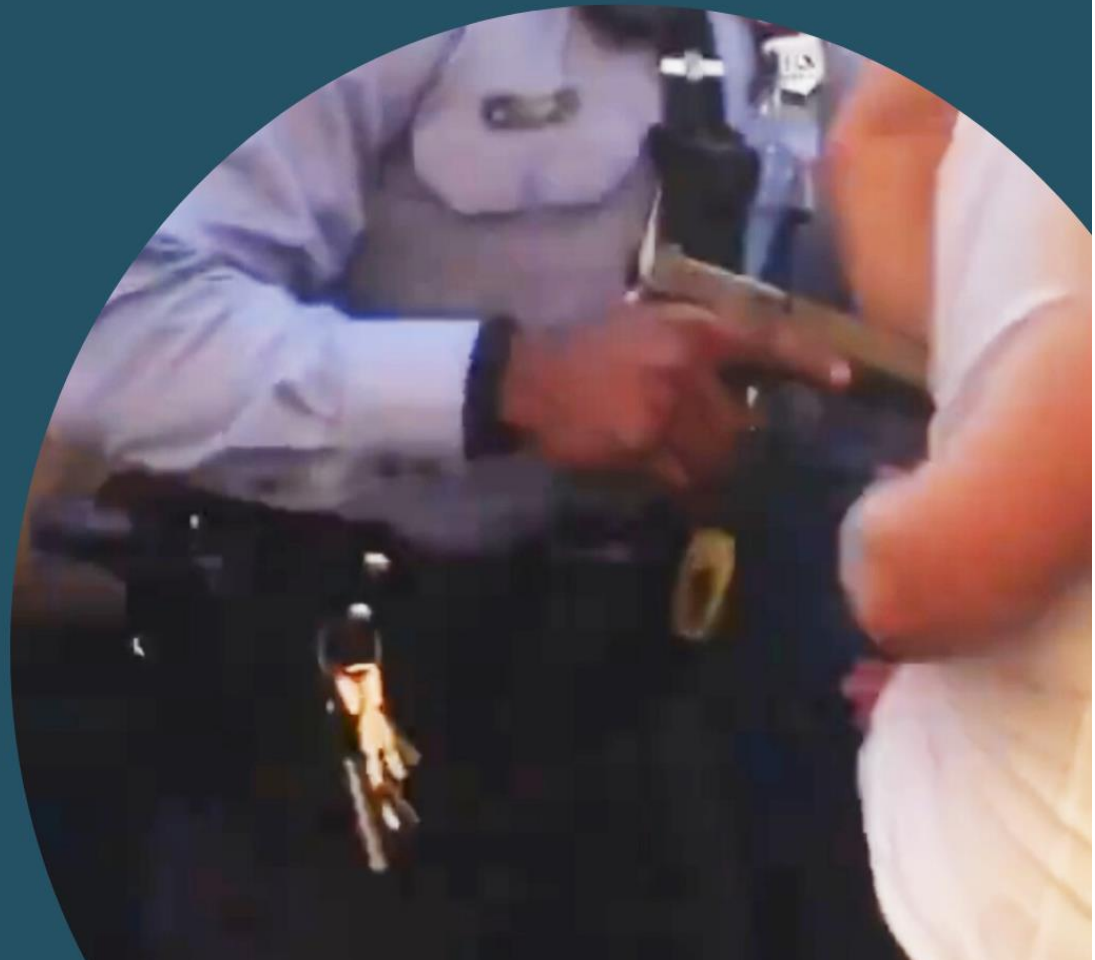


June 2020



POLICE ADVISORY COMMISSION

Executive Review of Philadelphia
Police Department's Pointed
Firearm Events





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June 11, 2020

Danielle Outlaw
Police Commissioner
Philadelphia Police Department
750 Race Street
Philadelphia, Pennsylvania 19106

Dear Commissioner Outlaw:

Enclosed please find the Police Advisory Commission's Executive Review of Philadelphia Police Department's Pointed Firearm Events.

Hans Menos
Executive Director
Police Advisory Commission

On February 3, 2020, the Police Advisory Commission (PAC) conducted a review of Pointed Firearm events within the Philadelphia Police Department (PPD) to ascertain what, if any, guidance, directives, or protections are mandated by the Department to ensure these incidents are not overlooked. This review began after a 2017 Complaint Against Police (CAP) was flagged from a randomized PAC audit; the PAC routinely audits past complaints to determine policing patterns that needs addressing. The audit showed that an officer was sustained for violating PPD Directives by pointing her firearm without any reasonable belief of an immediate threat for serious bodily injury. Subsequent to this audit, PAC staff reviewed several social media posts of residents sharing their grievances of PPD personnel pointing their firearms at residents, without reasonable belief of an immediate threat of serious physical injury.

Alongside PAC reports, the PAC also releases findings in the form of a public executive review. This review is a condensed report; findings are explained with the assistance of tables and charts so readers can better understand the information. The purpose of this review is to (1) determine what, if any, directives exist that establishes guidelines for when a PPD member can un-holster and point their firearm at an individual, (2) evaluate procedural protections that are in place to ensure compliance with existing directives, and (3) briefly review comparable jurisdictions to understand national policy, practices, and customs on this matter, (4) discuss scholarly research findings, and (5) offer PPD recommendations for addressing these events.

I. Established PPD Directives

PPD Directive 10.1 “Use of Force-Involving the Discharge of Firearms” states under section 4 “Specific Prohibitions” that **police officers shall not draw their firearms unless they reasonably believe an immediate threat for serious bodily injury or death to themselves or another person exists.** This prohibition was again echoed in the U.S. Department of Justice *Collaborative Reform Initiative: An Assessment of Deadly Force in the Philadelphia Police Department*.¹ A review of all other PPD directives failed to uncover any reference of “displaying” firearms or pointed firearm events.

II. Procedural Oversight

Despite PPD Directive 10.1, which prohibits this event unless there is a reasonable belief of an immediate threat of serious bodily injury, there is no accompanying PPD policy that requires PPD personnel to document when they draw and point their firearm at an individual. Additionally, current PPD directives do not include the act of pointing a firearm as a use of force. Categorizing certain law-enforcement responses to resistance as use of force activates several procedural checks. These checks include documenting the encounter, explaining the resistance which caused the use of force, notifying supervisors for review, and gathering evidence to ensure force was not used excessively.

Current PPD Use of Force policy requires a form to be completed whenever any Departmental personnel uses physical force upon another person. This force includes, but is not limited to, any instance when the baton/ASP has been used to strike an individual, OC Spray was used on an

¹ Fachner, George, and Steven Carter. *Collaborative Reform Initiative: An Assessment of Deadly Force in the Philadelphia Police Department*. U.S. Department of Justice: Community Oriented Policing Services. 2015.

individual, another object was used to strike, a canine dog has bitten or has been used to apprehend an individual, or an ECW has been used.² Use of Force Reports includes the description of the actions of the individual which caused the use of force, as well as the actions taken by the officer.³ Additionally, the use of force directive mandates a notification procedure for less than lethal force. Of note, the act of pointing a firearm is not currently addressed in the use of force continuum.

Internal Affairs investigators who respond to complaints that a PPD member allegedly pointed their firearm without cause are left with very few investigative tools. From PAC staff observations, during stressful times, without requiring officers to document immediately following the incident, it is possible for officers to overlook all circumstances of the encounter. Without written verification or corroborating video evidence, complaints like these are difficult to sustain. In CAP 17-0072, the Internal Affairs investigator discovered video footage that showed the pointed firearm and declared that it was pointed without cause.

In that complaint, an unarmed motorist was stopped by an officer, the video showed the officer smacking the complainant on the hand, the complainant moving his arm to swing, and the officer un-holstering her firearm and pointing it at the complainant.⁴ The officer calls for assistance and plain clothes officers arrived on scene, guns drawn on the complainant. PPD members used a control hold to restrain the complainant and he was subsequently arrested for assaulting an officer. The involved PPD members each completed a use of force form for the control hold used on the complainant, **not for pointing their firearms**.

At her interview months later, the officer informed the investigator that she only drew her firearm because the complainant punched her. The officer was sustained for violating firearm policy, all other charges were not sustained. Later, the officer received training & counseling in lieu of discipline.⁵ Considering the limited PPD guidance and procedural oversight protections, the PAC reviewed how these incidents are interpreted in other jurisdictions.

III. Review of Other Jurisdictions

The PAC selected 12 other law enforcement agencies and compared their policy with the PPD's policy. For each agency, all operating manuals, directives, and available training rubrics were reviewed to determine if the agency has a specific policy on pointed firearms, and if so, what procedural protections are enacted once a pointed firearm incident occurs.

A. Does a "Pointed Firearm" Policy Exist?

In this section, the PAC reviewed 13 law enforcement agencies to determine national trends in documenting pointed firearm incidents, post incident reviews, and force categorization.

² Philadelphia Police Department Directive 10.2: Use of Moderate/Limited Force.

³ Philadelphia Police Department Directive 10.2: Use of Moderate/Limited Force.

⁴ See PC Memo CAP 17-0072.

⁵ City of Philadelphia Complaints Against Police. Accessed February 2020.

<https://www.opendataphilly.org/dataset/police-complaints>.

Law Enforcement Agency	Documentation	Post-Incident Review	Pointing Firearm as Force
Baltimore ⁶	✓	✓	✓
Chicago ⁷	✓	✓	X
Cleveland ⁸	✓	✓	✓
Dallas ⁹	✓	✓	✓
DC (Metropolitan) ¹⁰	✓	✓	✓
Detroit ¹¹	✓	✓	✓
Houston ¹²	✓	✓	✓
LAPD ¹³	X	X	X
New Orleans ¹⁴	✓	✓	✓
NYC ¹⁵	X	X	X
Philadelphia ¹⁶	X	X	X
Phoenix ¹⁷	✓	✓	✓
Portland ¹⁸	✓	✓	✓

⁶ Baltimore Police Department categorizes Pointing a Firearm as a “Level 1” use of force. All use of force incidents shall be documented and reviewed by a supervisor not involved in the incident. All Level 1 uses of force undergo an exhaustive, multi-layered review by an officer’s sergeant, lieutenant, captain, and major/commanding officer. “Baltimore Police Use of Force”, accessed May 2020. https://www.baltimorepolice.org/sites/default/files/Policies/1115_Use_Of_Force.pdf.

⁷ All Chicago Police members must make appropriate notifications whenever the member points a firearm at a person while in the performance of his or her duties, with limited exceptions. Pointing a firearm alone is not use of force and does not necessitate the completion of a tactical response report. Force Review Unit will review all occurrences in which a Department member pointed a firearm. “Chicago Police Department Firearm Pointing Incidents”, accessed May 2020. <http://directives.chicagopolice.org/directives/data/a7a57b9b-1689a018-67e16-89a0-4d6cf7dbfc2535b3.html?hl=true>.

⁸ Un-holstering a firearm and pointing it at a subject is reportable as a Level 1 use of force. Cleveland Police review and investigates every reportable use of force. “Cleveland Division of Police: Use of Force-Definitions”, accessed May 2020. http://www.city.cleveland.oh.us/sites/default/files/forms_publications/01.10.2018Definitions.pdf?id=12396.

⁹ The Dallas Police Department mandates the completion of a use of force Response to Resistance web entry whenever a member points their firearm directly at any individual. This however does not include when a firearm is deployed as part of a warrant process or felony stop. Supervisors will be notified. “Dallas Police Department General Order-Response Continuum Table of Contents”, accessed May 2020. <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/569ad58a0e4c1148e6b1079b/1452987794280/Dallas+Use+of+Force+Policy.pdf>.

¹⁰ According to MPD, the act of drawing, and pointing, of a firearm at, or in the direction of, another person when no other force was used is designated a “reportable force incident”. Chain of command reviews all reportable force incidents. “Metropolitan Police General Order-Use of Force”, accessed May 2020. https://go.mpdconline.com/GO/GO_901_07.pdf.

¹¹ Drawing a firearm must be reported on a use of force form. A supervisor will review the incident. “Detroit Police Department Manual: 304-Use of Force”, accessed May 2020. <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/57584dea22482e86c03111b3/1465404906983/DPD+Manual+Use+of+Force.pdf>.

¹² Pointing a firearm at a person is reportable force that requires supervisor notification, but the supervisor is not required to report to the scene. “Houston Police Department-General Order Use of Force”, accessed May 2020. <https://static1.squarespace.com/static/56996151cbced68b170389f4/t/5abe77d81ae6cf648af7bd20/1522431960962/Houston+Police+Department+GO+600-17+Use+of+Force.pdf>.

¹³ LAPD has no active policy related to documenting these incidents.

¹⁴ New Orleans police mandates that the pointing of a firearm at a subject is a Level 1 reportable use of force. The Force Investigation Team does not automatically investigate Level 1 use of force; however, a supervisor is notified. “New Orleans Police Department Operations Manual: Use of Force”, accessed May 2020. <https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-1-3-Use-of-Force.pdf/>.

¹⁵ NYPD has no active policy related to documenting these incidents.

¹⁶ PPD has no active policy related to documenting these incidents.

¹⁷ Following recommendations from the National Police Foundation, Phoenix police implemented the use of force “Pointed Gun at Person (PGP)” policy that requires officers to complete a form detailing the incident and forward the form for review. The incident will be reviewed within 7 days. “Phoenix Police Department Operations Orders”, accessed May 2020. https://www.phoenix.gov/policesite/Documents/operations_orders.pdf.

¹⁸ The Portland Police Bureau defines the intentional pointing of a firearm at an individual as a category 4 use of force. The subsequent use of force After Action report shall be reviewed through the chain of command, up to and including the

B. When was the Policy Enacted?

Law Enforcement Agency	Date of Policy
Baltimore	July 2016
Chicago	November 2019
Cleveland	January 2018
Dallas	January 2013
DC (Metropolitan)	November 2017
Detroit	August 2014
Houston	September 2015
New Orleans	June 2013
Phoenix	September 2019
Portland	Unknown 2007

C. What Procedures are in Place to Record Incident?

In this section, every agency was reviewed to determine how pointed firearm events will be memorialized. All agencies that record this information mandate officers to document it in an existing agency form and to notify their supervisor of the event.

Law Enforcement Agency	Supervisor Notified	Police Radio Alert	Written Report
Baltimore ¹⁹	✓	X	✓-existing form
Chicago ²⁰	✓	✓	✓-existing form
Cleveland ²¹	✓	✓	✓-existing form
Dallas ²²	✓	X	✓-existing form
DC (Metropolitan) ²³	✓	X	✓-existing form
Detroit ²⁴	✓	✓	✓-existing form
Houston ²⁵	✓	X	✓-existing form
New Orleans ²⁶	✓	X	✓-existing form
Phoenix ²⁷	✓	X	✓-existing form
Portland ²⁸	✓	X	✓-existing form

Sergeant's immediate supervisor. "Portland Police Bureau Use of Force", accessed May 2020.
<https://www.portlandoregon.gov/police/article/751998>.

¹⁹ Baltimore Police Policy 1115-Use of Force. Pointing Firearm is considered use of force and therefore the existing use of force "Administrative Report" form will be used to document the encounter.

²⁰ Chicago Police Department Firearm Pointing Incidents-Directive D19-01. Chicago Police mandated that pointing a firearm at a person is a seizure, the action of pointing a firearm will be documented with existing seizure procedures.

²¹ Cleveland Use of Force Reporting Procedures. Unholstering and pointing a firearm is level 1 force and must be documented on use of force reports. Immediately after the incident the officer must inform the communication center and request a supervisor to the scene.

²² Dallas Police Department General Order 908.00 Response to Resistance Reporting requires officers to complete a response to resistance web entry and immediately forward it to their supervisor for review.

²³ Metropolitan Police Use of Force General Order-RAR-901.07. Reportable use of force shall be reported on the use of force incident report.

²⁴ Detroit Police Department Directive 304.2- Use of Force requires officers to contact their zone dispatch, supervisor, and document the incident on a use of force report.

²⁵ Houston Police Department General Order #600-17 requires this incident to be reported in a use of force report

²⁶ New Orleans Police Operations Manual-Use of Force

²⁷ Pointed Gun at Person Policy. Officers who point their firearm at a subject are required to document that on an investigative report for supervisor review.

²⁸ Portland Police Bureau Directive Manual 1010.00-Use of Force. Pointing a firearm will be recorded on use of force form for review.

D. Who Conducts Review of Incident?

In every agency, the incident is reviewed by chain of command, some agencies only require the immediate supervisor, whereas others mandate the chain of command up to captain.

Law Enforcement Agency	Chain of Command Review	Investigative Team
Baltimore ²⁹	✓	X
Chicago ³⁰	✓	✓
Cleveland ³¹	✓	X
Dallas ³²	✓	X
DC (Metropolitan) ³³	✓	X
Detroit ³⁴	✓	X
Houston ³⁵	✓	X
New Orleans ³⁶	✓	X
Phoenix ³⁷	✓	X
Portland ³⁸	✓	X

²⁹ A supervisor not involved in the incident will conduct a thorough review of the use of force, and document this review by completing a Blue Team entry before the conclusion of the supervisor's tour of duty. Supervisor will also tag and download body worn camera data. Commanding officer of supervisor will review Blue Team entry within 10 days of completion.

³⁰ The notified supervisor will ensure any body-worn camera or in car video data is retained and document the action in the supervisor's management log. The Force Review Unit (FRU) will be responsible to review documentation and information collected from all investigatory stop or arrest occurrences in which a member pointed a firearm at a person. The review will be completed within 30 days of the incident.

³¹ Supervisors will review incident. Force Investigate Team (FIT) does not investigate level 1 force including pointing a firearm.

³² The immediate supervisor will review the use of force form for completeness and accuracy and forward it to the next level of supervision.

³³ Supervisors of higher rank than the reporting member shall respond to all use of force incidents

³⁴ Supervisors shall respond to the scene, interview the officer, canvass for witnesses and examine the subject(s) for injury. All reports completed as a result of an incident shall be reviewed and updated by a supervisor prior to the end of their tour of duty.

³⁵ Within five calendar days after a reportable force incident, the supervisor, shall review the report to ensure the incident was properly documented and complete a use of force after-action report. Report will be forwarded to lieutenant and captain for review within five calendar days.

³⁶ A unique number is assigned to each reportable use of force event to facilitate awareness and tracking. However, there is not an automatic investigation and review of all events. Level 1 uses of force will be reviewed solely by supervisors. Supervisors shall elevate and investigate any use of force that appears to have been inappropriately categorized as Level 1.

³⁷ Each PGP report will be reviewed by the officer's supervisor.

³⁸ Use of Force Policy states that Category IV Force shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.

E. How are Recording these Incidents Helpful?

Agencies differ on how they use this information. Most use the information to review compliance with firearm/force policy. At least 7 agencies release these data in their annual use of force report. A few use this information for their Early-Intervention System.

Law Enforcement Agency	Compliance with Firearm/Force Policy	Early-Intervention Factor	Data Review on Annual Basis
Baltimore ³⁹	✓	✓	✓
Chicago ⁴⁰	✓	X	✓
Cleveland ⁴¹	✓	✓	✓
Dallas ⁴²	✓	X	✓
DC (Metropolitan) ⁴³	✓	X	✓
Detroit ⁴⁴	?	?	?
Houston ⁴⁵	✓	✓	X
New Orleans ⁴⁶	✓	✓	✓
Phoenix ⁴⁷	✓	X	X
Portland ⁴⁸	✓	X	✓

³⁹ Policy 1115-Use of Force states that the data will be included in periodic reporting and the Early Intervention System (EIS). Members shall not point a firearm at a person unless they reasonably believe that the person poses a present or imminent threat of death or serious physical injury. On force report officer must document the circumstances surrounding the force

⁴⁰ Force Review Unit will identify if there are any tactical, equipment, or training concerns for the incident. Every incident will be reviewed to determine whether the pointing of the firearm at a person allegedly violated Department policy. In addition to the individual firearm pointing incident review process, the unit will also regularly, but at minimum on an annual basis, analyze the reviewed firearm pointing incidents to identify patterns and training concerns.

⁴¹ Use of Force policy states that an officer may not un-holster and display or un-holster and point a firearm unless the circumstances surrounding the incident create an objectively reasonable belief that the situation may escalate to the point at which deadly force would be authorized. In completing a report, officers shall not use conclusory statements, boilerplate or canned language (e.g., furtive movement, fighting stance), without supporting details that are well articulated in the required reports. The Officer Intervention Program (OIP) includes incidents involving the reportable pointing of a firearm at a person. CDP collects and maintains this information to accurately evaluate its use of force practices.

⁴² Officers may draw or display firearms when there is a threat or reasonable belief that there is a threat to life or they have a reasonable fear for their own safety or safety of others. Officer must document resistance that precipitated the deployment and pointing of a firearm in the incident report. A yearly analysis of all response to resistance reports will be conducted and provided for inclusion in an annual report

⁴³ No member shall draw and point a firearm at or in the direction of another person unless there is a reasonable perception of a substantial risk that the situation may escalate to the point where deadly force would be permitted. This information is used for an annual review. In 2018, officers pointed their firearm at subjects 292 times, a 32% increase from 2017. Officers reported that prior to pointing their firearm, subjects were compliant in 35% of incidents, passively resistant in 26% incidents, actively resistant in 35% incidents, assaultive/threatening physical injury in 2% of incidents, and assaultive/threatening serious physical injury in 3% of incidents.

⁴⁴ Detroit Police Department Directives are exempt from Michigan's Freedom of Information Act (FOIA).

⁴⁵ Officers must thoroughly document the suspect's actions and the officer's response. The Department's Early Warning System conducts monthly data scans of all department records including response to resistance incidents.

⁴⁶ Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create an objectively reasonable belief that a situation may escalate to the point at which lethal force would be authorized. Once an officer determines that the use of deadly force is no longer likely, the officer shall re-holster the weapon. For their early intervention system, one factor used is a use of force incidents to total arrest ratio. NOPD releases annual use of force reports including data from firearm exhibited/pointed.

⁴⁷ Employees will not unnecessarily draw or display any firearm; supervisors will assess the actual pointed gun incident. The PGP is new and the Department has not publicly stated how this information will be used further.

⁴⁸ Portland Police requires that members use only the objectively reasonable force necessary to perform their duties and overcome the threat or resistance of the subject under the totality of circumstances. PPB releases a Force Analysis Summary Report Quarterly and Yearly which includes incidents of firearm pointing.

IV. Scholarly Research on Practice

- A. **“To examine whether certain policies are associated with lower or higher rates of officer-involved gun deaths. Findings show that one policy-the requirement that officers file a report when they point their guns at people but do not fire-is associated with significantly lower rates of gun deaths.”⁴⁹**

In a 2017 review of officer pointed firearm incidents, researchers discovered that police agencies that require officers to file a report when they point their guns but do not shoot at civilians had significantly lower rates of gun deaths by police officers, roughly half of agencies required such reports in 2013.⁵⁰ The study relied on a data set compiled by a nonprofit organization that has cataloged every instance of police-involved gun death since 2000; the database, called Fatal Encounters, is crowdsourced and fact-checked.⁵¹ The database collected records on more than 10,000 police-involved deaths in a 15-year time period. The policies reviewed in the database included reviewing the racial makeup of departments to ascertain if they match communities, assigning regular beats to officers, requiring community policing training, and other policies. **The requirement that officers document incidents in which they draw their firearms was the only one that had a significant relationship with the rate of gun deaths.**⁵²

Diving into reasons why this policy is effective, the research suggested that the paperwork requirement may act as a deterrent to unnecessary use of force because of the added demand on officers’ time, the implicit recommendation from leadership of avoiding unnecessary gun draws, and a general commitment to best practices among agencies that have this policy.⁵³ Overall, their findings suggest that over a 15-year period, at least 40 fewer people would have died from officer-involved shootings in large city departments if they had this policy.⁵⁴ In concluding their study, the researchers suggest that this policy change-requiring officers to document when they point their firearm-has the potential of saving lives without putting officers at further risk.⁵⁵

- B. **An in-depth look at this policy in Dallas showed that after the change was implemented, there were fewer police-involved shootings for unarmed suspects, no substantially significant change in rate of officer injury, and fewer shootings when there was a perception of a gun but no gun was recovered.**⁵⁶

⁴⁹ Jennings, Jay. Meghan Rubado. “Preventing the Use of Deadly Force: The Relationship between Police Agency Policies and Rates of Officer-Involved Gun Deaths”. *Public Administration Review*, Volume 77, Issue 2. 2017. Pp. 217-226. DOI: 10.1111/puar.12738

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Shjarback, John. et al. (2020). *Point and report: An examination of the Dallas Police Department’s policy change requiring the documentation of firearms pointed at citizens and its impact on officer-involved shootings*. Unpublished manuscript, Department of Law and Justice Studies, Rowan University, Glassboro, New Jersey.

During the June 2020 Annual American Society of Evidence Based Policing Conference, Dr. John Shjarback shared his preliminary findings of the impact of this policy within the Dallas Police Department. The Dallas Police Department began requiring firearm pointed incidents January 2013. In this pending research, data was collected from police-involved shootings in Dallas from 2003-2018, in total there were 231 officer-involved shooting incidents reviewed. The research showed that:

- Officer involved shootings with unarmed suspects **decreased** from 14 to 8 percentage points of shootings.
- Shootings when there was a perception of a gun, but no gun was recovered, **decreased** from 18 to 4 percentage points after the policy was initiated.
- For gun danger typology, an officer involved shooting due to a suspect “reaching” for a weapon **decreased** from 23 to 14 percentage points.
- Officer injury sustained **decreased** from 15 to 12 percentage points. (this finding may not be statistically significant)⁵⁷

Overall, this research shows that in relation to the quality of officer involve shootings, requiring officers to document pointed firearms does have a significant impact.⁵⁸

V. Recommendations

- 1. Require PPD personnel to (1) document un-holstering a firearm, (2) reevaluate the alleged threat after un-holstering their firearm and describe this reevaluation on documentation, and (3) document pointing a firearm with enough detail to describe the alleged threat.**

The PAC believes the act of un-holstering a firearm, and pointing a firearm, should be treated as separate incidents to emphasize a force continuum. PPD Directive 10.2 mandates that an officer shall not draw their firearms unless they reasonably believe an immediate threat for serious bodily injury or death to themselves or another person exists. If an officer is confronted with a threat level that places them in an immediate threat for serious bodily injury or death, after un-holstering their firearm, the officer should be required to reevaluate the situation to ascertain if the threat remains before pointing their firearm.

Establishing a clear force continuum will allow officers to reevaluate the situation at every stage, become more cognizant of the impact of un-holstering and pointing a firearm on residents, and increase transparency.

- 2. Amend current Use of Force policy to include the pointing of a firearm as a use of force.**

Most jurisdictions reviewed that has a pointed firearm policy also mandate that the act is considered a use of force or reportable force.⁵⁹

⁵⁷ Shjarback, *Point and report*.

⁵⁸ Dr. Shjarback has expressed his willingness to explain his findings in more detail to the PAC and PPD. This research concludes his findings for overall quality shootings, he continues his research into policy impact on quantity of shootings and will shared his findings with the PAC once that is concluded.

⁵⁹ See Table E.

3. Pointing of a firearm should be categorized as “Deadly Force”.

“Less Lethal Force” is an insufficient category. It authorizes this level of force when an officer is confronted with an individual who is physically aggressive or assaultive behavior with an immediate likelihood of injury to self or others. “Moderate/Limited Force” is also an insufficient category for the act of pointed firearm. Moderate force is authorized when an offender is resisting and non-compliant with officer commands. Current PPD Directive 10.1 only authorizes the pointing of a firearm when an officer reasonably believes an immediate threat for serious bodily injury or death to themselves or another person exists. For compliance with this directive, the Use of Force for pointed firearm incidents should be categorized as at “Deadly Force”.

Deadly Force is the only category where an officer may use a firearm when there is an objectively reasonable belief that there is an immediate threat of death or serious bodily injury.

4. When reporting Pointed Firearm Incidents, Officers should first relay event over police radio.

Chicago, Cleveland, and Detroit Police Departments all require this communication. The Officers must state clearly the resistance that the subject made and request a supervisor to the scene for a review.

5. Recorded police radio audio transmissions for all use of force incidents should be preserved, including pointed firearm notifications.

PPD Directive 7.1: Police Radio mandates that police radio recordings will only be retained for 40 days, or as required by law. This Directive should be amended to require all radio recordings will be retained for five (5) years when officers make a use of force notification, including pointed firearms.

6. Reviewing Supervisors of pointed firearm incidents shall ensure that officers make radio notification of incidents, and if not, the reviewing officer shall preserve entire radio transmission of encounter.

In an abundance of caution, if officer fails to notify police radio, supervisors shall ensure police radio of incident is preserved.

7. In completing written reports on the incident, officers should be refrained from using vague language to describe an offender’s actions that warranted the firearm pointing.

Officers should be required to describe the event in such detail where reviewing supervisors can ensure that the force used followed PPD Directives.

- 8. Ensure that reporting procedures are categorized to make later evaluations on data and incidents accessible. Pointed Firearm should be a separate data field on use of force forms to quickly discover these incidents.**

Several departments release quarterly and annual reports specifically on pointed firearm incidents. These reports increase transparency with the community and help ascertain which officers require more immediate use of force training and intervention.

- 9. (1) Un-holstering and (2) pointed firearm incidents should be documented on more than one report. This incident should also be described on 75-48A and Arrest Memos**

For transparency with the community, in describing a stop, seizure, or arrest of an individual that warrants the un-holstering and pointing of a firearm, officers must document these incidents in other documents.

- 10. If an officer un-holsters and/or points their firearm at someone they are not seizing or arresting, they must still document this incident over radio and later documentation.**

This recommendation arises from a social media video filmed in Philadelphia that shows an officer, while arresting an individual, un-holsters and points his firearm at a civilian across the street.⁶⁰ Without a policy mandating that all incidents be recorded, not simply incidents against known individuals, this encounter would be overlooked.

- 11. Seek community feedback while amending these policies.**

Community members are traumatized frequently by their observations of PPD personnel un-holstering and pointing their firearms at residents. To best grasp the extent of this pain and concern, the PAC recommends for PPD to hold multiple roundtable discussions with community leaders around Philadelphia prior to implementing any new use of force policy.

VI. Conclusion

The purpose of this review is to raise awareness concerning the lack of PPD oversight regarding un-holstering firearms and pointed firearm incidents. The PAC reviewed several comparable law enforcement agencies and spoke with academic researchers; the findings are clear-this policy is

⁶⁰ nogunzone, "Hi I'm writing because my boyfriend was in a situation with the cops today on Mascher and Cambria they hit him off his bike and they beat him up.." Instagram, May 8 2020
https://www.instagram.com/p/B_6d_ILAHsV/

effective. The PAC offers these recommendations but wishes to emphasize the importance of PPD inviting community members to the drafting sessions of these future directives; allowing these conversations to be collaborative and transparent increases community-police relations and helps abolish excessive use of force encounters.

Prepared by Anjelica Hendricks, Esq. PAC Policy Analyst. Date of Preparation: May 2020.