should regularly review for training and risk management strategies.

Firearms Training Unit - Operations and Resources

At the present time the PPD does not have the personnel or resources necessary to implement these recommendations. The Firearm Training Unit (“FTU”), which is located at the Police Academy, is responsible for all recruit, in-service, and post discharge firearms training. The FTU also provides firearms training for additional regional law enforcement agencies as well as the police forces serving the Philadelphia Housing Authority, SEPTA, Temple University, and University of Pennsylvania.

From 1998-2003, the FTU conducted recruit, in-service, and firearms training for over 44,000 officers, with an average of 15 firearms instructors. These staffing levels have forced the FTU to far exceed the recommended ratio of one firearms instructor to 5/6 officers. Therefore, the FTU is currently unable to increase the number of training exercises without a further reduction in the overall quality and effectiveness of the training exercises.

Furthermore, firearms’ training is currently provided in antiquated and inferior facilities that have not been significantly upgraded in over 50 years. The IAO located a 1951 newspaper article and photograph on the dedication of the PPD’s newly refurbished firearms training facilities. The facilities depicted in the 51 year old photograph appear

virtually identical to the current firearms facilities. As one commander aptly noted, “We are being asked to provide 21st century training in a 1950’s training facility.”

The classroom space devoted to the FTU consists of a single decrepit 16 x 24 foot room, with broken chairs, poor lighting, unreliable heating and cooling systems, and inadequate restroom facilities. During one in-service training session attended by the Director of the IAO, the FTU’s sole classroom was being utilized for recruit training, so the officers were relegated to half of a decrepit, cramped, un-air-conditioned, 20 year old “temporary” trailer that was stifling in the August heat. The trailer door was propped open for ventilation and the room quickly became overrun by insects. Squirrels that had nested in the trailer ceiling scampered around the room during the lectures and the din from shooting practice at the firearms range several yards away periodically drowned out the instructor’s voice.

The room utilized by the FTU for weapons examinations and repairs has no heating or air-conditioning, and despite the fact that officers assigned to this unit come in contact with toxic chemicals such as lead, has no ventilation system or washroom facilities.

The ammunitions shed, located just a few feet from the FTU administrative building and classroom is not properly secured, increasing the potential for theft. It is also a flimsy and poorly designed structure that lacks appropriate climate controls which can contribute to the deterioration of the stored ammunition.

These woefully inadequate facilities not only reduce the effectiveness of the training, but they also send the message that high quality firearms training is not a priority. Despite these inferior working conditions and resources, the IAO was consistently impressed with the commitment, energy, and professionalism of the FTU staff.

PPD and City officials argue that imposing additional firearms training is burdensome and costly. However, the substantial costs associated with lost lives; the physical and psychological injuries suffered by officers and citizens; the threat of increased litigation; and strained police and community relations far outweigh the City’s costs to improve firearms training.

Just as important, the practical applications of this training extend beyond the use of deadly force. Officers can apply the knowledge and skills gained during these exercises to improve their responses, strategies, and techniques in situations where other types of force are used, reducing the risk of injuries to officers and suspects, preventing the deterioration of police/community relations, and reducing the potential for litigation.³⁷

³⁷ As demonstrated earlier in Table 23 police use of force is a significant source of liability to the City.

DISCIPLINE

Introduction

When officers use deadly force in violation of Departmental policies, it is imperative that the Department responds in a timely, consistent, and effective manner. Failing to do so minimizes the value of PPD's investigative efforts and compromises Departmental policies as officers have little incentive to change inappropriate behavior. In some cases, appropriate intervention could save the careers of officers whose conduct indicate that they are need of support beyond firearms training. The inconsistent imposition of discipline also creates resentments, cynicism, and morale problems in the Department.

Disciplinary actions need to be evaluated on a case by case basis and should consider numerous factors including: the circumstances surrounding the shooting incident; the officer's prior use of force, IAB, and disciplinary history; and the specific disciplinary actions that are necessary to support the PPD's overall policies, goals, and values. Nowhere are these principals more important than in cases involving improper use of deadly force.

The IAO identified **185** cases occurring during the six-year period 1998 through 2003 in which officer-involved shootings violated the PPD's policies. To evaluate the whether the PPD responded appropriately to these cases, the IAO examined the disciplinary records and databases maintained by the by the PPD's Police Board of Inquiry ("PBI")³⁸ for each of these 185 cases.

Based on this review, the IAO found that the PPD's disciplinary actions in these cases were inconsistent and at times ineffective.

³⁸ The PBI is the unit in the Department responsible for processing formal disciplinary actions, conducting internal administrative hearings at which disciplinary charges against officers are presented, and maintaining disciplinary records and data.

“Positive” Discipline

Of the 185 instances in which officers’ use of deadly force violated Departmental policies, 95 (51%) resulted in no formal disciplinary actions. In these cases, the officers were required to attend post-discharge training shortly after the shooting incident, which is required of **all** officers regardless of whether the shooting was in violation of Departmental policy.

Unfortunately, firearms instructors are not informed of the particulars an officer’s shooting incident and are unable to tailor the post-discharge training to specifically address the needs of an individual officer. This is attributable to the fact that until the District Attorney’s Office “clears” the case, officers are not authorized to discuss the particulars of the incident. Post-discharge training is therefore a standardized “one-size fits all” course that has not been significantly revised in nearly 7 years.

Post-discharge training consists of a review of the PPD’s deadly force policy and stationary target firing exercises on the firing range. While the post-discharge training is supposed to include F.A.T.S. training, for the reasons discussed earlier, the current F.A.T.S. technology is dated and is oftentimes unavailable as a training tool. **Post-discharge training is lacking in the critical areas of strategic response, tactical and judgment skills – those very issues in which officer’s actions indicate the greatest need for support.** If the PPD’s in-service firearms training included regular, realistic, interactive exercises as previously recommended, this would significantly address the post discharge training deficiencies.

Since the IAO’s findings were submitted to the Department in November 2004, the PPD has revised its post-discharge training and counseling procedures to include an additional specifically tailored training session for officers involved in shootings after the District Attorney has cleared the case and the IAB has completed its investigation.

Negative Discipline

Some officer-involved shootings clearly warrant “formal” disciplinary actions such as reprimands, suspensions, dismissals, transfers, demotions, or even criminal prosecutions. The IAO has found that the imposition of formal discipline is highly inconsistent. In some cases, no formal disciplinary actions were taken when they were clearly warranted. In other cases, PBI Boards disagreed with **both** the SIU and the FDRB findings and rendered “not guilty” verdicts while offering illogical explanations that contradicted documented and irrefutable evidence. Additionally, inconsistent penalties were imposed for similar violations and there did not always appear to be consideration of officers’ prior shooting, use of force, IAB, and disciplinary records. The IAO attributes these inconsistent disciplinary responses to two key factors:

1. Several commanders suggested that officers who put themselves in danger by using reckless and unnecessarily dangerous actions most likely learned important lessons from their experiences – which alone constitute adequate training and punishment for the officer. This argument is not convincing. There is no evidence to suggest that the officers “learned their lesson” from these situations and, as was discussed earlier, the PPD’s system of rewards and incentives actually **encourages** inappropriate behavior and reckless tactics.

2. Police personnel empathize with the officers and are extremely uncomfortable with, and unwilling to punish officers whom they believe to have acted in good faith and risked their lives. An example of this attitude can be found in the following case:

An officer was conducting a vehicle investigation for a suspect who had just been observed purchasing narcotics. The officer reached into the car and grabbed the suspect to prevent him from driving away. The suspect accelerated forward while the officer was still partially inside the car. As the suspect attempted to drive away, the officer shot at the suspect who sustained a gunshot wounds to his arm and thigh. This shooting occurred in the afternoon in front of an elementary school. Furthermore, there was a female seated in the front passenger seat of the suspect’s car, directly in the officer’s line of fire. The officer’s bullet could just as easily have struck the passenger or one of several innocent citizens that were in the immediate area. The SIU investigation concluded that the officer’s overly aggressive and improper actions precipitated the need to use deadly

force. The SIU investigation also noted that the officer's involvement in a narcotics operation was unsupervised and unauthorized, in direct violation of Department policy.

A disciplinary hearing was held before a PBI Board, which rendered a "not guilty" verdict. The **only** basis for the verdict was the following:

"Officer's from [that District] come in contact with drug dealers and they must use their discretion in making split second decisions. To discipline an officer for using that discretion would create an adverse impact upon the morale of the officers".

The Board completely ignored the fact that the officer violated several PPD policies, was involved in an unauthorized narcotics operation, used extremely reckless tactics, showed poor judgment, and placed numerous innocent citizens in jeopardy.

The IAO reviewed every available memorandum that had been submitted by various PBI Boards to justify their not guilty verdicts in these shooting cases and found nearly every one of them to be poorly reasoned and not supported by the plain facts.

Shooting at Moving Vehicles

The problems inherent in the disciplinary system are illustrated in those cases where officers violated Department policy for firing their weapons at moving vehicles.

In accordance with PPD policy: "Police officers shall not discharge their firearms at or from a moving vehicle unless deadly force is being used against the police officer or another person present, by means other than the moving vehicle. An officer should never unnecessarily place himself/herself or another person in jeopardy in an attempt to stop a vehicle."³⁹

The safety considerations motivating this policy are obvious. Experience has demonstrated that bullets do not easily disable a moving motor vehicle. If a driver is actually hit with a bullet, the car essentially becomes an "unguided missile" and a serious threat to the safety of the officers and the public. These shooting incidences usually occur in densely populated neighborhoods. The risk of harm caused by stray and ricocheting bullets, or the threat of vehicle occupants returning fire, is increased as officer's frequently miss their targets.

³⁹ Directive #10 Section I.D. and I.D.1, Directive 10 Section II, G, 1

The consequences were not serious in the majority of cases in which PPD officers fired their weapons at moving vehicles. However, in some cases the results were tragic - with citizens being killed, injured, or permanently disabled, and property damaged.

The PPD's disciplinary responses in these cases, however, should not be dependent solely on the outcome, since officers' actions in these situations, and the inherent hazards, are similar. The PPD's disciplinary responses in 46 of the 54 cases in which the SIU and FDRB determined that these officer-involved shootings were in violation of policy can be summarized as follows:

- No formal disciplinary actions were taken in 20 (40%) of these cases,
- The PBI Board rendered not guilty verdicts in 11 (20%) of these cases despite the findings of the SIU and FDRB. (4 of these cases resulted in split verdicts, where the PBI Board found the officers not guilty of the offense of improper use of firearms, but guilty of lesser charges.)
- Reprimands were issued in 7 cases
- One day suspensions were issued in 2 cases
- Two-day suspensions were issued in 2 cases
- Five-day suspensions were issued in 2 cases
- Twenty-days suspensions were issued in 2 cases
- Thirty days suspension was in 1 case
- The remaining cases are either still open, or the officers resigned or were dismissed for other reasons.

Obviously, a consistent, meaningful, and effective approach to dealing with violations of this important Departmental policy is lacking.

Since the IAO submitted its findings to the PPD in November 2004, the PPD has emphasized to PBI Board members the importance of applying the facts and Departmental policies, as opposed to their personal viewpoints, to each disciplinary case. The IAO was invited to participate in a recent training session of newly appointed PBI Board members where these issues were repeatedly stressed.

Recommendation

A newly structured, re-energized, and fully supported Firearms Discharge Review Board should assume responsibility for assessing appropriate disciplinary actions in officer-involved shootings. This would insure consistent and rational disciplinary recommendations that would be forwarded to the Commissioner who is empowered to directly implement the FDRB's disciplinary recommendations through a Commissioner's Direct Action.

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