

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
	Effective Date: 12/19/22
	Accreditation Standards:
Chapter: Personnel	
Subject: Performance Review Board	

2.34 PERFORMANCE REVIEW BOARD

2.34.1 PURPOSE

The Louisville Metro Police Department (LMPD) recognizes that an effective evaluation system of employee performance during significant events is a vital tool in maintaining professionalism. A review of such events allows departmental leadership to evaluate its members' response to these events and to determine if the response was lawful, appropriate, and consistent with training and policy. The LMPD will objectively evaluate significant events, including, but not limited to, officer-involved shootings, incidents which require a high level of use of force, and any other incident as deemed necessary to review by departmental leadership.

The overarching purpose of the Performance Review Board (PRB) is to analyze significant events and provide a learning opportunity for the improvement of the department. The scope of the PRB analysis will include all areas of the department, such as departmental policies, organizational structure, supervision, training, tactics, equipment, and technology. The PRB will critically review and candidly discuss incidents, with the goal of identifying action items that may improve performance and/or safety.

2.34.2 POLICY

The PRB will analyze reviewable incidents in a timely manner, understanding that some relevant information, such as statements from involved members, may not be available, but that all available information should be reviewed, including video evidence and witness statements. By promptly reviewing incidents, the PRB can address departmental deficiencies on a more expedient schedule. Critical reforms related to safety and performance should not wait for an investigation to conclude.

The PRB will not only identify areas for performance improvement but also recognize exemplary performance by members in reviewable incidents, as appropriate.

2.34.3 DEFINITIONS

Action Items: Specific, articulated actions suggested based upon recommendations.

Recommendations: Observations or other suggestions resulting from, or identified during, the PRB process related to departmental policies, organizational structure, supervision, training, tactics, equipment, technology, and/or any other critical analyses that the Deputy Chief of Police/Accountability and Improvement Bureau (AIB) may consider.

Reportable Force: Any use of force that requires the completion of an Administrative Incident Report (AIR), pursuant to SOP 3.1.

Reviewable Incidents: The types of incidents which the PRB will review, including, but not limited to, the following:

- Use of force by a member that results in serious physical injury or death to another;

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
	Effective Date: 12/19/22
	Accreditation Standards:
Chapter: Personnel	
Subject: Performance Review Board	

2.34.3 DEFINITIONS (CONTINUED)

- Every discharge of a firearm, whether the employee was on-duty or off-duty, excluding training or recreational uses; or
- Any other incident as deemed necessary to review by departmental leadership.

In addition, the Deputy Chief of Police/AIB may request the PRB to investigate the circumstances surrounding any use of force incident for policy and training recommendations.

2.34.4 PRB MEMBERSHIP

The PRB will be comprised of members who are subject matter experts (SMEs) in various fields. Each SME will have recommendation(s) based upon their respective area of expertise.

Voting Members

- Appointed Board Members
 - Patrol Bureau
 - Training Academy
 - Criminal Investigations
 - Health & Safety Office
 - Special Weapons and Tactics (SWAT) Team
 - Patrol Officer
 - Wellness Unit
- Positional Board Members
 - Academic Director
 - Equity and Diversity Manager
 - Police Psychologist
 - Legal Advisor
 - MetroSafe Communications

Non-Voting Members

- Research and Development
- Training Implementation Coordinator
- Technical Services
- Expert witness(es) – This will be someone who is called to advise/present on a case-by-case basis upon the suggestion of the Deputy Chief of Police/AIB, or his/her designee.

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
	Effective Date: 12/19/22
	Accreditation Standards:
Chapter: Personnel	
Subject: Performance Review Board	

2.34.5 SELECTION OF PRB MEMBERS

The voting members of the PRB consist of appointed and positional members. Appointed members are those who are the best qualified in their fields. The appointed members of the PRB will be nominated by division/section/unit commanders and submitted to the Performance Division Major. The Performance Division Major and PRB Coordinator will select a primary and secondary member in each area of expertise from the nominations and submit a list to the Deputy Chief of Police/AIB for final approval and appointment.

Appointed members of the PRB will be required to serve on the board for a period of at least one (1) year.

Positional members are those who are the most knowledgeable due to their position. Positional members will be selected based upon their job assignment/duties held within their area of expertise and their ability to review operations to improve departmental performance.

Positional members of the PRB will serve on the board for as long as they are in their respective position(s).

The voting members will receive annual training, to include legal updates regarding the use of force and the current LMPD training curriculum on the use of force and de-escalation.

The non-voting members of the PRB are the SMEs in the disciplines in which action items and recommendations will be made, including training, policies and procedures, and technical/equipment issues. Although these members will not have a vote, they will be vital to the panel as they will provide pertinent information regarding each discipline.

2.34.6 CONFLICT OF INTEREST REVIEW

Prior to the distribution of any PRB meeting documents or relevant evidence related to the reviewable incident(s), the Deputy Chief of Police/AIB, or his/her designee, will distribute limited information to the PRB members to allow for a conflict of interest review to occur. Such limited information may include, but is not limited to, a brief description of the reviewable incident, its date and time of occurrence, and the names and ranks of involved personnel.

Upon reviewing this limited information, PRB voting members must complete and return a PRB Recusal/Conflict of Interest form (LMPD #22-0005) to the Deputy Chief of Police/AIB, or his/her designee, as quickly as possible, but no less than ten (10) days before the PRB meeting in which the reviewable incident(s) is to be discussed. The Deputy Chief of Police/AIB, or his/her designee, will be responsible for reviewing each PRB Recusal/Conflict of Interest form and determining whether attendance and/or participation at the PRB meeting is appropriate. The Deputy Chief of Police/AIB, or his/her designee, will inform the voting member of the outcome of his/her review at least five (5) days before the PRB meeting during which the reviewable incident(s) is to be discussed.

2.34.7 PRESENTATION AND REVIEW

The PRB will serve as an advisory board to the Deputy Chief of Police/AIB that conducts timely, comprehensive, and reliable evaluations of reviewable incidents. The PRB will support timely consideration and, as appropriate, implementations of the PRB's action items. Each PRB meeting will begin with a brief status update from members to whom consideration and/or implementation of action items was assigned at a previous PRB meeting.

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
	Effective Date: 12/19/22
	Accreditation Standards:
Chapter: Personnel	
Subject: Performance Review Board	

2.34.7 PRESENTATION AND REVIEW (CONTINUED)

The PRB will receive a case presentation from the PRB Coordinator, or other appropriate LMPD recommending party, within 30 days of the reviewable incident, or as soon as possible thereafter.

The intent of the presentation will be to objectively demonstrate, in chronological order, the facts, circumstances, and events leading up to, during, and immediately following the reviewable incident(s). The presentation will not include the criminal history or previous law enforcement encounters of any involved citizens unless such context is specifically relevant to the case.

The presentation will include all available relevant evidence, including, but not limited to, the following:

- Photos
- Videos, including Body-Worn Camera (BWC) recordings
- Audio recordings
- Diagrams
- Other evidence collected during the review of the incident(s)

The PRB voting members retain the authority to request additional information from the PRB Coordinator to aid in their recommendations.

The PRB will discuss and evaluate the reviewable incident(s) critically to identify opportunities for organizational and individual improvement, as well as whether the actions were potentially inconsistent with policy or training.

This review will specifically address the following action items:

- **Initiation of event and initial contact:** Whether initiation of the event, including 911 call intake, handling by dispatch, and the initial and continuing police contact by the involved member(s) was conducted in a manner that was constitutional and consistent with departmental policies and priorities.
- **Consistency with use of force policy and training:** Whether the member's use of force was reasonable, necessary, and proportional based on the totality of the circumstances and otherwise consistent with departmental policies and training.
- **De-escalation:** Whether the member, or another member, attempted to de-escalate the reviewable incident by utilizing the reasonable/appropriate decision-making tactics and uses of force leading up to, and throughout, the incident.
- **Tactics:** Whether alternative tactical decisions could have allowed the member to resolve the reviewable incident more safely for the subject or the member.
- **Post-incident response:** Whether issues with the rendering of aid or on-scene supervision, amongst other potential issues, occurred.
- **Supervisor investigation(s):** Whether each supervisor within a member's chain of command completed a thorough, accurate, and timely review, including corrective action or recommendations, where applicable.
- **Recommendations:** Whether any updates or improvements are needed to departmental policies, organizational structure, supervision, training, tactics, equipment, technology, and/or any other critical analyses that the Deputy Chief of Police/AIB may consider. Recommendations may require further consideration of a given topic outside of the PRB to determine appropriate action items, if any.

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
	Effective Date: 12/19/22
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2.34.8 SUBMISSION AND IMPLEMENTATION OF RECOMMENDATIONS

At the conclusion of the discussion, the PRB will compile a list of recommendations and action items from the reviewable incident(s) and vote on which should be ultimately forwarded to the Deputy Chief of Police/AIB in a memorandum.

The PRB memorandum will consist of a synopsis of the observations of the PRB's voting members and non-voting members as to the circumstances of the reviewable incident and the recommended improvements to departmental policies, organizational structure, supervision, training, tactics, equipment, and/or technology identified during the review.

The PRB memorandum will include the following recommendations, as appropriate:

- **Policy update:** Recommendations from the PRB on any policy improvements that may provide better, or clearer, guidance to members.
- **Training and tactical improvement:** Observations of the tactics employed by LMPD members, including de-escalation, and how the incident may provide an opportunity to improve LMPD training. The PRB should also recommend specific supplemental or remedial training for the departmental members who are involved in the reviewable incident(s), and/or for the LMPD as a whole, as appropriate.
- **Equipment/Technology:** Recommendation from the PRB on any equipment, including technology, which may have improved the outcome of the reviewable incident(s) and should be evaluated for future use.
- **Organizational:** Any issues observed relating to the structure and function of LMPD supervision, command, and control, and an identification of opportunities for organization and individual improvement, including the performance of the involved members' supervisors during the incident and the LMPD as a whole;
- **Other critical analysis:** Any other issues observed that could improve future performance of the involved member(s), other members, or the LMPD as a whole. This includes tactical decisions and other circumstances/considerations leading up to the incident.
- **Review:** The process by which the PRB conducts an examination of operational performance during a use of force incident.

The memorandum will also identify the areas of exemplary performance of the involved members and any steps the PRB intends to take to recognize those members, formally or informally (refer to SOP 2.34.9).

If the PRB does not come to a unanimous agreement, any voting member who does not join the majority decision may prepare a separate memorandum stating the voting member's position and suggested recommendations and action items. The memorandum must be attached to the PRB Coordinator's memorandum that is forwarded to the Deputy Chief of Police/AIB.

Within 14 days of the review, unless a reasonable extension of time is needed, the PRB Coordinator, or his/her designee, will submit the memorandum to the Deputy Chief of Police/AIB.

The Deputy Chief of Police/AIB will make the final decision on whether to adopt the PRB's recommendations and determine the appropriate implementations from the list.

Louisville Metro Police Department

Standard Operating Procedures	SOP Number: 2.34
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2.34.9 REFERRAL FOR COMMENDATIONS OR POTENTIAL MISCONDUCT

The PRB will recognize and include any commendable action(s) of members, who are involved in the reviewable incident(s), with the list of recommendations and action items that are forwarded to the Deputy Chief of Police/AIB.

The PRB will not make recommendations concerning discipline; however, the Deputy Chief of Police/AIB, or his/her designee, must refer any potential criminal misconduct to the SID for follow-up investigation. The Deputy Chief/AIB, or his/her designee, will state whether a referral is occurring prior to the conclusion of the meeting after providing an opportunity for input from voting and non-voting members.

The Chief of Police has the ultimate authority to refer any administrative violations to the SID.

2.34.10 CONFIDENTIALITY/RETENTION

Information obtained in the course of duties on the PRB will be used for official purposes only and never for personal gain, illegal activity, or in any manner contrary to the objectives of the department. The PRB maintains confidentiality for all information to which its members are privy and will not disclose confidential information without authority, unless there is a legal or professional obligation to do so. All PRB members will be required to acknowledge and sign a Confidentiality Agreement that will remain valid throughout the duration of their appointment to the PRB. The PRB recognizes the public's right to the transparency of government information.

All finalized reviews will remain confidential within the Accountability and Improvement Bureau (AIB) until their release by the Deputy Chief of Police/AIB, or his/her designee.

Any records generated by the PRB will be retained pursuant to applicable records retention schedules.