



Seattle Office of
Police Accountability

OPA Investigations of Force

REGIONAL LAW SAFETY & JUSTICE COMMITTEE | JULY 23, 2020

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Director

SPD's Use of Force Policy

- Developed during Consent Decree and approved by federal court
- Force must be:
 - **Reasonable** – comes from *Graham v. Connor*, multi-factor analysis, objective standard, hindsight analysis is prohibited
 - **Necessary** – no reasonably effective alternative appears to exist, and only then appropriate to the degree that is reasonable to effect a lawful purpose
 - **Proportional** – force must be commensurate to the threat facing the officer

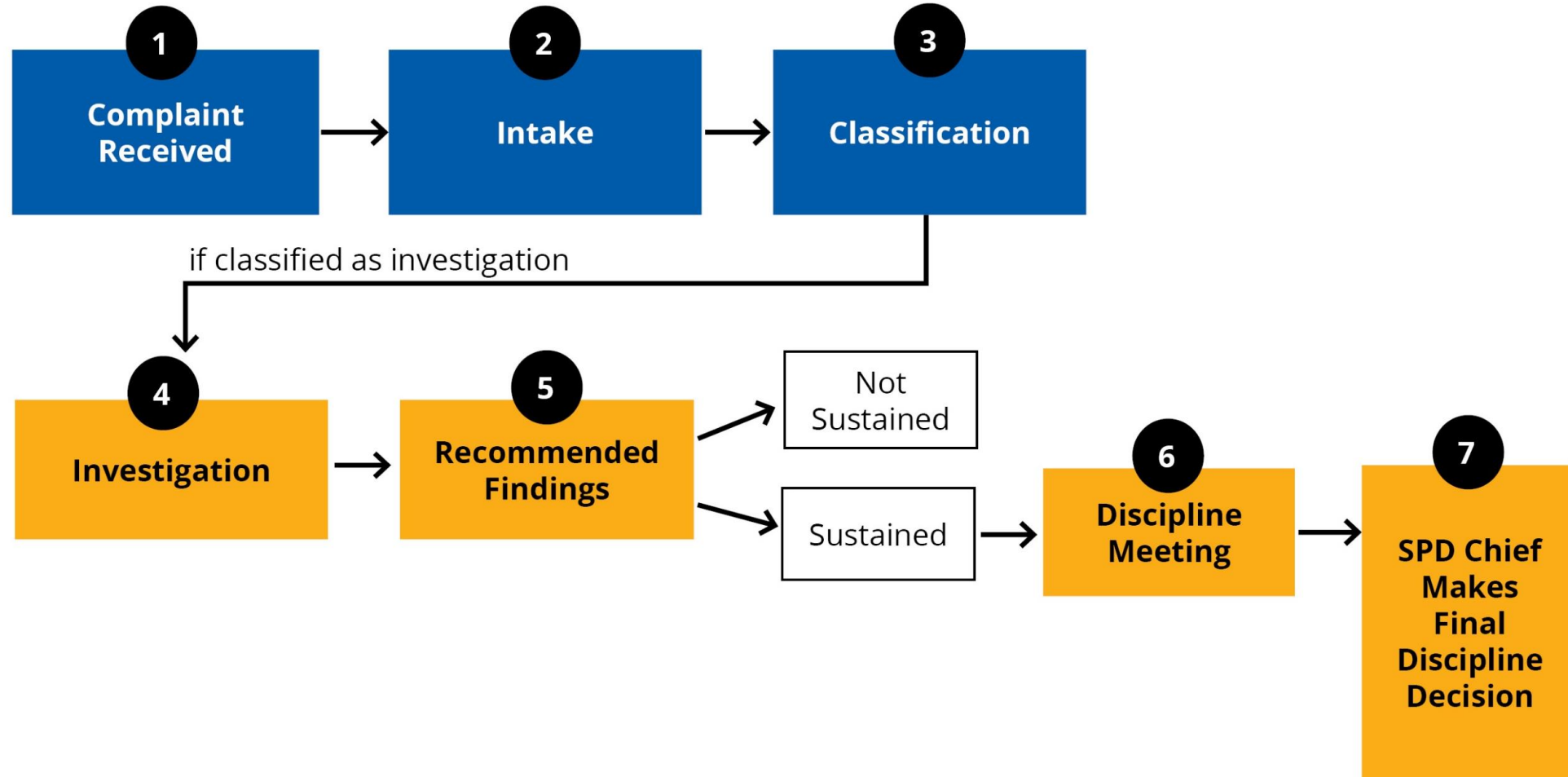
Categories of Force

- **De minimis** – physical contact used to guide/control and that is not purposed to and does not cause complaints of pain.
- **Type I** – low level force that causes transitory pain or complaints of pain.
- **Type II** – force that causes or is expected to cause injury higher than transitory pain but less than serious physical harm; intermediate force.
- **Type III** – Force that causes or is reasonably expected to cause great bodily harm, substantial bodily harm, loss of consciousness, or death; serious and deadly force as contemplated by I-940.
- All force, except for de minimis, must be reported, investigated, and approved by the chain of command and, in some cases, the Force Review Board.

Other Policy Considerations

- De-escalation is *required* prior to using force when safe and feasible and without compromising law enforcement interests
- Specific policies cover the usage of lethal and less-lethal force tools (ex. Taser, OC spray, firearms)
- Force used to retaliate, punish, stop a subject from swallowing something, or solely address verbal confrontation is prohibited
- All force on restrained subjects is critically evaluated – Type II and III force is only permitted in exceptional circumstances

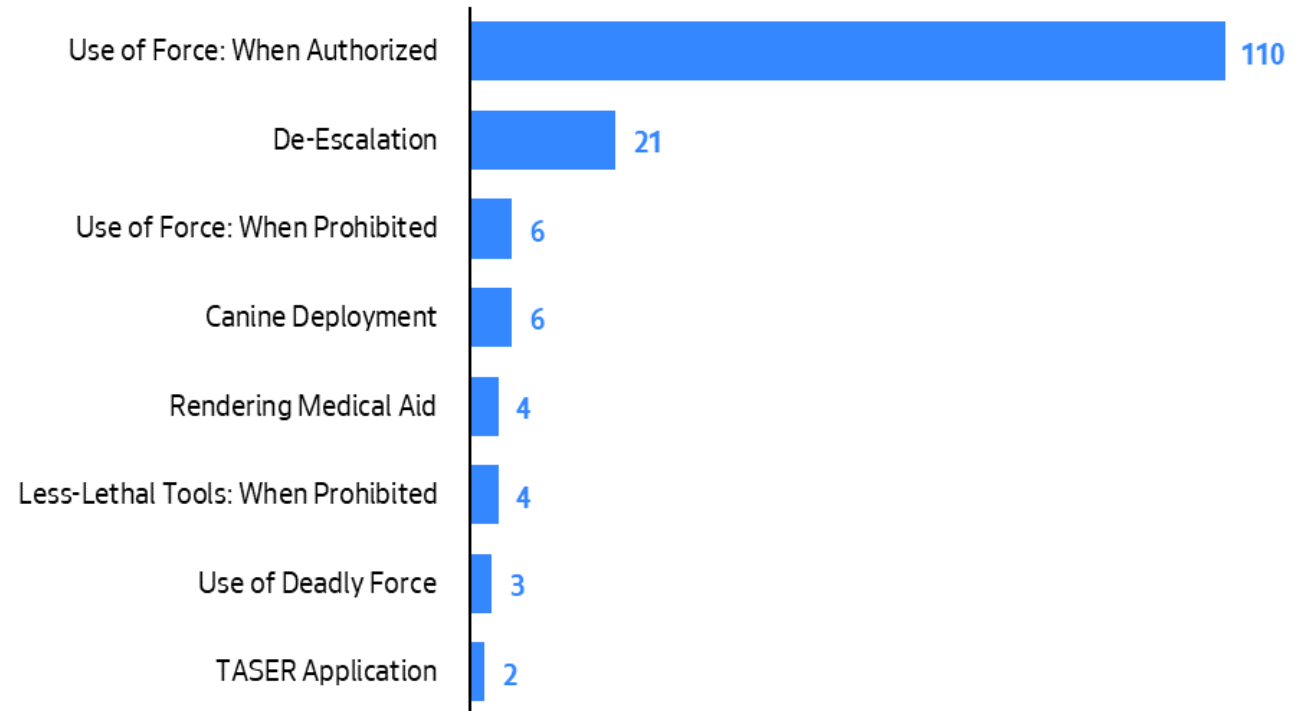
Administrative Force Investigation



Force Investigations in 2019

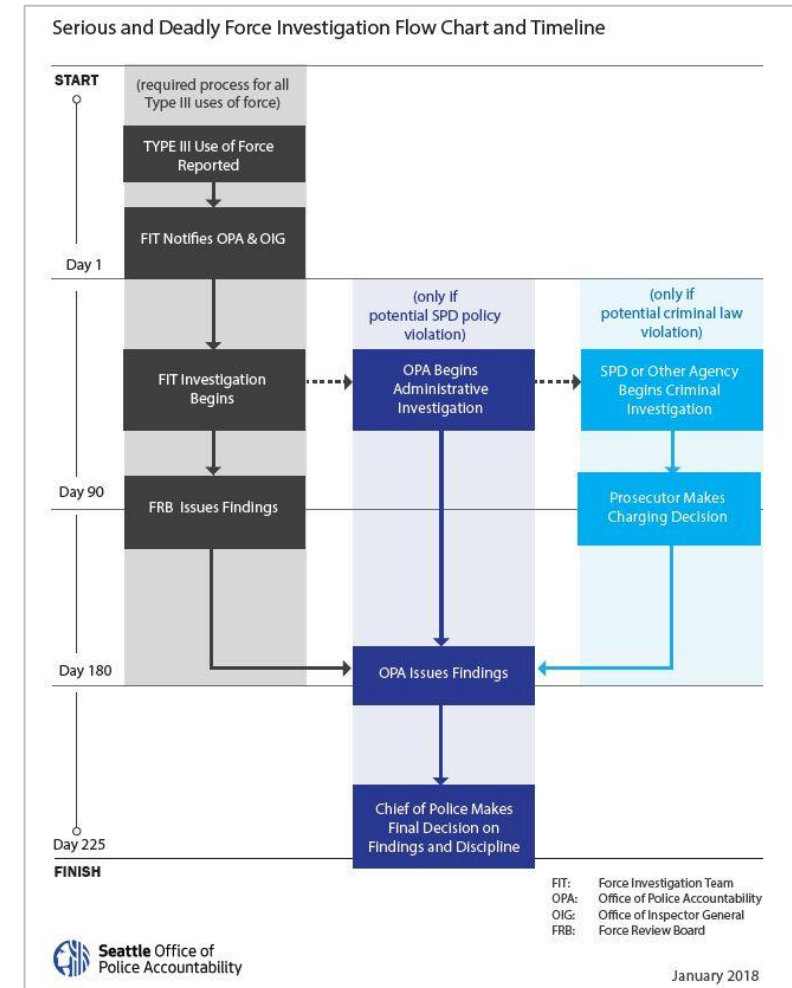
- 68 OPA complaints involved allegations of improper force and/or de-escalation
- Of these 68 cases, 13% resulted in sustained finding(s) and discipline
- OPA investigated 156 allegations involving 109 employees
- OPA proposed Rapid Adjudication in one case; the employee accepted

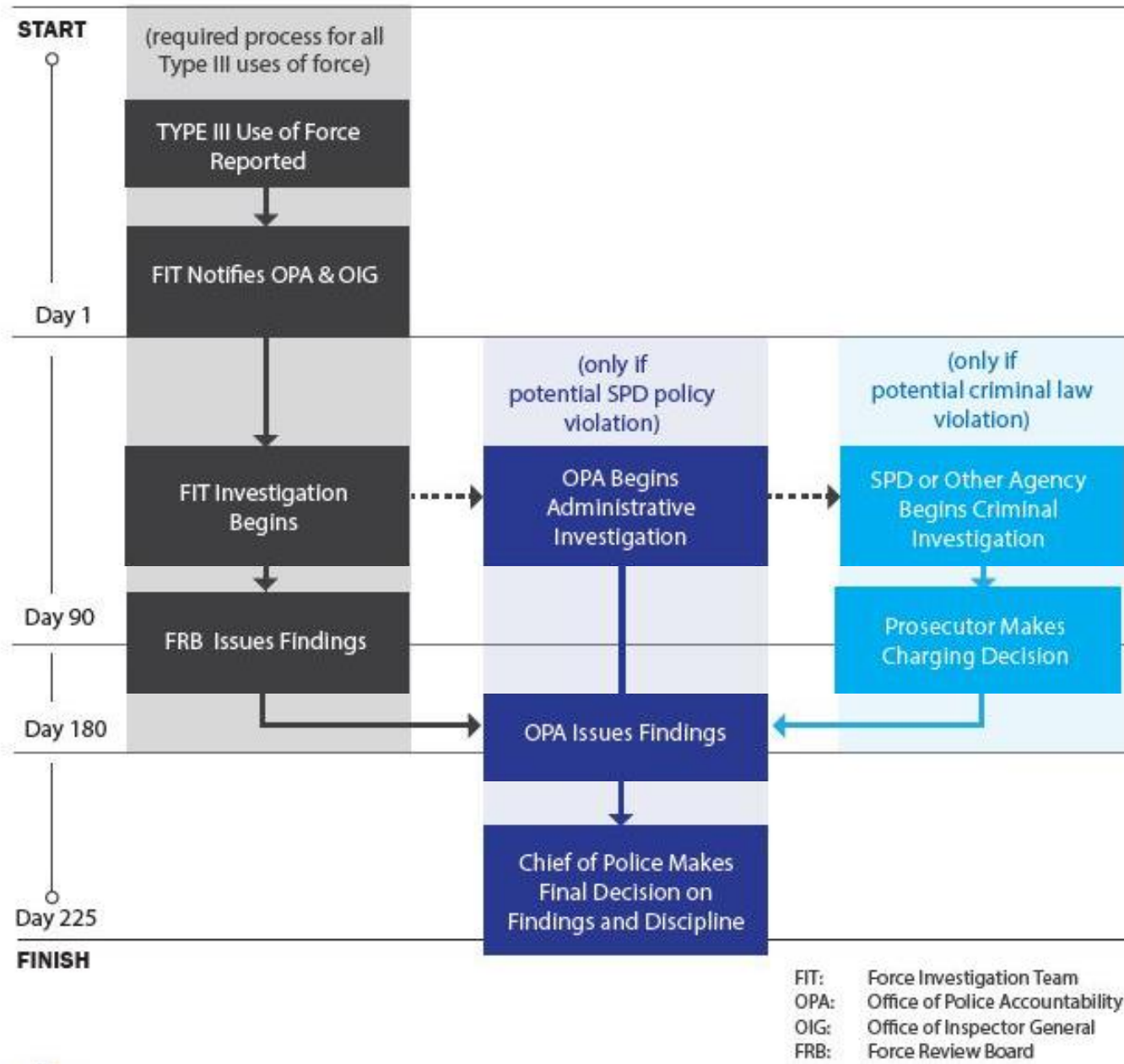
2019 UOF Allegations by SPD Policy Section



Seattle Prior to Initiative 940

- Type III uses of force require response of FIT, as well as OPA and the OIG
- OPA monitors the investigation, including being present for walkthroughs, review of video, and witness/officer interviews.
- Except in rare circumstances, FIT interviews involved employees and direct witnesses the same day as the incident.
- OPA can exert jurisdiction over the incident at any time potential misconduct is identified.
- If so, FIT continues its investigation.



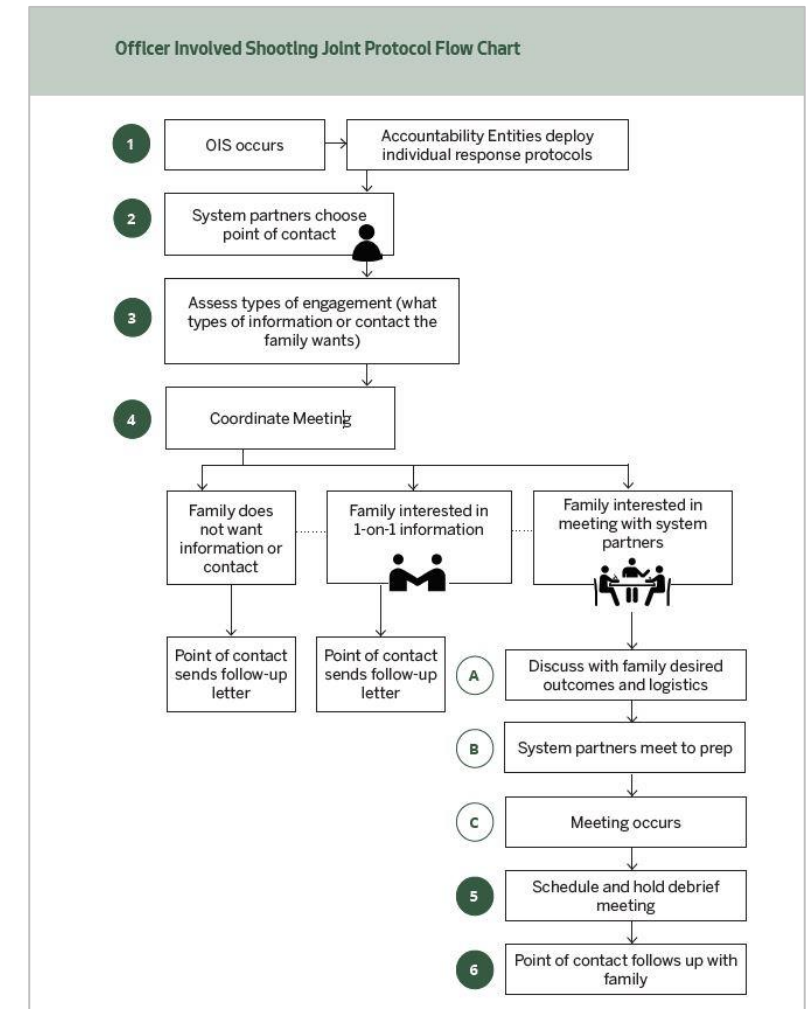


Seattle's Current Procedures

- Initial application of Initiative 940 rules was confusing and less robust than Seattle's existing procedure
- OPA/OIG had diminished access to scene and evidence
- As a result, SPD reverted to pre-Initiative 940 procedures, which is permitted given ongoing Consent Decree
- Every use of deadly force is still criminally investigated by an outside law enforcement agency – usually King County Sheriff's Office

Joint OIS Protocol

- Community-centered, responsive procedure for responding to families and communities affected by an OIS
- Model is sustainable, trauma informed, and recognizes the importance of resilience practices
- OPA piloted a version of the protocol following the December 31, 2018 OIS



Potential Next Steps

- Statewide, civilian-led entity with satellite offices investigates serious uses of force
- Special prosecutor reviews closed investigation for a charging determination
- Statewide dashboard of closed deadly force investigations, redacted where appropriate
- Uniform statewide force, de-escalation, and force reporting policies

Questions?

