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Timeline of Events

Based on discussion at CSPD Full Staff in April 2015, a decision was made to form a committee to review CSPD use of force complaints. The review and report was prepared at the request of Mayor John Suthers and assigned by Chief Peter Carey. Deputy Chief Mark Smith, Commander Scott Whittington, and Amanda Terrell-Orr met May 5th to discuss the purpose of the project, roles and responsibilities, and potential committee members. Following the meeting, Ms. Terrell-Orr and Commander Whittington developed the proposed methodology for the project. On June 12th, Deputy Chief Smith, Commander Whittington, and Ms. Terrell-Orr met to review the proposed methodology, which was approved. A meeting was held June 29th in which committee members were briefed on the review process. Subsequent to this meeting, a third task was added to the committee's purview. Committee members were instructed to begin their review August 21st and the deadline for individual members' review was set for 90 days, by November 19th. The first committee review meeting was in December 2015. The committee's ninth and final meeting was held in March 2016.

Purpose of the project

Task 1: To review CSPD complaints involving use of force to determine whether the disposition was accurate given the facts of the case and the disposition definitions in GO 1620: Complaints and Internal Investigations.

Task 2: To determine whether any changes or improvements in training, process, and/or policy are warranted after close examination of cases in which the committee determines the disposition was inaccurate.

Task 3: To review sustained CSPD use of force complaints for reasonableness of discipline and recommendations for changes or improvements in training, process, and/or policy related to discipline for inappropriate use of force.

It is important to note this review process is **not** intended to re-open any investigations or to discipline officers retroactively. The official disposition and discipline on review cases will remain its original case disposition and discipline (if applicable) unless extraordinary circumstances apply as determined by the Chief of Police in consultation with Human Resources and the City Attorney's Office.

Committee composition

Members of the committee were selected to represent diverse police assignments, ranks, and demographic variables such as race, ethnicity, and gender. For an outside law enforcement perspective on the review cases, CSPD requested the participation of an El Paso County Sheriff's Office Bureau Chief. Only law enforcement officers were involved in the review in alignment with the landmark Supreme Court decision on use of force, *Graham v. Connor*, which found that the reasonableness of force will be

judged from the perspective of a reasonable *officer* on the scene at the time of the incident, based on the totality of circumstances. The law enforcement officers involved were at the rank of Sergeant or higher because only supervisors in CSPD investigate and choose dispositions in internal investigations.

Deputy Chief Mark Smith
Commander Scott Whittington
Commander Sean Mandel
Lieutenant Christy Sheppard
Lieutenant Dan Lofgren
Sergeant Becky Smith
Sergeant Felicia Low
Bureau Chief Bob McDonald, El Paso County Sheriff's Office

Advisory Staff to Committee Members, Expertise Used as Needed (Non-Voting)

Amanda Terrell-Orr, Planning and Grants Administrator ("Researcher"): methodology, analysis, facilitation

Joel Kern, Sergeant: Internal Affairs investigations, processes, additional case information

Training Academy Staff: Subject matter expertise in use of force

Determining what cases should be reviewed

Pursuant to General Order 705: Use of Force Continuum, the general levels of force are identified as follows.

- Presence/Appearance
- Voice/Tactical Communication Skill
- **Soft Control, Open Hand Techniques**
- **Control and Compliance Tools, Chemical Agent, Conducted Energy Device, and Pain Compliance Tools**
- **Hard Control, Closed Hand, and Kick Tactics Techniques**
- **Impact Systems**
- Lethal Force¹

For the purposes of this review, only cases involving an allegation of one of the bolded/underlined tactics above were included. A case meeting these criteria is referred to as a "review case."

All complaints against CSPD members are tracked within the IAPro system. Sgt. Joel Kern, Internal Affairs, queried alleged policy violations within the IAPro System² from January 2011 to May 14, 2015.

¹ The committee did not review deadly force cases. Deadly force cases receive a great deal of investigation and critique via the Deadly Force Investigation Team, the District Attorney's Office, and the Critical Incident Review Committee. It is not necessary for this committee to review dispositions in deadly force cases.

He filtered those cases in a report by choosing the policy violations under which use of force allegations may be found.

Initial Review. Commander Scott Whittington and Sgt. Joel Kern reviewed all allegations in the IAPro report to determine those that were appropriate as a review case for the purposes of this project. In cases on which they could not come to consensus or were unsure, the cases were given to Deputy Chief Smith to decide whether they met the criteria for a review case.

Sampling. The review cases identified through this initial review became the population of this project. Because the population was too large for the committee to review each case in a reasonable time frame, a sampling process was used. A total of 201 cases were identified in the initial review. Using a confidence level of 95%, margin of error of 5%, and a 75% response distribution, the sample was 119 cases. The sample was chosen randomly using the randomization function in Excel. The sample was not sorted by case number or date to avoid reviewer bias by date.

For the purposes of Task 3, the entire population of sustained excessive force cases was reviewed using a qualitative research method of case study.

Methodology for Committee to Review Cases³

Trigger for Additional Sampling

There may be situations in which the findings from the committee's review triggers the need to sample and review additional cases. A hypothetical situation that might trigger the need for additional cases to be reviewed could be if 10% of cases moved from an original disposition of either not sustained or unfounded to a committee disposition of sustained. A decision to review additional cases beyond the original sample will be made by the Deputy Chief.

Committee Instructions and Materials Provided

All committee members will be brought together in a meeting in which they are briefed on the purpose of the review, instructions for review, and the importance of confidentiality. Committee members are expected to turn over any notes they take during the course of their participation in the committee at the last meeting and the researcher will destroy the notes. Committee members will be given case information via Google Drive.

Case information consists of the initial complaint receipt form, IA summary (if an IA investigated case), and administrative insight. Ideally, all identifying information about the parties involved would be redacted. Because this is not feasible given the number of cases that will be evaluated, IA staff will redact the section of the complaint receipt form that includes the race/ethnicity and gender of the complainant.

² IAPro requires the entry of information by Internal Affairs employees. During the early years of implementation, it is possible employees were not as diligent as they currently are in entering full data.

³ This methodology was approved by Deputy Chief Smith in June 2015.

For the sustained use of force case study, additional information will be provided, to include the Disciplinary Action Form. This information will be provided on all sustained use of force cases from the review period.

Conflicts of Interest⁴

If a committee member is the subject officer in a review case or the subject officer is a family member or current/former intimate partner or family member of the committee member, the committee member will declare that s/he has a conflict with review of the case as soon as possible after receiving the review cases. The committee member will not give input on a case in which there is such conflict, and the committee member will not be present in the room when the case is discussed. If there are multiple cases in which committee members have conflicts of interest, Deputy Chief Smith may request that the researcher pull replacement cases for the sample.

Request for additional case information to be shared with the committee

If a committee member believes additional case information will be needed to evaluate any case (including any other knowledge they have about the case), they will make that known to Deputy Chief Smith, who may choose to engage Sgt. Joel Kern in an advisory role to provide that information. All committee members will be given access to the same information, so if additional information is provided to one committee member, it will be provided to all committee members.

Review Phase I: Independent Assessment, Tasks 1 & 2

Committee members will be instructed to use the disposition definitions in GO 1620 (see Figure 1) to determine whether a review case's disposition was accurate. Committee members will first individually review all cases and provide their independent assessment via an online survey tool without consultation with any other committee members. The results of the online survey will not be retained once the final report is completed.

Figure 1. Dispositions in GO 1620: Complaints and Internal Investigations.

Unfounded - The allegation is false and not factual. Misconduct did not occur. There are Disinterested Witnesses or other facts which prove that misconduct did not occur.

Not Sustained - Evidence is insufficient to clearly prove or disprove the allegation. There are no Disinterested Witnesses and the allegation cannot be proved or disproved.

Exonerated - Investigation disclosed that the act complained of did occur, but that it was justified, legal and proper. There is no dispute over the fact that the act did occur, or there is sufficient evidence to prove that the act did occur, and there was no policy violation.

Sustained - Investigation established that misconduct did occur and the allegation is supported by

⁴ Committee members were advised of the conflict of interest parameters in the meeting of June 29, 2015.

sufficient evidence. There are Disinterested Witnesses or other facts proving the allegation(s).

Misconduct Not Based on Complaint - During the review of an investigation, a supervisor discovers a sustained policy violation unrelated to the complainants original allegation(s).

Closed by Mediation - Investigation in the case was suspended by the Division Commander/Director, and the underlying issues were resolved in a structured meeting between the involved employee(s) and complainant. Cases which are successfully mediated are closed without one of the above formal classifications being assigned. Cases disposed of by mediation will be handled as provided in G.O. 1620.43.

After all input is received from all individuals on the committee via the online tool, the researcher will analyze the responses in three categories:

1. Cases in which there is consensus that the original disposition was correct.
2. Cases in which there is consensus that the original disposition was incorrect and what it should have been.
3. Cases in which there is not consensus on whether the original disposition was correct and/or what it should have been.

Review Phase II: Committee Review, Tasks 1 & 2

Step 1. First Committee Review

The committee will be assembled for the purpose of discussing cases in which there was not consensus in Phase I. Committee members will be provided the list of non-consensus cases in advance of the meeting. Ground rules for the discussion will be developed and agreed upon by the committee before discussion begins.

The discussion process will be:

1. Advisory member or committee member calls the case and briefs the facts.
2. Group discussion should be aimed toward coming to a consensus, but this portion of the process will be time-limited (researcher suggests 20 minutes).
3. a. At the end of the time, if consensus has not been reached, a vote will be taken on the correct case disposition. In order to prevail as the final disposition assessed by the committee, the vote has to be at least six of eight members (or equivalent if fewer than eight members present).

b. If the vote is five members, the disposition of the majority will be noted in the final summary as the committee's assessment, but the three dissenting members may choose to include a paragraph with information about their dissenting assessment in the final summary.

c. If the vote is less than five members for a particular disposition (i.e. 4-4), the case may be assigned for discussion at another meeting. It may be necessary for additional information on the case to be provided by advisory committee members.⁵

Step 2. Second Committee Review (Only if Necessary)

Committee members may be assembled to discuss any cases that fall under Step 1(3)(c), meaning the vote on a case was 4-4.

The discussion process will be:

1. Advisory member or committee member calls the case and briefs the facts.
2. Committee members will confirm they received any additional case information from the original investigation requested. Committee members may hear from an advisory member as to training, processes, etc.
3. Group discussion should be aimed toward coming to a consensus, but this portion of the process will be time-limited (researcher suggests 20 minutes).
4. At the end of the time, if consensus has not been reached, a vote will be taken on the correct case disposition. In order to prevail as the final disposition assigned by the committee, the vote has to be at least six of eight members (or equivalent if fewer than eight members present).

If the vote is five members, the disposition of the majority will be noted in the final summary as the committee's assessment, but the three dissenting members may choose to include a paragraph with information about their dissenting assessment in the final summary.

If the vote is less than five members for a particular disposition (i.e. 4-4) and no other information can be provided to answer questions or concerns,⁶ the case will be listed in the final summary as "Undetermined Accuracy" with a brief written explanation of the opinions on the case disposition.

Step 3. Committee Recommendations

Committee members will be assembled to discuss 1) cases in which there is consensus that the original disposition was incorrect and what it should have been and 2) cases determined at step 1 or 2 to have an inaccurate original disposition.

The purpose of this step is directly related to Task 2: To determine whether any changes or improvements in training, process, and/or policy are warranted after close examination of cases in which the committee determines the disposition was inaccurate.

⁵ All additional information provided to the committee will first receive approval of Deputy Chief Smith. For information on the facts of the case, the committee may not request any additional investigative work on the case; rather, committee members must rely only on information available in the original investigation.

⁶ All additional information provided to the committee will first receive approval of Deputy Chief Smith. For information on the facts of the case, the committee may not request any additional investigative work on the case; rather, committee members must rely only on information available in the original investigation.

Prior to the recommendation meeting, committee members will be provided with results of analysis conducted by the researcher. This analysis will include, at a minimum, the following information:

1. Number of cases in which the original disposition was also the committee's final assessment
2. Number of cases in which the original disposition was not the committee's final assessment
3. Of cases identified in #2, description of movement from original disposition to committee's final assessment. For example, X cases (X% of reviewed cases), moved from an original disposition of "unfounded" to a committee disposition of "not sustained."

If no further cases need to be added to the committee's review, the committee will proceed to writing a final report with recommendations. If further cases need to be reviewed, the steps will follow those described above in Steps 1-3. See Review Phase V for a description of the final report.

Review Phase III: Independent Assessment, Task 3

Following the first committee meeting of June 29th, an additional task was identified as under the purview of the committee's work. The purpose of this task is to review all sustained CSPD excessive force complaints from 2011 to 2015 for reasonableness of discipline and to make recommendations for changes or improvements in training, process, and/or policy related to discipline for inappropriate use of force.

CSPD General Order 1610 covers discipline. The discussion section of this policy states:

"The Department has a responsibility to its employees and the community to seek out and discipline those employees whose conduct discredits the Department, or impairs its effective operation. Discipline has, as its immediate purpose, the channeling of individual effort into effective and productive action. It may involve encouragement, inspiration, training or the imposition of negative sanctions. Negative sanctions administered may range from a warning, where the immediate effect is on the individual, to termination, where the positive result is reassurance to other employees of the limits upon acceptable conduct. Policies, procedures, rules and written or oral directives are set forth as guidelines to acceptable and desired objectives. When violations of such guidelines occur, employees of the Department will be subject to disciplinary action."

The discipline that may be imposed on employees is as follows:

- Training
- Verbal Counseling
- Written reprimand
- Suspension
- Demotion in Rank or Grade
- Reduction in Pay
- Termination or Dismissal from the Department

There are a number of circumstances that could be considered an inappropriate or excessive use of force under CSPD's policies, including but not limited to the following situations:

- An officer used force in a particular circumstance when s/he should have not used any force.
- An officer used a particular level or amount of force but a lesser level or amount of force should have been used.
- An officer used a particular type of weapon or device but that type of weapon or device should not have been used or should not have been used in the manner in which it was used.
- An officer used force in a particular way but was not justified in using force in that way.

Decisions about appropriate discipline for policy violations are made on a case-by-case basis considering the totality of the circumstances. CSPD does not use a matrix for discipline. In a case of a sustained violation related to use of force, some of the variables the chain of command commonly considers are the circumstances that led up to the use of force; the nature of the force used; aggravating or mitigating circumstances; officer's willingness to accept responsibility and acknowledge wrong-doing; and the officer's disciplinary and performance history.

Committee members will independently review all the information available in each of the sustained use of force complaints. In addition to the documents provided for the review under Tasks 1 & 2, committee members will also be given the Disciplinary Action Form and any other available documents for all sustained use of force complaints in the identified time period.

The research method used for this task is qualitative (more specifically, case study). This choice was made because of the small number of cases and because of the value of recommendations even if all cases are viewed as having reasonable discipline.

In considering the reasonableness of the imposed discipline, committee members are to consider the following questions:

1. Was the discipline and any additional corrective action taken sufficient to deter such conduct from this officer in the future? Why or why not?
2. Was the discipline appropriately matched to the level of harm to the citizen(s), community, department, and City? Why or why not?
3. If the discipline imposed is viewed as unreasonable, what discipline would have been reasonable? Why?

The committee will discuss these questions to form the foundation of its recommendations for process improvements.

The process questions for the committee to consider in this review are:

1. Whether or not the discipline was reasonable, describe any other types of corrective action you would suggest for a case like this one.

2. Describe any process or policy recommendations you would make as a result of your review of this case.

Committee members will take notes on these questions and any other factors they find important to aid in the committee discussion. Notes will not be retained after the meeting. The portion of the discussion that will be captured in the final report is any process improvements that are recommended.

Review Phase IV: Committee Review, Task 3

Because of the small number of cases to be reviewed and the qualitative research method used in Task 3, the process for committee discussion will differ from that of Tasks 1 & 2. The role of the advisory or committee member that facilitates the discussion will be to call the case and facilitate a discussion of the case in which all committee members' opinions are heard. All cases will be discussed in this manner. The committee will discuss recommendations for CSPD based on its review of all the cases. If at least five members of the committee agree on a recommendation, it will be listed in the final report. More than one meeting may be necessary to complete Task 3 recommendations.

Review Phase V: Final Report

A final report will be prepared with the results of the committee's review, to include recommendations on how to correct any training, policy, accountability or other issues point forward in CSPD's investigations of citizen complaints and/or in its process for discipline in cases of inappropriate use of force. All committee members will have the opportunity to review the report. Deputy Chief Smith will make final editing decisions for the committee.

Results of Review

Results from Tasks 1 & 2

As described in the methodology, 119 cases were chosen using random sampling. The committee subsequently voted to remove 15 of those cases as not meeting the policy definition of use of force, leaving 104 cases. Table 1 shows the original dispositions of these 104 cases.

Table 1. Original dispositions of cases reviewed.

Original Disposition	Number	% of 104
Exonerated	39	37.50%
Not a Violation of Policy	14	13.46%
Not Sustained	3	2.88%
Sustained	1	0.96%
Unfounded	36	34.62%
Part Unfounded, Part Exonerated	1	0.96%
No use of force policy violations were identified nor investigated	10	9.62%

The committee had a finding of “undetermined accuracy” in two cases. The committee agreed with the original disposition in 71 of the 102 cases that remained, or 70%. The committee disagreed with the original disposition in 31 of the 102 cases that remained, or 30%. Table 2 shows the recommendations in the 31 cases in which the committee disagreed with the original disposition, grouped by original disposition. Table 3 shows the recommendations in the 31 cases in which the committee disagreed with the original disposition, grouped by committee recommendation for disposition.

Table 2. Summary of cases in which committee did not agree with original disposition (n=31).

Change	Number	% of total cases (n=104)	% of “disagree” cases (n=31)
Exonerated to Not Sustained	4	4%	
Total	4	4%	12.9%
Not a Policy Violation to			
Exonerated	8	8%	
Not a Policy Violation to Not Sustained	3	3%	
Not a Policy Violation to Unfounded	3	3%	
Total	14	14%	45.1%
Not Sustained to Unfounded			
	1	1%	
Total	1	1%	3.2%
Unfounded to Exonerated			
	6	6%	
Total	6	6%	19.4%
No use of force identified to			
Exonerated	3	3%	
No use of force identified to Not Sustained	1	1%	
No use of force identified to Sustained	1	1%	
No use of force identified to Unfounded	1	1%	
Total	6	6%	19.4%

Table 3. Summary of committee recommended dispositions by final recommendation category (n=31).

Change	Number	% of total cases (n=104)	% of disagree cases (n=31)
Exonerated to Not Sustained	4	4%	
Not a Policy Violation to Not Sustained	3	3%	
No use of force identified to Not Sustained	1	1%	
Total	8	8%	25.8%
Not a Policy Violation to Exonerated			
Not a Policy Violation to Exonerated	8	8%	
Unfounded to Exonerated	6	6%	
No use of force identified to Exonerated	3	3%	
Total	17	17%	54.8%
Not Sustained to Unfounded			
Not Sustained to Unfounded	1	1%	
Not a Policy Violation to Unfounded	3	3%	
No use of force identified to Unfounded	1	1%	
Total	5	5%	16.1%
No use of force identified to Sustained			
No use of force identified to Sustained	1	1%	
Total	1	1%	3.2%

Important note: As a reminder, please note the committee did not change the disposition in CSPD’s official records. The change was made in the committee’s records for purposes of analysis only.

Recommendations from Tasks 1 & 2

1. *CSPD needs to give clearer guidance on when to identify and investigate a potential use of force policy violation.*
 - There were 13 cases in the sample in which no policy violation related to use of force was identified or investigated.⁷ The committee disagreed with that decision in six of those cases. The committee recommends that CSPD’s policy require that when the incident on which a complaint alleged includes a use of force, whether the use of force was part of the complaint or not, the supervisor will identify the use of force policy as part of the complaint and investigate the appropriateness of that force when determining the disposition of the case.
 - There were 22 cases in which the disposition “Not a Violation of Policy” was recorded; eight of these cases were removed by the committee as not being a use of force allegation. The

⁷ After cases that did not meet policy definition of use of force were removed.

committee disagreed with the “not a policy” disposition in all 14 of the remaining cases. The “Not a Violation of Policy” disposition is intended for use only when the supervisor determines that if everything the complainant alleges is true, it would not constitute a policy violation. The committee recommends that CSPD’s policy and training be clearer about this issue so all allegations of inappropriate use of force are investigated by a supervisor. CSPD may want to consider not allowing “Not a Violation of Policy” as a disposition in a case that involves an allegation of inappropriate use of force.

2. *CSPD needs to give clearer guidance in the difference between “Unfounded” and “Exonerated”*
 - There were six cases in which the committee disagreed with an original finding of “unfounded” and moved it to an “exonerated” disposition. The committee had several discussions about how to establish the deciding point between exonerated and unfounded. There were specific scenarios discussed:

Scenario 1: What the complainant describes is substantially the same as what the other evidence suggests and the officers’ actions were legal and justified, but some part of the complainant’s statement is false or cannot be substantiated. The disposition should be exonerated.

Example: Complainant says officers forced entry into her residence, grabbed her arm and put it behind her back, pushed her head into a coffee table, said she did not resist, and said she had bruises on her arms and head. The facts that are disputed are that she did not resist, officers pushed her head into the table, and that she had bruises (she refused photographs). The investigation showed the officers used forced entry and force as complainant resisted and they were justified in doing so. The investigation did not substantiate the claim that the complainant’s head hit a coffee table. This disposition should be exonerated because the majority of facts about the officers’ actions were undisputed and were proper, lawful, and justified. The fact that the evidence could not substantiate that her head hit the table does not make this case unfounded.

Scenario 2: What the complainant describes alleges excessive force but that action did not occur. The disposition should be unfounded.

Example: Complainant says officers kicked him in the head and ran over him with a car. The investigation showed that neither of those things happened.

Scenario 3: Investigation shows the officers’ actions were legal and justified. As part of the same complaint, complainant falsely alleges other misconduct (e.g. “stole my watch”). The false allegation of other misconduct does not make the finding in the use of force allegation unfounded. In this scenario, the use of force allegation would be exonerated.

3. *CSPD needs to re-examine investigative guidance and the evidence that is necessary to arrive at a disposition.*

The committee recommended that CSPD consider whether specifying a standard of proof in either policy or training would be helpful to internal complaint investigations.

The committee had many discussions about the current CSPD disposition definitions and their emphasis on “disinterested witnesses.”

- Unfounded states “There are Disinterested Witnesses or other facts which prove that misconduct did not occur”
- Not Sustained, states “There are no Disinterested Witnesses and the allegation cannot be proved or disproved.”
- Sustained states “There are Disinterested Witnesses or other facts proving the allegation(s).”

The committee recommends that CSPD refine this policy (GO 1620) in favor of more robust investigative guidance. The committee recommends that information about the investigation portion, as quoted above (i.e. “Disinterested Witnesses”), should not be in the definitions of the dispositions. Instead, the policy should give more guidance as to the manner in which investigations should be conducted and how evidence is to be considered in making a disposition determination. The committee discussed the potential value of a list of considerations in evaluating the totality of circumstances in an internal investigation. Quality training is necessary to ensure standardization of processes and quality investigations; a specific topic discussed for training is how much weight to put on inconsistencies in an investigation.

4. *CSPD needs to consider consolidation of Use of Force policies.*

The committee noted several policies under which supervisors took use of force related complaints, including Constitutional Rights; Laws and Directives; Treatment of the Public; Treatment of Offenders; Use of Force Continuum; Use of Force to Detain; Less Lethal Force; Physical Arrest; and Employee Conduct. The committee is aware of CSPD’s current efforts to revise its Use of Force policy and recommends those efforts include consolidation whenever possible and clear guidance as to what policy is to be used when investigating a use of force complaint. This change would have many benefits, including making reporting on use of force complaints more transparent and easier to understand.

5. *CSPD needs to find ways to improve officers’ documentation and supervisors’ documentation.*

Committee members found some cases lacking in terms of description of incidents and why officers took certain actions. They also found some cases lacking in terms of how supervisors’ arrived at their conclusions on a complaint. Some suggestions to improve this documentation with regard to excessive or inappropriate force complaints include the following:

- Training
- Requiring a memo with all Complaint Receipt Forms from all levels of supervision through Commander
- Developing a format template for memos that accompany Complaint Receipt Forms
- Review of the Complaint Receipt Form for improvements

6. *CSPD should consider additional training based on current best practices in use of force as well as traffic or pedestrian stops.*

The committee recognizes and appreciates that officers are faced with making split second decisions in rapidly changing circumstances. A review of paper documentation by the committee cannot fully account for the dynamics of the situation as experienced by the officers, nor the supervisors who conducted the internal investigations who had direct contact with officers and witnesses in those investigations. The committee recognizes that reviewing a case in hindsight has advantages the officers did not have in the moment. This recommendation should not be taken as second guessing officers' actions in the field, or representing them as excessive. Just because the committee could list other, better response options in any given case does not mean the committee thought the officers' actions were wrong. Instead, this is a proactive suggestion for continuous improvement in an area that has high liability for the department and is consistent with national dialogue on improved policing training.

7. *CSPD should develop a plan to publicly release this report.*

CSPD should work with communications personnel to discuss the best methods for releasing this report publicly.

Cases with additional notes needed per methodology

Undetermined accuracy findings:

The methodology requires listing the case as "undetermined accuracy" in the report if the vote was less than five members for a particular disposition and no other information can be provided to answer questions or concerns. The report must include a brief explanation of each of the positions in the vote. There were two cases with undetermined accuracy in the review.

In review case 106, the original disposition was exonerated. The committee's vote was four not sustained and three exonerated (with one member absent). The opinion of not sustained was based on the lack of independent witnesses or evidence; complainant and his wife both say the complainant was "beat up for no reason" and the officers describe the justification for their actions. In this view, there was no definitive evidence to move from a not sustained disposition. The opinion of exonerated was based on the fact that the officers' statements are similar to the complainant's in terms of the description of the force incident, officers documented the erratic behavior by the complainant that justified the force, and an involved witness related to the complainant was shown to lack credibility in the investigation.

In review case 116, the original disposition was exonerated. The committee's vote was three in favor of exonerated and four in favor of not sustained (with one member absent). The opinion of not sustained was based on the fact there was only the officer's statement as to whether the force used was legal, justified, and proper. The opinion of exonerated was based on the fact that the suspect and officer have similar statements as to the force used, as well as, the officers who did not see the force but came after the force was used confirmed the subject was not complying, which supported a portion of the involved officer's statement.

Findings that require documentation of the minority opinion:

The methodology allows for cases in which the majority vote is five members (with eight present) to have the dissenting minority's opinion listed in the report, although the disposition of the majority is what is noted as the committee's assessment. There were two such cases in the review.

In review case 74, the original disposition was unfounded. The committee's vote was five in favor of unfounded and three in favor of not sustained. The minority opinion of not sustained was based on a lack of documentation in the case, unexplained visible injuries, and a lack of disinterested witnesses.

In review case 90, the original disposition was exonerated. The committee's vote was five in favor of exonerated and three in favor of unfounded. The minority opinion of unfounded was based on the fact that the force alleged by the complainant was shown as not happening the way it was alleged by a video.

Results from Task 3

There were two cases found through the IAPro system that contained sustained policy violations for use of inappropriate or excessive force from January 1, 2011, to December 31, 2015. The committee reviewed all the documentation in these cases as described in the methodology. The committee discussed these cases and any deficits or recommendations they had. The recommendations below are included with the support of each member of the committee and specifically pertain to the two cases reviewed.

Recommendations from Task 3

1. *CSPD needs more thorough investigations, particularly when the allegation is a use of excessive or inappropriate force.*

The committee discussed the need for better training and accountability for first and second line supervisors on internal investigations--a recommendation that also arose from the prior review phases. In particular, the department's processes, guidance, and expectations for investigations of a potential excessive force case need to be clarified and enforced. The committee believed case investigations should be more detailed, clearly describing the type and amount of force as well as the circumstances of the contact, regardless of whether the allegation was self-reported. There were three specific examples of information that CSPD should consider when writing administrative insights: 1) a thorough review of prior internal affairs complaints; the entire case should be read, not just the IA extract, 2) a thorough review of prior documented use of force incidents in which the officer was involved for any patterns of concerning conduct or other concerning incidents, and 3) in a use of force policy investigation, each person in the chain of command should be required to write their own administrative insight on the findings, not just write "I concur." Currently, all level two investigations require this level of detail; level one use of force policy investigations should as well.

The committee is not writing any policy as a result of this recommendation or any other it makes. Any committee that is tasked with writing use of force policy will need to consider more specifics on this recommendation before including it in policy, including:

- Is there an injury or severity threshold in the use of force that should trigger this more thorough review or should it be all use of force cases?
 - What prior internal affairs complaints should be reviewed in the investigation—all complaints or just complaints pertaining to use of force?
 - What guidance should be given as to how many years of prior use of force incidents should be reviewed in the investigation?
2. *Assaulted officers should not be involved in further interaction with the suspect (e.g. prisoner processing) once the immediate danger has passed.*

The committee recommended a policy change for CSPD. The policy change would be if an officer is a victim of an assault, another officer who was not assaulted needs to take over the investigation and prisoner processing once any immediate danger has passed. Officers should not be put in the position to further interact with a suspect who has assaulted him/her.

3. *De-escalation technique training should continue.*

The committee recommended that CSPD's de-escalation techniques training should continue and be emphasized in the department.

4. *CSPD should discuss the level one and level two distinctions in internal investigations.*

Finally, the committee recommended at some point in the future, CSPD may want to discuss the level one and level two distinctions in internal investigations to determine whether the policy is best practice. While this review is outside the scope of this committee, it may benefit CSPD to discuss options in this regard.