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**Yi-An Huang**  
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To: City Manager, Yi-An Huang  
From: Police Commissioner, Christine Elow  
Date: February 28, 2024  
Ref.: Final Report from the Police Executive Research Forum

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Please find attached a report from the Police Executive Research Forum (PERF) containing their review of the Cambridge Police Department's fatal officer-involved shooting of Arif Sayed Faisal on January 4, 2023 and related Departmental policies procedures, training and protocols.

Moving forward, the department will thoroughly review all PERF's recommendations and work with the City Manager, City Council, our partners, and the community to determine what measures would be the most effective. CPD is thankful for PERF's diligence in producing a report that provides thoughtful recommendations while also re-affirming the department's best practices.

Respectfully,

A handwritten signature in blue ink, appearing to read "CElow", enclosed in a light blue rectangular box.

Christine Elow  
Police Commissioner

# Analysis of Cambridge Police Department's Training, Policy, and Related Issues Concerning Use of Force and Responding to People in Crisis

**February 2024**

*Police Executive Research Forum  
1120 Connecticut Avenue NW, Suite 930  
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## I. Overview

On January 4, 2023, Cambridge Police Department (CPD) Officer Liam McMahon shot Arif Sayed Faisal, a 20-year-old college student experiencing an apparent mental-health crisis; Mr. Faisal died at Massachusetts General Hospital shortly thereafter. The shooting took place after Mr. Faisal — who had broken through a glass window and was cutting himself — refused to drop a long machete-type weapon and advanced toward Officer McMahon.<sup>1</sup> **The incident was the first officer-involved death in Cambridge in over twenty years**, and generated concern in the community.

The last officer-involved critical incident in Cambridge took place more than 20 years before this one. For a city the size of Cambridge, the lack of critical incidents is unusual, commendable, and evidence of its police department's commitment to resolving incidents without force whenever possible. CPD's relative inexperience with officer-involved critical incidents (OICIs) led the Cambridge City Manager to proactively engage the Police Executive Research Forum (PERF) to analyze CPD's training and training-related issues regarding use of force, a move welcomed by Commissioner Christine Elow.<sup>2</sup>

The scope of PERF's work for the City of Cambridge was training-focused and included:

- ***Review of current CPD training related to Use of Force and De-escalation as well as review of related policies, procedures, protocols, and training logs.***
- ***Evaluation of the training and policies surrounding ICAT (Integrating Communications, Assessment, and Tactics), de-escalation, crisis response, and mental health-related calls for service and any additional items PERF deems relevant.***
- ***Review of CPD's current, available, less-lethal use of force tools and analysis of whether additional tools such as shields, electronic control weapons, or remote restraint devices would be beneficial.***

This is PERF's report assessing those issues.

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<sup>1</sup> Information cited in this report is based on many sources, including interviews and transcripts released after the inquest: See John F. Coffey, Justice "The Report on the Inquest into the Death of Sayed Faisal in Cambridge, Massachusetts on January 4, 2023," September 15, 2023. [https://www.middlesexda.com/sites/g/files/vyhlf4691/f/uploads/report\\_on\\_the\\_inquest\\_into\\_the\\_death\\_of\\_sayed\\_faisal.pdf](https://www.middlesexda.com/sites/g/files/vyhlf4691/f/uploads/report_on_the_inquest_into_the_death_of_sayed_faisal.pdf)

<sup>2</sup> PERF previously issued a report on the topic of [releasing an officer's name after an OICI](#), at the request of the City Manager with the support of the Commissioner.

## II. Factual Summary

The city of Cambridge is home to over 118,000 residents.<sup>3</sup> As of 2023, its police force was budgeted for 288 sworn members, including command staff and the Commissioner. However, like all police agencies, recruitment and retention has affected its numbers and as of this writing, there are 257 sworn CPD officers.

The shooting incident proceeded to an inquest, and until it concluded, PERF could not review any records related to the shooting. On October 5, 2023, the Middlesex County District Attorney issued a press release indicating that the inquest was complete; the press release included links to the Inquest Report as well as several other items of evidence. CPD did not have a body-worn camera (BWC) program at the time of the incident.<sup>4</sup>

After the inquest, PERF reviewed all evidence related to the incident. The brief facts noted below are drawn from PERF's review of that evidence, including inquest transcripts, police reports, audio from 911 calls and radio runs, cell phone videos, photographs, maps, and recorded interviews of involved officers.

The following facts are relevant to this review:

- *Around 1:15 p.m. on January 4, 2023, a person called 911 advising that a man (Mr. Faisal) was in an alley cutting himself using, what the caller later referred to as "a machete."*
- *The incident was dispatched as a psychiatric / potential suicide / medical call.*
- *Several officers, including Off. McMahon, responded to the area and followed Mr. Faisal as he traveled on foot along the roughly drawn route shown below, intermittently stopping to look at the officers, smile, and cut himself further.*

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<sup>3</sup> Cambridge Community Development Department, Demographics and Statistics, <https://www.cambridgema.gov/cdd/factsandmaps/demographicfaq>

<sup>4</sup> Alvin Buyinza, "Cambridge officials have always wanted body cameras for police, so why don't police have them?" MASS LIVE, Jan 13, 2023, <https://www.masslive.com/news/2023/01/cambridge-officials-have-always-wanted-body-cameras-for-police-so-why-dont-they-still-have-them.html>.

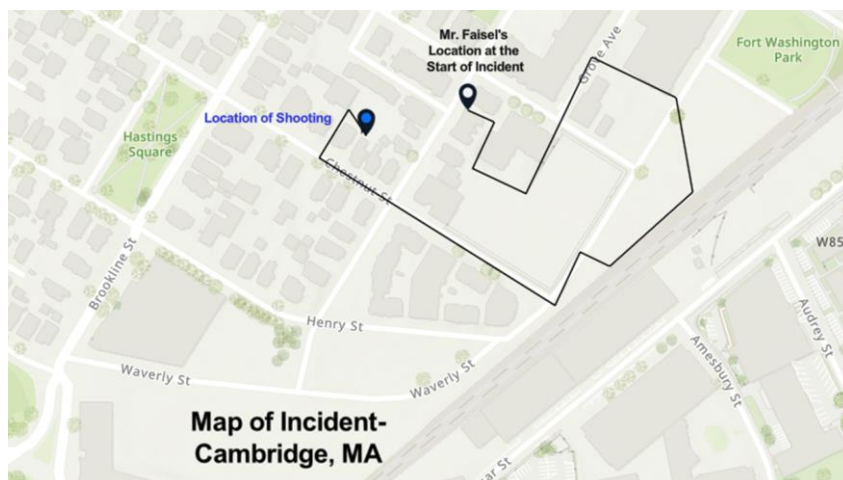


Figure 1 – Incident Map

- Throughout this time, officers attempted to communicate with Mr. Faisal, asking several times if they could talk to him and offering to get him help, while also calling on him to drop the knife. Other than looking at the officers and smiling, Mr. Faisal did not engage.
- Mr. Faisal ultimately arrived in the backyard of a home. Off. McMahon jumped a short fence at the southwest portion of the yard and entered the backyard as well. Another officer followed Off. McMahon but stayed closer to the short, southwest fence. Other officers took up positions in the driveway on the east side of the house, taking cover behind a red car.
- As shown in the photos that follow, the backyard was fully contained by:
  - Fencing of various heights – on the southwestern, northern, and western perimeters (the fence at the far rear of the yard was well over six feet tall);
  - The residence to the south;
  - A neighbor's home to the northwest; and
  - A driveway, where a red car was parked, to the southeast.





**Figure 2**

***View from the south portion of the backyard facing north, away from the residence.***

*The camera faces the fence Off. McMahon backed toward during the final moments of the incident, which was over six feet tall. A neighbor's house borders the northwest portion of the yard and is on the left in the photo.*



**Figure 3**

***View from the north portion of the backyard facing southwest. The residence is in the upper-left portion of the photo.***

*Off. McMahon entered the yard by jumping over the circled portion of short fencing visible at the southwest corner. The neighbor's house that borders the northwest portion of the yard is on the right in this photo.*



**Figure 4**

***View from the north portion of the backyard facing southeast.***

*The driveway and car behind which officers took cover, are visible at the upper-right of the photograph.*

- *A sergeant had transported a 40-milimeter launcher<sup>5</sup> to the scene, and as Mr. Faisal moved toward the car in the driveway, an officer fired the launcher. Although the projectile hit Mr. Faisal, he smiled and appeared unfazed.*
- *Mr. Faisal, near the driveway on the east side of the backyard, was initially 25-35 feet away from Off. McMahon, but after being struck by the 40-mm projectile, he turned and began walking north, in Off. McMahon's direction.*
- *As Mr. Faisal proceeded toward him, Off. McMahon backed up and began saying, and then yelling, "Drop the knife," and "Don't make me do it."*
- *As Mr. Faisal continued forward, Off. McMahon fired his weapon, striking Mr. Faisal, who later died from his injuries. Those on scene estimated Mr. Faisal was between 6-12 feet away from Off. McMahon when he fired.*
- *The shooting took place at 1:28 p.m. – about thirteen minutes after the initial dispatch.*
- *There were no other 40-mm launchers at the scene, and the CPD does not provide electronic control weapons (ECWs) to its officers. Off. McMahon had oleoresin capsicum (OC) spray on*

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<sup>5</sup> 40-mm launchers are designed to fire non-lethal, 40-mm projectiles, which are meant to cause pain or incapacitation, but not death.



*his duty belt but said he did not consider using it as Mr. Faisal approached him with a machete.*

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Mr. Faisal was clearly in some type of crisis, and the tragic outcome of this incident generated questions in the community. The city manager, with the full support of the city council, and CPD's police commissioner, asked PERF to conduct an assessment, using the incident as an opportunity to learn and, hopefully, prevent similar tragedies in the future.

Below, we detail our findings and recommendations starting with our requested evaluation of CPD's policies followed by its current training and available less lethal equipment options, noting areas where we believe improvement is possible or where CPD could evaluate additional options. Additionally, we encourage CPD to consider implementing a co-response system for certain types of mental-health calls. And finally, we recommend ways that CPD can improve how it assesses and evaluates critical incidents to ensure that moving forward, lives are saved wherever possible.

**NOTE: This is the second report PERF prepared for Cambridge and CPD in the wake of Mr. Faisal's death.** The first report assessed whether CPD could release officers' names in the wake of critical incidents. That report is attached (See APPENDIX).

### III. Policy Review

Any consideration of training must begin with a review of policy, because the two are inextricably linked. Policies that are not reinforced with robust training are words on paper, and training must reflect an agency's directives (i.e., its policies). PERF therefore began its review of CPD's training on use-of-force (UOF) related issues by reviewing its UOF-related policies.

The decision to use force is significant; it requires attention to and continuous assessment of the situation, threats, options, and risks, with the overarching goal of resolving all encounters peacefully. The PERF team reviewed CPD policies involving use of force for thoroughness and compliance with nationally recognized progressive-policing practices. PERF also examined whether CPD's policies provide officers with a clear understanding of the rules, expectations, and guidelines regarding UOF.

#### **PERF's Analysis of Use of Force-Related Policies and Issues**

PERF's review of CPD's UOF policies, training, and practices takes place during a broader national debate about police UOF that has been steadily increasing in its intensity. Over the last fifteen years, PERF has conducted many national and regional conferences during which hundreds of police executives and other experts have worked together to develop strategies for reducing police use of force whenever possible. This work has culminated in the production of several publications and principles that police agencies can use to revise their policies, practices, and training on UOF.

Much of PERF's work focuses on police interactions with people who are unarmed or are armed with weapons other than firearms and are behaving erratically or dangerously because of a mental health crisis, drug addiction, disability, or other condition. When police encounter a suspect displaying a firearm, their options are limited. But when there is no firearm, (as was the case with Mr. Faisal), officers generally have more opportunities to slow the situation down and use communication skills and defensive tactics to buy time, build trust, and defuse the situation without force.

PERF has issued the following reports detailing these principles:

- *Suicide by Cop: Protocol and Training Guide* (2019)<sup>6</sup>
- *ICAT: Integrating Communications, Assessment, and Tactics* (2016)<sup>7</sup>
- *Guiding Principles on Use of Force* (2016)<sup>8</sup>
- *Re-Engineering Training on Police Use of Force* (2015)<sup>9</sup>

<sup>6</sup> <https://www.policeforum.org/suicidebycop>

<sup>7</sup> <http://www.policeforum.org/assets/icattrainingguide.pdf>

<sup>8</sup> <https://www.policeforum.org/assets/guidingprinciples1.pdf>

<sup>9</sup> <https://www.policeforum.org/assets/reengineeringtraining1.pdf>

- *Defining Moments for Police Chiefs* (2015)<sup>10</sup>

PERF's "Guiding Principles" report is the core document of this work, providing 30 recommendations, including:

- The sanctity of human life should be at the heart of everything an agency does.
- Agencies should continue to develop best policies, practices, and training on use-of-force issues that go beyond the minimum requirements of *Graham v. Connor*.
- Police use of force must meet the test of proportionality.
- Adopt de-escalation as a formal agency policy.
- The Critical Decision-Making Model provides a new way to approach critical incidents.
- Duty to intervene: Officers need to prevent other officers from using excessive force.
- Respect the sanctity of life by promptly rendering first aid.
- Shooting at vehicles must be prohibited.
- Prohibit the use of deadly force against individuals who pose a danger only to themselves.
- Use Distance, Cover, and Time to replace outdated concepts such as the "21-foot rule" and "drawing a line in the sand."
- Provide a prompt supervisory response to critical incidents to reduce the likelihood of unnecessary force.
- Scenario-based training should be prevalent, challenging, and realistic.

PERF's training program, ICAT: Integrating Communications, Assessment, and Tactics, provides officers with the tools, skills, and options they need to implement the Guiding Principles and to safely defuse a range of critical incidents. More than 200 departments across the country have implemented ICAT and provided the training to their officers.<sup>11</sup>

ICAT training has been independently studied and associated with decreases in uses of force and injuries to officers and citizens alike.<sup>12</sup>

The recommendations and language proposals offered below are based on PERF's extensive UOF-related work.

<sup>10</sup> <https://www.policeforum.org/assets/definingmoments.pdf>

<sup>11</sup> For a list of agencies implementing ICAT, see <https://www.policeforum.org/icat-agencies>

<sup>12</sup> Engel, R.S., Corsaro, N., Isaza, G.T., & McManus, H.D. (2022). Assessing the impact of de-escalation training on police behavior: Reducing police use of force in the Louisville, KY Metro Police Department. *Criminology & Public Policy*, 21(2). <https://doi/10.1111/1745-9133.12574>.

PERF reviewed the following CPD policies, each of which dealt with force and/or subject resistance:

- 4-1 Use of Force
- 4-2 Use of Force Reporting
- 4-4 40mm Less Lethal Impact System
- 46-3 Crowd Management

**Overall, PERF found CPD's policies to be strong, but found opportunities to strengthen them.** Once these policies are modified, CPD should present them to all officers and then incorporate their principles into future training modules related to UOF.

***Recommendation: After modifying any UOF-related policies in accordance with these recommendations, CPD should present them to officers with an overview training session. Moving forward, training on all aspects of force (such as defensive tactics, firearms, canine, and domestic violence) should reflect the new policies. Where possible, this training should include a scenario-based component that allows officers to apply their training to real-life situations.***

## Policy 4-1: Use of Force

At the time of PERF's review, the existing UOF policy had been in effect since 2011 and a new policy [4-1 - *Use of Force*] was in draft form. PERF reviewed 4-1 as if it were already in effect since CPD plans to release it to members soon. The policy embraces many progressive policing principles, but PERF has additional recommendations to make it stronger.

### Policy 4-1 Overall: Add the Critical Decision-Making Model (CDM) to the Use of Force Policy

The Critical Decision-Making Model (CDM) is a five-step critical thinking process and the cornerstone of the ICAT curriculum. The five steps of the CDM (Depicted in Figure 5 below) revolve around the department's core values, which provide grounding and guidance for the entire process. The core should reflect the agency's "moral compass" and its key principles and priorities. Every step of the CDM process is connected to and through the CDM core. All CPD officers have been trained to use the CDM through their ICAT training and the CDM is displayed prominently in CPD's in-house training room, as reflected below.



Figure 5: This CDM depiction hangs in CPD's small training room

While CPD makes use of the CDM for the department's operations, the CDM is not integrated into its UOF policy. CPD would benefit by expressly incorporating the CDM into its UOF policy, which would reinforce the expectation that officers should apply it to all aspects of policework, including decisions about the use of force. Baltimore (MD) Police Department devotes a portion of its Use of Force Policy to "Critical Thinking" in which it recites the CDM principles; CPD can use Baltimore's policy as a model.<sup>13</sup>

***Recommendation:*** CPD should include the Critical Decision-Making Model (CDM) in its UOF policy. Currently, CPD employs the CDM but should add it to the UOF policy. Adding the CDM to the UOF policy will highlight the department's expectation that officers will apply the CDM to decisions about the use of force. Developing critical thinking skills, through reinforced and repeated use of the CDM, will help officers identify the best strategies and tactics to resolve situations more safely, including incidents that could potentially involve force but may potentially be resolved without force.

#### Policy 4-1: Section I- General Considerations and Guidelines

Section I of the CPD's UOF policy - *General Considerations and Guidelines* - details the department's overall philosophy and approach to UOF; however, it does not contain any language regarding the sanctity of life. PERF recommends that CPD's mission statements, policies, and training curricula all emphasize the sanctity of human life and the importance of treating all people with dignity and respect.

<sup>13</sup> See <https://www.baltimorepolice.org/transparency/bpd-policies/1115-use-force>



***Recommendation: CPD should add a strong policy statement emphasizing the sanctity of human life at the beginning of its UOF policy. That statement should set the tone for the entirety of the policy that follows. For example, the Baltimore Police Department's UOF policy begins with the following statement: "The policy of the Baltimore Police Department is to value and preserve human life in all situations."***<sup>14</sup>

#### Policy 4-1: Section II- Policy

CPD should add language to Section II highlighting its philosophy of de-escalating incidents where practical. Although Section III of CPD's policy - *Definitions* – contains a definition of de-escalation, it should be referenced in Section II to reinforce CPD's commitment to de-escalation as part of its overall UOF philosophy.

***Recommendation: CPD should add language about de-escalation to Section II of its UOF policy to reinforce its commitment to de-escalation as part of its overall approach to UOF. The language should make clear that de-escalation is the preferred, tactically sound approach in many critical incidents.***

CPD should also include a reference to the importance of communication in Section II. An important part of diffusing (de-escalating) situations is good communication skills. **PERF has observed CPD officers display strong communications skills, most notably in PERF's departmentwide ICAT training to CPD in 2019 and in training PERF most recently observed on October 19, 2023.** CPD's policy should reinforce this principle by referencing its importance.

***Recommendation: CPD should reference the importance of communication skills in Section II - Policy. PERF has observed CPD officers and they exhibit excellent communication skills, which are essential to diffusing and de-escalating critical incidents. This should be reinforced in its UOF policy.***

#### Policy 4-1: Section III- Definitions

The Definitions section of CPD Policy 4-1 contains key definitions but does not include a definition of proportionality.

CPD should add a definition of Proportionality to its policy. While the terms "proportionate" and "proportionality" are used throughout the UOF Policy, the term is currently undefined. Proportionality encourages officers to consider the nature and severity of the underlying events and what might be appropriate to a situation as they approach it; proportionality also reminds officers to keep this in mind as they assess – and reassess - the incident and their response. Proportionality does not mean that officers should stop and consider how their actions will be

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<sup>14</sup> Baltimore Police Department (2016). "Policy 1115 ('Use of Force')".  
[https://www.baltimorepolice.org/sites/default/files/Policies/1115\\_Use\\_Of\\_Force.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/1115_Use_Of_Force.pdf)

viewed by others at the moment they have determined that a particular use of force is necessary and appropriate to mitigate a threat.

***Recommendation: CPD should add a definition of “proportionality” to the Definitions section of Policy 4-1. As explained in PERF’s report on Guiding Principles on Use of Force, the definition should state that proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers’ actions.***

CPD currently defines de-escalation in Section III. However, some verbiage in the definition could be more concise and contemporary.

***Recommendation: Craft a new definition of de-escalation based on best-practice models and include in the definition better illustrations of using de-escalation. Examples include active listening, calm and respectful communication, maintaining space and distance, non-threatening body language, patience, offering options and choices, lowering the intensity of the law enforcement presence (lights, sirens, personnel), calling for additional resources, and establishing trust and rapport.***

CPD could consider the following, taken from the [Buffalo Police Department's UOF Policy](#),<sup>15</sup> as a definition of de-escalation that better captures its meaning in the context of UOF:

*Actions taken by officers that are designed to eliminate the need to use force to resolve a situation, often using time, distance, and cover. Examples include talking to a person using language and a tone of voice that is not aggressive or confrontational, creating space or placing barriers between the officer and the person, waiting the person out when circumstances permit, permitting the person to move about when safe, giving the person an opportunity to make statements or ask questions, slowing down the pace of an incident, tactically re-positioning, and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully.*

Regardless of the definition of de-escalation CPD uses, PERF recommends that it remove the last sentence from its current definition, which reads, “De-escalation shall include, but is not limited to, issuing a summons instead of executing an arrest where feasible.” Although this language tracks the Code of Massachusetts Regulations (555 CMR 6.03) Issuing a summons in lieu of a physical arrest is qualitatively different than the type of de-escalation contemplated by PERF’s definition.

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<sup>15</sup> <https://www.bpdny.org/DocumentCenter/View/149/BPD-GENERAL-ORDER---USE-OF-FORCE>

**Recommendation: Remove the last sentence in CPD’s definition of de-escalation. Issuing a summons in lieu of an arrest is not a meaningful method of de-escalation as that term is meant to be defined.**

#### Policy 4-1: Section IV: Procedures

B. 4.1.2 (M) Use of Deadly Force - CPD policy regarding deadly force is drawn from the Code of Massachusetts Regulations (550 CMR 6.00) and specifies that, deadly force may not be used against a person, “*unless de-escalation tactics have been attempted and failed or are not feasible...*” This policy section advocates de-escalation tactics that focus on physical tactics but can be strengthened by reinforcing the use of verbal communication skills to de-escalate UOF situations.

**Recommendation: Section 4.1.2 should include additional language that requires officers to attempt verbal communications-based de-escalation tactics when possible.**

CPD’s policy on shooting at moving vehicles, (IV. Procedures § B4.1.2(M)(3)(k) *et seq.*) is unnecessarily long and would benefit from streamlining. In 1972, NYPD radically changed its policy on shooting at vehicles. After implementation of that policy change and others, total police shootings decreased by half *in one year*, with no increase in injuries to officers.<sup>16</sup> NYPD’s new policy (still in effect today) said:

*Members of service SHALL NOT: Discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of service or another person present, by means other than [the] moving vehicle.*

CPD should likewise simplify and streamline its policy. The current policy contains unnecessary, vague verbiage and lacks clarity. We recommend that CPD replace it with clear language like that found in NYPD’s policy.

**Recommendation: CPD should update its policy section about shooting at moving vehicles (IV. Procedures § B4.1.2(M)(3)(k) *et seq.*) to make the policy less wordy and more restrictive. CPD should look to NYPD’s policy for guidance, which states:<sup>17</sup>**

*Members of service SHALL NOT: Discharge their firearms at or from a moving vehicle unless deadly physical force is being used against the member of service or another person present, by means other than [the] moving vehicle.*

#### E. 4.1.5 (M) Rendering Medical Aid Following Police Actions

The supervisor responsibilities currently contained in the *Rendering Medical Aid* section are:

<sup>16</sup> See, <http://www.policeforum.org/assets/reengineeringtraining1.pdf> (at page 20 - John Timoney).

<sup>17</sup> See, [www.nyc.gov/assets/nypd/downloads/pdf/public\\_information/public-pguide3.pdf](http://www.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide3.pdf)

5. *The Sector Sergeant shall immediately respond to the scene of any use of force incident; this may include but is not limited to the application of physical force, when an officer is injured, a prisoner has a visible injury or complains of injury or discomfort, or requests medical attention. The on-scene supervisor is responsible for making sure the following steps are taken, as appropriate.*

*a. Provide officers with assistance when necessary, including medical attention; make notifications through the chain of command; ensure that medical treatment for subjects and prisoners is properly evaluated and provided; and determine if the Criminal Investigations Section should respond to the scene to take photos and to sketch diagrams. A photograph showing no injuries may be as important as one that shows an injury.*

*b. If photographs are taken, officers are advised to protect the privacy and confidentiality of all subjects.*

*c. Document the use of force in Blue Team.*

The sergeant responsibilities contained in this section apply to the entire UOF policy – not just rendering medical aid. As such, CPD should make a new section entitled “Supervisory responsibilities” as a standalone section within its UOF policy.

***Recommendation: CPD should create a new section in its policy dedicated to supervisors’ responsibilities surrounding UOF. Applicable information currently contained in Section E. 4.4.5 (M) (Rendering Medical Aid Following Police Actions) should be moved to this new section.***

CPD should require that sector sergeants complete a *holistic* review of each UOF incident to identify avoidable factors that may have led to the force (missed opportunities for de-escalation, poor tactics, lack of communication, etc.) as well as successes; CPD should include this supervisory requirement in its policy. Supervisors should be taught to review each incident from its inception - not just the moment at which force was used.

Use of the CDM (discussed above) will help supervisors in this type of review and provide a consistent framework from which to analyze whether the actions taken were the most appropriate to the circumstances. Having supervisors use the CDM to analyze uses of force will also help reinforce the CDM with officers who will be able to see it applied in practical circumstances. It will also set the expectation that officers are to use the CDM in their daily work.

CPD should train and/or refresh these skills during its annual in-service supervisor training.

***Recommendation: CPD supervisors should be taught to review UOF incidents holistically using the CDM and include this requirement in its UOF policy. CPD should require supervisors to review not only the moment when force was used but***

*also the circumstances that led to it. The CDM is a valuable tool that can assist supervisors in this review. CPD should also hold a refresher class on how to review force incidents holistically during annual in-service supervisor training.*

Whenever possible, supervisors should acknowledge and respond in a timely manner to in-progress incidents with an elevated likelihood of force being used, such as calls involving a person with a mental illness, a developmental disability, or drug addiction. These types of incidents can rapidly devolve, and supervisors should consider responding to them before they are requested to do so.

***Recommendation: CPD supervisors should acknowledge and respond to in-progress incidents where there is an elevated likelihood that force will be used.***

CPD's directives concerning UOF are separated into several different policies, such as Policy 4-4 involving CPD's 40-mm Less Lethal Impact System. **CPD should consider merging the several policies that involve UOF into one, to ensure clarity and avoid diluting the department's UOF philosophy.** Further, when issues relating to UOF are split among several policies, revisions may not be applied uniformly. CPD would be better served if all issues related to UOF were combined into a single policy. This would also make updating the policy easier since all critical components would be in the same document.

As a model for how to accomplish this, CPD should examine Virginia Beach (VA) Police Department's new Response to Resistance / Use of Force General Order (5.01).<sup>18</sup> In GO 5.01, VBPD combines all of its directives on use of force into one comprehensive policy.

***Recommendation: CPD should combine all UOF-related directives into a single policy. This will make it easier for officers to find pertinent information on UOF and will create a more holistic approach system. This comprehensive policy should include the agency's philosophy on UOF, clear guidelines around lethal and less-lethal force options, accountability, and guidelines on UOF reporting measures. CPD can use Virginia Beach Police Department's newly released Response to Resistance General Order (5.01) as a model for how to accomplish this.***

## Policy 4-2: Use of Force Reporting

PERF did not find any areas for improvement in this policy.

## Policy 4-4: 40mm Less Lethal Impact System

Policy 4-4 40mm Less Lethal Impact System provides guidance for the use of CPD's Specialty Impact Weapon and Munition System (SIWAMS) 40mm less lethal weapon. PERF found this policy to be largely sound, with only minor recommendations for improvement.

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<sup>18</sup> [05.01-Response-to-Resistance.pdf \(s3.us-east-1.amazonaws.com\)](https://s3.us-east-1.amazonaws.com/05.01-Response-to-Resistance.pdf)



### Use of the Critical Decision-Making Model (CDM)

If CPD elects to maintain separate policies for UOF-related policies notwithstanding our recommendation that all UOF policies be combined into one comprehensive policy, CPD can strengthen language in Section I - *General Considerations and Guidelines* - by including a brief discussion of the CDM (discussed in our Use of Force review above). The language should make clear the department's expectation that officers will use the CDM as a thinking tool to guide their decision about using (or choosing not to use) the 40mm less lethal impact system.

***Recommendation: CPD should include a discussion of the CDM under Section I. General Considerations and Guidelines to require that officers use critical thinking to guide their actions when deploying the 40mm less lethal impact system.***

### Maintenance of the 40-mm Less Lethal Impact System

Section IV Procedures (C) contains information for storage of the 40mm launcher. CPD should rename this subsection "Storage and Maintenance" and add two additional sections.

***Recommendation: CPD should rename the portion of Section IV Procedures, that pertains to maintenance requirements and add storage provisions. Subsection C should be called "Storage and Maintenance" and include the following new language:***

*All normal maintenance and cleaning shall remain the responsibility of personnel assigned to the SIWAMS. Any damaged, inoperative, outdated, or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the armorer for disposition.*

*The armorer shall ensure that all damaged, inoperative, outdated, or expended SIWAMS or SIM are properly disposed of, repaired, or replaced.*

### Warnings Prior to Deployment

Section IV. Procedures subsection D2 contains guidance on providing a warning prior to the deployment of the 40mm system. Specifically, it states that:

*"Where feasible and based on the totality of the circumstances, officers should provide a loud and clear verbal announcement immediately prior to discharging the 40mm launcher to safeguard against sympathetic firearms discharge from cover officers. A verbal announcement is not required if doing so would compromise the safety of officers or others. Any such circumstance shall be documented within the officer's report."*

CPD can improve upon this requirement by making it clear that the verbal announcement will include a warning that the officer intends to use the device to give the subject a reasonable opportunity to voluntarily comply.

***Recommendation:*** CPD should add language to Section IV Procedures, Subsection D2 to require a verbal warning prior to deployment to give the subject a reasonable opportunity to comply. This warning should be given unless doing so would otherwise endanger officer safety or when it is not practical due to the circumstances of the situation.

#### Deployment Strategies

Section IV. Procedures subsection D3 states that deployment strategies, including target zones, distances, risks, and cover tactics will be taught and discussed during 40mm less lethal impact system training. Since these are training considerations, CPD should move this section of the policy to the Training section (currently Section H). The new language should state that “During training sessions, officers should be taught (or provided refresher training on) deployment strategies that include target zones, distances, risks, and cover tactics.”

***Recommendation:*** CPD should move Section IV Procedures, Subsection D3 to the Training Section of the Policy. The new language should state “During training sessions, officers should be taught (or provided refresher training) on deployment strategies that include target zones, distances, risks, and cover tactics.”

### Policy 46-3: Crowd Management

Policy 46-3 Crowd Management contains guidelines for managing demonstrations, marches, protests, and similar activities. The policy is generally sound, but PERF has recommendations to strengthen it further.

#### General Considerations and Guidelines

Section 1. - *General Considerations and Guidelines* - contains the department’s philosophy and approach to crowd management, which balances First Amendment considerations with public safety. PERF recommends that the policy language includes a discussion of *tiered responses* to crowd management. CPD’s first response should involve officers in “soft” gear (typically the department’s uniform of the day), to avoid having a chilling effect on the crowd. If the department anticipates the possible need for a heightened response, officers in riot gear can be deployed but should generally be kept out of sight when not needed, to avoid escalating tensions.

***Recommendation:*** The CPD should include a discussion of tiered responses as part of Section I, General Considerations and Guidelines. The language should state that the first response to crowd management should involve officers in “soft gear,” typically CPD’s uniform of the day to avoid having a chilling effect on the

*crowd. Should CPD anticipate the possible need for a heightened response, officers in riot gear can be deployed, but they should generally be kept out of sight when not needed, to avoid escalating tensions.*

This section should also include a discussion of *proportionality*, in which CPD's response to crowd management is proportional to the mood of the crowd. As the crowd's actions escalate or de-escalate, CPD should mirror its response accordingly.

***Recommendation: The CPD should highlight the importance of proportionality as part of Section I, General Considerations and Guidelines. The language should state that as the crowd's actions escalate or de-escalate, CPD's response should mirror those actions accordingly.***

Lastly, this section should contain a brief discussion on the difference between criminal behavior and acts of civil disobedience; the language should advise that officers should prioritize enforcement of violent crimes, property damage crimes, and other major incidents over minor acts of civil disobedience such as traffic violations and walking on roadways. Many police departments have found it better to tolerate low-level acts of civil disobedience to avoid escalating tensions.

For example, in PERF's 2011 report, *Managing Major Events: Best Practices from the Field*, Charles Ramsey, then Commissioner of Police in Philadelphia, said, "Maybe [protesters will] block an intersection, but so what? Just direct traffic around them and let them sit there. You really need to think about these situations in advance to determine whether or not you should make an arrest in different scenarios. If they're blocking an Interstate highway, of course you have to do something. But a city street where you can just redirect traffic is a different ballgame."<sup>19</sup>

***Recommendation: The CPD should discuss priority enforcement as part of Sec. I - General Considerations and Guidelines. Crimes of violence, property destruction crimes, or other serious crimes, should receive priority enforcement as opposed to minor acts of civil disobedience such as traffic violations and walking on roadways.***

### Definitions

Section III Definitions contains definitions for key terms and concepts in policy. PERF recommends that CPD add a definition of **Crowd Intervention** to the policy. Crowd intervention is an intermediate response, in which police respond to pre-planned or spontaneous activities to isolate unlawful behavior that impacts public safety, while allowing for the activity to continue. While CPD has definitions of Crowd Management (the lowest level of response) and Crowd Control (the highest level of response), there is no definition that reflects an intermediate response level, in which officers address unlawful behavior by some members of

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<sup>19</sup> [www.policeforum.org/assets/docs/Critical\\_Issues\\_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf](http://www.policeforum.org/assets/docs/Critical_Issues_Series/managing%20major%20events%20-%20best%20practices%20from%20the%20field%202011.pdf)

the crowd, but allow the overall demonstration, march, or protest to continue. A suggested definition is contained in the recommendation below.

***Recommendation:*** CPD should add a definition of **Crowd Intervention** to its **current policy**. A suggested definition is, “A response that isolates unlawful behavior that impacts public safety, while allowing for the overall demonstration, march, or protest activity to continue.”

CPD should also add a definition of **Proportionality** to policy. Proportionality involves officers: (1) using only the level of force necessary to mitigate the threat and safely achieve lawful objectives; (2) considering, if appropriate, alternate force options that are less likely to result in injury but will allow officers to achieve lawful objectives; and (3) considering the appropriateness of officers’ actions. A sample definition is contained in the recommendation below.

***Recommendation:*** CPD should add a definition of **Proportionality** to its **Crowd Management policy**. A sample definition is “Proportionality considers whether a particular police use of force is commensurate to the threat faced by the officer and is appropriate given the information available to the officer. Proportionality requires officers to consider if they are using only the level of force necessary to mitigate the threat, and whether there is another, less injurious option available that will safely and effectively achieve the same objective.

## Media

Section IV Procedures Subsection 6 – *Media* - governs media access to mass demonstrations and other events. PERF has recommendations to strengthen the policy.<sup>20</sup>

Language should be added to this section to discuss the importance of news media relations and communication with reporters regarding mass demonstrations and assemblies; the department can make use of social media to disseminate information effectively.

Social media accounts are an extremely efficient way for police to share information before a demonstration begins, and then share information on a minute-by-minute basis as the event proceeds. A key advantage of social media is that it can be targeted directly to demonstrators and other people who want and need to receive information from the police. For example, road closures and detours can be pushed through CPD’s social media accounts.

***Recommendation:*** CPD should add language to its policy to address **media relations**. This section should include information about the overall importance of the news media regarding mass demonstrations and assemblies. Policy should also require that the PIO provide updates to the public through various news media and

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<sup>20</sup> On October 2, 2023, PERF convened a meeting of police executives and reporters on the subject of police-media interactions during protests, and will publish its findings in an upcoming report. See <https://www.policeforum.org/trending7oct23>

*social media platforms. Social media is especially effective for informing the public about the department's plans for facilitating demonstrations at certain time and locations, road closures that may be undertaken, any restrictions on protest activities that the department may want to impose, any curfews, and other types of information that are important for demonstrators to know and understand in real time.*

Finally, once the policy is updated, CPD should rename this section “*Media and Social Media*” to reflect the use of CPD’s social media account relative to crowd management.

***Recommendation: CPD should rename Section IV Procedures subsection 6 “Media” to “Media and Social Media” to reflect the use of CPD’s social media relative to crowd management.***

### Dispersal

Section IV Procedures subsection 7 – *Dispersal* - provides guidance on crowd dispersal. Language in subsection 7b states that “when the incident commander has decided that crowd dispersal is required, he or she shall direct unit commanders, where time and circumstances permit, to issue warnings prior to taking action to disperse the crowd.”

Language should be added to this section requiring that the crowd be provided with a deadline or time limit within which to comply, as well as instructions about an orderly process. The policy language should include requirements to:

- As necessary, announce the impending use of a tool as a warning;
- Provide enough time for demonstrators to leave the scene;
- Make the Announcements in a manner that all demonstrators can hear, including a deadline within which to leave and information about repercussions for failing to leave;
- Provide specific instructions to demonstrators about which streets they should use to leave so that it will be clear whether the demonstrators are attempting to comply and which are not.<sup>21</sup>

***Recommendation: CPD should update Section IV Procedures subsection 7b to include requiring notice to the crowd of a deadline/time limit to comply, as well as instructions about orderly process. This should include directions about which streets demonstrators should use to leave the area and information about the repercussions for failing to leave.***

### Mass Arrests

Section IV Procedures subsection 8 Mass Arrests describes the department’s procedures for mass arrest situations. Policy should state that CPD intends to avoid mass arrests whenever

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<sup>21</sup> CPD can use the guidance previously provided to the Fredericksburg (VA) Police Department about its Response to Demonstrations in order to craft this language. See, <https://www.fredericksburgva.gov/DocumentCenter/View/18750/PERF-Final-Report-February-3-2021-PDF?bidId>



possible, but the department is prepared to make mass-arrests if necessary, based on crowd activity. PERF's 2022 publication, *Rethinking the Police Response to Mass Demonstrations*,<sup>22</sup> recommends that whenever possible, law enforcement agencies should avoid mass arrests, since they can give the impression that police are stifling First Amendment expression rather than facilitating it. However, there may be incidents, such as rioting or violence, where many arrests are required.

***Recommendation: CPD should add language to Section IV Procedures subsection 8 - Mass Arrests - stating that mass arrests should be avoided whenever possible, unless circumstances (such as rioting or violence) dictate that no other alternative is available.***

#### Use of Force

CPD should add language to policy (similar to our recommendation for deployment of the 40mm Less Lethal Impact System above) to require that a verbal warning of the intended use of any less lethal device prior to deployment (unless doing so would otherwise endanger officer safety or when it is not practical due to the circumstances) to give the subject(s) a reasonable opportunity to voluntarily comply.

***Recommendation: CPD should require verbal notice prior to the deployment of less lethal weapons (unless doing so would otherwise endanger officer safety or otherwise impractical due to the circumstances) to gain voluntary compliance from subjects.***

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<sup>22</sup> <https://www.policeforum.org/assets/ResponseMassDemonstrations.pdf>

## IV. Training<sup>23</sup>

The January 4, 2023, shooting generated the request for this report. But during the inquest, while PERF was unable to examine the fatal incident itself to determine whether it revealed any training deficiencies (due to the inquest sequestration order), we examined whether any general training-related issues existed. PERF reviewed CPD's training records (including protocols, orders, and schedules) observed in-person instruction, and interviewed many members of CPD across the rank structure. Once the inquest was complete, PERF examined the fatal incident itself by reviewing all information surrounding the incident, as noted in the FACTUAL SUMMARY. **In other words, PERF examined CPD's training broadly as well as how its training specifically applied to this incident.**

CPD training far surpasses MA state standards, and we found that resolving incidents without using any force at all runs throughout CPD's culture (although as noted above, this can be reinforced further by adding "sanctity of life" verbiage to the use of force policy).

In reviewing CPD's schedules and training protocols for the last three years, we found that de-escalation was woven into several of its CPD's courses- some tangentially and some explicitly. There were also several courses for instance:

### 2021

- *Defensive Tactics* – Included a well-developed de-escalation component.
- *Implicit Bias* – Included how implicit biases and stereotyping can affect law enforcement decision making when interacting with others.

### 2022

- *Cultural Competency* – Included identifying how culture may impact community interactions with police.
- *De-escalation and Use of Force* – Covering general principles and law.
- *Mass Gatherings* – Included de-escalation and the police response to mass demonstrations.
- *The Police Response to Emergencies Involving People with Mental Illness*

### 2023

- *Duty to Intervene* – Scenario-based instruction helping officers learn how and when to intervene when other officers use potentially excessive force
- *Hate Crimes*
- *Officer Response to Interpersonal Violence*
- *Policing Through a Trauma Involved Prism*
- *Trauma Informed Policing*

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<sup>23</sup> Every section contained in this report has a training component. Therefore, if CPD modifies its policies (Section III), introduces new equipment (Section V), or implements a co-response team (Section VI), it must train its members accordingly. This section of the report deals with current potential training issues.

- ICAT: Integrating Communications, Assessment, and Tactics<sup>24</sup>

CPD's emphasis on de-escalation is evidenced by the low percentage of its calls that result in any force whatsoever.<sup>25</sup> At its highest level over a six-year period (2017), CPD officers used force (including lowest level "light force") during only 0.086% of its calls for service, and that number has trended down since that time. **CPD experienced its first fatal shooting in more than 20 years against this backdrop.**

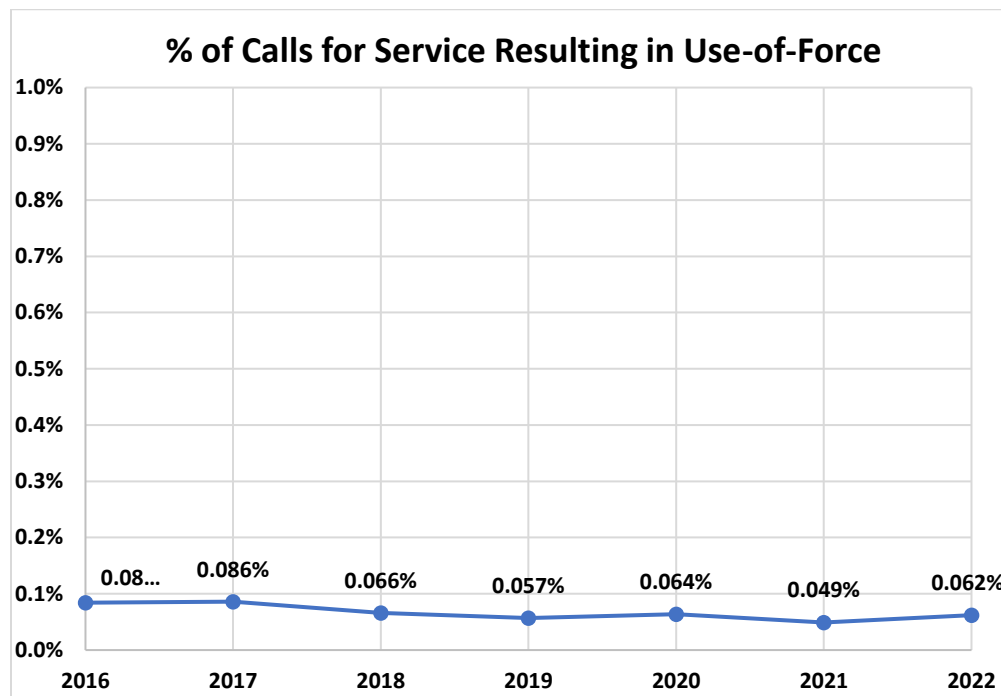


Figure 6. Numbers based on all Use of Force Reports filed at CPD

Despite its low force numbers overall, CPD's request for this review demonstrates its commitment to constant improvement. PERF identified the following areas as ones where the department should consider adjustments moving forward.

## In Person Training

Like much of the nation, during the Covid-19 pandemic, CPD stopped its in-person training for about 18 months. In December 2021, as things appeared to be returning to relative-normalcy, CPD, acting pursuant to state and local directives, again stopped all non-mandatory training; this included de-escalation training, which the state of MA does not require but CPD

<sup>24</sup> ICAT was introduced at CPD in 2019. Later that year, the program was enhanced to include a module on suicide-by-cop. CPD's plan to train the entire department on the new module was halted when in-person training was stopped due to Covid-19. This is explained more fully below at 28-31.

<sup>25</sup> Pursuant to its current policy, CPD requires that members report any "light physical force," regardless of whether it results in injury or complaint.

trains on often. As we confirmed in our review, CPD trained members on de-escalation relation topics throughout the pandemic, and up to and including its ICAT training.

Many members of CPD we interviewed liked the fact that training moved online during the pandemic, because they had four days working from home within which to complete it.<sup>26</sup> Other members felt strongly that all training should be in-person.

CPD has now resumed in-person training for some, but not all, of its classes. It appears, based on our review of records and interviews, that CPD is moving toward a hybrid model, with some classes taught online and some taught in person.

PERF recommends that CPD carefully consider which training courses it allows officers to complete virtually. Some courses, such as legal updates, are well-suited to virtual learning. **But some of the most important training when it comes to use of force, such as ICAT: Integrating Communications, Assessment, and Tactics,<sup>27</sup> must be completed in-person.** Scenario-based learning is best when cultivating the skills needed to defuse crisis situations, and virtual learning is not an acceptable substitute.

***Recommendation: CPD should carefully consider which of its training courses it allows members to complete virtually. Although some classes, such as legal updates, are easily adapted to online learning, scenario-based courses meant to develop and reinforce de-escalation and crisis intervention skills must be in person.***

## Dedicated Training Facility

CPD has a small, in-house training room that houses the department's armorer and a video simulator, but *there is no dedicated training facility*. Therefore, the department is forced to train under extreme make-shift conditions. Often, CPD uses abandoned buildings in Cambridge to train its officers. In fact, prior to this writing, CPD had been using an abandoned building in which to hold training sessions, but that building was recently condemned.

**Successful implementation of ICAT** [Integrating Communications, Assessment, and Tactics – more fully described in pages 9-10 and 28-30], **depends on scenario-based instruction and refreshers. And scenario-based instruction depends on a proper space within which to plan for and execute a variety of settings and situations.** Using *ad hoc* available buildings, some no longer habitable, is not conducive to training of any sort – classroom or scenario-based.

CPD is a professional, progressive police agency and its members deserve a professional space within which members can, among other things, learn how to defuse situations without

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<sup>26</sup> The training is designed to be interactive, so members must remain engaged to finish.

<sup>27</sup> <http://www.policeforum.org/assets/icattrainingguide.pdf>

resorting to force. A suitable facility would enable scenario-based training to take place on a regular and consistent basis, which would benefit the officers and community members.

CPD could also investigate pairing with various regional partners in Middlesex County to form some type of first-responder training facility that could co-locate training for fire, EMS, Police, Mental Health, and others involved in public safety. The Public Safety Training Facility (PSTF) in Rochester, New York, is an example of this model.<sup>28</sup> All recruit and local in-service training, as well as various NY Division of Criminal Justice Services trainings are provided at the PSTF. This includes scenario-based training and simulations in a location conducive to role playing and engaged learning. Partner agencies who also use the PSTF include the state and county Departments of Health, the American Heart Association, and the Office of Pre-Hospital Care.

Similarly, CPD does not have its own firearms range. Although CPD can use a range located on the Fort Devens military base 36 miles away, military training needs obviously take priority over the needs of the CPD; additionally, the drive to Fort Devens is about one hour each way.

***Recommendation:*** *CPD should work with the city of Cambridge to secure a dedicated and reliable training space. Obtaining such a space would enable CPD to train its members in the best way possible; it would also demonstrate the city's dedication to its police department's excellence. CPD would also benefit from finding and using firearms space at a range closer than Ft. Devens.*

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<sup>28</sup> <https://www.monroecc.edu/depts/pstc/>



## Training Requests

Appropriate vetting of training requests is important in any agency. Vetting ensures, among other things, that training events a member would like to attend are consistent with agency culture and expectations. But while the act of vetting is important, at CPD, the process is cumbersome and inefficient. Members of CPD throughout the rank structure expressed frustration with the way training requests are processed. Members who wish to attend a training must submit a paper-request that travels through nearly the entire chain of command as well as the personnel department before making its way back down to the requesting-member with the answer of whether the training is approved.

It is not uncommon for a member to request and be granted the opportunity to attend training, only to learn about the approval *after* the training has taken place. And, even if approval is received before the training, the current method often leaves members and their unit supervisors with very little time to prepare for and cover the absence. At a minimum, this process should be automated.

Recommendation: CPD needs to better streamline its mechanism for processing training requests. The current method is unnecessarily drawn-out and often leads to frustration for everyone involved.

## Training Unit

The Training Unit is overseen by the Director of Professional Standards, and is currently comprised of a full-time lieutenant, a full-time sergeant (and another full-time equivalent sergeant position that is vacant as of this writing), and two other full-time officers, primarily dedicated to recruit academy training. For all other training, CPD staffs its Training Unit on a collateral basis. In other words, officers have full-time assignments elsewhere in the organization, but are utilized in the training unit on an as-needed basis.

When we interviewed members of CPD, many expressed frustrations about staffing the training unit in this manner and felt the unit was not sufficiently resourced. Others, noting the staffing shortage and other needs in the department, felt this manner of staffing the Training Unit was efficient and best under the circumstances.

Staffing the Training Unit with collateral staff can create issues. First, we heard in our interviews that officers often have a hard time accomplishing their full-time-assignment duties as well as their training duties and are sometimes forced to prioritize one over the other. We also heard of friction and communications-related issues that arise when the Training Unit requests an officer, but the officer's supervisor needs that person in their original assignment and delays or avoids approving the request. This obviously leaves officers in the untenable position of not wanting to create friction with their unit supervisor *or* members of the Training Unit.

The current staffing shortage has affected all police agencies – including CPD. But regardless, the current practice of supervisors refusing to allow members of their unit to be released to the training unit without executive level intervention harms morale and reflects poorly on unit-level organizational management.

Most training requirements are known months in advance and training orders can be quickly disseminated. If the Commissioner issues a training directive, it should be understood throughout the department that the directive will be followed and immediate plans must be made to cover those absences.

***Recommendation: CPD should issue its training orders as soon as possible and unit supervisors should understand that those directions must be followed.***

## Training in ICAT: Integrating Communications, Tactics, and Assessment

As noted previously, PERF developed the ICAT program to give officers the tools, skills, and options they could use to safely defuse a range of critical incidents involving a person who is not armed with a firearm. ICAT training has been independently studied and found to be associated with decreases in uses of force and injuries to officers and citizens alike.<sup>29</sup> In 2017, two members of CPD attended an ICAT Train-the-Trainer course and became certified ICAT instructors. CPD then demonstrated its commitment to minimizing its use of force by being the first agency in Massachusetts to implement ICAT.<sup>30</sup>

Significantly, in 2019, after the certified CPD instructors presented an introductory ICAT overview to the department at in-service training, PERF instructors conducted the full, 12-hour ICAT training for all CPD officers.<sup>31</sup> But most relevant to this incident, **PERF created a “Suicide by Cop” (SBC) ICAT module in 2019, after the in-person ICAT training provided to the entire CPD.** That module gave more focused attention to circumstances like those involved in this incident.

Based on information gleaned from interviews with members of CPD as well as department orders and directives, CPD planned to reinforce the ICAT curriculum, *including the new SBC*

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<sup>29</sup> Engel, R.S., Corsaro, N., Isaza, G.T., & McManus, H.D. (2022). Assessing the impact of de-escalation training on police behavior: Reducing police use of force in the Louisville, KY Metro Police Department. *Criminology & Public Policy*, 21(2). <https://doi/10.1111/1745-9133.12574>.

<sup>30</sup> In 2021, the Office of Middlesex County District Attorney (MCDA) hired PERF to provide four ICAT train-the-trainer courses and encouraged every police agency in the county to send officers. CPD sent two officers to the training session to become instructors, giving CPD a total of four ICAT instructors. The MCDA advised all agencies that use ICAT to help determine whether officers who use force acted within MA’s new statutory requirements for de-escalation. See 550 CMR 550 6.00 - 6.10, specifying that, “A law enforcement officer shall not use force upon another person, unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary and proportionate...”

<sup>31</sup> Also in 2019, CPD formed the Cambridge Northeastern Police Academy (CNPA). ICAT played a significant role in the academy’s overall training philosophy; CNPA has provided all recruit officer classes with the entire ICAT program, which is continually reinforced throughout the duration of the academy (20-plus weeks).

*module*, every year during its in-service training, but the pandemic, and cancellation of all in-person training destroyed those plans. **Most CPD members, including Off. McMahon, therefore, never received the SBC training module prior to the January 4, 2023, incident.** This is significant because, in his interview with investigators, which PERF reviewed, Off. McMahon acknowledged that the incident appeared to him to be a “suicide by cop,” that Mr. Faisal seemed to want to die, and that Mr. Faisal wanted Off. McMahon “to do it for him.”<sup>32</sup>

We cannot speculate about whether the fatal outcome might have been different if CPD had received the SBC training *before* this incident. But Off. McMahon was correct in his reference to SBC – this incident had many characteristics of what PERF deems a potential SBC event. Some of those include:

- The initial dispatch was for a suicidal male cutting himself / slitting his own wrist;
- Mr. Faisal consistently held a knife/machete to his own throat;
- There was no evidence of Mr. Faisal committing a crime or harming anyone other than himself; and
- Mr. Faisal displayed clear signs of mental illness (cutting himself and running from police, partially unclothed on a frigid day in January).

**Four points directly relevant to this incident are addressed in the new SBC curriculum:**

**1. *Pointing a Gun at a Suicidal Subject***

One of the most salient takeaways of the SBC modules is quoted below:

*It is important to remember that **pointing your gun at a suicidal subject may create more fear and anxiety and cause the person to choose an option that forces your hand** (e.g., charging at you).* [ICAT Module #5: Suicide-by-Cop]

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<sup>32</sup> All quotes and statements are taken from the interview with Off. McMahon, released by the Middlesex County District Attorney. See [Findings of Inquest and Public Records Regarding Fatal Officer-Involved Shooting of Sayed Faisal in Cambridge | Middlesex County District Attorney's Office \(middlesexda.com\)](#)

## **2. Yelling Commands at a Suicidal Subject**

The SBC module also reminds officers that these subjects are in a poor frame of mind already, so **yelling commands is likely to exacerbate, not help, the situation**. According to Off. McMahon,<sup>33</sup> after the 40 mm struck Mr. Faisal, he appeared unscathed and turned toward Off. McMahon, laughing. At that point Off. McMahon said he pointed his gun at Mr. Faisal and repeatedly told him, and then yelled, “Drop the knife” and “Don’t make me do it” as Mr. Faisal drew closer. When Mr. Faisal was between 8-12 feet away Off. McMahon fired his weapon.

## **3. The Need for a Layered-Less-Lethal Response**

**The SBC module also highlights the need for a layered-less-lethal response.** This means that if one option fails, an agency should be prepared with another – in other words, there should always be a backup plan. We comment further about layered responses below on pages 33-34.

## **4. Active On-scene Supervision**

Finally, an active leader (supervisor) at the scene who can coordinate and assign roles is critical to successfully resolving an SBC circumstance. We will more fully address this issue in the Monday-Morning Quarterbacking section, below at 44-46.

In sum, CPD’s lack of body-worn cameras leaves an unfortunate void in terms of the shooting and what happened in the seconds that immediately preceded it, although to be clear, the inquest established that Off. McMahon’s actions were reasonable. And we recognize and commend that officers, including Off. McMahon, spent considerable time and covered much geographic distance trying to engage with Mr. Faisal before the fatal shooting. Having the training provided in the ICAT SBC module could have provided the officer with skills that may have helped him defuse the situation.

***Recommendation: All members of CPD should go through the updated ICAT training, which has added two new modules since the last CPD rollout – most notably and relevant to this incident – Suicide by Cop, which was added in 2019. It is imperative that the skills imparted during ICAT training be refreshed every year.***

*NOTE – CPD recently began training all its sworn personnel in the most updated ICAT curriculum, and on October 19, 2023, PERF’s lead ICAT instructor observed CPD’s certified instructors teach ICAT’s newest curriculum to the first cohort of members.*

*The instruction included the new Suicide by Cop and Step UP and Step In modules noted above. Significantly, PERF’s ICAT instructor noted that the manner in which*

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<sup>33</sup> Any statements attributed to Officer McMahon were taken from his interview, which was released after the inquest was complete.

*CPD's provided this training was fully consistent with PERF's standards and guidance.<sup>34</sup> His biggest concern was that the space needed to effectively run scenarios was not available.*

***CPD should prioritize having the entire agency complete the new ICAT training as soon as possible.***

## 21-Foot Rule

Off. McMahon was interviewed by a member of the Massachusetts State Police and the CPD two days after the incident; that interview was publicly released after the inquest. During the interview, as he explained why he had used fatal force against Mr. Faisal, Off. McMahon said he'd been trained in the "21-foot Rule" and invoked it three times:

- *So, when we were being trained, it's the 21-foot rule ... when it comes to edged weapons, he could close that distance to me faster than I could react and properly stop the threat.*
- *And like I said, with a 21-foot rule that he can ... close the distance very quickly ... that's obviously the big danger in any situation when ... someone has a blade or any kind of edged weapon. And obviously, I have to react and defend myself ... in that regard.*
- *... the 21-foot rule where he can close the distance at a speed and attack me faster than I could respond and properly defend myself.*

Off. McMahon did not shoot until Mr. Faisal was closer to him than 21-feet, but his reference to the 21-foot rule and that it was a part of his training is concerning. As we noted in *Guiding Principles on Use of Force* (2016)<sup>35</sup>

*Agencies should eliminate from their policies and training, all references to the so-called "21-foot rule" regarding officers who are confronted with a subject armed with an edged weapon. Instead, officers should be trained to use distance and cover to create a "reaction gap," or "safe zone," between themselves and the individual, and to consider all options for responding.*

ICAT training expressly disavows adherence to the 21-foot rule, warns of its misuse, and explains that it should not be a part of any training. Instead, ICAT promotes the use of a

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<sup>34</sup> In addition to being fully compliant with PERF's ICAT curriculum (also known as displaying model fidelity), we note that nearly every officer we interviewed at CPD remarked that its lead ICAT instructors not only present the material well, but, as important, do it in a way that makes the officers want to resolve these incidents without any force themselves. This all promotes a culture that values the sanctity of life.

<sup>35</sup> <https://www.policeforum.org/assets/guidingprinciples1.pdf>

reactionary-gap, the appropriateness of which should be determined by factors including the subject's "means, intent, and opportunity."

PERF reviewed CPD's training material, spoke to its instructors, and observed its most recent training on October 19, 2023. We were not able to find any reference to the 21-foot rule in CPD's training materials; CPD instructors confirmed that it does not and has not taught this to its officers. And since rejection of the 21-foot rule has been part of ICAT curriculum since its inception, Off. McMahon would have heard this in 2019 when he had his ICAT training. And yet, he referenced the 21-foot rule three times during his interview and related it back to his training.

To the extent that Off. McMahon's reference to the 21-foot rule came from his training, CPD should ensure that no member of its department is using this outdated concept and is instead focusing on the reactionary-gap verbiage in its current training.

***Recommendation: CPD should ensure that its instructors understand that the 21-Foot Rule is an outdated training principle that should not be taught to officers. Instead, CPD instructors should frame issues of distance in terms of a Reactionary Gap.***



## V. Equipment

CPD's ability to effectively manage this incident was likely hindered by its lack of available options. And even where a viable less-lethal option existed (i.e., the 40 millimeter) its use was not part of a layered response. As discussed in ICAT's suicide by cop module, a layered response contemplates that officers will assess whether they are in the safest position possible as they attempt to engage in conversation with a potentially suicidal subject. At that point it is important that officers have a variety of back-up equipment options ready to use.

Below, we examine potential additions to CPD's less lethal equipment options. **We stress at the outset, however, that decisions about whether to implement certain equipment at CPD should not take place until a working group, comprised of CPD members and community stakeholders, thoroughly assesses whether they are appropriate for CPD and the Cambridge community.** This applies most specifically to equipment with histories that might lead some to view them with justified skepticism.

Therefore, as requested, we are presenting less lethal equipment options that agencies throughout the country are using but are not endorsing or recommending them for CPD; that determination should take place locally.

### 40-millimeter launcher

The 40-millimeter (40-mm) launcher is designed to fire non-lethal, 40-mm projectiles that cause pain or incapacitation, but not death. It can therefore provide a means of ending an incident without ending a life. The key to success with a 40-mm is the ability to inflict extreme, but non-lethal pain that will stop a person's actions and give officers time to disarm and/or restrain. But in this case, Mr. Faisal had gone through a glass window and then used a machete-type instrument to repeatedly cut himself, all the while registering no sign of pain or discomfort as he walked partially unclothed through several city blocks on a cold day in January. Under the circumstances, it is not altogether surprising that the 40-mm did not work as intended – it struck Mr. Faisal but there was no sign that it hurt him.

It is unclear whether the assembled CPD members had a back-up plan other than reloading the 40-mm (which takes time) and trying again; similarly, the interviews with the CPD members released after the inquest did not reveal whether they had a genuine back-up plan. As noted in the suicide by cop module, a backup plan is critical in these situations.

If another CPD member had been able to access a separate 40-mm launcher, CPD may have been able to attempt a layered less-lethal response with the 40-mms. And although it may not have worked here, because of Mr. Faisal's apparent pain tolerance, our obligation is to provide ways CPD can use all means possible to avoid fatal uses of force moving forward. The layered

response recognizes that a variety of options must be available to resolve these types of incidents, and if one fails, another should be immediately available.

But we learned that a layered 40-mm response was not readily possible, because there were only five 40-mm launchers at CPD, and all were in supervisor cruisers. Therefore, the 40-mm launchers had to be transported to any scene where they might be helpful, including this one, by a supervisor. The reason for this lack of 40-mm accessibility in patrol cars is because those cars cannot accommodate 40-mm storage without modification. Especially in an agency without the option of electronic control weapons (“ECWs”), the 40 mm less-lethal option should be available to *all* members without having to wait for a supervisor’s car to arrive.

*NOTE – We have been in contact with members of CPD throughout our review process and are advised that as of this writing, CPD has retrofitted its all of its cruisers to accommodate 40 mm launchers – not just supervisor cruisers. We commend this decision.*

## Oleoresin capsicum (OC) Spray

All patrol officers at CPD carry 1.5-ounce containers of OC aerosol spray on their duty belts, which can cover distances of up to ten feet. Members of the Special Response Team (SRT) also carry 13.4-ounce canisters of MK-9 OC spray, which can cover distances of up to 20 feet.<sup>36</sup> The MK-9 style OC spray is generally intended for use in crowd dispersal but can also be useful when officers need a less-lethal response when dealing with a distant subject who is moving closer.

The fact that MK-9 spray is only available to SRT members is problematic. It takes time to assemble and deploy the SRT, meaning that regular patrol officers are without this option if a crowd assembles quickly or if other situations present themselves in which this option might be useful.

OC spray is an irritant, the effects of which generally abate within thirty minutes.<sup>37</sup> In cases where a person seems somewhat pain intolerant, such as Mr. Faisal, OC spray causes other, involuntary biological reactions that are independent of pain, such as coughing, eye watering, and inflammation-related irritation. Importantly, OC spray temporarily interferes with a person’s ability to see.

CPD should consider equipping every cruiser with a canister of MK-9 OC spray. Having that tool available in every car will allow more officers to have a broader range of less lethal options, instead of just those officers on the SRT. Significantly, the CPD officers we interviewed, on regular patrol and the SRT, felt that having as many in-car options as possible would be welcome and beneficial.

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<sup>36</sup> See e.g., <https://www.defense-technology.com/product/first-defense-1-3-mk-9-stream-oc-aerosol>

<sup>37</sup> <https://www.medicalnewstoday.com/articles/238262>

Regarding the spray officers carry on their duty belts, CPD should consider moving toward a gel-based pepper spray instead of its current aerosol/stream – or at least giving officers the option of choosing between the two.<sup>38</sup> A growing number of agencies are finding that gel-based sprays better meet their officers' needs by reducing cross and self-contamination; this same quality makes gel far better suited for use indoors than aerosols.

Gel is also less likely to cause sustained harm and pain to those against whom it is used, since its effects do not last as long as aerosol spray. As noted by Montpelier Police Department Chief Brian Peete when his department adopted a new gel-spray, the change is “in an effort to be more empathetic ... [gel] should do the job by being less harmful.”<sup>39</sup>

## Shields

In *Guiding Principles on Use of Force*, PERF urged all agencies to consider shields as part of their less-lethal arsenal.

*Agencies should acquire personal protection shields **for use by patrol and others** in managing some critical incidents. Officers with access to personal protection shields should be adequately trained on how to use the shields both individually and as part of a team operation.*<sup>40</sup>

Shields provide officers with protection and security as they try to slow down and de-escalate situations – a central tenant of ICAT training.

Based on our interviews, at the time of this incident, CPD had *some* shields available, but they were not in every patrol car and not readily available to those on scene during this incident. These valuable and potentially life-saving instruments should be available to all members of CPD. We recommend that CPD add a lightweight poly-acrylic shield to each patrol cruiser, which can better equip patrol officers to better handle the variety of circumstances they may encounter.

## Electronic Control Weapons

We cannot ignore the fact that nearly every officer we interviewed, regardless of rank, expressed concern that Cambridge does not allow its officers to carry Electronic Control Weapons (“ECW”s). Most believe this gap in non-lethal force options essentially leaves officers with limited choices when confronting a threat from a person armed with a sharp-edged weapon, like Mr. Faisal.

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<sup>38</sup> See <https://www.policeforum.org/assets/30%20guiding%20principles.pdf> (Principle 26 – Agencies should consider new options for chemical spray)

<sup>39</sup> <https://www.wcax.com/2022/03/11/montpelier-police-work-towards-more-empathetic-policing-strategies/>

<sup>40</sup> <https://www.policeforum.org/assets/guidingprinciples1.pdf> (emphasis added).

As noted at the outset of this report, CPD members value and prioritize de-escalation, which is reflected in its exceptionally low use of force numbers. It became clear to us during our interviews that the entire agency is proud of the way its members use communication skills to keep uses of force to a minimum. **At least part of the reason CPD members have such finely honed verbal de-escalation skills likely reflects that they do not have the option of using an ECW to fall back on.** It is also true that in this specific case, an ECW may have provided a way to end the incident without ending Mr. Faisal's life.

According to a November 2023 report from the Massachusetts Executive Office of Public Safety and Security,<sup>41</sup> as of December 31, 2021, there were 296 law enforcement agencies in the state with ECWs - 83% of MA agencies. However, implementation varies. For instance, the Boston Police Department has ECWs, but restricts their use to members of its SWAT Team, while at the Massachusetts State Police, ECWs are available to all troopers. The state collects data and publicly reports all "ECW incidents" - defined as warnings and/or deployments. According to the 2023 report, in 2021, the number of MA agencies adding ECWs rose 2.4%, but the number of ECW incidents decreased 13.1%.

We cannot overlook the well-established historical ECW failure rate, including our own 2020 review of the issue, which found that ECWs are effective less than two-thirds of the time they are deployed.<sup>42</sup> Additionally, as previously noted, we believe that at least part of CPD's exceptionally low UOF numbers may reflect that its members' cannot simply default to ECW use to end an encounter. However, it is also true that in this case, an ECW might have avoided a fatal outcome.

As previously noted, CPD should create a team to examine whether ECWs could be an appropriate less-lethal option for CPD officers and, if so, develop a pilot program. Any such team must include not only members of the CPD, but also members of the community, including medical experts. **Since CPD already carefully tracks its uses of force, if the team opts to pilot an ECW program, CPD should analyze whether ECW use in any way impacts its overall use of force numbers. In this way, CPD can ensure that ECWs do not become a substitute for the outstanding communications-based de-escalation its members now employ.**

## Pepper Ball Launchers

After a 2004 incident that resulted in the tragic death of a young woman after the inappropriate use of an FN303 Pepper Ball Launcher (PBL) by a neighboring agency,<sup>43</sup> CPD discontinued its use of PBLs. Based on our interviews, CPD had not experienced any issues with

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<sup>41</sup> <https://www.mass.gov/doc/electronic-control-weapons-in-massachusetts-2021/download>

<sup>42</sup> See e.g., <https://www.policeforum.org/assets/LessLethal.pdf>.

<sup>43</sup> <https://www.washingtonpost.com/archive/politics/2004/10/24/boston-police-suspend-use-of-pepper-ball-guns/dd773f5d-1651-4c2a-8a82-b967d77958b5/>

its own use of PBLs; and based on our review of less lethal options, deaths caused by PBLs are extremely rare.

These devices and their ammunition have changed dramatically in the years since that time. Modern PBLs now shoot small, irritant-filled round-balls up to 60 feet; the FN303 device used in the 2004 incident had much more energy and fired a larger projectile up to 150 feet.<sup>44</sup> Under the circumstances, CPD should consider whether completely discontinuing its use of this less-lethal option when the technology itself has greatly changed, remains prudent.

Phoenix (AZ) Police Department (PPD) ran a pilot test for PBLs in 2021 and then, seeing success, rolled them out agency wide.<sup>45</sup> PPD has been very pleased with its results. Significantly, PPD officers have the choice of using either 40mms or PBLs, because the agency makes both less-lethal options available to its officers; overwhelmingly, members choose PBLs.<sup>46</sup> Yet there have been no serious physical injuries caused by PPD's use of the PBLs; its members told PERF that the use of PBLs has averted what could otherwise have been fatal critical incidents.

Significantly, PPD carefully collects and analyzes data related to PBLs and other less-lethal options, as every agency should. According to PPD, "deploying" the PBL means an officer exits a vehicle with a PBL at scenes, such as domestic disturbances, fights, and subjects armed with instruments other than firearms; "discharging" the PBL means releasing the Pepper Ball. According to its data, PPD only discharges PBLs about 10% of the time they are deployed. While not definitive proof, this strongly suggests that warning of the imminent use of a PBL is a strong incentive to end incidents with no force at all.

Finally, members of the PPD are required to undergo a rigorous, 30-hour training program before being certified to launch PBLs. If CPD examines bringing back this less-lethal option, it should first spend time analyzing the pros and cons of doing so with an agency like PPD, that rolled out a pilot program, keeps extensive data, and has rigorous training.

## Equipment Conclusion

***Recommendation: CPD alone should consider adding equipment such as shields and gel-based Oleoresin capsicum (OC) Spray to its available options. However, deciding whether to add less-lethal options such as Electronic Control Weapons and modern Pepper Ball Launchers requires a broader and deeper community assessment. Cambridge should form a working group that includes community members, members***

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<sup>44</sup> <https://www.police1.com/police-products/less-lethal/projectiles-launchers/articles/the-use-of-less-lethal-weapons-in-corrections-part-5-impact-weapons-7iqkwD7h0FbT63Ur/#:~:text=Both%20of%20these%20weapons%20used,12%20foot%20pounds%20of%20energy.>

<sup>45</sup> See <https://kjzz.org/content/1846577/phoenix-police-using-pepper-spray-balls-and-foam-batons-less-lethal-force-program>

<sup>46</sup> For instance, between January 1, 2023, and November 20, 2023, PPD officers deployed PBLs 2.5 times more than 40 mms.

*of the CPD, and other relevant stakeholders (including medical personnel), to carefully examine whether that type of equipment is appropriate for the city of Cambridge.*

***To be clear, PERF is not recommending here that CPD adopt either Electronic Control Weapons or Pepper Ball Launchers.*** However, it does appear that forming a team to assess whether they could be effective in Cambridge is reasonable considering the circumstances of Mr. Faisal's death and our interviews with CPD members. CPD should have as many options as possible at its disposal to preserve life – including de-escalation training, or, should the need arise, a variety of appropriate less lethal tools. If a working group determines that CPD should pilot an ECW or PBL program, CPD should consider making them available to only certain members of the organization only, especially at the start.<sup>47</sup>

## Body Worn Cameras

The fact that CPD did not outfit its members with body-worn cameras (BWCs) at the time of this incident means that the public will never be able to see certain things that may have helped them to understand and resolve factual issues, such as exactly what Mr. Faisal was doing and saying in the seconds right before the shooting. We would have recommended that, like most major police agencies, including federal law enforcement agencies, CPD develop a policy and work as swiftly as possible to outfit its members with cameras. However, we learned early on in our review that those plans are already being implemented. We commend this.

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<sup>47</sup> As noted previously, the Boston Police Department has ECWs but only makes them available to its SWAT members.



## VI. Potential for Co-Response Team

Like many communities, Cambridge is searching for ways to divert appropriate calls away from a police response.<sup>48</sup> However, there are calls where it is beneficial to have both a mental health crisis professional and a police officer respond together, especially those calls that have a greater potential of escalating.

CPD should consider implementing a co-response program that would enable some type of mental health professional to respond to certain incidents involving a person in a mental-health crisis along with an officer or officers. Regardless of whether it could have impacted the outcome here, this incident underscores that Cambridge lacks such a program; this is significant in such a forward thinking, progressive city.

CPD maintains a Clinical Support Unit (CSU), staffed with a case manager, two social workers, and a psychologist. These unsworn, indispensable members of CPD provide crucial support to the agency, which includes advocating for and working with victims of crimes, training CPD members in trauma-informed practices, working with juveniles, and relevant to this assessment, assisting those with substance-abuse and mental-health-related issues. Members of CSU review reports and provide critical follow-up that links people in need with available resources in an attempt to address the causes of the issues and, ultimately, prevent further law enforcement interactions. In other words, CSU reviews matters after the fact and tries to prevent future incidents; this is commendable. **But while CSU members can provide follow-up services, they do not accompany officers on active calls; therefore, there is no opportunity to defuse potentially volatile situations as they are taking place.**

As PERF recently noted in *RETHINKING THE POLICE RESPONSE TO MENTAL HEALTH-RELATED CALLS – Promising Models* (2023):<sup>49</sup>

*The co-response model recognizes that police officers alone may not be the best responders for all types of calls but need to be present when there is a risk to the safety of other responders or to the person in crisis. The presence of both a mental health clinician and a police officer can be very effective in de-escalating potentially dangerous situations.*

Co-response models take various forms, but regardless of the model, the goal is to stabilize the person in crisis and address their immediate needs using a team that blends law enforcement and mental health professionals.

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<sup>48</sup> See Y. Mian “Cambridge Councilors Propose Funding for Local Police Alternative” (March 9, 2023) Harvard Crimson. <https://www.thecrimson.com/article/2023/3/9/councilors-police-alternative-proposal/>; S. Girma and B. Kingdollar “Cambridge Advances \$3M Community Safety Department Proposal Seeking to Provide Non-Police Public Safety Alternatives.” (May 11, 2022) Harvard Crimson.

<sup>49</sup> <https://www.thecrimson.com/article/2022/5/11/cambridge-community-safety-proposal/>  
<https://www.policeforum.org/assets/MBHResponse.pdf>

CPD has an infrastructure that would complement a co-response model in which mental-health professionals (from either within or outside CPD) co-respond to calls with CPD officers. This model is used by, for instance, Los Angeles (CA) Police Department's Mental Evaluation Unit,<sup>50</sup> which was established to provide clinical support on high-severity calls. While LAPD is obviously much larger than CPD, agencies such as Columbia Heights (MN) Police Department, which is much smaller than CPD, also use this model.<sup>51</sup>

CPD can also request free support through Law Enforcement-Mental Health Learning Sites.<sup>52</sup> This program, run through the Council of State Governments' Justice Center, pairs agencies seeking to improve their responses to mental health-related calls with similar agencies already implementing successful programs.

When we interviewed members of the CPD, some noted that they were not in favor of co-responses because, essentially, the mental-health professional would be another person on-scene whose safety officers would need to monitor. We do not minimize this concern. However, our assessment of this issue compels the conclusion that when thoughtfully crafted and deliberately implemented, these types of programs can positively impact people in crisis, police officers, and their communities.<sup>53</sup>

CPD has well-trained officers that act on information from well-trained dispatchers and call-takers in its Emergency Communications Department (ECD) – all of which are critical to successful co-response models. In fact, during pendency of the inquest, ECD hired a social worker to assist with how best to direct certain calls. Under the circumstances, CPD should, at a minimum, engage in a process to determine whether a co-response model can work in its jurisdiction. PERF's *Rethinking the Police Response* contains eight steps designed to help any agency create a crisis-response strategy, including a co-response team.

***Recommendation: CPD should engage in a process to determine the viability of a co-response model for its jurisdiction. Although Cambridge is investigating ways to fully divert certain calls away from police officers, it should also consider how CPD officers can co-respond with mental health professionals to certain calls.***

*NOTE – We have been in contact with members of CPD throughout our review. In January 2024 we were advised that CPD is piloting a co-response system. We commend this.*

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<sup>50</sup> <https://www.lapdonline.org/office-of-the-chief-of-police/office-of-special-operations/detective-bureau/detective-services-group/mental-evaluation-unit/>

<sup>51</sup> See <https://www.policeforum.org/assets/MBHResponse.pdf> (page 34)

<sup>52</sup> See [Law Enforcement-Mental Health Learning Sites - CSG Justice Center](#)

<sup>53</sup> See <https://www.policeforum.org/assets/MBHResponse.pdf> (p 31)

## VII. After-Incident Assessments

Although this was the first fatal critical incident at CPD in many years, it was not the first time an officer fired a weapon or used force that caused significant physical injury. We learned that the review process at CPD is focused, first, on whether the officer's conduct was criminal, and then, whether the committed policy violations.

We recommend that after any critical incident (not just fatal shootings but any shootings as well as any incident where an officer causes serious physical injury or death to another person) CPD examine at the incident wholistically to determine whether anything should be done differently in the future. This involves a rapid assessment (Tactical Debriefing) to determine whether immediate fixes are needed, as well as broad overviews aimed at changing agency responses and potentially – agency culture.

### Immediate Tactical Debrief

Regardless of how CPD moves forward with its longer-term assessments, it should ensure that a tactical debrief takes place no more than 72 hours after *any* office-involved critical incident. The purpose of such a debrief is to quickly identify potential issues in training, policy, and/or equipment that should be addressed immediately, without having to wait until completion of any criminal investigation or other review.<sup>54</sup>

***Recommendation: CPD should conduct a Tactical Debriefing in the wake of any officer-involved critical incident. The purpose of this debrief would be to identify training, policy, and/or equipment issues that require immediate attention, without the need to wait until the results of any other assessments that might take place.***

### Critical Incident / Force / Performance Review Board

CPD can greatly strengthen the quality and thoroughness of its administrative reviews by creating a special investigative body responsible for the administrative investigation of any serious incident involving a CPD member or members. These are called variously Critical Incident Review Boards, Force Review Boards, or Performance Review Boards (hereinafter “Board”). At CPD, the Board could review lethal uses of force, less-lethal uses of force involving

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<sup>54</sup> Fairfax County (VA) Police Department already engages in this process and is in the process of updating its Critical Incident Policy to reflect this practice. See, <http://m.alexandriagazette.com/news/2023/oct/04/police-challenge-some-professional-recommendations/> CPD may wish to confer with FCPD relative to implementing a practice and updating its policy.

an instrument, uses of force causing injury, all in-custody deaths, and any other critical police incident the chief of police directs it to investigate.

Formally reviewing these types of incidents as a matter of course can provide valuable insights and opportunities to identify lessons that can be incorporated into officer training, gaps in tactics, the need for additional equipment, and policies that should be changed or updated. Boards can also identify and recognize exemplary or model conduct. Looking broadly in this manner identifies issues that a narrowly focused examination of whether a member violated current policy does not recognize.

Minimally, the Board should be comprised of the Patrol Division captain, the Training Unit lieutenant, a patrol officer representative, and a representative from professional standards, as well as other CPD members who would be useful in this capacity; some CIRBs also include a community member. The CIRB should convene quarterly to review each incident.

Baltimore (MD) Police Department implements a Performance Review Board.<sup>55</sup> At the end of its analyses, the Board must provide action items to the BPD Commissioner including “recommended improvements to BPD policies, training, supervision, tactics, and equipment identified during the review.” Fredericksburg (MD) Police Department implements a Critical Incident Review Board,<sup>56</sup> the outcomes of which include recommendations for tactical improvement, new equipment or technology, and structural or organizational changes.

***Recommendation: CPD should create a special investigative body responsible for the administrative investigation of any serious incident involving a CPD member or members. The focus of this body (called a Critical Incident Review Board, Force Review Board, or Performance Review Board at various agencies) would be to identify lessons that can be incorporated into officer training, gaps in tactics, the need for additional equipment, and policies that should be changed or updated.***

## Sentinel Event Review

For critical incidents that potentially involved multiple-system failures (including dispatch, emergency medical services, education-related, behavioral health, as well as police issues) CPD would likely benefit from sentinel event review with various community stakeholders. This would be especially beneficial in a community as engaged, proactive, and progressive as Cambridge.

A sentinel event review,

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<sup>55</sup> <https://www.baltimorepolice.org/transparency/bpd-policies/724-performance-review-board-0>

<sup>56</sup> <https://public.powerdms.com/FSBV/documents/2570025>

*... takes the broadest view of an event to ask ... how it came to be and what might be done to prevent its recurrence. It brings together the widest range of stakeholders to examine all the biases, incentives, relationships, and norms employed by all the actors whose conduct made the outcome incrementally more likely. It undertakes this examination candidly and openly, without blame or recrimination, driven solely by a shared desire to see that nothing like this ever happens again.<sup>57</sup>*

Should any future critical incidents in Cambridge warrant a sentinel event review, it could involve not only members of the police department, but key decision-makers from such systems as behavioral health (e.g., health department, public health authority, social workers, clinicians, community-based treatment providers, and peer and consumer advocates), criminal justice (e.g., prosecutors, public defenders, courts, jails, parole and probation, and juvenile services), schools, and housing. Only by applying this comprehensive lens of analysis from a wide range of stakeholders can jurisdictions effectively diagnose and begin to remedy an incident's complex root causes.

CPD can look to Seattle, WA for guidance in establishing a sentinel event review. Seattle describes its program as “a community inclusive accountability program” that examines Seattle Police Department's critical incidents to determine how they can avoid future harmful outcomes and better serve the community.<sup>58</sup> And for an example of the type of assessment that follows a sentinel event review, CPD can see Tucson (AZ)'s sentinel event review board report concerning two restraint-related in custody deaths.<sup>59</sup>

***Recommendation: For future critical incidents in Cambridge that involve multi-system failures, CPD should consider conducting a sentinel event review. These reviews should bring all potential stakeholders together to thoroughly review incidents from all standpoints and to discuss system failures and how things can be done better in the future. The exclusive goal of the review should be to ensure that no similar incident happens again.***

## Monday Morning Quarterbacking

PERF's final recommendation for post-incident assessment involves agency-wide participation. As we have noted before, most recently in a February 2023 *Trending* article, police agencies must begin having necessary conversations about fatal incidents, conversations that

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<sup>57</sup> Joseph Margulies, February 16, 2023, “For Any Good to Come of It, We Must Judge the Murder of Tyre Nichols in a Forgiving Spirit,” Retrieved from Justia: <https://verdict.justia.com/2023/02/16/for-any-good-to-come-of-it-we-must-judge-the-murder-of-tyre-nichols-in-a-forgiving-spirit> (emphasis added).

<sup>58</sup> [Sentinel Event Review - OIG | seattle.gov](https://www.seattle.gov/police/sentinel-event-review)

<sup>59</sup> <https://bloximages.chicago2.vip.townnews.com/tucson.com/content/tncms/assets/v3/editorial/b/a1/ba1a6be6-a50b-5384-9e42-5f7d27d3fcb0/5f656840a85d2.pdf.pdf>

are “not about blaming individual police officers [but are focused on] understand[ing] what happened in past incidents [in order to] prevent the next one.”<sup>60</sup> We recommend that CPD engage in a process to debrief this incident in a meaningful way with members of the department.

Some of the areas that any agency should discuss after an incident like this, are included below. We stress again, in considering these questions,<sup>61</sup> the process should be exclusively forward focused - using a past event to affect future behavior.

- Was the subject sufficiently contained without placing an officer between the subject and a high fence?
- Was the need for tactical repositioning needed, considered, and possible?
- Was a position with cover possible?
- Was there too much compression of space?
- Was a layered-less-lethal response possible or even discussed?
- Other than the 40-mm, what tools did officers have and were they reasonable under the circumstances (e.g., was oleoresin capicum (OC) spray accessible, and even it was, would it have been appropriate in the circumstance)?
- What was the back-up plan?
- Was a supervisor on-scene and sufficiently engaged with the answers to the questions above?
- What happened after an officer(s) pointed a weapon(s) at the subject? Did he change?
- How can we learn from the answers to all these questions?

Engaging in this type of thoughtful process can transform the way that agencies deal with these incidents. It is not about blame and looking back; it’s about change and looking forward.

***Recommendation: CPD should undertake a process that brings, minimally, supervisors together to consider the answers to questions such as those listed above.***

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<sup>60</sup> <https://www.policeforum.org/trending4Feb23>

<sup>61</sup> These questions are all taken from ICAT principles.



*The process must be forward-focused and should use the tragic incident to see if lessons can be learned to guide the future.*

## VIII. Conclusion

Mr. Faisal's death was tragic. The fact that fatal, officer-involved incidents happen so rarely - once in more than twenty years - in a city the size of Cambridge, is a testament to the training and protocols already in place at the Cambridge Police Department. This is the second report PERF prepared for Cambridge and CPD in the wake of Mr. Faisal's death (see first report in APPENDIX). That the city and its police department would use a tragedy to improve an already strong department is laudable.

CPD does many things very well, including its prioritization of de-escalation. Throughout this report, we have noted places where CPD can enhance its response to people experiencing some form of mental crisis by enhancing its training (which by necessity involves updating its policies), considering additional less-lethal equipment options (and whether they are appropriate for the Cambridge community), investigating a co-response model, and implementing after-incident assessment practices.

PERF could not examine the January 4, 2023, incident immediately, because of the inquest-related sequestration order; once the inquest was complete, PERF completely reviewed the facts and circumstances of the tragic incident. But we were engaged with CPD from the beginning and are therefore aware the CPD has begun to implement some of the recommendations in this report, such as agency-wide training on the new Suicide by Cop ICAT module and retrofitting vehicles to carry 40 mm launchers. Many more recommendations are presented in this report, which CPD should seriously consider.

CPD has a long history as a forward-thinking, trauma-informed, state of the art police department; its members are already trained far more than those of other police departments around the state of Massachusetts and the country. As a result of the recommendations in our first report, CPD is poised to become the first department in the Commonwealth to release officers' names in the wake of critical incidents. Implementing the recommendations contained in this report will only enhance CPD's reputation as an agency that seeks best practices to remain a model of excellence in policing.

# APPENDIX

# Analysis of Law and Policy Affecting the Cambridge Police Department's Release of Involved Officers' Names After Critical Incidents

July 2023

*Police Executive Research Forum  
1120 Connecticut Avenue NW, Suite 930  
Washington, DC 20036*



## Overview

At the direction of the Cambridge Police Commissioner, consistent with a Policy Order of the Cambridge City Council, PERF examined the Cambridge Police Department's (CPD) decision to withhold the involved officer's name from the public in the wake of the fatal shooting of Arif Sayed Faisal on January 4, 2023. PERF was also asked to make policy recommendations to CPD for releasing involved officers' names moving forward. CPD welcomed and was fully engaged in the process.

After examining the applicable law, professional rules, and CPD policy, PERF concludes:

- CPD could have — legally and ethically — released the officer's name during the weeks after the shooting.
- Its decision not to do so was based on CPD's past practices, the statewide practices of law enforcement agencies in Massachusetts, and the absence of a relevant CPD policy.
- CPD's ability to release the officer's name changed when the judge overseeing the inquest into the matter ordered that no information could be shared publicly until the inquest is complete; from that point on, CPD could no longer provide the officer's name (or any other information) to the public.

Below, PERF presents the relevant procedural history of this incident, analyzes various rationales law enforcement agencies sometimes cite for withholding an involved officer's name from the public and offers policy guidance moving forward.

## Background

As of the date of this report, an inquest into the circumstances of the fatal shooting has not yet concluded; PERF will not receive police reports about the incident until the inquest is complete. Therefore, the basic facts mentioned in this report are based on consistent news accounts.

On January 4, 2023, a CPD officer shot and killed Arif Sayed Faisal, a 20-year-old college student experiencing an apparent mental-health-related issue. The shooting took place after Mr. Faisal — who had reportedly jumped through a glass window and was cutting himself — refused to drop a long knife and advanced toward officers.<sup>1</sup> That incident sparked unrest and demands for transparency by community members.<sup>2</sup>

Two factors unique to the city of Cambridge ("the city") and its police department significantly affected the public response to the incident. First, CPD does not have a body-worn

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<sup>1</sup> See e.g., <https://www.cbsnews.com/boston/news/man-armed-machete-shot-killed-cambridge-police-officer/>; <https://www.nbcboston.com/news/local/man-with-machete-prompts-police-response-in-cambridge/2936142/>

<sup>2</sup> See e.g., <https://www.thecrimson.com/article/2023/2/3/sayed-faisal-cover/>

camera (BWC) program, so there was no video of the incident to release to the public.<sup>3</sup> It appears that the current and previous CPD Commissioners, as well as the CPD union and some Cambridge city councilors, have supported implementing a BWC program for years, but there was resistance from others in city government as well as some city residents.<sup>4</sup> This tragic incident has reinvigorated the push for BWCs, and CPD recently took the proactive step of sending a member of its executive staff to a national meeting focused on BWC best practices.<sup>5</sup>

The other factor complicating CPD's response to the incident – and leading to public frustration - reflects that this was the first officer-involved CPD fatality in more than two decades. Therefore, the general order governing CPD's response had not been updated to reflect some modern transparency trends. Specifically, CPD had no policy language about whether and when to release the shooting officer's name.

Not having a policy on name release distinguishes CPD from other national law enforcement agencies that have implemented such a policy,<sup>6</sup> but the same cannot be said of law enforcement in Massachusetts. While it's possible that other police agencies in the state proactively release involved officers' names within days of fatal critical incidents, PERF was not able to identify any. This likely presents an opportunity for CPD to be a leader in the state.

#### CPD Actions Concerning Release of Shooting Officer's Name

At the time of the fatal shooting, CPD's policy governing officer-involved shootings had not been updated since 2008, and its only reference to the release of an officer's name occurred in the context of how officers could guard against telephone harassment if their names were somehow released to the public:

*"In order to protect against crank or abusive calls, officers should be advised to have phone calls answered by another person for several days if their names are released to the public."*<sup>7</sup>

Because CPD had no policy requiring the release of the officer's name within a specified time frame - or prohibiting it - CPD was free from the inception to make its own choice about whether to release the shooting officer's name. When CPD decided not to release the name in the immediate aftermath of the shooting, the public was left wondering why CPD did not disclose information that other agencies routinely release expeditiously.

For instance, a 2016 PERF review of agencies in the Washington, DC area found that even then, many departments had updated their policies to provide for the expedited release

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<sup>3</sup> <https://www.masslive.com/news/2023/01/cambridge-officials-have-always-wanted-body-cameras-for-police-so-why-dont-they-still-have-them.html>

<sup>4</sup> [https://myemail.constantcontact.com/It-s-Happening-in-Cambridge.html?soid=1114093348634&aid=k\\_LMjHl6CVE](https://myemail.constantcontact.com/It-s-Happening-in-Cambridge.html?soid=1114093348634&aid=k_LMjHl6CVE)

<sup>5</sup> [https://www.policeforum.org/index.php?option=com\\_jevents&task=icalevent.detail&evid=75](https://www.policeforum.org/index.php?option=com_jevents&task=icalevent.detail&evid=75)

<sup>6</sup> To be sure, CPD is a progressive agency, leading the .

<sup>7</sup> No. 402, *Post-Shooting Incident Guidelines*, Section (V)(B)(9). The Order's apparent focus on landline telephone harassment and its silence about potential abuse via social media are further evidence that it was outdated.

of an involved officer's name after a critical incident. These included: Anne Arundel County (MD) Police Department – within 24 hours; Baltimore (MD) Police Department – within 48 hours; Howard County (MD) Police Department – “As quickly as possible”; Montgomery County (MD) Police Department – within 24 hours; Prince George's County (MD) Police Department – within 24 hours; and Prince William County (VA) Police Department – within three to five days.

PERF determined that CPD withheld the officer's name based on past practice within the department (concerning non-fatal incidents and other acts of potential misconduct), as well as the current practice of other Massachusetts law enforcement agencies. Those factors, as well as a belief that it was not permitted to release the name without the express consent of the local prosecutor, rather than a desire to keep information hidden from the public, steered CPD's response in the weeks after the shooting.

After the local prosecutor announced an inquest<sup>8</sup> (a practice authorized in Massachusetts in which a judge investigates the circumstances of a death to determine whether a crime took place),<sup>9</sup> CPD informed PERF that it was not releasing the officer's name because, according to the local prosecutor, the judge presiding over the inquest had issued an order directing that no entity could release information about the incident until the inquest was complete.<sup>10</sup>

To be sure, the judge's order precludes CPD from releasing the name until the inquest is complete. But as noted above, nothing in law or policy automatically prevented CPD from releasing the name *before* the judge issued that order.

On May 15, 2023, the Cambridge City Manager, consistent with a City Council Policy Order, requested that CPD work with PERF to establish a policy on the release of the names of officers involved in any use of force incident resulting in injury or death, “including retroactively.”<sup>11</sup>

### Rationales for Withholding Names

To prevent confusion about these issues as CPD develops its new policy, this section addresses some rationales law enforcement agencies cite when withholding officers' names from the public. Going forward, CPD should begin with the presumption that it will release the officer's name within a specific period of time, and then thoughtfully consider whether reasons exist that would legitimately and in good faith justify withholding it from the public.

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<sup>8</sup> <https://www.bostonglobe.com/2023/02/23/metro/middlesex-da-announces-inquest-into-fatal-cambridge-police-shooting-college-student/>

<sup>9</sup> <https://www.mass.gov/doc/frequently-asked-questions-about-inquests/download>

<sup>10</sup> PERF also reviewed a press release issued by the Middlesex District Attorney on February 23, 2023, indicating that by order of the Court, no further details would be provided about the incident until the inquest process had been completed.

<sup>11</sup> City of Cambridge Calendar Item #2, May 22, 2023.



## **Public Records Law Exemptions**

Every state including Massachusetts,<sup>12</sup> as well as the federal government, has a public-records-access law (i.e., freedom of information or sunshine law). Public access laws stand for the principle that records of public entities, including police agencies, are assumed to be available to the public unless a specific exemption exists that allows the record to be wholly or partially withheld.<sup>13</sup> *Absent such an exemption, the records, and information contained in them (such as an officer's name) are public.*

**In terms of police agencies and officer-involved shootings, proactively releasing information that the public would be entitled to know by virtue of the state's public access law is an act of good faith that reinforces public trust.** But as noted above, there are exemptions to public access and agencies generally invoke one of the following to avoid releasing an officer's name after an officer-involved shooting.

### **i. Pending Investigation**

Public records laws generally contain some type of "pending investigation" exemption. However, the fact that a matter is pending investigation, by itself, does not justify the blanket denial of all information about the incident until the underlying investigation is complete. Instead, most agencies can legitimately withhold information about a pending investigation only if its release would interfere with the pending investigation itself or law enforcement's ability to function in general.

The Massachusetts Public Record Law is no different. Investigatory materials are defined as materials:

"... compiled out of the public view by law enforcement or other investigatory officials the disclosure of which ... **would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.**"<sup>14</sup>

According to the Massachusetts Supreme Court, police officers occupy positions of "special public trust" that favor transparency of public records about them.<sup>15</sup> It would therefore be a heavy burden to show that releasing an officer's name, *standing alone*, would run so counter to public interest that withholding it would be justified by the Public Records Law.

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<sup>12</sup> Massachusetts Public Records Law, Mass. Gen. Laws ch. 4 § 7(26) *et. seq.*

<sup>13</sup> Glavin, W.F., Secretary of the Commonwealth, *Guide to the Massachusetts Public Records Law* (2020) [SB101-Public-Records-Law-Guide.pdf \(frcog.org\)](#)

<sup>14</sup> Mass. Gen. Laws ch. 4 § 7(26)(f) (emphasis added)

<sup>15</sup> See *Bos. Globe Media Partners, LLC v. Department of Criminal Justice Info. Servs.*, 484 Mass. 279 (2020).

Absent a good-faith reason why releasing an officer's name would prejudice CPD's ability to conduct its work effectively, CPD should release involved officers' names proactively moving forward. (See the "Policy Recommendations" section below for specifics.)

## **ii. Safety of the Officer**

The Massachusetts Public Records Law, like other public access laws, also contains an exemption allowing agencies to withhold records (and information within them) if release would endanger or threaten a person or persons' safety.<sup>16</sup> After critical incidents, police agencies have occasionally withheld officers' names on this basis as well.

PERF does not minimize the importance of officer safety, especially in the highly charged environment that can follow critical incidents. But blanket denials based on safety, with no corresponding threat assessment, are hollow. As detailed below in the Policy Recommendations, PERF believes that moving forward, CPD should engage in safety assessments after critical incidents and, in the absence of specific threats that would justify withholding the names, release them within a pre-determined time frame, after informing the officer and implementing safety provisions.

In reviewing these Public Records Law exemptions, PERF does not suggest that in any given case, these or other exemptions could not be validly invoked to withhold an officer's name or other information. The point, rather, is that invoking an exemption as a blanket rationale to avoid public release, without corresponding facts that support that action, runs counter to principles of transparency and can erode public trust.

## **Rules of Professional Conduct**

At some point prior to the judge's order, CPD advised PERF of its belief that it could not release the officer's name according to the *Massachusetts Rules of Professional Conduct*. Those rules govern attorney conduct but can affect law enforcement indirectly. Specifically, Rule 3.8(f)(2) requires that prosecutors "take reasonable steps to prevent ... law enforcement personnel" from making statements that the prosecutor would be prohibited from making. But again, in this case, the release of the officer's name would not have violated the *Rules of Professional Conduct*.

According to Rule 3.8, prosecutors (and members of law enforcement working with them) shall refrain from making statements "that have a substantial likelihood of heightening public condemnation of the accused" or "materially prejudicing" a proceeding.<sup>17</sup> In other words, it is incumbent on the prosecutor and law enforcement to refrain from making statements that would be expected to prejudice public opinion against a person accused of a crime or, presumably, a person against whom a criminal charge is possible.

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<sup>16</sup> Massachusetts Public Records Law, Mass. Gen. Laws ch. 4 § 7(26)(n).

<sup>17</sup> See also Mass.R.Prof.C. 3.6(a)

These rules are no different from those promulgated by President Obama’s Task Force on 21st-Century Policing, which called for increased transparency when law enforcement agencies communicate with the public after critical incidents.<sup>18</sup> The Task Force recommended that information be released early and updated regularly if it could be done “without compromising the integrity of the investigation or anyone’s rights.”

Unless CPD can, in good faith, after consultation with the prosecutor, articulate why releasing the name of the officer in a critical incident would prejudice public opinion such that the officer’s rights are affected, or show that release of the name would credibly compromise the investigation, PERF recommends that the agency proactively release it going forward.

In this case, the public knew early on that an officer fired a weapon and killed a man. It is difficult to imagine how replacing “an officer” with the officer’s name might have prejudiced the outcome of the investigation.

### **The Commonwealth’s Right of Privacy Statute**

Massachusetts law provides, “A person shall have a right against unreasonable, substantial or serious interference with [that person’s] privacy.”<sup>19</sup> Violation of the statute occurs when “facts of a highly personal or intimate nature” are disclosed about a person, “with no legitimate reason for doing so.”<sup>20</sup>

Here, the information that the CPD is considering releasing about officers, following critical incidents, is their names – not their addresses, private medical information, or any personal or intimate details about their lives. As noted above, the Massachusetts Supreme Court has held that police officers occupy positions of trust that lean in favor of transparency regarding their records.<sup>21</sup> And, far from having no legitimate interest in releasing the name, CPD and the city have a very compelling reason to do so – being transparent with the public they serve.

Accordingly, it does not appear that Massachusetts’s Privacy Statute provides a justification to automatically withhold an officer’s name from the public after a critical incident.

### **Summary**

The statutes and rules highlighted above allow agencies to delay the release of information, or withhold it altogether, *under certain circumstances*; they should not be used as blanket justifications to keep information from the public. As detailed below, PERF recommends that CPD make determinations about whether to release information - such as the officer’s

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<sup>18</sup> Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing (May 2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf).

<sup>19</sup> Mass. Gen. Laws c. 214 § 1B.

<sup>20</sup> *Alexander v. Clarke*, 0905456H (Mass. Super. Mass. Super May3, 2011).

<sup>21</sup> *Bos. Globe v. Department of Criminal Justice*, *supra*.

name in a critical incident – on a case-by-case basis, and after thoughtful deliberation, with a presumption that the information will be made public.

### Policy Recommendations

The new critical incident policy that CPD is drafting will greatly assist the agency, the public, and officers, by establishing consistent timelines and clear expectations. The policy should specify that the release of information such as an officer's name, will take place within prescribed timeframes — subject to relevant legal and professional standards, including the Massachusetts Public Records Law and Massachusetts Rules of Professional Conduct.

PERF recommends that the Cambridge Police Commissioner, in consultation with appropriate staff and the prosecuting authority, should *assume* that certain information will be released to the public unless a legitimate, good-faith reason exists to withhold it. PERF recommends that CPD's new policy include language capturing the principles below:

- 1. Unless a specific, articulable, good-faith reason exists not to do so, within 24-36 hours of an officer-involved critical incident CPD should publicly disclose:**
  - **Preliminary facts about the incident**, including, at a minimum, where and when it took place and the number of people injured or deceased.
  - **Preliminary information about the officer(s) involved**, such as length of time as an officer and length of time with CPD (if the officer transferred from another agency), rank, assignment, prior uses of force, and status (e.g., modified assignment or leave pending the investigative outcome.)
  - **An estimated time frame for how and when further information will be released, including the officer's name.**
    - CPD policy should specify that the agency will begin its threat assessment to determine whether a credible risk to officer safety exists during this time.
    - CPD must consider and begin to address officer wellness during this time (see #2 below).

The above principles balance the public's desire for information with the CPD's need to consult with staff and the prosecuting authority to identify whether any *genuine* issues exist that conflict with the presumption of information release. They also present a timeframe within which CPD must begin its threat assessment and provide the public and the involved officer with its good-faith expectation about when the name will be (presumptively) released.

- 2. CPD should, within two to five days of an officer-involved critical incident, publicly disclose the name of the involved officer(s) unless circumstances exist that justify not releasing that information.**

- This two-to-five-day period allows CPD to conduct a meaningful threat assessment.
- If the assessment reveals no credible threat to safety, CPD should release the name within two days. If there are genuine threat indicators, the assessment should continue. And if, after five days, a credible risk persists, the officer's name may be legitimately withheld for as long as the risk remains. CPD should, however, communicate why it is withholding the name from the public. And if the threat abates, the name should be released.
- If circumstances other than officer safety justify withholding the officer's name (and this will generally be rare) CPD should broadly communicate that to the public (e.g., "Release would impede CPD's ability to conduct this [or other] investigation(s)."). CPD should also be prepared to defend that justification after the investigation is complete.
- **Before an officer's name is released publicly, CPD must ensure that the involved officer has been notified and given access to departmental services.** These include mental health assistance, peer support, and a full explanation of the officer's rights.

## Conclusion

The issue of whether and when CPD should have released the involved officer's name in this fatal incident ultimately stemmed from the lack of a clear protocol and will be mitigated once CPD updates its policy.

Notwithstanding the lack of policy, if, after examining the issues outlined above, CPD had chosen to release the officer's name, it could have legitimately done so — until the judge issued the order directing that no information could be shared until the inquest was complete. As of this writing, the inquest is continuing.

CPD is an agency that has, over time, demonstrated leadership in several key areas of reform, including juvenile diversion programs,<sup>22</sup> and trauma-informed police practices.<sup>23</sup> CPD now appears poised to lead the state of Massachusetts in developing a policy to release officers' names after critical incidents.

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<sup>22</sup> <https://www.cambridgema.gov/-/media/Files/policedepartment/Safety%20Net%20Manual%20FINAL.pdf>

<sup>23</sup> <https://www.cambridgema.gov/-/media/Files/policedepartment/SpecialReports/guideforatraumainformedlawenforcementinitiative.pdf>