

## Kilshaw, Rachael (POL)

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**From:** Almeida, Angelica (DPH)  
**Sent:** Friday, January 19, 2018 6:00 PM  
**To:** Kilshaw, Rachael (POL)  
**Subject:** Re: Draft Appendix of ECD review Board  
**Attachments:** SFPD draft ECD Appendix dated 112217\_AA edit.docx

Hi Sgt. Kilshaw,

Apologies for sending this at the last moment, but attached are some thoughts we have.

Angelica

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**From:** Kilshaw, Rachael (POL)  
**Sent:** Friday, January 12, 2018 1:24:11 PM  
**To:** Sonia M Melara; Hing, Bill (POL)  
**Cc:** Adwan, Rania (HRD); Jones, Ryan (POL); Connolly, Michael (POL)  
**Subject:** Draft Appendix of ECD review Board

Good Afternoon All:

The Department submitted the attached document describing the ECD Review Board, the oversight portion on the use of ECDs. This document will be reviewed by the Police Commission on the same night as the Commission considers an ECD policy. Each item (policy and appendix) will be discussed as separate agenda items.

As members of the ECD working group, Commissioner Melara is asking for your comments regarding the draft document. Please provide your responses to the Commission Office no later than **Friday, January 19, 2018 at 12:00 pm**. The attached is a WORD version to assist you with inserting your remarks.

Please contact me should you have any questions.

Rachael

Sergeant Rachael Kilshaw  
San Francisco Police Department

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## ELECTRONIC CONTROL DEVICE REVIEW BOARD

This order outlines the functions and responsibilities of the Electronic Control Device (ECD) Review Board and delineates the procedures for reviewing, investigating, and reporting to the Police Commission, cases in which members activate an ECD.

### I. POLICY

It is the policy of the San Francisco Police Department to review every instance in which a member's activation of an ECD results in a serious injury.

The purpose of this review process is to ensure that the department is continually reviewing its training, policy and procedures in light of circumstances that lead to a member's activation of an ECD consistent with DGO 5.02, Electronic Control Devices.

*The San Francisco Police Department recognizes the public's interest in learning about the Department's use of ECDs. It is the policy of the San Francisco Police Department to provide as much information as possible through this public reporting process while complying with applicable local, civil, and criminal laws and preserving the integrity of ongoing investigations.*

### II. DEFINITIONS

**ACTIVATION.** Depressing the trigger of the ECD causing the firing of probes or placing the ECD on a subject in the drive stun mode. An effective activation occurs when the subject is exposed to both ECD probes resulting in Neuromuscular Incapacitation (NMI) or when the fixed electrodes in drive stun mode are in direct contact with the subject's skin or clothing.

### III. PROCEDURES

#### A. COMPOSITION OF ECD REVIEW BOARD

1. The ECD Review Board shall be composed of:

- Member of the Police Commission, Advisory
- Deputy Chief of the Administration Bureau (Chair)

Commented [WU1]: How is this defined? Will all cases be reviewed on a regular basis?

- Deputy Chief of the Airport Bureau
- Deputy Chief of the Field Operations Bureau
- Deputy Chief of the Professional Standards and Principled Policing Bureau
- Deputy Chief of the Special Operations Bureau
- Commanding Officer of the Training Division, Advisory
- Commanding Officer of Risk Management, Advisory
- Director of the Department of Police Accountability (DPA), Advisory
- Designated ECD subject matter expert, Advisory

Each member can appoint a designee who may participate in the Review Board's proceedings in his or her absence.

2. The Police Commission President shall appoint the member of the Police Commission who will serve a one-year term.

#### B. DUTIES OF THE ECD REVIEW BOARD.

1. On a quarterly basis, the ECD Review Board will meet and review every incident involving ECD activation that result in serious injury or death and also review ECD data to identify trends and propose policy and training recommendations.
2. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight, and without regard to the officer's underlying intent or motivation.
3. The ECD Review Board's written analysis of ECD activations will include<sup>1</sup>:
  - a. The severity of the crime at issue;
  - b. Whether the suspect posed an immediate threat to the safety of the officers or others;
  - c. Whether the suspect was actively resisting arrest or attempting to evade arrest by flight;
  - d. Whether the use of force was proportional to the threat;
  - e. The availability of other feasible, less intrusive force options;
  - f. The officer's tactical conduct and decisions preceding the use of force;
  - g. Whether the officer has reason to believe that the subject was mentally ill, had a physical, developmental or cognitive disability, was emotionally disturbed or is under the influence of alcohol or drugs at the time of the incident;
  - h. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
  - i. Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;

Commented [WU2]: Where will this information come from? Just the incident report? Review of body camera?

<sup>1</sup> DGO 5.01, III.B.2

- j. Specialized knowledge, skills, or abilities of subjects;
- k. Prior contact;
- l. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
- m. Whether the subject's escape could pose a future safety risk.

Not all of the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

- 4. ECD activations that are under active criminal, Internal Affairs or DPA investigation(s) will be reviewed after the conclusion of the investigation, including cases under appeal.
- 5. The ECD Review Board will forward its findings and recommendations quarterly to the Chief of Police for review and concurrence.
- 6. The Department will prepare a quarterly report containing comprehensive data on ECD activations per SF Administrative Code 96A, along with policy and training recommendations. On a quarterly basis, the Department will provide the report to the Police Commission and will post the report on the Department's website.

This report shall be a public record. No report that is made public shall disclose any information deemed confidential by law.

#### **IV. TERMINATION OF ECD REVIEW BOARD**

The creation of this ECD Review Board is an interim measure to ensure that all ECD uses that result in serious injury receive prompt review. The ECD's Review Board authority and responsibilities shall expire by operation of law upon the Police Commission's adoption of a comprehensive policy establishing a review board.