



# INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatal Incident in  
Baltimore, Maryland on November 13, 2021

July 21, 2022

**Report of the Independent Investigations Division of the Maryland  
Office of the Attorney General Concerning the Officer-Involved  
Death of Carlos Ortega on November 13, 2021**

Pursuant to Md. Code, State Gov't § 6-106.2, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Baltimore City State's Attorney Marilyn Mosby regarding the officer-involved death of Carlos Ortega.

The IID is charged with "investigat[ing] all alleged or potential police-involved deaths of civilians" and "[w]ithin 15 days after completing an investigation ... transmit[ting] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-106.2(c), (d). The IID completed its investigation on July 20, 2022. This report is being provided to State's Attorney Mosby on July 21, 2022.

I. Introduction

On November 13, 2021, David Burch, an off-duty sergeant with the Baltimore Police Department ("BPD"), was getting his hair cut by Rafael Jeffers at Bladi Style Barbershop at 5711 O'Donnell Street in Baltimore City, Maryland. At 3:09 p.m., Carlos Ortega walked into the barbershop, retrieved a gun from his front waistband, and shot Mr. Jeffers while Sgt. Burch was seated in Mr. Jeffers' barber chair. After shooting Mr. Jeffers, Mr. Ortega told Sgt. Burch to move and approached Mr. Jeffers with the firearm in his hand. Sgt. Burch then retrieved a firearm from the bag he was carrying and shot Mr. Ortega six times. Mr. Jeffers and Mr. Ortega were transported to Johns Hopkins Bayview Hospital, where they were pronounced dead.

The IID and BPD have entered a Memorandum of Understanding ("MOU") stating that the agencies will each investigate all BPD-officer-involved deaths. The MOU recognizes that BPD entered a federal consent decree on January 12, 2017, which imposes certain obligations to investigate officer-involved fatalities. In order for BPD to meet its obligations under the consent decree and the IID to meet its obligations under state law, the MOU states that the agencies' investigators will cooperate and communicate during the investigation. If at any point the IID determines that BPD cannot maintain the level of impartiality required to conduct a thorough investigation, the IID may take over sole investigative responsibility for the case. In the present case, the IID and BPD have collaborated throughout the investigation.

This report details the IID's investigative findings based on a review of physical evidence, autopsy reports, video and audio recordings, officers' written reports, and personnel records for the officer involved. The IID also interviewed civilian witnesses and responding officers. All materials reviewed in this investigation are being provided to the Baltimore City State's Attorney's Office with this report and are listed in Appendix A.

This report also includes an analysis of Maryland statutes that might be relevant in an officer-involved fatal shooting of this nature. The IID considered the elements of each possible charge, BPD departmental policies, and Maryland case law in order to assess whether any charge could be supported by the facts of this incident. Because the Baltimore City State's Attorney's

Office—not the Attorney General’s Office—retains prosecution authority in this case, this report does not make any recommendations as to whether any individuals should or should not be charged.

The IID is also charged by statute with investigating “any other crimes related to police misconduct that are discovered during an investigation.” Md. Code, State Gov’t § 6-106.2(c)(2). Following the shooting discussed in this report, the surveillance video showing the shooting was leaked to the media. The IID is investigating whether that leak constituted a crime related to police misconduct. When the IID’s investigation into the leak is complete, it will provide the Baltimore City State’s Attorney’s Office with a supplemental report discussing the video’s dissemination and an analysis of Maryland statutes that might be relevant to such conduct.

## II. Factual Findings

The following findings are based on evidence including a forensic examination of the shooting scene, closed-circuit video footage inside the barbershop, body-worn camera videos, radio transmissions, forensic evidence, the Medical Examiner’s autopsy report, and interviews with civilian and law enforcement witnesses.

On November 13, 2021, Sgt. David Burch, an off-duty sergeant with the Baltimore Police Department, was getting his hair cut by Rafael Jeffers at Bladi Style Barbershop at 5711 O’Donnell Street in Baltimore. Sgt. Burch was sitting in a barber’s chair in the back of the shop and Mr. Jeffers was standing over him, cutting his hair. A second barber, [REDACTED] was cutting an unknown individual’s hair in a barber seat to Sgt. Burch’s right. Another employee, [REDACTED] was seated in the waiting area near the front door of the shop.

According to surveillance video from inside the shop, at 3:08:39 p.m., an unknown individual opened the front door of the shop but never entered. He remained outside the shop and was never identified by investigators. While the door was opened, a man, later identified as Carlos Ortega, entered the shop wearing a white sleeveless tank top and light blue jeans. Mr. Ortega reached in his right-side waistband and retrieved a handgun, holding it in his right hand. Mr. Ortega racked the slide and said something that was inaudible on the video as he approached Mr. Jeffers and Sgt. Burch. At 3:08:47 p.m., eight seconds after entering the shop, Mr. Ortega fired his weapon at Mr. Jeffers two times. Mr. Jeffers immediately fell to the ground.



Image 1: Mr. Ortega pointed his weapon at Mr. Jeffers, firing two times. Sgt. Burch is seated in Mr. Jeffers' chair.

Mr. Ortega then yelled at Sgt. Burch in Spanish to move and motioned for Sgt. Burch, who was still seated in the barber seat, to move. As Sgt. Burch moved behind Mr. Ortega, he reached into the satchel he was wearing and retrieved his personal Glock Model 27 .40 caliber handgun. With his back to Sgt. Burch, Mr. Ortega walked towards Mr. Jeffers, who was laying on the ground. Mr. Ortega had the firearm in his right hand. At 3:08:53 p.m., six seconds after Mr. Jeffers was shot, Sgt. Burch fired his handgun at Mr. Ortega six times. Mr. Ortega fell on top of Mr. Jeffers, and his firearm fell out of his hand. Both Mr. Jeffers and Mr. Ortega were laying between the barber seat and the wall.



Image 2: Sgt. Burch fires his off-duty firearm at Mr. Ortega as Mr. Ortega advances towards Mr. Jeffers with his gun.

Sgt. Burch then aimed his weapon at the front door of the shop. Sgt. Burch then moved the barber chair, which allowed him to grab Mr. Ortega's left arm and move him off Mr. Jeffers. At 3:09:11 p.m., Sgt. Burch instructed the other barbershop employee, Mr. [REDACTED] to call the police, which he did. While still covering the front door, at 3:09:37 p.m. Sgt. Burch retrieved Mr. Ortega's firearm from the floor and placed it on the barber station next to Mr. [REDACTED]. Sgt. Burch then took the phone from Mr. [REDACTED] and called out a Signal 13, which is the BPD code for officer in need of assistance. Sgt. Burch advised dispatch that he was an off-duty officer and "my barber was shot, and I got a suspect down." He further advised that he was armed with a handgun and was covering the front door of the shop because he did not know if there were any other suspects.

Sgt. Burch remained on the phone with emergency operators. Three minutes after police were called, Sgt. Burch instructed Mr. [REDACTED] to roll Mr. Jeffers on his back and check if he was breathing while Sgt. Burch continued to cover the door. Mr. [REDACTED] positioned Mr. Jeffers flat on his back and placed his hand on Mr. Jeffers' chest. The surveillance video and 911 audio recordings indicate that Sgt. Burch advised the 911 operator that Mr. Jeffers' breathing was labored. Sgt. Burch then stated to dispatch "no ma'am, I think he's deceased. Suspect deceased." Two minutes later, Sgt. Burch himself checked if Mr. Jeffers was breathing, then demonstrated to Mr. [REDACTED] how to administer chest compressions on Mr. Jeffers. As Mr. [REDACTED] began chest compressions, Sgt. Burch briefly approached the front door, then retreated to maintain cover of the door. At 3:17:48 p.m., Sgt. Burch moved Mr. Ortega's firearm away from the barber station and to a table near the front door, then repositioned himself to maintain coverage at the front door.



Image 3: Sgt. Burch continued to cover the door as he waited for EMS and police to respond.

BPD officers and EMS entered the shop simultaneously, approximately nine minutes after the shooting and eight minutes after 911 was called. At 3:19:03 p.m., Sgt. Burch approached the front door. He can be heard on video announcing himself as a police officer and can be seen holding his firearm over his head. Sgt. Burch then placed his firearm back in his satchel. Sgt. Burch told the arriving personnel, “I have one suspect down, and one victim down.” EMS immediately began to render aid to both Mr. Ortega and Mr. Jeffers. Both Mr. Jeffers and Mr. Ortega were transported to Johns Hopkins Bayview Hospital. Mr. Jeffers was pronounced dead at 3:45 p.m., and Mr. Ortega was pronounced dead at 3:57 p.m.

Responding officers located a black 2017 Ford Escape outside of the barbershop that was registered to Mr. Ortega’s daughter. A search of the vehicle revealed bloody paper towels between the driver’s door and seat, a 9mm ammunition box on the back seat, and 39 live 9mm rounds on the floor near the rear passenger seat.

While not known to Sgt. Burch at the time, subsequent investigation revealed that Mr. Ortega had been involved in a series of violent incidents earlier that day. At approximately 2:30 p.m. at [REDACTED] East Oliver Street in Baltimore, [REDACTED] stabbed Mr. Ortega with a knife. Mr. Ortega retrieved a handgun from his apartment and shot Mr. [REDACTED] multiple times while Mr. [REDACTED] was seated in his car. Mr. Ortega then got in his own vehicle and fled the scene. Mr. [REDACTED] was taken to Bayview Hospital and survived his injuries.

Video evidence showed an individual matching the description of Mr. Ortega then went to [REDACTED] Eastern Avenue in Baltimore.. At 2:50 p.m., [REDACTED] was found at that location suffering from multiple gunshot wounds. He was transported to Bayview Hospital and succumbed to his injuries

Video surveillance and fired cartridge casings were recovered from both the East Oliver Street and Eastern Avenue locations as well as the barbershop. The fired cartridge casings that were recovered from the barbershop matched the fired cartridge casings that were recovered from the East Oliver Street and Eastern Avenue scenes. Additionally, BPD reports indicate that a civilian witness identified the individual captured on the video obtained at these locations as Mr. Ortega.

### III. Investigation

#### a. Initial Response

After the shooting, BPD notified the IID of the officer-involved fatality. IID personnel responded to the scene of the shooting and began their investigation. Maryland State Police (“MSP”) detectives also arrived and assigned a lead investigator.

#### b. Medical Examination

Mr. Ortega’s body was transported to the Office of the Chief Medical Examiner on November 13, 2021. An autopsy was conducted on November 14, 2021 by Dr. Pamela Southall, the Interim Chief Medical Examiner. Dr. Southall ruled that the cause of death was multiple gunshot wounds and the manner of death as a homicide.<sup>1</sup> The IID received this report on June 24, 2022.

Dr. Southall concluded that Mr. Ortega suffered six gunshot wounds. One gunshot wound entered the right side of the back and injured the ribcage, lungs, and major blood vessels. The bullet traveled from back to front, right to left, and upward. The fired bullet was recovered at the autopsy. Another gunshot wound entered the right side of the back, penetrating Mr. Ortega’s spine. The bullet traveled from back to front, slightly right to left, and neither upward nor downward. The fired bullet was recovered at the autopsy. Four bullets also struck Mr. Ortega’s back but did not injure any vital organs.

Dr. Southall also concluded that Mr. Ortega had suffered a cutting wound to the left arm that did not injure any vital organs or blood vessels.

Mr. Jeffers’ body was transported to the Office of the Chief Medical Examiner on November 13, 2021. An autopsy was conducted on November 14, 2021 by Dr. Richard Morris, M.D. Dr. Morris ruled the cause of death as multiple gunshot wounds and the manner of death as a homicide.

Dr. Morris concluded that Mr. Jeffers suffered two gunshot wounds. One gunshot wound was to the left arm and injured his shoulder blade, heart, and pulmonary artery and vein. The bullet traveled from back to front, left to right and downward. Bullet fragments were recovered from the right lung and along the wound path. The second gunshot wound entered the left side of the upper back and exited the right side of the upper back. There was no injury to any vital organs. The bullet traveled slightly front to back, left to right, and downward.

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<sup>1</sup> Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. “Homicide” is one of six categories used by the Office of the Chief Medical Examiner of Maryland and refers to a death resulting from a volitional act committed by another person to cause fear, harm, or death. The term is not used to connote criminal liability.

c. Firearms Evidence

During the course of the investigation, firearms evidence was collected from all three crime scenes (i.e., the barbershop, East Oliver Street, and Eastern Avenue) and submitted to the BPD Firearms Examination Unit for analysis. One 9mm fired cartridge casing from each crime scene was submitted to the National Integrated Ballistic Information Network (“NIBIN”). A NIBIN search revealed that all three fired cartridge casings were fired from the weapon recovered from Mr. Ortega at the barbershop.

d. Involved Vehicle

Investigators located a black Ford Escape, with Delaware registration, outside the shop during their initial response. A registration check of the vehicle revealed that the Escape was registered to Mr. Ortega’s daughter which was later confirmed by a separate witness. During the search, a box of 9mm live ammunition was found on the rear passenger seat of the car.

e. Civilian Witnesses

Investigators interviewed two civilian witnesses during the investigation; the information they provided is described below.

The video revealed that another man was getting his hair cut at the time of the shootings and remained inside the shop until police arrived on scene. He left the scene after police arrived. Investigators’ attempts to locate him were unsuccessful.

1. [REDACTED]

Mr. [REDACTED] is a barber at Bladi Style Barbershop and was working at the time of the incident. He was interviewed by BPD detectives on November 13, 2021, shortly after the shooting. Apart from the number of rounds that both Mr. Ortega and Sgt. Burch fired, Mr. [REDACTED] account was, in large part, consistent with what the video showed. Mr. [REDACTED] said that he saw Mr. Ortega enter the barbershop. Mr. Ortega racked the slide of his weapon and, in Spanish, said, “This is for you not to mess with anyone.” Mr. [REDACTED] said Mr. Ortega shot Mr. Jeffers three times and told Sgt. Burch to move. Sgt. Burch got out of the chair and, when Mr. [REDACTED] believed Mr. Ortega was trying to shoot Mr. Jeffers again, Sgt. Burch shot Mr. Ortega three times. At Sgt. Burch’s request, Mr. [REDACTED] called for an ambulance and performed CPR on Mr. Jeffers.

Mr. [REDACTED] told investigators that he had never seen Mr. Ortega before the shooting and that Mr. Jeffers never indicated to Mr. [REDACTED] that he was having problems with anyone.



2. [REDACTED]

Mr. [REDACTED] is a barber at Bladi Style Barbershop and was working at the time of the shooting. He was interviewed by BPD detectives on November 13, 2021, shortly after the shooting. Mr. [REDACTED] account is consistent with what was shown on the video. Mr. [REDACTED] told police that he was sitting in a chair when the front door of the shop opened. He saw two men at the door. One of the men, later identified as Mr. Ortega, walked inside. Mr. [REDACTED] said the other man stayed outside. He said Mr. Ortega walked into the shop and said to Mr. Jeffers in Spanish, "I told you not to mess with everybody." Mr. [REDACTED] saw Mr. Ortega take a gun out and rack the slide. Mr. Ortega pointed the gun at Mr. Jeffers, and Mr. [REDACTED] ran outside. Mr. [REDACTED] told police that he heard a couple of shots. Mr. [REDACTED] said the man who stayed outside of the barbershop remained outside until police arrived. This man was never identified by investigators and his whereabouts remain unknown.

f. Shooting Officer

Sgt. Burch declined to be interviewed by the IID. Sgt. Burch, like the subject of any criminal investigation, has the right under the Fifth Amendment to not make any statements. However, he did give a statement to BPD Sgt. Stephanie Washington while on scene, which was captured by Sgt. Washington's body-worn camera. Sgt. Burch told Sgt. Washington that he was sitting in the chair getting his hair cut by Mr. Jeffers. "The suspect...comes in, he has a firearm in his hand. He, ah, racks his slide, fires a shot at my barber while I'm sitting in the chair." Mr. Ortega then told Sgt. Burch to move. Sgt. Burch said to Sgt. Washington, "I go into my bag, retrieve my firearm, and I shoot the suspect."

IV. Involved Persons Background

a. Carlos Ortega

Mr. Ortega was a 38-year-old Hispanic man whose fixed address was in Baltimore, Maryland. A witness close to Mr. Ortega advised that Mr. Ortega has a history of talking to himself. While Mr. Ortega had no known mental health diagnosis at the time of his death, investigation revealed that eight months prior to the shooting, Mr. Ortega was the victim of a robbery. Examination of Mr. Ortega's cell phone revealed a series of text messages in which Mr. Ortega states that he is receiving threats and being extorted by the person who ordered his attack. To the extent it exists, any criminal history is being provided to the Baltimore City State's Attorney's Office with this report.

b. David Burch

Sgt. Burch was hired by BPD on April 7, 2014, and is currently assigned to the Southwest District. He is a 30-year-old Hispanic man. He most recently completed in-person firearms training and certification on September 30, 2021. The IID reviewed the disciplinary history of Sgt. Burch and did not find anything relevant for the analysis of this incident. To the

extent it exists, any criminal history is being provided to the Baltimore City State's Attorney's Office with this report.

## V. Applicable Policies

This section summarizes BPD policies concerning use of force, medical aid, and off-duty officers' responsibilities. The complete policies are attached as Appendix B.

### *Firearms Regulations (Policy 409), Use of Force (Policy 1115)*

BPD's Firearms Regulations and Use of Force policies both contain the following relevant provisions.

Officers, when off duty, "are authorized to carry an Issued or Approved Handgun while located within the State of Maryland." The policy states that the officer may apply to qualify with an off-duty weapon. The application must be approved, the weapon must be submitted for inspection and the officer must qualify with the weapon annually.<sup>2</sup>

Officers may only use force that is reasonable, necessary, and proportional. The policies define those terms as follows:

- Reasonable – "A member uses Reasonable Force when the member uses no more force than required to perform a lawful purpose."
- Necessary – "Force is necessary only when no reasonably effective alternative exists."
- Proportional – "Proportionality measures whether the force used by the member is rationally related to the level of resistance or aggression confronting the member."

The Use of Force Policy specifies that, "[t]he use of Deadly Force/Lethal Force shall always be the last resort," and shall occur only when officers "reasonably believe such action is immediately necessary to protect a member or another person from an Imminent Threat of death or Serious Physical Injury."

With respect to providing medical aid, the Use of Force Policy states: "When there is a visible injury ... members shall immediately render aid consistent with their training and shall request that a medic respond to the scene or transport the person directly to the nearest emergency room."

### *Rules and Regulations (Policy 302)*

BPD Rules and Regulations (Policy 302) governs the conduct of off-duty officers, stating: "Members are sworn in as peace officers of Baltimore City and, as such, are considered to be on-duty or ready for duty at all times. Failure to stop and perform the necessary police duties while off-duty or on leave shall be considered neglect of duty, unless a verified excuse is accepted by a supervisor."

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<sup>2</sup> Sgt. Burch's off-duty gun is an approved firearm, however, his last qualification for an off-duty weapon was December 10, 2018.

## VI. Applicable Laws and Analysis

The IID analyzed Maryland statutes that could be relevant in a shooting of this nature. This section presents the elements of each possible criminal charge and analyzes these elements considering the findings discussed above.

### A. Intentional Second-Degree Murder<sup>3</sup>

Criminal Law § 2-204 states: “A murder that is not in the first degree under § 2-201 of this subtitle is in the second degree.” Intentional second-degree murder differs from first-degree murder in that it is not “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Self-Defense and Perfect/Imperfect Defense of Habitation), MPJI-Cr 4:17.2 (2d Ed. 2021). It is, however, a killing conducted with “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” *Id.*

To prove intentional second-degree murder, the State must establish: “(1) that the defendant caused the death of [Mr. Ortega]; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no mitigating circumstances.” *Id.* “If a man voluntarily and wil[l]fully does an act, the natural consequences of which is to cause another’s death, an intent to kill may be inferred from the doing of the act.” *Lindsay v. State*, 8 Md. App. 100, 105 (1969).<sup>4</sup>

Defense of others is one possible justification or mitigating circumstance. This defense exists where: “(1) the defendant actually believed that the person he was defending was in immediate or imminent danger of bodily harm; (2) the defendant’s belief was reasonable; (3) the defendant used no more force than was reasonably necessary in light of the threatened or actual force; and (4) the defendant’s purpose in using force was to aid the person he was defending.” MPJI-Cr 5:01 Defense of Others, MPJI-Cr 5:01 (2d Ed. 2021); *see also Lee v. State*, 193 Md. App. 45, 62 (2010).

Law-enforcement justification is another possible defense. This defense provides that an officer may use “that force necessary to discharge his official duties” and “[i]n so doing, he is not liable civilly or criminally for the assault or battery that may result, including, if necessary, the use of deadly force.” *Wilson v. State*, 87 Md. App. 512, 519-20 (1991). The rationale for this justification is that officers’ duties are “markedly different” from those of ordinary citizens, requiring that they “threaten deadly force on a regular basis.” *Koushall v. State*, 249 Md. App. 717, 728-29 (2021), *aff’d*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022). To use deadly force, an officer must have “probable cause to believe that the suspect poses a threat of serious physical harm.” *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)). *Graham v. Connor, supra*, 40 U.S. at 396, held that “the reasonableness

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<sup>3</sup> This report will not separately analyze the charge of first-degree assault because that offense merges with intentional second-degree murder; the elements vary only in that the latter requires proof of the death of the victim. *Sifrit v. State*, 383 Md. 116, 137 (2004).

<sup>4</sup> Because there is no dispute that Sgt. Burch intended to fire his weapon at Mr. Ortega, this report will not analyze unintentional (“depraved heart”) second-degree murder or involuntary manslaughter.

of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” The *Graham* Court further held that this is an objective, not subjective, determination.

Self-defense is another possible justification or mitigating circumstance. Complete self-defense exists where: “(1) the defendant was not the aggressor”; “(2) the defendant actually believed that [they were] in immediate or imminent danger of death or serious bodily harm; (3) the defendant’s belief was reasonable; and (4) the defendant used no more force than was reasonably necessary to defend [themselves] in light of the threatened or actual force.” MPJI-Cr 4:17.2; *see also Porter v. State*, 455 Md. 220, 234-36 (2017). Partial self-defense exists where the first two of these elements are present, but the defendant either unreasonably believed danger to be imminent or unreasonably believed the amount of force they used was necessary. MPJI-Cr 4:17.2. If the defendant acted in complete self-defense, no charge is appropriate. *Id.* If the defendant acted in partial self-defense, the appropriate charge is voluntary manslaughter rather than second-degree murder. *Id.*

For these defenses—defense of others, self-defense, or law-enforcement justification—the reasonableness of the officers’ actions “must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated.” *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider “the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham v. Connor*, 490 U.S. 386, 397 (1989)). However, “an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm.” *Estate of Blair by Blair*, 469 Md. at 24 (emphasis in original).

Violations of departmental policy are one “factor to be considered in determining the reasonableness of police conduct.” *Pagotto*, 361 Md. at 557 (citations omitted). As noted above, BPD policy states that an officer may use deadly force when the officer “reasonably believe such action is immediately necessary to protect a member or another person from an Imminent Threat of death or Serious Physical Injury.”

In this case, based on the available evidence, it would be difficult for the State to prove that Sgt. Burch did not act in defense of others, self-defense, or pursuant to law-enforcement justification. Per BPD policy, even though Sgt. Burch was off duty at the time of the shooting, he nonetheless had a duty to act given the threat presented by Mr. Ortega. The surveillance video shows that Mr. Ortega entered the shop, walked to Mr. Jeffers while racking the slide of his firearm, and shot. This, coupled with the fact that Mr. Ortega told Sgt. Burch to move after he shot Mr. Jeffers and, according to Mr. [REDACTED] before he tried to shoot Mr. Jeffers again, is evidence that Mr. Jeffers was Mr. Ortega’s intended victim.

In examining the video and considering Mr. [REDACTED] account, it is apparent that Mr. Ortega, after shooting Mr. Jeffers and telling Sgt. Burch to move, continued to advance towards Mr. Jeffers while holding the firearm. While Sgt. Burch did not indicate this in his limited

statement to other officers, evidence suggests that a reasonable officer would have perceived Mr. Ortega as still being an active threat to Mr. Jeffers.

Furthermore, it is likely that Mr. Ortega presented an imminent threat to Sgt. Burch and the other three civilians in the barbershop. Although Mr. Ortega was walking towards Mr. Jeffers, away from Sgt. Burch and the other civilians, the shop was not very large, and Mr. Ortega was still armed with a gun that he had just used to shoot Mr. Jeffers. In this situation, it is unlikely the State could prove beyond a reasonable doubt that Mr. Ortega did not present an imminent threat to Sgt. Burch and the other civilians, in addition to the immediate threat he posed to Mr. Jeffers.

#### B. Voluntary Manslaughter

As discussed above, the State may pursue voluntary manslaughter charges where the defendant acted in partial, but not complete, self-defense. MPJI-Cr 4:17.2. To prove voluntary manslaughter, the State must establish that the defendant had a specific intent to kill. *Selby v. State*, 361 Md. 319, 335 (2000). Such intent may be inferred by circumstances such as “the use of a deadly weapon directed at a vital part of the human anatomy.” *Chisum v. State*, 227 Md. App. 118, 136 (2016) (distinguishing *Selby* based on the *Selby* court’s “express finding ... that the defendant did not have an intent to kill his victim”).

To prove voluntary manslaughter, the State would need to prove that Sgt. Burch’s belief that he, Mr. Jeffers, or the other civilians were in imminent danger was unreasonable or that he used an unreasonable level of force. Given that Mr. Ortega was armed with a gun and had just shot Mr. Jeffers, it is unlikely the State could make either showing.

#### C. Misconduct in Office

The crime of misconduct in office requires that the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in his official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)).

The State could potentially pursue a charge for misconduct in office under a theory of misfeasance if it could establish that Sgt. Burch acted unreasonably or used an unreasonable amount of force. *See Riley v. State*, 227 Md. App. 249, 264 (2016). For the reasons stated above, however, such unreasonableness would be difficult to prove here.

#### D. Other Charges

There are several other charges for which full analysis was not warranted given the facts of this incident. Those charges are addressed briefly here.

The crime of first-degree murder requires the State to prove that the killing was “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2. Said another way, the State must prove “the actual intent, the fully formed purpose to kill, with so much time for deliberation and premeditation as to convince [the jury] that this purpose is not the immediate offspring of rashness and impetuous temper and that the mind has become fully conscious of its own design.” *Ferrell v. State*, 304 Md. 679, 687 n. 2 (1985) (citations omitted). There is no evidence here that Sgt. Burch came to a considered decision to kill Mr. Ortega; the evidence suggests he was reacting to a quickly evolving situation.

Criminal Law § 4-204(b), Use of a Firearm in Commission of a Crime of Violence, states: “A person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony ....” Second-degree murder and voluntary manslaughter are both crimes of violence. Pub. Safety § 5-101(c). Second-degree murder, voluntary manslaughter, and involuntary manslaughter are all felonies. Crim. Law §§ 2-204, 2-207. The State could pursue a charge for use of a firearm in the commission of a crime of violence if it could prove one of the predicate offenses. However, for the reasons stated above, proving such a charge would be difficult based on the available evidence.

Criminal Law § 3-204(a), Reckless Endangerment, states: “A person may not recklessly [] engage in conduct that creates a substantial risk of death or serious physical injury to another.” To prove reckless endangerment, the State must establish: “(1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; (2) that a reasonable person would not have engaged in that conduct; and (3) that the defendant acted recklessly.” MPJI-Cr 4:26B Reckless Endangerment, MJPI-Cr 4:26B (2d Ed. 2021). As discussed above, the available evidence does not support a contention that the Sgt. Burch acted unreasonably or recklessly. Further, self-defense is an available defense to the crime of reckless endangerment, *Jones v. State*, 357 Md. 408, 430 (2000), so the analysis of those defenses above would apply to this charge as well.

## **VII. Conclusion**

This report has presented factual findings and legal analysis relevant to the police-involved shooting death of Carlos Ortega that occurred November 13, 2021 in Baltimore, Maryland. Please contact the IID if you would like us to supplement this report through further investigation or analysis.

As noted in the introduction, the IID is also investigating potential police misconduct related to the leak of the video in this case, pursuant to its authority under Section 6-106.2(c)(2). When the IID’s investigation into the leak is complete, it will provide your office with a supplemental report discussing the leak.

## Appendices

### **Appendix A – Materials Reviewed**

911 & Communications

Body-Worn Camera (3 videos)

Civilian Witness Interviews (2 audio files, 3 document)

Crime Scene Reports (8 documents)

Decedent Documents (4 document, 7 photographs, phone dump, notebook)

Involved Officer (6 documents, 1 photograph)

Medical Records (2 documents)

NIBEN (2 documents)

OAG Reports (6 documents)

OCME (4 document 52 photographs)

Officer Witness Interviews (1 audio)

Other Video (1 videos)

Photographs (178 photographs)

Police Reports (6 documents)

Previous Incidents (2 documents, 1 video)

Search Warrants (1 documents)

### **Appendix B – Relevant BPD Policies**

See attached.



## Policy 302

Subject	
<b>RULES AND REGULATIONS</b>	
Date Published	Page
<b>26 August 2017</b>	<b>1 of 12</b>

*By Order of the Police Commissioner*

### POLICY

1. **Establish Rules.** Consistent with state, local and federal laws, it is the policy of the Baltimore Police Department (BPD) to establish rules and regulations for the good of the BPD, its members, and the community.
2. **Follow the Law.** BPD employees are responsible for adhering to federal, state, and local laws, BPD policies, BPD trainings, and any applicable collective bargaining agreements and relevant labor laws.
3. **Regulate Conduct.** Rules and Regulations are necessary for the achievement of BPD's goals. Primary among these goals is a requirement that all members adopt a general standard of conduct both on and off-duty consistent with the professional standards of the law enforcement community.
4. **Exercise Good Judgement.** All members, both sworn and civilian, shall be thoroughly familiar with the rules in this policy and other BPD policies and adhere to their requirements. Although these rules cannot and do not cover every specific act of conduct or specific situation which a member may face, their fundamental aim is to ensure optimum professionalism and safety, and shall be the prevailing guideline for all behavior. Members are required to exercise good judgment and their common sense, which, together with the highest degree of cooperation by those entrusted with law enforcement, is essential to effective police work.
5. **Disciplined and Efficient.** The development of a well-disciplined and efficient police department, which has the confidence and respect of the public, can only be accomplished when each member realizes that every action, whether it is a part of one's official duty or private life, is closely observed by the public. Acts of misconduct, unprofessional behavior, or poor police tactics not only reflect on the member as an individual, but on the Department as a whole.
6. **Penalties.** Violations of this and other BPD policies may subject a member to discipline. Infractions of BPD rules and regulations resulting in discipline shall be recorded as provided in established BPD procedures.

### POLICE COMMISSIONER'S AUTHORITY AND RESPONSIBILITY

1. The Omnibus Bill of 1966, known as Subtitle 16, Police Department, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland, provides the Police Commissioner with all the powers, rights and privileges attending the responsibility of management of the Baltimore Police Department.
2. The Omnibus Bill grants the Police Commissioner the specific authority which includes, but is not limited to, the following:



- 2.1. Regulate attendance, conduct, training, discipline and procedure for all members of the Department and to make all other rules, regulations and orders as may be necessary for the good of the Department and of its members.
- 2.2. Suspend, amend, rescind, abrogate or cancel any rule, regulation, order or other Department policy adopted by the Police Commissioner (PC), or by any former PC, and to adopt all such other reasonable rules, regulations and orders as the PC may deem necessary to enable the Department to effectively discharge the duties imposed upon it by this subtitle.
3. The Police Commissioner has the power, consistent with law, to impose punishment as deemed appropriate under the circumstances for violations of the rules and regulations of the Department. Such punishment may include, but is not limited to suspension from duty, fine or forfeiture of pay, reduction in rank, transfer, or dismissal from the Department.
4. The Police Commissioner may place charges against a member of the Department consistent with established procedures for any violation, either by omission or commission, of the Departmental rules, regulations or procedures, or for any conduct or omission detrimental to the good order, efficiency, or discipline of the Department. This rule shall apply in every case, even though such offense may not be specifically defined or set out in the rules, regulations, or procedures of the Department.
5. The Police Commissioner reserves the right to alter, amend or repeal any of these rules and regulations or to make additions thereto as circumstances may require.
  - 5.1. If the occasion demands, the PC may issue verbal or written orders which shall have the same force and effect as these rules and regulations.

## **RULES AND REGULATIONS**

### **RULE 1: CONDUCT**

Any breach of the peace, neglect of duty, misconduct or any conduct or omission on the part of any member of the Department, either within or outside the City of Baltimore, and whether on or off duty, which tends to undermine the good order, efficiency or discipline of the Department, or which reflects discredit upon the Department or any member thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or laid down, shall be considered conduct unbecoming a member of the BPD, and subject to disciplinary action by the Police Commissioner, unless such conduct is protected by the Constitution of the United States, the Maryland Declaration of Rights, or any other federal, state or local law.

1. Members shall be professional, civil and orderly at all times, and shall refrain from coarse, profane, or insolent language.
2. No member shall engage in any conduct, whether verbal, written, by gesture, or any other means, relating to a person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability, or social status. (See Policy 317, *Fair and Impartial Policing* for further guidance)
  - 2.1. No member shall discriminate against any person based on race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability or social status.

- 2.2. Commanding officers who receive a complaint or hear a concern made about potential discrimination or harassment, or who observe or learn of information about potential discrimination or harassment in some other manner, must report that information to the Equal Opportunity and Diversity Section (EODS).
- 2.3. It is the duty of employees who have observed or are aware of others who have engaged in bias-based policing to specifically report such incidents to a supervisor, providing all information known to them, before the end of the shift during which they make the observation or become aware of the incident.
- 2.4. No member shall retaliate against any person or other member who exercises their right to complain of acts of discrimination.
3. Members will meet the public with courtesy and consideration. Questions must be answered civilly and courteously. Members will not use facetious expressions while talking to the public.
4. Members have a duty to promote good public relations by giving assistance when it is required; by the impartial administration of the law; and by clean, sober, and orderly habits.
5. Sworn members will carry their badge of authority at all times while on-duty and will furnish their name and badge number to any person, upon request.
6. Members will refrain from making personal contacts with persons of questionable character, or visiting places where known violations of the law are occurring, unless necessary to do so in the performance of their duty.
7. Members are prohibited from using unnecessary force.
  - 7.1. Members shall consult Policy 1115, *Use of Force* for the full Use of Force policy.
8. Members, while riding for free on any type of public transportation, are not permitted to be seated while other passengers are standing.
9. Members will fulfill their personal financial obligations.
10. Members shall not attempt to influence the Police Commissioner for the purpose of securing promotion or transfer, or to avoid the penalties for reprehensible action or conduct.
  - 10.1. Members who know or have reason to believe that such movement is to take place, must give information thereof to their commanding officer without delay. Commanding officers are required to report that information up the chain of command.
11. Members will familiarize themselves with, and comply with the policies that concern a member's communications to the public, whether on or off-duty. All members shall comply with:
  - 11.1. Policy 601, *Member Confidentiality Obligations and Media Releases*,
  - 11.2. Policy 602, *Public Speech*, and
  - 11.3. Policy 604, *Social Media*.
12. Members will not, at any time, be insubordinate or disrespectful to a superior.

13. Members will not disobey any lawful command or order, either verbal or written, of any superior or other member designated to command.
14. Members will not threaten, strike, or assault any other member. Members who aid, abet, or incite any altercation between members shall be held responsible along with those actually involved.
15. Members will not make, orally or in writing, any false statement, or misrepresentation of any material fact, or make any material omission of fact, including but not limited to statements or omissions made with the intent to mislead any person or tribunal.
16. Members will be held strictly responsible for the proper performance of their duties.
  - 16.1. Members will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.
  - 16.2. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the member's rank, grade and/or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; absence without leave; or unnecessary absence from the assigned patrol during a tour of duty.
  - 16.3. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance:
    - 16.3.1. Repeated less than satisfactory evaluations or a written record of infractions of the rules, regulations, directives or orders;
    - 16.3.2. Repeated inability to perform the duties of a police officer in a satisfactory manner;
    - 16.3.3. The abuse of alcohol or prescription drugs, the use of illegal drugs, or long-term necessary use of legal medications that impair a member's ability to safely and satisfactorily perform his or her law enforcement duties;
    - 16.3.4. The inability to make a forcible arrest, drive a vehicle under emergency conditions, and/or qualify with a weapon, for any reason;
    - 16.3.5. The inability to perform the essential functions required of a police officer as described herein in a safe and satisfactory manner;
    - 16.3.6. The demonstration of poor judgment that puts the officer's safety, the safety of his or her colleagues, or the safety of any citizen at unreasonable or unnecessary risk;
    - 16.3.7. Providing untruthful or false information, or making any material omission of fact, including in connection with any internal investigation, court proceeding, affidavit or other legal proceeding.

17. Members shall not frequent station houses or Headquarters, except as duty requires or upon order.
18. Members must be punctual in attendance to all calls, requirements of duty, medical/psychological appointments, court appointments, and other circumstances where a time is specified.
19. Members will not feign illness, avoid responsibility, or attempt to shirk their duties.
20. Members are sworn in as peace officers of Baltimore City and, as such, are considered to be on-duty or ready for duty at all times. Failure to stop and perform the necessary police duties while off-duty or on leave shall be considered neglect of duty, unless a verified excuse is accepted by a supervisor.
  - 20.1. Necessary police duties, while off-duty may include, but are not necessarily limited to:
    - 20.1.1. Immediately notifying the responsible law enforcement agency,
    - 20.1.2. Causing such notification, or
    - 20.1.3. Taking direct police action.
  - 20.2. Off-duty members, both inside and outside of the City limits, are to first consider whether the appropriate action can be effected by the on-duty members of the responsible law enforcement agency.
    - 20.2.1. Members should become directly involved only after due consideration of the gravity of the situation, their present physical and mental ability to act in an on-duty capacity and of their possible liability, along with that of the Department and the City of Baltimore.
    - 20.2.2. Members have no powers of arrest outside the City of Baltimore or properties owned by the City of Baltimore, other than those of common citizens.
    - 20.2.3. Whenever members assume their official role and take direct police action, they are governed by all policies, rules and regulations applicable to on-duty members.
  - 20.3. The BPD acknowledges that circumstances and events may exist when it is in the best interest of the member, Department, and community, for sworn members to refrain from personally taking official police action while off-duty.
    - 20.3.1. Consistent with this, the BPD cautions off-duty sworn members to use discretion when invoking police powers, particularly involving the use of a firearm. This in no way, however, relieves sworn members from their obligation to notify appropriate on-duty authorities and provide assistance when necessary.
21. Members in uniform on patrol duty, or at any public gathering, shall not smoke or chew tobacco. Smoking or chewing tobacco is permitted at other times when done in an authorized location.
22. Members, while on-duty or when off-duty in uniform, shall not enter bars, taverns, or liquor establishments, except in the proper performance of their duties.

23. Members are prohibited from indulgence in intoxicating liquors while on-duty, or while off-duty in uniform. Only in cases requiring such action to carry out a duty assignment shall authority be granted to violate this rule. This authority must be given to the officer concerned by that officer's immediate superior.
- 23.1. Habitual overindulgence is forbidden. Members, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in obnoxious or offensive behavior which would discredit them or the BPD, or to such extent that at the time of the member's next regular tour of duty they are impaired or intoxicated and thereby unfit for duty.
24. Members will not bring any intoxicating liquor into any BPD building, boat, or vehicle, nor shall they permit same to be brought therein, except as required in the performance of police duty.
25. Members are strictly prohibited from playing cards, dice or engaging in any gambling or wagering activities on BPD property, in a BPD vehicle, while in BPD uniform or while on-duty, except as required in the performance of police duty. Members are also strictly prohibited from using BPD smart phones, laptops and other electronic devices for gambling or wagering purposes, whether on or off-duty.
26. Members are not permitted to take any employment, either full or part time, outside of BPD without special permission of the Police Commissioner, or consistent with the guidelines contained in Policy 1702, *Secondary Employment*.
27. Members will not accept any compensation, reward, gift, or other consideration without special written permission of the Police Commissioner.
- 27.1. Members are directed to Subtitle 16, Police Department, Section 22, Monies in Special Fund, Subsection 3, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland; and the Criminal Law Article of Maryland entitled, "Offering bribe to or receiving bribe by public officer; witnesses in prosecution."
- 27.2. No member shall accept any monetary reward for the apprehension or surrender of any military personnel absent without leave (AWOL).
28. Members will not circulate, distribute, sell, or solicit the sale of tickets, handbills, posters, literature, or any other matter, or permit their names to be used by any person or organization for the purpose of selling tickets or promoting any contest, gift, or enterprise, without special written permission of the Police Commissioner.
29. Members, in their private business transactions with persons residing or doing business on their posts or elsewhere, will not place themselves in a position which would interfere with the proper discharge of their police duties.
30. Uniformed members, when encountering the Police Commissioner and other superior officers, except those assigned to plainclothes or detective duty, and superior officers in uniform when encountering each other, will salute in the prescribed manner. All uniformed members will also salute the Governor of Maryland and Mayor of Baltimore in the prescribed manner.
31. Members will refrain from making personal cellular telephone calls while on-duty, either in uniform or in plain-clothes capacity. When the infrequent occasion requires making a personal cellular telephone call that communication shall be brief in duration and conducted out of public

view.

Personal earpieces for entertainment devices are prohibited from use while on-duty, either in uniform or in plain-clothes capacity. The prohibited devices include, but are not limited to, speakers and microphones, both wired and wireless.

## **RULE 2: RECOVERED PROPERTY**

Members who recover or come into the possession, custody, or control of any lost, stolen, seized, or abandoned property, including money, shall secure and handle such property or money in strict conformity with the law and the established procedure of the Department. See Policy 1401, *Control of Property and Evidence* and Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*.

## **RULE 3: FIREARMS**

1. Members of the Department who are authorized by law to carry firearms shall exercise the utmost care and caution in the preservation and use of such weapons. Police Officer Trainees, when off-duty, shall not wear, carry or transport a firearm until the successful completion of all Entrance Level Training, unless authorized by the Director, Professional Development and Training Academy, to meet training or other manpower and deployment needs.
2. Members shall refer to Policy 409, *Firearms Regulations* for further guidance.
3. Members must comply with Policy 710, *Serious Use of Force and In-Custody Death Response*, and Policy 1115, *Use of Force*, whenever a firearm is discharged, regardless of duty status, by any member of the Department, except when it is used on the range or at a departmentally sanctioned activity.
4. Use of force is governed by Policy 1115, *Use of Force*.

## **RULE 4: UNIFORMS AND EQUIPMENT**

1. Members of the Department shall wear such uniforms, badges, insignia of rank, and equipment as prescribed in departmental Policy 1504, *Departmental Uniforms and Equipment*. Uniforms and service equipment as covered under that Policy are applicable to members having police powers only, and the wearing of any portion of the uniform or the use of police service equipment by civilian employees is a violation of departmental policy, unless covered by orders specifically applicable to the individual or group. No uniform or equipment shall be worn or used by members of this Department unless they conform to the prescribed specifications.
2. Members shall refer to Policy 1504, *Departmental Uniforms and Equipment* for further guidance.

## **RULE 5: LEAVE, SICKNESS, AND INJURY**

Members shall, except when on authorized or medical leave, perform their prescribed tour of duty.

1. Members of the Department shall not be absent from duty without proper authority.
2. All applications from members for leave of absence shall be made on a form provided by the Human Resources Section. See Policy 1727, *Leave of Absence without Pay*, and Policy 1726, *Family Medical Leave*.

**NOTE:** Employees are not required to give their Commanding Officer Family Medical Leave paperwork. Said paperwork goes directly to the Human Resources Section.

3. While off-duty, members on an authorized leave of absence are subject to recall in the event of any emergency. Prior to taking a leave of absence, members will notify their Commanding Officers as to how they may be contacted while on leave.
4. Members who are unable to report for duty for any reason shall promptly notify their Commanding Officer, stating the reason for such failure to report. Members must personally provide that notification unless his or her medical condition makes it strictly impossible to do so. Members must provide notification of their absence as soon as they anticipate the absence and no later than the start of a member's scheduled shift.
5. Members on medical leave, or on authorized leave of absence due to a contagious disease of anyone in their home, are under the control and command of the Medical Unit and shall obey Medical Unit orders and instructions.
6. Members on medical leave of three (3) days or more will furnish their Commanding Officer with a medical certification consistent with the terms of the Memorandum Of Understanding. Members who are on medical leave for an extended period of time may be required to be recertified for medical leave on a periodic basis.
7. While on medical leave or on light duty, members shall not engage in any secondary employment.
8. Members who sustain an injury in the line of duty shall promptly notify or cause to be notified their Commanding Officer.
9. Any Commanding Officer who believes it might be appropriate to refer a member of his or her staff for a fitness for duty review must schedule the review through Human Resources.

#### **RULE 6: REPORTS AND COMMUNICATIONS**

In the transaction of departmental business, all reports and communications shall be prepared and handled in accordance with the procedures of the Department.

1. Members are strictly prohibited from releasing information about the Department and its law enforcement activities subject to the terms provided in Policy 601, *Member Confidentiality Obligations and Media Releases*.
2. No member of the Department shall sign any petition as a member, except on authority of the Police Commissioner.
3. Departmental telephone service and data plans are intended for official business only and shall not be used for personal calls, text messages, and emails. Members shall refer to Policy 604, *Social Media* for further guidance on use of departmental devices to access a social media site.
4. Members of the Department are required to report through official channels any change in their address, telephone number, or marital status within 24 hours.
5. Reports, as may be required to properly administer the affairs of the Department, or to furnish information, shall be submitted in accordance with departmental procedure.

**RULE 7: DEPARTMENTAL RECORDS**

All members of the Department whose duties require them to maintain departmental records shall do so in accordance with provisions of the law and the established procedures of the Department.

1. No member or other person or persons, shall have access to, copy, excerpt or make a transcript from departmental records (whether printed or stored in electronic format), except where permitted by departmental procedure, or unless so directed by the Police Commissioner.
2. No member shall remove, alter or destroy any official book, document, file or electronic record or document belonging to the Department, whether contained at Headquarters, a station house, or any division of the Department, without written authority of the Police Commissioner or under due process of law.
3. No member shall access, or caused to be accessed, any criminal history records or files except in the performance of their official duties.
4. No member shall disseminate or otherwise release, or cause to be disseminated or released, to any person or entity, any criminal history information or criminal records to any person or entity except in the performance of their official duties and as provided by law.

**RULE 8: MISCELLANEOUS**

1. Members shall not associate themselves into a team, club, or organization within the Police Department, unless such association has the approval of the Police Commissioner.
2. Members are prohibited from affiliating with any organization or body, the provisions of whose constitution or charter would in any way exact prior consideration, and prevent them from performing their duty as members of the Department.
3. Members are prohibited from residing in any building where intoxicating liquors are sold.
4. Members are required to notify in writing, the Director of Human Resources, via official channels, when joining, re-enlisting in, or transferring to a new branch of any federal or state military organization.
  - 4.1. When notifying the Director of Human Resources, members are required to include the following information:
    - 4.1.1. Branch of military service;
    - 4.1.2. Effective date;
    - 4.1.3. Unit's name;
    - 4.1.4. Unit's location;
    - 4.1.5. Your military rank; and,
    - 4.1.6. End of enlistment date.
5. Any member summonsed by the State's Attorney of Baltimore City or any other prosecutor, or



before any court concerning any matter in which that member or any other may become a defendant, must immediately report the facts in writing to the Police Commissioner through official channels.

- 5.1. Any member summonsed to testify for the defense and who has not already been summoned by the State or has received a subpoena duces tecum from the defense for any material or documentation whatsoever and has not already delivered the same material to the State, or who is appearing voluntarily as a witness for the defense, in any criminal proceeding, must immediately notify the Deputy State's Attorney for Operations.
  - 5.1.1. Written notification of the member's Summons to Appear must be forwarded to the Chief of Legal Affairs.
  - 5.1.2. The above notifications shall be made at the earliest possible time and prior to the date of appearance. When a member's appearance at a criminal proceeding is not resulting from their official duties in the case, the member may not wear his or her uniform.
- 5.2. Members must not involve themselves without departmental permission, either officially or unofficially, in any civil matter such as those pertaining to indebtedness and domestic affairs, except where the member has been summoned by regular court procedure or where it becomes necessary to prevent a breach of the peace.
6. Members shall not, directly or indirectly, refer, recommend or suggest the name of any person, firm, or corporation to any individual assisted or encountered by the member during the course of his or her law enforcement duties, except that members may refer individuals in need and victims to nonprofit social welfare programs, as appropriate.
  - 6.1. This prohibition includes, but is not limited to, any referral of attorneys, bondsmen, tow truck operators, and health care providers.
  - 6.2. Members shall not be directly or indirectly involved with making any arrangements, agreements, settlements or compromises between (i) a person who is being questioned, investigated or charged with a criminal offense and (ii) the victim/complainant and/or any other party/person thereto.
  - 6.3. Members shall not, directly or indirectly, take or omit to take any action, or become involved in any matter, for the purpose of allowing the criminal to escape the punishment provided by law.
7. Members shall not, without proper authority, release any prisoner in their charge or through neglect or design, allow any prisoners in their charge to escape. See Policy 1114, *Persons in Police Custody*.
8. No member of the Department shall file a claim, bring suit, or accept settlement for the recovery of damages sustained from any injury or loss in or out of duty without prior written notification through official channels to the Police Commissioner. Such notification will be officially acknowledged by publication of a Personnel Order.
  - 8.1. Personnel injured, either in the line of duty or not, by the negligence of a third party, shall be required to reimburse BPD for expenses it advanced provided that such reimbursement shall be made out of the proceeds of settlement with the tortfeasor or

his/her insurer.

- 8.2. Expenses for which the BPD must be reimbursed shall consist of wages, hospital costs, doctors' fees, and any other medical expenses advanced by the Department.
- 8.3. Reimbursement to the BPD shall be made by the claimant or his/her counsel for monies payable to the Mayor and City Council, through the Director, Fiscal Services.
9. Members shall not compound any offense committed against their person or property, or withdraw any complaint in relation thereto, without the consent of the Police Commissioner.
10. Members shall not accept a witness fee or reimbursement for expenses incurred in connection with their official duties without reporting it, through official channels, to the Police Commissioner, and obtaining the Police Commissioner's authorization.

### **RULE 9: INTERNAL INVESTIGATION AND REPORTING OF MISCONDUCT**

Members are required to adhere to all rules, regulations, directives, procedures, policies, guidelines, orders, or any other form of directive regarding internal investigations.

1. Members are required to provide full and honest cooperation with the Office of Professional Responsibility (OPR), the Equal Opportunity and Diversity Section (EODS), Compliance, Accountability and External Affairs Division (CAEAD) or any other person or entity conducting any authorized investigation within the Department.
2. Members are required to report any acts of misconduct by a member including, but not limited to, discrimination, harassment, criminal conduct, misuse of or excessive force, corruption or misappropriation of property, dishonesty, or any other misconduct or activity detrimental to the operation of the Department, in accordance with established procedures.
  - 2.1. At a minimum, reports of potential serious misconduct or illegal behavior by a member shall be made to the reporting member's Commanding Officer and the Chief, OPR. Commanding Officers who receive complaints about potential misconduct, or who come into possession of information about potential misconduct, are required to report that potential misconduct up the chain of command.
3. No member shall be dishonest with, interfere with, obstruct or hinder, nor advise any other person to be dishonest with, interfere with, obstruct or hinder, in any manner, any OPR investigation, integrity test, EODS investigation or any other form of internal investigation.
4. Any member who is arrested or charged with a criminal offense or a serious traffic violation as described in section 26-202 of the Maryland Transportation Code, or learns that he or she is the subject of a criminal investigation must immediately notify OPR.
5. A misdemeanor or felony conviction, guilty plea, finding of guilty, probation before judgment, or equivalent disposition (e.g., pre-trial diversion or ADR) shall be assumed to be an admission of the violation charged.

**ASSOCIATED POLICIES**

Policy 304, *Suspension Procedures*  
Policy 409, *Firearms Regulations*  
Policy 601, *Member Confidentiality Obligations and Media Releases*  
Policy 602, *Public Speech*  
Policy 604, *Social Media*  
Policy 710, *Level 3 Use of Force Investigations/Special Investigation Response Team (SIRT)*  
Policy 1114, *Persons in Police Custody*  
Policy 1115, *Use of Force*  
Policy 1401, *Control of Property and Evidence*  
Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*  
Policy 1504, *Departmental Uniforms and Equipment*  
Policy 1726, *Family Medical Leave*  
Policy 1727, *Leave of Absence without Pay*

**RESCISSION**

Remove and destroy/recycle Policy 302, *Rules and Regulations*, dated 16 July 2016.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.



## Policy 409

Subject	
<b>FIREARMS REGULATIONS</b>	
Date Published	Page
<b>24 November 2019</b>	<b>1 of 14</b>

*By Order of the Police Commissioner*

### POLICY

The purpose of this policy is to establish guidelines to ensure proper use of department-issued firearms.

**While members must at all times comply with the minimum legal requirements governing the use of firearms, they must also comply with even stricter standards set forth by Department policy (See Policy 1115, *Use of Force*).**

### CORE PRINCIPLES

1. **Use of Force: Firearms.** The discharge of a firearm is always Deadly Force/Lethal Force. As with all other weapons, the use of a firearm is strictly limited. Members shall discharge their firearms only as a last resort, when all reasonable measures to avoid the use of Deadly Force/Lethal Force have failed or when the member has no reasonable or safe choice but to discharge the firearm.

Unnecessarily drawing or exhibiting a firearm may limit a member's alternatives in controlling a situation, create unnecessary anxiety on the part of citizens, and/or result in an unwarranted or accidental discharge of the firearm.

During a potential Deadly Force/Lethal Force encounter, the member has many factors to consider including, but not limited to: identification, location and number of suspects, lighting, terrain, cover, concealment, presence and movement of bystanders, and back drop. With so many factors outside of the member's control, the situation that initially suggests the need to shoot might change between the time the pistol is grasped in the holster to the moment of pressing the trigger. The member must always be evaluating and must have the skills to de-escalate from the firearm being pointed, to lowered, and holstered as the member chooses other force options.

2. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
3. **Value and Worth of All Persons.** All human beings have equal value and worth, and members shall respect and uphold the value and dignity of all persons at all times.
4. **Peaceful Resolutions.** Members shall avoid the use of force unless it is not possible to do so.
5. **De-Escalation.** Members shall use de-escalation techniques and tactics to reduce any threat or gain compliance to lawful commands without the use of force or with the lowest level of force possible (See Policy 1107, *De-Escalation* and Policy 1115, *Use of Force*).

6. **Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.
7. **Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member discharges a firearm.
8. **Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force Reasonable, Necessary, and Proportional to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.
9. **Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will report the use of force accurately and completely by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).
10. **Duty to Intervene.** Members shall intervene to prevent the abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).
11. **Duty to Provide Medical Assistance.** After any use of force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.
12. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.
13. **Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Approved Handgun** — A personally-owned handgun that has been inspected by the Armory Unit and formally approved by the Director, Education and Training Section (E&T), for individual use by the member who owns it (See Appendix A).

**Approved Shotgun** — A personally-owned shotgun that has been inspected by the Armory Unit and formally approved by Director, E&T, for individual use by the member who owns it.

**Approved Rifle** — A personally-owned rifle that has been inspected by the Armory Unit and formally approved by Director, E&T, for individual use by the member who owns it.

**Deadly Force/Lethal Force** — Any force likely to cause death or Serious Physical Injury, whether the member intended to cause death or Serious Physical Injury or not. Deadly Force/Lethal Force includes, but is not limited to:

- The discharge of a firearm at a person;
- Strikes with any hard object such as a baton, flashlight, radio, weapon stock/handle, or Improvised Impact Weapon to the head, neck, sternum, spine, groin, or kidneys;
- Intentionally striking a person's head against a hard, fixed object such as a roadway, concrete floor, wall, or iron bars;
- Knee strikes or kicks to a person's head;
- Any strikes to a person's throat;
- "Knee drops" against a prone or supine person's head, neck, or torso;
- Chokeholds/Neck Holds;
- Shooting someone in the head, neck, chest, or back, with a Less-Lethal Launcher at close range.
- The use of any force on a person whose health, age, condition, or circumstances make it likely death or Serious Physical Injury will result.

**Issued Ammunition** — Any munitions issued by the BPD to its members (e.g., lethal and less-lethal ammunition for a firearm, etc.).

**Issued Handgun** — BPD-owned Glock 22, 23, or 27 - .40 caliber pistol issued to a member for utilization.

**Issued Rifle** — BPD-owned Colt 5.56/.223 caliber AR-15/M-4 style rifle (Patrol Rifle and SWAT carbine), Remington 700 (SWAT), etc.

**Issued Shotgun** — BPD-owned Remington 870 - 12-gauge shotgun. The shotgun may be issued to a member, the Armory Unit, or a BPD command, and utilized by a qualified member when needed.

**Issued Firearm** — Any make, model, or caliber of firearm owned by BPD that has been issued to a member or that is for general utilization by a designated group of properly certified and qualified members.

**Reasonable, Necessary, and Proportional** — The review of every use of force shall be to determine whether it was objectively Reasonable, Necessary, and Proportional in light of the totality of the circumstances that were known, or should have been known, to the member, and in light of the mandates of BPD Policies.

**Reasonable** — A member uses reasonable force when the member uses no more force than required to perform a lawful purpose.

**Necessary** — Force is necessary only when no reasonably effective alternative is available. When force is necessary, members shall use force in a manner that avoids unnecessary injury or risk of injury to members and civilians.

**Proportional** — Proportionality measures whether the force used by the member is rationally related to the level of resistance or aggression confronting the member.

**NOTE:** Members who use force that is not Reasonable, Necessary, and Proportional will be subject to corrective action, possible discipline, possible criminal prosecution, and/or civil liability.

**GENERAL****Requirement/Authorization to be Armed**

1. When on-duty, members shall be armed at all times with an Issued Firearm or Approved Handgun and shall utilize Issued Ammunition, except when participating in authorized training or a practice session.
2. When off-duty, members are authorized to carry an Issued or Approved Handgun while located within the State of Maryland. Off-duty members may also carry their Approved Handgun with Issued Ammunition within and outside the State of Maryland. Members are not required to be armed when off-duty.
3. Members operating a marked BPD Take-Home Vehicle shall be armed with an Issued Firearm or Approved Handgun, and BPD radio, when the BPD marked Take-Home Vehicle is in use.

**DIRECTIVES****Permitted Uses of a Firearm**

Any use of force, but particularly the exhibiting, pointing, or discharging of a firearm, must be preceded by an analysis, to the greatest extent possible, applying the principles of the sanctity of life, critical thinking and decision-making, and de-escalation. These principles must be an ever-present priority as a member is making the serious decision of whether to use any type of force, and particularly Deadly Force/Lethal Force.

Any use of a firearm qualifies as a Use of Force, and may only be used when Reasonable, Necessary, and Proportional.

**Un-holstering, Exhibiting, or Pointing a Firearm**

1. Pointing a firearm at a person is considered a Level 1 use of force, with few exceptions (see Policy 1115, *Use of Force*).
2. Except for administrative reasons, members shall not un-holster their firearms unless they anticipate or encounter a dangerous situation in which there is a potential risk of death or serious physical injury to the member or another.
3. 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 to the member or another person.
4. Firearms shall be secured or re-holstered as soon as reasonably practicable when Deadly Force/Lethal Force is no longer necessary. Firearms must always be holstered by any member attempting to frisk or handcuff a suspect.

### Discharging a Firearm

1. The discharging of a firearm constitutes Level 3 use of force (also known as use of Deadly Force/Lethal Force).
2. As per Policy 1115, *Use of Force*, a member may use Deadly Force/Lethal Force:
  - 2.1. When de-escalation and less-lethal force options have been exhausted, and/or are not reasonable based on the totality of the circumstances, and
  - 2.2. When the member reasonably believes the action is immediately necessary to protect a member or another person from imminent threat of death or serious physical injury, and
  - 2.3. When members have considered environmental factors such as field of fire, backdrop, bystanders, potential for ricochet, possibility of over-penetration, and other risks of life.
3. Members shall identify themselves as law enforcement officers and state their intention to use Deadly Force/Lethal Force before using a firearm if time, safety, and circumstances permit.

EXAMPLE: "Police! Drop your weapon or I'll shoot!"

  - 3.1. Members shall give the person a reasonable opportunity to voluntarily comply.
4. A member who discharges a firearm must continuously assess the circumstances that initially justified the use of Deadly Force/Lethal Force, and modulate the use of force according to the circumstances. Each round fired must be justifiable.
5. After the intentional or unintentional discharge of any firearm, members shall immediately notify a supervisor over radio when on-duty and complete the required actions and reporting as mandated in Policy 725, *Use of Force Reporting, Review, and Assessment*, and Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*.

EXCEPTION: Members participating in firearms training, on-duty or off-duty, need not make the above notifications unless the discharge was accidental or resulted in an injury to the member or another party.

### Fleeing Persons

1. Members may discharge a firearm to prevent the escape of a fleeing person if no reasonable force alternative exists and there is probable cause to believe that:
  - 1.1. The person has committed or is in the process of committing a felony involving the infliction or threatened infliction of serious physical injury or death, and
  - 1.2. The escape of the person would pose an imminent threat of death or serious physical injury to the member or another unless the person is apprehended without delay, and
  - 1.3. Members have identified themselves as law enforcement officers, have stated their intention to use Deadly Force/Lethal Force before discharging the firearm, and have given



the person a reasonable opportunity to comply voluntarily, if time, safety, and the circumstances permit.

### Prohibited Uses of a Firearm

1. Members shall not fire warning shots.
2. Members shall not fire into crowds.
3. Members shall not fire any weapon from or at a moving vehicle, except:
  - 3.1 To counter an imminent threat of death or serious physical injury to the member or another person, by a person in the vehicle using means other than the vehicle.
  - 3.2 To counter a situation where the officer or another person is unavoidably in the path of the vehicle and cannot move to safety. Officers shall avoid positioning themselves in the path of a moving vehicle where they have no option but to use Deadly Force/Lethal Force.
4. Members shall not use their firearm as an impact weapon, except in situations where Deadly Force/Lethal Force is authorized.
5. Members shall not fire at a threat that is not verified and visible.
6. Members shall not carry a firearm when they are under the influence of an impairing substance or alcohol.
7. As per Policy 1115, *Use of Force*, a member may not use Deadly Force/Lethal Force:
  - 7.1. Solely to protect property interests;
  - 7.2. Against a person who is only a threat to themselves.

**NOTE:** See Policies 1115, *Use of Force*; 725, *Use of Force Reporting, Review and Assessment*; and 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)* for further guidance on use of firearms and other use of force guidance.

### Dangerous Animals

1. Members are permitted to use firearms to stop a dangerous animal in circumstances where the animal reasonably appears to pose an imminent threat to human or animal safety and alternative options are not available or would likely be ineffective.
2. Members shall conduct pre-raid surveillance prior to executing a Search and Seizure Warrant, in an effort to determine if a dangerous animal may be present at the location to be searched. Members should contact Animal Control Supervision at (410) 396-4689 within 24 hours of executing a Search and Seizure Warrant to have Animal Control present.
3. Members shall develop a reasonable contingency plan to control/avoid a dangerous animal prior to confronting the animal when given advance notice that a dangerous animal may be encountered (e.g., dog pole, fire extinguisher, etc.). Any time SWAT or warrant teams are

operating, they should be prepared to deal with animals using other means besides Deadly Force/Lethal Force.

### Responsibilities Following Firearm Discharges

1. After an officer-involved shooting, members shall refrain from speaking about the incident until a supervisor or SIRT arrives on the scene, except to the extent necessary to address safety concerns. Except for necessary tactical information during an active event, involved or witnessing members are prohibited from discussing with each other their observations before, during, or after any officer-involved shooting. Members shall reference Policy 710, *Level 3 Use of Force Investigations – SIRT* for officer-involved shooting interview requirements.
2. Members shall immediately request emergency medical assistance on police radio, as soon as it is safe to do so, following an officer-involved shooting, or when a person is hit by a firearm discharge.
3. Members must render medical aid, consistent with their training, to any person injured by a member's or other person's firearm, until medical personnel arrive on the scene. Members have a duty to maximize the likelihood of victim survival by utilizing their Individual First Aid Kit (IFAK) (See Policy 811, *Individual First Aid Kit (IFAK)*).

### REQUIRED ACTION

#### Safety

1. Treat every firearm as a loaded weapon.
2. Do not place your finger inside of the trigger guard unless prepared to justifiably discharge the weapon.
3. Do not point or aim a weapon in dry firing practice in a location where an accidental discharge could cause injury.
4. Do not allow unauthorized persons to handle Issued Firearms.
5. Unload firearms in a manner prescribed by E&T before passing the firearm to another or before being stored or positioned where someone else may gain access to it.
6. Always holster slowly, with your thumb on the back of the slide and trigger finger extended outside of the trigger guard.
7. Never pull back the hammer or “cock” a revolver.

#### Care and Maintenance

1. Properly maintain Issued/Approved Firearms and ammunition. Safeguard them to ensure they are not misplaced, misused, or stolen.

- 1.1. Issued/Approved Firearms must be cleaned/oiled regularly (minimally once a month) in the manner prescribed by E&T.
- 1.2. Issued Ammunition shall be inspected for signs of wear/serviceability. The round in the chamber must be rotated regularly with other rounds in the magazine (minimally once a month) to avoid excessive wear.
2. Ensure all Issued/Approved Firearms and Issued Ammunition are stored in such a manner as to be inaccessible to any person or member not qualified and/or authorized to access the firearm or ammunition. Storing firearms anywhere in a motor vehicle is presumptively insecure and prohibited unless locked in a BPD-issued or installed secured gun vault, lockbox, or rack.
3. When assigned to a vehicle equipped with a shotgun, less-lethal shotgun, or rifle, be responsible for the proper care and security of those firearms during your tour of duty.
4. Do not attempt to repair or modify any Issued/Approved Firearm. In the event an Issued/Approved Firearm needs repair or modification, take the firearm to the Armory Unit or Firearms Training Unit Armorer for examination/modification/repair.
5. At no time should any repair be done by an outside source, unless authorized in writing by the Armory Unit.

### **Training**

1. Members are encouraged to train with Issued Firearms and Approved Handguns to maintain firearms proficiency.
2. When practicing with an Issued Firearm or Approved Handgun while off-duty, utilize only high quality, professionally manufactured ammunition. At the end of each practice session, unload any ammunition that is not Issued Ammunition and restore the Issued Ammunition when leaving the practice facility.

### **Inspections**

1. Issued/Approved Firearms and all Issued Ammunition assigned to members shall be inspected by the member's first-line supervisor bi-weekly, utilizing the Firearms and Ammunition Inspection Sheet, Form 242 (see Appendix B). Completed Firearms and Ammunition Inspection Sheets, Form 242, shall be retained at the member's parent command.
2. Any firearm that does not pass inspection shall be taken to the Armory Unit or Firearms Training Unit Armorer for repair.

### **General Carry Provisions**

1. Members assigned to units whose primary duties involve interactions with citizens and/or enforcement related activities (e.g., Patrol, SWAT, K-9, RATT, DAT, etc.) shall carry a fully loaded Issued/Approved Handgun, and a minimum of two loaded spare magazines. All such members must carry on their person at least one less-lethal weapon, which they are trained and certified to use, at all times while on duty (See Policy 1115, *Use of Force*).

- 1.1. The wearing of a Glock 27 is prohibited when wearing a full duty belt (i.e., issued duty belt with issued holster, radio, OC spray, double magazine pouch, etc.). Only a Glock 22 or Glock 23 may be worn with the full duty belt.
2. Members assigned to units whose primary duties are administrative (e.g., Communications, ECU, Quartermaster, RMS, etc.) or investigative (e.g., DDU, Homicide, Pawn Shop, Sex Offense, Child Abuse, etc.) need only carry a fully loaded Issued/Approved Handgun. When engaged in proactive enforcement activity likely to involve detention or arrests, members must carry at least one less-lethal weapon they are trained and certified to use (See Policy 1005, *Non-Uniformed Policing Standards*).
3. Unless exigent circumstances exist, ensure any firearm carried when working in a plain-clothes capacity or while off-duty is concealed from public view in a secure holster or secure container designed for that specific weapon.
4. After qualifying with and being issued an Issued Handgun, a member may apply to qualify with and carry off-duty or on-duty, one or two personally owned Approved Handguns that meet departmental standards and specifications.

**NOTE:** Police Officer Trainees are not approved to carry an Approved Handgun.

5. Only one Issued Handgun or Approved Handgun may be carried while on-duty or off-duty. Utilization of a second handgun as a “back-up” handgun is not permitted.

**EXCEPTION:** SWAT/ESU members often deploy multiple weapons platforms simultaneously during the execution of their tactical duties. Members of SWAT/ESU are EXEMPT from the restriction cited above and may carry/utilize all weapons platforms that the member is authorized and certified to deploy when operating in a tactically deployed posture.

6. Only those members departmentally trained with a .38 caliber revolver, who have successfully qualified with that revolver, may apply to carry while off-duty one personally owned .38 caliber revolver.

### Restrictions

1. Do not transport Issued Firearms out of the State of Maryland unless on official business and with prior approval of your Commanding Officer. A member may transport an Approved Handgun with Issued Ammunition out-of-state without prior approval.

**EXCEPTION:** Members who reside outside Maryland may transport Issued Firearms with Issued Ammunition to and from their residence.

2. When responding to the Office of Professional Responsibility (OPR):
  - 2.1. Secure all weapons in the lockbox when directed by OPR staff.
  - 2.2. Follow administrative unloading procedures.
  - 2.3. Maintain possession of the lockbox key until exiting the OPR facility or until OPR staff takes possession of the lockbox key and directs the member to leave without their weapon.

3. When appearing in any court as a defendant, plaintiff, or juror, members shall:
  - 3.1. Not carry any firearms into the courtroom or jury room.
  - 3.2. Immediately secure weapons with court liaison personnel or appropriate court personnel before entering the courtroom or jury room.
4. Members approved to carry personally-owned 9mm, .380, or .38 caliber handguns off-duty are not permitted to carry these handguns while on-duty.
5. Do not store less-lethal equipment boxes and lethal shotgun boxes in the same vehicle.

**EXCEPTION:** Designated vehicles assigned to the Special Operations Division may be used to store less-lethal equipment boxes and lethal shotgun boxes together.

#### **Approval for Personally-Owned Firearms (Approved Firearms)**

1. Members wishing to register a personally owned firearm as an Approved Firearm must:
  - 1.1. Complete Section 1 of the Application for Authorization to Carry an Approved Firearm, Form 133 (See Appendix C).
  - 1.2. Submit the Application for Authorization to Carry an Approved Firearm to the Armory Unit.
  - 1.3. Submit the firearm to the Armory Unit for inspection.
  - 1.4. Qualify with the desired firearm once every calendar year, or as directed by E&T.
2. When relinquishing ownership of an Approved Firearm, submit an Administrative Report (Form 95) to your Commanding Officer.

#### **Firearms Accessories**

1. Members may use an issued or Armory Unit approved personally owned weapon mounted light on any Issued/Approved Firearm provided:
  - 1.1. The member was issued or utilized a weapon mounted light during entrance level training, or
  - 1.2. The member has successfully completed Weapon Mounted Light Training provided by E&T.
2. Members may purchase at their own expense and use "Night Sights" or "Standard Sights." Any sights must be approved, inspected, and installed by the Armory Unit or Firearms Training Unit Armorer.
3. Members may purchase at their own expense and use a sling/sling mounts for utilization with Issued/Approved Rifles and Shotguns. All sling mounts must be approved, inspected, and installed by the Armory Unit or Firearms Training Unit Armorer.

4. Members may purchase at their own expense a replacement stock/forearm for use with Issued/Approved Rifles and Shotguns. The stock/forearm must be approved, inspected, and installed by the Armory Unit or Firearms Training Unit Armorer.

### **APPENDICES**

- A. Approved Firearms
- B. Firearms and Ammunition Inspection Sheet, Form 242
- C. Application for Authorization to Carry an Approved Firearm, Form 133

### **ASSOCIATED POLICIES**

- Policy 319, *Duty to Intervene*  
Policy 412, *Patrol Rifle*  
Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*  
Policy 725, *Use of Force Reporting, Review, and Assessment*  
Policy 811, *Individual First Aid Kit (IFAK)*  
Policy 1005, *Non-Uniformed Policing Standards*  
Policy 1115, *Use of Force*

### **RESCISSION**

Remove and destroy/recycle Policy 409, *Firearms Regulations*, dated 1 July 2016.

### **COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.

## **APPENDIX A**

### **Approved Firearms**

#### **Approved Handguns**

##### Category "A" Approved Handguns

Glock Model 22, .40 caliber semi-automatic handgun.  
Glock Model 23, .40 caliber semi-automatic handgun.  
Glock Model 27, .40 caliber semi-automatic handgun.

##### Category "B" Approved Handguns

Glock Model 19, 9mm semi-automatic handgun.  
Glock Model 26, 9mm semi-automatic handgun.  
Glock Model 43, 9mm semi-automatic handgun.  
Glock Model 43x, 9mm semi-automatic handgun.  
Glock Model 42, .380 caliber handgun.

\*Category "B" Approved Handguns are for off-duty use only, and may not be utilized on-duty. As such, certain modifications such as colored finishes (cerakote, DuraCote, etc.), grip texturing, sights, stippling, etc. may be authorized if the modifications enhance or do not interfere with the performance of the firearm. Factory triggers may not be modified in any way, and must have a minimum weight of 5.5 lbs. The Armory Unit has final authority to authorize/approve modifications and determine if the firearm is approved for utilization. No modified Category "B" Handguns may be utilized while on-duty.

##### Category "C" Approved Handguns

.38 caliber revolver with a barrel length of not less than 2" or more than 4" that meets departmental standards and specifications, made by:

Colt.  
Ruger.  
Smith & Wesson.

#### **Approved Shotgun**

Remington 870 — .12 gauge pump action shotgun with a barrel length not less than 18" and not more than 20." The barrel shall be smooth bore and contain rifled sights. All accessories and modifications must be approved by the Armory Unit.

#### **Approved Rifle**

Colt AR-15 — 5.56 /.223 caliber rifle with a barrel length not less than 16" and not more than 20." All accessories and modifications must be approved by the Armory Unit.

**APPENDIX B**

Firearms and Ammunition Inspection Sheet, Form 242

Firearms and Ammunition Inspection Sheet  
Form 242/19

**Police Department**  
Baltimore, Maryland

Member's Name: \_\_\_\_\_ Seq. Number \_\_\_\_\_ Assignment \_\_\_\_\_

Weapon Make:	Weapon Model:	Caliber:	Serial #:
Ammunition Type:	Number of Rounds:	Weapon Mounted Flashlight: <input type="checkbox"/> YES <input type="checkbox"/> NO	
Weapon Make:	Weapon Model:	Caliber:	Serial #:
Ammunition Type:	Number of Rounds:	Weapon Mounted Flashlight: <input type="checkbox"/> YES <input type="checkbox"/> NO	
Weapon Make:	Weapon Model:	Caliber:	Serial #:
Ammunition Type:	Number of Rounds:	Weapon Mounted Flashlight: <input type="checkbox"/> YES <input type="checkbox"/> NO	

CONDITION	Check One
Good Condition	<input type="checkbox"/>
Needs Repair (Respond to Armory Unit)	<input type="checkbox"/>

If "Needs Repair" please specify the type of repair, if unknown, please explain problems with weapon:

To be completed by the Supervisor conducting the inspection:

\_\_\_\_\_  
Printed Name                      Signature                      Seq #                      Inspection Date



**APPENDIX C**

Application for Authorization to Carry an Approved Firearm, Form 133

**Application for Authorization to Carry an Approved Firearm**  
Form 133/20

**POLICE DEPARTMENT  
BALTIMORE, MARYLAND**

DATE \_\_\_\_\_

**TO: RANGE MASTER, POLICE TRAINING ACADEMY**

I, \_\_\_\_\_  
(PRINT NAME, RANK, ASSIGNMENT AND SEQUENCE NUMBER)

RESPECTFULLY REQUEST THAT FOLLOWING DESCRIBED FIREARM BE APPROVED FOR USE AS AN APPROVED FIREARM. I UNDERSTAND THAT SHOULD SAME BE APPROVED, ALL APPLICABLE POLICIES AND RULES OF SAFETY WHICH REFER TO MY ISSUED FIREARM ALSO APPLY TO THIS APPROVED FIREARM. I ACKNOWLEDGE THIS FACT BY MY SIGNATURE BELOW.

<b>MAKE</b>		<b>MODEL</b>	
<b>SERIAL NUMBER</b>		<b>ORIGIN</b>	
<b>TYPE</b>			

Respectfully,

\_\_\_\_\_  
(Signature)

(TAKE THIS FORM AND FIREARM TO THE ARMORY UNIT FOR INSPECTION)

**ARMORY UNIT**

SERIAL NO. VERIFIED       NCIC CHECK       INSPECTED

\_\_\_\_\_  
(Name, Rank)

\_\_\_\_\_  
(Date)

APPROVED       DISAPPROVED

If Disapproved, Reason:

\_\_\_\_\_  
Signature, Armory Unit

TO: DIRECTOR, EDUCATION AND TRAINING  
RE: QUALIFICATION – APPROVED FIREARM

MAKE \_\_\_\_\_      MODEL \_\_\_\_\_      SERIAL NO \_\_\_\_\_

QUALIFICATION SCORE \_\_\_\_\_      DATE \_\_\_\_\_

CERTIFIED BY \_\_\_\_\_      ASSIGNMENT \_\_\_\_\_



## Policy 710

Subject

# LEVEL 3 USE OF FORCE INVESTIGATIONS / SPECIAL INVESTIGATION RESPONSE TEAM (SIRT)

Date Published

24 November 2019

Page

1 of 15

*By Order of the Police Commissioner*

### POLICY

The purpose of this policy is to establish the investigative protocol by the Special Investigation Response Team (SIRT) for their investigations. The SIRT team shall thoroughly and impartially investigate actions taken by members leading up to, during, and immediately after incidents involving a Level 3 Use of Force in order to maintain organizational transparency, improve member performance, and increase accountability.

**While members must at all times comply with the minimum legal requirements governing the Use of Force, they must also comply with even stricter standards set forth by Department policy.**

### CORE PRINCIPLES

1. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
2. **Reporting Use of Force.** Each member who uses, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the use of force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).
3. **Duty to Provide Medical Assistance.** After any use of force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance.
4. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.

### DEFINITIONS

**Accidental Discharges** — Any unintentional discharge of a firearm.

**Force Report** — Written statement required as part of the BPD Use of Force Review. Each involved officer if on duty and not hospitalized shall complete a Force Report (Form 96) that documents each use of force.

**Level 3 Use of Force** — Includes:

- Strikes to the head, neck, sternum, spine, groin, or kidney area with an impact weapon,
- Firearm discharges by a BPD member,
- Applications of more than three (3) CEW cycles on an individual a single encounter, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different members,
- CEW application for longer than 15 seconds on an individual whether the application is a single continuous application or from multiple applications,
- Uses of force resulting in death, serious physical injury, loss of consciousness, or requiring hospitalization, and
- Uses of deadly force/lethal force.

**NOTE:** Hospitalization refers to admission to the hospital, and does not include treatment and release in the emergency department, no matter how long the stay.

**Police Officer Involved Shooting (POIS)** — Any incident where an officer discharges a firearm at a person.

**Public Safety Statement** — A time sensitive statement, usually verbal, by an involved or witnessing officer that describes the type of force used, the direction and approximate number of shots fired by the involved member(s) and suspect(s), the location of an injured person, the description of outstanding suspect(s) and their direction of flight, the time elapsed since the suspect(s) were last seen, whether the suspect(s) are armed, any additional known safety risks about the outstanding suspect(s), whether any evidence needs protection, and the presence and location of any known witnesses (see Appendix B).

**Special Investigation Response Team (SIRT)** — A multidisciplinary BPD unit tasked with conducting investigations of Level 3 Use of Force, in-custody deaths, any fatal motor vehicle crash in which the actions of a BPD member were a contributing cause, and investigations specially assigned to SIRT by the Police Commissioner or designee.

**GENERAL**

1. To guide SIRT practices and investigations, the Department shall develop and implement a SIRT training curriculum and procedural manual.
2. The initial SIRT investigation is considered a criminal investigation. SIRT shall also proceed with an administrative investigation of the member's actions. The administrative investigation shall be in accordance with the Law Enforcement Officer's Bill of Rights (LEOBR) and *Garrity v. New Jersey*. Both investigations shall conform to the directions contained in the SIRT procedural manual and training.
3. SIRT members will have appropriate expertise and investigative skills to ensure that uses of force that are contrary to law or policy are identified and appropriately resolved. Appropriate resolution of a use of force incident entails arriving at a suitable recommendation for action to the Public Integrity Bureau (PIB), Office of the State's Attorney (OSA), and Performance Review Board (PRB) based on the information discovered through a thorough, complete, and informed investigation.

4. SIRT will ensure its investigations contain sufficient information to support the Performance Review Board's needs to identify trends or patterns related to policy, training, equipment, supervision, tactics, or positive lessons related to the use of force.

## **DIRECTIVES**

### **SIRT Investigations**

SIRT shall be the primary investigating entity in the following situations. While additional units (e.g., Homicide, Crash Team, Robbery, etc.) may be called upon to offer assistance and technical expertise, SIRT will lead/direct all investigative efforts for:

1. All BPD instances of Level 3 Force.
2. Any fatal motor vehicle crash in which the actions of a BPD member were involved.
3. All in-custody deaths.
4. Any incident at the direction of the Police Commissioner or his/her designee.

### **Criminal Investigative Division (CID) Investigations**

1. If a member suffers a serious physical injury or dies as the result of an assault, the Homicide Section will assist the criminal investigation. SIRT shall lead the administrative investigation, and may assist the Homicide Section during the criminal investigation.
2. If there is a related criminal incident or criminal investigation perpetrated or spurred by a non-member that occurs prior to, during, or after the use of force incident being investigated by SIRT, Homicide and/or the appropriate unit of CID will lead the criminal investigation.

### **BPD Police Officer Involved Shootings (POIS)**

#### **Required Response**

1. The member involved or another member on the scene shall immediately notify the Communications Section of a POIS.
2. Command members from the following sections shall immediately respond to the scene:
  - 2.1. PIB / SIRT
  - 2.2. Homicide
3. A supervisor/representative from the following sections shall immediately respond to the scene:
  - 3.1. Media Relations Section (MRS) representative,

- 3.2. Crime Laboratory Technician Supervisor,
- 3.3. Shift Commander (district of occurrence), and
- 3.4. Patrol Division Duty Officer, Unit 41 (See Policy 1724, *Duty Officer*).

**NOTE:** The POIS command response and notification protocol may apply to other SIRT investigations as determined on a case-by-case basis by the Police Commissioner or designee.

#### Investigative Process

1. SIRT shall perform the role of primary criminal and administrative investigating entity for all POIS relative to the BPD member's actions.
2. The Homicide Section shall perform the role of primary investigating entity related to the actions of non-BPD member subjects. This applies to all charging documents, applications for search and seizure warrants, and follow-up warrants if applicable (e.g., DNA warrant).

**NOTE:** Involved officers or members of their command shall not charge suspects involved in POIS but will provide witness information to investigating Homicide detectives.

#### Interviewing Law Enforcement Officers

1. All members involved in a Level 3 Use of Force incident shall be granted all applicable rights under the law. Members of SIRT and/or Homicide shall not solicit counsel for the member.
2. A SIRT member shall ask the member involved if he/she is willing to provide a voluntary statement.
  - 2.1. If the member is willing to provide a statement, SIRT shall administer the *Miranda* advisement immediately.
  - 2.2. If an involved member exercises his/her right under the LEOBR to delay his/her statement for up to 5 business days, SIRT shall document the request.
  - 2.3. If the statement is compelled, SIRT shall follow the law in accordance with the LEOBR. SIRT members shall supply a Notification of Internal Investigation, Form 98 (see Appendix C).
3. All interviews must be recorded (audio and/or video) and take place as soon as practical.
4. SIRT shall ensure the officer files a Force Report, Form 96, (see Appendix A) prior to the conclusion of the officer's shift/tour of duty. The report shall be submitted to SIRT.

#### Reporting

1. SIRT and/or Homicide shall present to the Police Commissioner and Executive Command Staff, including the Director, E&T, a preliminary briefing up to 72 hours after the incident or as soon

as practicable.

2. SIRT investigators are responsible for generating three reports:
  - 2.1. 24-Hour Report – Includes the basic facts of the case as they are known at the time. SIRT shall forward this report no later than 24 hours after learning of the use of force (unless impractical), to:
    - 2.1.1. Police Commissioner,
    - 2.1.2. Deputy Police Commissioners,
    - 2.1.3. All Chiefs,
    - 2.1.4. Commanding Officer of the member(s) involved,
    - 2.1.5. Director, E&T, and
    - 2.1.6. The Office of the State's Attorney (OSA).
  - 2.2. Performance Review Board Presentation – SIRT shall present to the Performance Review Board (PRB) after the OSA issues its findings. This presentation is due within 60 days, or as soon as possible thereafter as scheduling permits, from the incident (see Policy 724, *Performance Review Board*).
  - 2.3. Final Report – Upon receipt of the PRB's findings approved by the Police Commissioner, SIRT shall close and file the case.
3. All files and related evidence shall be stored in a secure location throughout the investigation.

## **REQUIRED ACTION**

### **Member**

1. After any use of force incident, members shall immediately render aid to the injured person consistent with training, and request medical assistance.
2. Members who used or observed a Level 3 Use of Force shall immediately notify a permanent-rank supervisor.
3. Members shall provide a Public Safety Statement to responding supervisor(s), if applicable.
4. Members who use force must complete a Force Report, Form 96, prior to the conclusion of member's tour of duty. The report shall be submitted to SIRT or Homicide investigators, and members shall refrain from discussing the incident among themselves or with anyone else.

5. Members who witness a Use of Force must complete a Form 95 by the end of their tour of duty.

### **Uninvolved Permanent-Rank Supervisor**

The uninvolved permanent-rank supervisor shall:

1. Respond to the scene.
2. Request medical resources for any injured person if not already done.
3. Ensure all body-worn cameras remain active until SIRT personnel deactivate and collect them.
4. Obtain a Public Safety Statement, if needed, in order to secure the scene, identify injured parties, and pursue suspects.
5. Notify the Communications Section immediately to activate SIRT when a Level 3 Use of Force incident, any motor vehicle crash in which the actions of a member contributed to the crash, and/or any in-custody deaths have occurred, if not already done.
6. Ensure initial steps in response to the incident are consistent with requirements for Level 2 Use of Force incidents, as outlined in Policy 725, *Use of Force Reporting, Review, and Assessment*, until turning the scene over to the Shift Commander or arriving SIRT personnel.

### **Shift Commander, District of Occurrence**

The district Shift Commander shall:

1. Respond to the scene. If Shift Commander arrives before the SIRT personnel, Shift Commander shall assume control from the uninvolved permanent-rank supervisor.
2. Once the scene is stabilized, separate all involved and witnessing officers, ensure they are not discussing the incident among themselves or with anyone else, and keep them at the scene until the SIRT or Homicide supervisor arrives.
3. Ensure all BWC's remain activated until SIRT personnel deactivate and collect them if not already done.
4. Request medical resources for any injured person if not already done.
5. Secure and maintain the integrity of the scene and all witnesses, and leave all intact to be processed by SIRT personnel.
6. Establish a command post to facilitate proper command and control of investigative activity.
7. If necessary, order a member to immediately provide a Public Safety Statement in order to secure the scene, identify injured parties, and pursue suspects.

8. Ensure that a crime scene log is established.
9. Confirm with the Communications Section that SIRT and/or Homicide has been activated and Command Staff has been notified.
10. Shift Commander shall not recover, inspect, or secure any involved member's firearm unless directed to do so by the SIRT or Homicide supervisor. Shift Commanders shall ensure that, upon the direction of SIRT or Homicide supervisor, the member(s) involved in the incident are transported for a weapons inspection conducted by the Crime Lab Unit and SIRT/Homicide.
11. Make reasonable attempts to identify civilian witnesses to the event and request that they stand by for SIRT arrival.

### **SIRT Supervisor**

The SIRT Supervisor that responds to the scene will lead all investigative activity, and has the following responsibilities in supervising the SIRT's response to a Level 3 Use of Force incident:

1. Assume control of the use of force investigation upon SIRT's arrival, and lead all investigative activity. This includes locating and interviewing witnesses, securing the scene and evidence, locating video surveillance that may have captured the incident, making notifications, etc.
  - 1.1. All interviews with civilian witnesses shall be recorded unless otherwise requested by the witness.
  - 1.2. SIRT personnel shall attempt to interview the person upon whom the officer used force to obtain the person's account of what happened, if possible, as an audio-recorded interview.
    - 1.2.1. SIRT personnel shall ensure areas of injury or complaint of injury are photographed.
2. Contact the Office of the State's Attorney.
3. Ensure that the Shift Commander has separated all officers involved in or who witnessed the incident until they have all been interviewed. Interviews with law enforcement officers shall conform to this policy (see Interviewing Law Enforcement Officers section).
  - 3.1. Arrange for all involved and witnessing officers to submit use of force written reports (Form 96 and Form 95 where appropriate), as soon as practicable and no later than 24 hours after the incident, except in extenuating circumstances, such as when an officer is injured. If extenuating circumstances exist, the officer will submit his/her written report as soon as the practicable.
  - 3.2. In the event of a POIS, SIRT detective(s) shall record interviews with witnessing members instead of seeking a written report.
4. Ensure that the training and policy representatives to SIRT do not play an investigative role when present at the scene of a use of force, but that they do identify any policy or training issues.



5. Facilitate the download of any data available from BWCs in accordance with Policy 824, *Body-Worn Camera*, and document the content of the videos. Ensure the data is titled correctly.
6. Ensure all video evidence is immediately gathered and assessed. This evidence may include, but is not limited to, CCTV footage, private or public surveillance, cell phone video footage, and BWCs.
  - 6.1. Ensure SIRT personnel arranges for a canvass for any CCTV or privately-owned video that may have captured the contact, and attempt to obtain copies voluntarily.
  - 6.2. If the owner of privately-owned video refuses, ensure SIRT personnel document the location and/or owner of the video, and seek a warrant if appropriate.
  - 6.3. If no privately owned video is discovered, ensure SIRT members document that none was found.
7. SIRT and/or Homicide Supervisors shall ensure the member(s) involved in the incident are transported, as directed, for a weapons inspection conducted by the Crime Lab Unit.
  - 7.1. The Crime Lab Technician (CLT) shall photograph the member and his/her weapon prior to the inspection.
  - 7.2. The permanent-rank supervisor shall unload and render the weapon safe while the CLT and SIRT/Homicide supervisor witness the procedure.
  - 7.3. The SIRT or Homicide supervisor will also conduct a weapon inspection on witnessing members.
  - 7.4. If the weapon is a revolver, the CLT shall count the total number of live cartridges remaining in the cylinder and any reloading devices (e.g., speedloader, speedstrip, etc.).
  - 7.5. If the weapon is a semi-automatic handgun, the CLT shall count the total number of live cartridges remaining in both the chamber and the magazine, the number of cartridges that were ejected from the weapon's magazine, and the number of live cartridges in any additional magazines recovered from the officer's primary and secondary pouch (or off-duty/plainclothes pouch).
8. Review BWC and/or other video which may have recorded all or part of the incident, and document the content of such videos. Obtain copies of all videos (other than BWC footage) as soon as practical.
9. Review witness statements from all witness officers, prior to the end of the shift, unless impracticable.
10. Ensure KGA and 911 recordings are gathered and reviewed.
11. Arrange for a crime lab technician to process the scene.

12. If the incident is a POIS, contact Officer Safety and Wellness Section to place involved members on Administrative Leave for 10 days (See Policy 1731, *Critical Incident After Action Protocol*). During the course of the 10 days leave, members shall attend an appointment with the BPD mental health services provider and complete an after-action training program conducted by E&T. After the 10 days of administrative leave, the member(s) shall be on administrative duties until authorized to return to full duty by the Inspector General or designee.

**NOTE:** If not a POIS, the member may be placed on administrative leave or administrative duty if directed by the Inspector General.

13. Make a BlueTeam entry before the conclusion of your tour of duty, documenting the use of force and whether or not there are any body-worn camera (BWC) recordings.
14. Ensure all reporting is completed and submitted.
15. Ensure that at least one member of SIRT is available at all times to evaluate potential referrals from BPD supervisors.

#### **SIRT Commander**

1. If the SIRT investigation indicates potential criminal conduct or administrative misconduct, notify the Deputy Commissioner, PIB, and
2. In cases of potential criminal conduct, notify the appropriate prosecuting authority.

#### **Crime Laboratory Technician**

In the event of a POIS, the Crime Lab Technician shall:

1. Process the scene according to the Crime Scene Unit's Technical Manual and provide photos as soon as practicable to SIRT and/or Homicide investigators.
2. For involved officer(s) and witnessing officer(s), photograph the officer and his/her weapon prior to any weapons inspection and follow the procedures contained in the Crime Scene Unit's Technical Manual related to recovering and processing an involved officer's weapon.

#### **Education and Training (E&T) Firearms Training Unit**

In the event of a POIS, the range supervisor will:

1. Provide SIRT and/or Homicide investigators with any subject matter expertise that may be required.
2. Compile firearms in-service qualification information for all officers involved in shooting incidents. In addition, confirm via the Armory's Unit's inventory database that the involved member was in possession of a BPD-approved firearm.

3. Conduct an after-action training program with involved members of a POIS within 10 days of the incident.

### **Media Relations Section**

In the event of a POIS, the Chief, MRS or his/her designee shall:

1. Respond to the scene and collect pertinent information. Ensure the information is verified as factual through SIRT and/or Homicide investigators.
2. Identify an appropriate media staging area, ensuring it is far enough away from the scene so as not to interfere with on-going investigative efforts.
3. Work closely with SIRT and/or Homicide and the Police Commissioner to provide timely and accurate public information regarding the incident.
4. Release a statement to the media summarizing the facts of the incident after consultation with the commanding officer of SIRT and/or Homicide and once all information has been approved by the Police Commissioner or his/her designee.
5. Serve as the chief spokesperson for the BPD, the Police Commissioner, and members of the Senior Command Staff. The Chief, MRS, is the only employee of the BPD, other than the Police Commissioner, or the Police Commissioner's designee authorized to speak or release information to any media outlet concerning a Level 3 Use of Force incident.
6. Disclose the identity of the officer(s) involved to the general public and media outlets after forty-eight (48) hours from the time the incident occurred, unless the Police Commissioner or his/her designee authorizes a more rapid disclosure or a longer withholding of the identity. If a member is injured or killed as a result of the incident, information should only be released by the Police Commissioner or his/her designee. In addition to the member's name, the following information shall be released:
  - 6.1. Number of years on duty,
  - 6.2. Assignment, and
  - 6.3. Current duty status.
7. Shall not disclose victim identification information until after his/her next of kin has been notified.

### **Communications Section**

Dispatch shall:

1. Contact, via telephone, SIRT supervisor for all new SIRT incidents.
2. For all POIS, notify command members (captains/majors or civilian equivalents) from the following sections: SIRT, PIB, Homicide, Crime Lab, the Shift Commander, Unit 41, MRS, Communications

Section, all Chiefs, Deputy Police Commissioners, and the Police Commissioner that a POIS has occurred.

3. Immediately process and provide copies of relevant KGA and 911 call recordings to SIRT investigators. Do not wait for an official request from SIRT or Homicide to begin processing this information.

#### **Commanding Officer, Involved Officer's District/Unit**

1. For all POIS, or if mandated by the Deputy Commissioner, PIB, the Commanding Officer shall ensure the involved member(s) is assigned to administrative leave for 10 days. During the 10 days, ensure the following occurs:
  - 1.1. Member(s) completes a critical incident debriefing by a BPD-approved mental health professional.
  - 1.2. Member(s) completes an E&T after-action training program relevant to the incident. This should be conducted only after completion of the critical incident debriefing by a BPD-approved mental health professional.
  - 1.3. Assign the member(s) to administrative duties following the 10 day period of administrative leave. Do not remove the member from administrative duties unless authorized in writing by the Inspector General or designee.

NOTE: If the Director of the Public Safety Infirmary for the BPD evaluates a member and places them medical leave due to stress related to the critical incident, Commanding Officer shall ensure compliance with Policy 304, *Suspension Procedures*.

#### **Division Chief, Involved Member**

1. The Division Chief of the involved member shall consult with SIRT and/or Homicide commanding officer prior to the reissuance of any BPD equipment.
2. A member may be issued a replacement firearm from the Armory unless there is reason to believe the member acted outside the scope of authority, or the BPD deems it unreasonable to do so.

**APPENDICES**

- A. Force Report, Form 96.
- B. Public Safety Statement, Form 97.
- C. Notification of Internal Investigation, Form 98.

**ASSOCIATED POLICIES**

Policy 304, *Suspension Procedures*  
Policy 724, *Performance Review Board*  
Policy 725, *Use of Force Reporting, Review, and Assessment*  
Policy 824, *Body-Worn Camera*  
Policy 1115, *Use of Force*  
Policy 1724, *Duty Officer*  
Policy 1731, *Critical Incident Stress Management Protocol*

**RESCISSION**

Remove from files and destroy/recycle Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*, dated 8 October 2016.

**COMMUNICATION OF POLICY**

This Policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.



**APPENDIX B**

Public Safety Statement, Form 97

Public Safety  
Statement Form 97/18

**Baltimore Police Department  
Public Safety Statement (Officer Involved Shooting)**

C.C.#: \_\_\_\_\_

Date: \_\_\_\_\_

**Directions to on-scene supervisor:**

This is a compelled statement. The permanent-rank supervisor compelling this statement:

- Will not deviate from its content.
- Will disseminate public safety information immediately via radio as appropriate.

The police supervisor receiving this information is required to submit a written statement to the Special Investigations Response Team. The statement is to include that the Public Safety Statement was formally given to the involved officer, the content of the answers given by the involved officer, and the supervisor did not deviate from the specified questions.

“Officer, I am directing you to give me a public safety statement. Due to the immediate need to take action, you are ordered to answer the following questions listed below. If you refuse to answer these questions relating to the performance of your official duties, you will be subject to Department charges, which could result in your dismissal from the Department.”

**Requesting Supervisor’s Name** \_\_\_\_\_ **Seq#** \_\_\_\_\_ **Time** \_\_\_\_\_

“At this time and to the **best of your knowledge**, please answer the following”:

1. From what type of weapon, where, and in what direction did you fire rounds?
2. In what direction did the suspect(s) fire rounds?
3. If you know of anyone injured, what is her/his location?
4. If any suspects are outstanding, what are their descriptions?

**Supervisors:** If there are no outstanding suspects, proceed directly to question #5, otherwise ask questions #4 (a-d).

- a. What was their direction of travel?
  - b. How long have they been gone?
  - c. With what weapons were they armed?
  - d. Are there any other safety risks known about the outstanding suspect(s)?
5. Does any evidence need protection?
  6. Any known witnesses?
  7. Where are they located?

“Officer \_\_\_\_\_, in order to prevent the contamination of your statement, I order you not to discuss this incident with anyone, including your supervisors or command staff, prior to the arrival of the assigned investigators, with the exception of your legal representation.”







## Policy 725

Subject <b>USE OF FORCE REPORTING, REVIEW, AND ASSESSMENT</b>	
Date Published <b>24 November 2019</b>	Page <b>1 of 28</b>

*By Order of the Police Commissioner*

### POLICY

The purpose of this policy is to set forth the requirements for reporting and reviewing a Use of Force incident to ensure a fair, thorough, and impartial assessment of member actions.

**While members must at all times comply with the minimum legal requirements governing the Use of Force, they must also comply with even stricter standards set forth by Departmental Policy.**

### CORE PRINCIPLES

1. **Thorough Reporting and Review.** All members of the Baltimore Police Department (BPD) have a duty to report any Use of Force, whether as an Involved Member or an observing member, and all levels of supervision shall thoroughly document, investigate, review, and assess the actions taken to determine if the Use of Force was consistent with BPD policy and training.

### DEFINITIONS

**Involved Member** — A member or supervisor who participated in, directed, or influenced the application of the Use of Force. This includes involvement in the tactical planning that led to the Use of Force.

**Preponderance of the Evidence** — When the balance of evidence demonstrates a version of the facts that is more likely than not the truth.

**Reasonable, Necessary, and Proportional** — The review of every Use of Force shall be to determine whether it was objectively Reasonable, Necessary, and Proportional in light of the Totality of the Circumstances that were known, or should have been known, to the member, and in light of the mandates of BPD policies.

**Reasonable** — A member uses Reasonable force when the member uses no more force than required to perform a lawful purpose.

**Necessary** — Force is Necessary only when no reasonably effective alternative exists. When force is Necessary, members shall use force in a manner that avoids unnecessary injury or risk of injury to members and civilians.

**Proportional** — Proportionality measures whether the force used by the member is rationally related to the level of resistance or aggression confronting the member.

**NOTE:** Members who use force that is not Reasonable, Necessary, and Proportional will be subject to corrective action, possible discipline, possible criminal prosecution, and/or civil liability.

**Totality of Circumstances** — The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- Whether an offense has occurred;
- The nature of the offense;
- The seriousness of the offense;
- The size and strength of the person;
- The number of persons;
- The availability of weapons;
- Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- Other force options;
- Availability of non-force options, including tactical repositioning, going to cover or other de-escalation Techniques;
- Environmental factors;
- Availability of back up and specialized units.

**Temporary Pain** — Any pain or complaint of pain that is brief, does not result in injury, and is delivered as a means to gain compliance. Temporary Pain may result from the application of, but is not limited to, elbow grips, wrist grips, shoulder grips, pressure point techniques, and/or forcible takedowns.

**Threat of Force** — Gestures of lethal and/or less-lethal weapons directed at a person as means to coerce, gain compliance, or demonstrate that an escalated Use of Force level is imminent (e.g., pointing a firearm, less-lethal launcher, CEW, or cycling a CEW at a person).

**Use of Force** — Any Use of Force or Threat of Force that falls within Level 1, Level 2, or Level 3 force as defined in this policy. Use of Force Levels are:

**Level 1 Use of Force** — Includes:

- Using techniques that cause Temporary Pain or disorientation as a means of gaining compliance, including hand control or escort techniques (e.g., elbow grip, wrist grip, or shoulder grip) and pressure point compliance techniques. Force under this category is not reasonably expected to cause injury,
- Pointing a firearm, Less-Lethal Launcher, or CEW at an person,
- “Displaying the arc” with a CEW as a form of warning, and
- Forcible takedowns that do not result in actual injury or complaint of injury.

**NOTE:** Escorting, touching, or handcuffing a person with minimal or no resistance does not constitute a Level 1 Use of Force.

**EXCEPTION #1:** SWAT team members and members assigned to work on a federal task force will not be required to report the pointing of a firearm at a person as a Use of Force during the

execution of SWAT team or federal task force duties.

**EXCEPTION #2:** Pointing of a firearm at a person by any member, if done solely while entering and securing a building in connection with the execution of an arrest or search warrant, will not be a Use of Force. A permanent-rank supervisor must complete a Form 93, Weapons-Pointing Report (Appendix A) detailing the incident in this situation, and submit to their District or Unit Commander.

**Level 2 Use of Force** — Includes:

- Force that causes or could reasonably be expected to cause an injury greater than Temporary Pain or the use of weapons or techniques listed below — provided they do not otherwise rise to a Level 3 Use of Force:
- Discharge of a CEW in drive-stun or probe mode, in the direction of a person, including where a CEW is fired at a person but misses,
- Use of OC spray or other chemical agents,
- Weaponless defense techniques including, but not limited to, elbow or closed fist strikes, open hand strikes, and kicks,
- Discharge of a less-lethal launcher/munitions in the direction of an person,
- Canine-inflicted injuries that do not rise to a Level 3 Use of Force.
- Non-weapon strikes to the head, neck, sternum, spine, groin, or kidney area,
- Striking of a person or a vehicle with a vehicle that does not rise to Level 3 Use of Force.

**Level 3 Use of Force** — Includes:

- Strikes to the head, neck, sternum, spine, groin, or kidney area with an impact weapon,
- Firearm discharges (including unintentional firearm discharges),
- Applications of more than three (3) CEW cycles in a single encounter, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different members,
- CEW application for longer than 15 seconds whether the application is a single continuous application or from multiple applications,
- Uses of Force resulting in death, serious physical injury, loss of consciousness, or injury requiring hospitalization, and
- Uses of deadly force/lethal force.

**NOTE:** Hospitalization refers to admission to the hospital, and does not include treatment and release in the emergency department, no matter how long the stay.

**Use of Force Assessment Unit (UFAU)** — Conducts administrative assessments of all Level 2 Use of Force incidents.

**Use of Force Review** — The gathering of facts and evidence by a permanent-rank supervisor to document a Use of Force. The Use of Force Review shall consist of witness interviews, written statements, police reports, discharge papers, audio and video data, BlueTeam entries, etc. This list is not exhaustive.

**GENERAL**

1. All Use of Force or Threat of Force incidents shall be documented and reviewed by a permanent-rank supervisor who is not an Involved Member in the incident.
2. Incidents will be categorized as a Level 1, Level 2, or Level 3 Use of Force.
3. Any permanent-rank supervisor may opt to adjust the Use of Force level based upon the circumstances of the incident.
4. When an incident involves multiple types of force or multiple members, the entire incident will be reported and investigated at the highest Use of Force level by any member during the incident.

**DIRECTIVES****Level 1 Use of Force/Threat of Force**

1. Members whose actions constitute a Level 1 Use of Force and/or Threat of Force shall immediately notify a permanent-rank supervisor.

**NOTE:** Members who observe a Use of Force and fail to report it will face disciplinary action up to and including termination.

2. Involved Members shall submit a Force Report, Form 96 by the end of their tour of duty. The Force Report shall include:
  - 2.1. The reason for the initial police presence,
  - 2.2. A specific description of the acts that led to the Use of Force,
  - 2.3. The level of resistance encountered,
  - 2.4. A description of every type of Use of Force, and
  - 2.5. Other items included in the Totality of the Circumstances as appropriate.
  - 2.6. The name and sequence number of the notified supervisor.
3. Observing members shall complete and submit a Form 95 that documents the Use of Force by the end of their tour of duty
4. Members shall refrain from using conclusory statements, or boilerplate/canned language (e.g., "furtive movement" or "fighting stance") in the narrative of their Force Report **unless** those statements can be supported with incident-specific detail.

**Level 2 Use of Force**

1. Members whose actions constitute a Level 2 Use of Force shall immediately notify a permanent-rank supervisor.

2. Involved Members shall submit a Force Report, Form 96 by the end of their tour of duty. The Force Report shall include:
  - 2.1. The reason for the initial police presence,
  - 2.2. A detailed narrative account of the incident from the member's perspective, including:
    - 2.2.1. A detailed description of the person,
    - 2.2.2. The severity of the crime at issue,
    - 2.2.3. The presence and location of witnesses at the scene,
    - 2.2.4. A specific description of the acts that led to the Use of Force,
    - 2.2.5. The level of resistance encountered,
    - 2.2.6. The threat the person posed,
    - 2.2.7. The force options available to the member,
    - 2.2.8. Any De-Escalation techniques used, and
    - 2.2.9. A description of every type of Use of Force.
    - 2.2.10. The existence of any body-worn camera (BWC) data that exists, or any non-recorded event that should have been recorded under BPD policy, as well as any interruptions or terminations of recordings (See Policy 824, *Body-Worn Camera*).
    - 2.2.11. The name and sequence number of the notified supervisor shall be included in the report.
3. Observing members shall complete and submit a Form 95 that documents the Use of Force by the end of their tour of duty.
4. Members shall refrain from using conclusory statements, or boilerplate/canned language (e.g., "furtive movement" or "fighting stance") in the narrative of their Force Report **unless** those statements can be supported with incident-specific detail.

### Level 3 Use of Force

1. Members whose actions constitute a Level 3 Use of Force shall immediately notify a permanent-rank supervisor.
2. The Special Investigation Response Team (SIRT) will respond to and investigate all instances of Level 3 Use of Force.
3. Members shall immediately notify the Communications Section if involved in a police officer-involved shooting (POIS), and provide a Public Safety Statement, Form 97 (Appendix D) to their

supervisor upon supervisor's arrival to the scene (see Policy 710, *Level 3 Use of Force / Special Investigation Response Team (SIRT)*).

## **REQUIRED ACTION**

### **Supervisor Responsibilities: Conducting a Use of Force Review**

1. Supervisors will ensure that all Involved Members and members who observed the Use of Force incident accurately, thoroughly, and in a timely fashion, report the Use of Force. All Use of Force or Threat of Force incidents shall be documented and reviewed by a permanent-rank supervisor who is not an Involved Member in the incident.
2. When notified of a Level 1 or Level 2 Use of Force by a member, supervisors will conduct a Use of Force Review by completing a Use of Force Review, Form 99 (Appendix C), and make an initial entry in BlueTeam before the end of the tour of duty.
3. Supervisors shall notify the Shift Commander with basic information concerning the incident by the end of their shift during which the force occurred.
4. Supervisors may utilize the Use of Force Preliminary Review Checklist for Supervisors (Appendix G) to assist with completing a thorough Use of Force Review.
5. Supervisors shall complete the Use of Force Review for Level 1 and Level 2 Use of Force and forward to the lieutenant of the member who used force via BlueTeam. Supervisors will ensure that all supporting documentation, including statements, photographs, videos, and documents are scanned and/or uploaded to BlueTeam within 72 hours of the incident.

**NOTE:** An extension from the 72 hours reporting requirement may be requested by the reviewing supervisor to the Chief of the unit (i.e., Patrol Division extension requests would be sent to the Chief of Patrol). To request an extension, members may complete a Use of Force Review Extension Request, Form 25 (Appendix E).

**NOTE:** In cases where a member is working overtime or is otherwise outside of their normal command, the Use of Force Review shall be forwarded to the Lieutenant where the member was working during the Use of Force.

6. Thoroughly review all Uses of Force for consistency with all Departmental policies as pertains to:
  - 6.1. Consistency with Policy 1115, *Use of Force*, as pertains to training,
  - 6.2. Whether the Use of Force was Reasonable, Necessary, and Proportional,
  - 6.3. Whether the member used de-escalation techniques,
  - 6.4. Whether the member continuously assessed the situation prior to, during, and after the Use of Force, and
  - 6.5. The submission of required documentation and related evidence.

NOTE: The Police Commissioner or his or her designee may reassign a Use of Force Review of any level to SIRT.

### Level 1 Use of Force

1. The Use of Force Review and Use of Force Review, Form 99 (Appendix C), must be personally conducted/completed by a permanent-rank supervisor who is not an Involved Member in the Use of Force, and who is the same rank or greater than the highest ranking Involved Member. "Officers in Charge" (OIC) are not authorized to perform this function.
2. The permanent-rank supervisor shall make an initial entry in BlueTeam that a Level 1 Use of Force was used before the end of their tour of duty.
3. It is not mandatory for the permanent-rank supervisor to respond to the scene of a Level 1 Use of Force.
4. Supervisors will elevate and investigate any Level 1 Use of Force that appears to have been inappropriately or improperly categorized as a Level 1 Use of Force. If a supervisor determines that a member's report reveals evidence of potential criminal conduct, he/she will promptly notify PIB.
5. Supervisors shall complete a Use of Force Review, Form 99 (Appendix C), within 72 hours of the incident and forward the report through BlueTeam. An extension from the 72 hours reporting requirement may be granted by the authorizing supervisor's commanding officer. To request an extension, complete a Use of Force Review Extension Request, Form 25 (Appendix E).

### Level 2 Use of Force

1. The Use of Force investigation and review must be personally conducted by a permanent-rank supervisor who is not an Involved Member in the Use of Force, and who is above the rank of the highest ranking Involved Member. "Officers in Charge" (OIC) are not authorized to perform this function.
2. In the instance that a supervisor uses, directs, or is otherwise an Involved Member, a higher-ranking supervisor who was not involved in the incident will complete the Use of Force Review.
  - 2.1. Supervisors ranked lieutenant and above may have a Use of Force Review completed by a supervisor of equal rank.
  - 2.2. Supervisors ranked captain and above shall have their Use of Force Review completed by SIRT.
3. A permanent-rank supervisor must respond to the scene of any Level 2 Use of Force. The permanent-rank supervisor shall:
  - 3.1. Elevate and investigate any Level 2 Use of Force that appears to have been inappropriately or improperly categorized as a Level 2 Use of Force. If a supervisor determines that a member's report reveals evidence of potential criminal conduct, he/she will promptly notify PIB and SIRT.

- 3.2. Complete a Use of Force Review, Form 99 (Appendix C), and ensure all supporting documentation, including statements, photographs, videos, and documents are scanned and/or uploaded to BlueTeam within 72 hours of the event.
- 3.3. An extension from the 72 hours reporting requirement may be granted by the authorizing supervisor's commanding officer. To request an extension, complete a Use of Force Review Extension Request, Form 25 (Appendix E).

#### Supervisor Responsibilities On-Scene:

Upon responding to the scene of a Level 2 Use of Force, supervisors shall:

1. Activate their BWC to ensure all investigative actions are preserved. If BWC is unavailable, members shall utilize BPD recording equipment to record interviews, refusals of interviews, and scene footage including, but not limited to, accurate depiction of lighting, weather, vehicle placement, points of cover, and evidence relevant to include forensic evidence. Supervisors will document their on-scene actions and observations.
2. Conduct and document a neighborhood canvass for relevant witnesses and memorialize on BWC. Obtain, whenever practical, recorded statements from persons or witnesses by utilizing trauma-informed interview techniques.
3. Attempt to locate CCTV or privately-owned surveillance cameras that may have recorded all or part of the incident. If located, such videos must be recovered and included in the Use of Force Review.
4. Separate all Involved Members in a Use of Force incident.
  - 4.1. Group interviews of members and any discussion between members regarding a Use of Force prior to submitting statements is **prohibited**.
  - 4.2. Members shall not be asked leading questions that suggest legal justification for the member's conduct, or where such questions are contrary to appropriate law enforcement techniques.
  - 4.3. Investigate any incident in which a member intervenes in another member's Use of Force (see Policy 319, *Duty to Intervene*).
  - 4.4. All interviews with members will be conducted in accordance with BPD policy and the Law Enforcement Officer's Bill of Rights (LEOBR). Involved Members will not be compelled to submit to an interrogation about the Use of Force.
5. Digitally photograph anyone involved (members and persons) regardless of injury or complaint of injury.

NOTE: The Crime Scene Unit shall digitally photograph all visible injuries in instances of a Level 2 Use of Force, and all injuries and/or claims of injury in Level 3 Uses of Force.



6. Include a brief summary of the disposition of the person after force was used such as, but not limited to, released, charges filed, issued criminal citation, transported to CBIF, or sent to the hospital for evaluation.
7. Provide a statement denoting any injury, complaint of injury, or lack of injury to each participant.
8. Digitally photograph any departmental or private property damaged as a result of a member's involvement.
9. Evaluate in writing all Uses of Force for compliance with BPD policy, as well as any other relevant concerns including, but not limited to, continuous assessment or tactics. Provide timely, constructive feedback, where appropriate.
10. Immediately refer misconduct or potential criminal conduct to command and the Public Integrity Bureau (PIB).

**NOTE:** Deliberate material omissions, false statements, or inaccuracies made with the intent to mislead will result in discipline for failure to report, up to and including termination (See Policy 302, *Rules and Regulations*).

11. Avoid conclusory statements, boilerplate, or canned language including, but not limited to, "furtive movement" or "fighting stance" without supporting incident-specific detail in use of force reporting.
12. Review the body-worn camera (BWC) footage and tag the incident as a Use of Force for all members present during the incident, as well as any CCTV video which may have recorded all or part of the incident (see Policy 824, *Body-Worn Camera*).
  - 12.1. Document the content of BWC and any CCTV videos.
  - 12.2. A copy of any videos should be obtained and attached to the BlueTeam use of force entry. BWC videos need only to be uploaded to Evidence.com.
13. Address any discrepancy, confusion, or lack of information with supplementary statements from officers, witnesses, or persons prior to completing a BlueTeam entry. Document in BlueTeam any issue that cannot be resolved.
14. Immediately notify command of issues that will delay the submission and completion of the Use of Force Review.

### Level 3 Use of Force

1. For Level 3 Use of Force, the first-line permanent-rank supervisor shall immediately notify the Special Investigation Response Team (SIRT) to respond to the scene.
2. SIRT will lead all investigative activity. The SIRT supervisor shall respond and complete all Level 3 Use of Force Reporting per Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*.

**Lieutenant**

1. Thoroughly examine the first-line supervisor's Use of Force Review for Level 1 and Level 2 Use of Force for:
  - 1.1. Consistency with Policy 1115, *Use of Force*, as pertains to training,
  - 1.2. Whether the Use of Force was Reasonable, Necessary, Proportional,
  - 1.3. Whether the member used de-escalation techniques,
  - 1.4. Whether the member continuously assessed the situation prior to, during, and after the Use of Force, and
  - 1.5. Submission of required documentation and related evidence.
2. Return for correction to the first-line supervisor any Use of Force Review that is incomplete, contains errors, and/or is not supported by a Preponderance of the Evidence. Address any discrepancies, confusion, or lack of relevant information. Document the specific evidence or analysis supporting the correction or modification. Any supervisor in the chain of command may discuss the modification with the reviewing supervisor or reviewers.
3. If necessary, re-classify a Use of Force Review to the appropriate level and return the Use of Force Review to the first-line supervisor for necessary action.
4. Document in BlueTeam any counseling given, training referrals made, or recommendations for discipline related to the member's actions or the first-line supervisor's Use of Force Review.
5. Immediately refer misconduct or potential criminal conduct to command and PIB.
6. Forward completed Use of Force Reviews to the Executive Officer/captain via BlueTeam within 72 hours of receipt.
7. Immediately notify command of issues that will delay the submission and completion of the Use of Force Review.

**Executive Officer/Captain (If applicable to the command)**

1. Critically examine the Use of Force Review for Level 1 and Level 2 Use of Force for consistency with Policy 1115, *Use of Force* as it pertains to training, submission of all required documentation and related evidence, and whether the force was Reasonable, Necessary, and Proportional.
2. Return for correction to the lieutenant any Use of Force Review that is incomplete or contains errors. Address any discrepancies, confusion, or lack of relevant information.
3. If necessary, re-classify a Use of Force Review to the appropriate level and return the Use of Force Review to the lieutenant for necessary action.

4. When it appears the findings of the Use of Force Review is not supported by a Preponderance of the Evidence, recommend changes to the findings after consultation with the investigating supervisors and document the specific evidence or analysis supporting the change.
5. Arrange and document in BlueTeam any counseling given, training referrals made, or disciplinary action taken related to the member's actions or the first-line supervisor's and lieutenant's review.
6. Immediately refer misconduct or potential criminal conduct to the command and PIB.
7. Complete Use of Force Review for Level 1 and Level 2 Use of Force within five (5) days of receipt and forward to the Commanding Officer via BlueTeam.
8. Immediately notify command of issues that will delay the submission and completion of the Use of Force Review.

### Commanding Officer

1. Critically examine all supervisors' review of Level 1 and Level 2 Use of Force for consistency with Policy 1115, *Use of Force* as pertains to training and submission of all required documentation and related evidence.
2. Return for correction to the Executive Officer/lieutenant any Use of Force reviews that are incomplete or contain errors. Address any discrepancies, confusion, or lack of relevant information.
3. If necessary, re-classify a Use of Force Review to the appropriate level and return the Use of Force Review to the Executive Officer/lieutenant for necessary action.
4. Arrange and document in BlueTeam any counseling given, training referrals made, or disciplinary action taken related to the member's actions or the first-line supervisor's, lieutenant's, or captain's review.
5. Immediately refer misconduct or potential criminal conduct to PIB.

**NOTE:** Complete reviews of Level 1 Use of Force within a period not exceeding 30 days from the date the Use of Force Review was entered into BlueTeam and forward to the Use of Force Coordinator File (Level One Force).

6. Complete reviews of Level 2 Use of Force within five (5) days of receipt, and forward the Use of Force Review to UFAU (Level Two Force) via Blue Team.

**NOTE:** Complete all reviews of Level 2 Use of Force within a 16-day time period from the date force was used. Document in BlueTeam an explanation for a delay beyond the 16-day submission period for Level 2 Use of Force reviews.

7. Any Level 1 or Level 2 Use of Force reviews that require additional time for completion or closure will require the submission of a written request for extension (see Appendix E, Force Extension Request, Form 25).

- 7.1. Submit the Force Review Extension Request form to the Division Chief for approval prior to the submission deadline.
- 7.2. Attach the approved/disapproved Force Review Extension Request forms to the Blue Team entry for the incident.
8. Level 1 or Level 2 Use of Force supervisory and command reviews shall not exceed a 45-day period for closure, even if an extension is granted.
9. The Commanding Officer will ordinarily be the final reviewer for Level 1 Use of Force reviews and will make the final determination of whether the findings by the chain of command regarding the Level 1 Use of Force are consistent with the law and policy and are supported by a Preponderance of the Evidence, whether the review is thorough and complete, and whether there are tactical, equipment, and/or policy considerations that need to be addressed.

**Division Chief**

1. Critically review and approve/disapprove Force Review Extension Requests (Appendix E).
2. Attach the reason for any disapproval, immediately return the request to the submitting commander.

**Use of Force Assessment Unit Member**

1. Conduct an administrative assessment of all Level 2 Use of Force incidents. Following the final assessment, the UFAU Commander will close the assessment and the command review within IAPro system.
2. Assess Level 2 Use of Force incidents and reviews to ensure:
  - 2.1. Whether the findings by the chain of command regarding the Use of Force are consistent with all departmental policies and are supported by a Preponderance of the Evidence,
  - 2.2. Whether the assessment was thorough and complete, and
  - 2.3. Whether there are tactical, equipment, or policy considerations to be addressed.
3. Document and return incomplete reviews on a Use of Force Assessment Form.
4. Document errors found in the review and forward to a UFAU supervisor for verification.
5. Immediately inform a UFAU supervisor of any actions that appear to involve misconduct by any officers.
6. Forward all completed assessments to the UFAU supervisor for review.

**UFAU Supervisor**

1. Verify the existence of any errors or omissions in the Use of Force Review and document them in the Corrective Recommendations Section of the UOF Assessment Form.

2. Immediately inform the UFAU Commander of any actions that appear to involve misconduct by any officers.
3. Forward all completed assessments to the UFAU Commander for review.
4. Monitor the BlueTeam system for initial submissions of Use of Force Reviews by supervisors.
5. Track the progress of Use of Force Reviews within BlueTeam and immediately notify the UFAU Commander of any Use of Force Reviews that are beyond the 16-day submission period without an approved extension.

**UFAU Commander**

1. Review the findings of the member and supervisor on the Use of Force Assessment Form and document a concurrence or make additional recommendations in the Corrective Recommendation Section.
2. Assign a date for the completion of corrections and receipts of missing or incomplete documentation.
3. Return the review along with corrective recommendations to the Commanding Officer via Blue Team.
4. Determine if any action involved possible misconduct by any officer and notify and forward the review to PIB for investigation.
5. Close all completed assessments and reviews.
6. Send an email notification to Division Chiefs whose commands have not forwarded Level 2 Use of Force reviews within the 16-day submission period and have not requested an extension.
7. Forward a listing of all outstanding corrections and delinquent Use of Force Reviews to the Internal Audits Commander or designee.
8. Refer Level 2 Use of Force reviews to the Performance Review Board (PRB) when they suggest a need for changes in training, policy, or equipment, or for incidents containing serious policy violations.

**UFAU Administrative Coordinator**

1. Monitor the Use of Force Coordinator file within BlueTeam daily.
2. Review closed files for Commander's Conformity Opinion and Approval for closure. Re-route reviews to commands without conformity opinions or Commander's approval for closure.
3. Immediately notify Division Chiefs/Inspectors, the Internal Audits Commander and the Chief of Internal Audits of any Command reviews beyond a 30-day period of initial reporting in Blue Team.

4. Re-assign cases to the Special Investigations Response Team (SIRT) when further investigation, analysis, or subject matter expertise is warranted.
5. Transfer all closed reviews from the BlueTeam system into IAPro, and close the review.

#### **Use of Force Statistical Data Collection and Reporting**

All data and records related to uses of force will be maintained to promote transparency by producing an annual, public report, and to assist the department to continuously evaluate its use of force practices and identify trends.

1. The BPD will ensure the collection and tracking of all documents related to uses of force and allegations of misconduct, including, but not limited to:
  - 1.1. Member's Force Reports, Form 96,
  - 1.2. Supervisor's Use of Force Review, Form 99,
  - 1.3. Force investigations by SIRT,
  - 1.4. Reviews conducted by PIB relating to member's uses of force, and
  - 1.5. All supporting documentation and materials, including relevant CEW downloads, supporting audio-visual recordings, including witness and officer interviews, and any relevant camera downloads, including BWC footage.
2. The BPD will annually evaluate the prior year's force data, including those listed above, to analyze trends, identify deficiencies, and produce a public report.

**APPENDICES**

- A. Weapons-Pointing Report, Form 93
- B. Force Report, Form 96
- C. Use of Force Review, Form 99
- D. Public Safety Statement, Form 97
- E. Force Review Extension Request, Form 25
- F. Use of Force Review Submission Table
- G. Use of Force Preliminary Review Checklist for Supervisor

**ASSOCIATED POLICIES**

- Policy 1115, *Use of Force*
- Policy 724, *Performance Review Board*
- Policy 319, *Duty to Intervene*
- Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)*

**RESCISSION**

Remove and recycle/destroy Policy 725, *Use of Force Review and Assessment*, dated 14 March 2017.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy

APPENDIX A

Form 93, Weapons-Pointing Report

Form 93/19  
Weapons-Pointing Report

Incident CC#: \_\_\_\_\_ Supervisor's Name: \_\_\_\_\_

Date & Time of Incident: \_\_\_\_\_ Supervisor's Assignment: \_\_\_\_\_

Location of Incident: \_\_\_\_\_ Today's Date: \_\_\_\_\_

Member(s) who pointed a weapon at a subject		Type of weapon
Name, Seq #	Assignment	

Please provide a brief narrative describing the incident:

Supervisor's Signature: \_\_\_\_\_

*Once completed, please forward to District/Unit Commander, and copy Director, E&T*



APPENDIX B

Force Report, Form 96

POLICE DEPARTMENT BALTIMORE, MARYLAND

USE OF FORCE STATEMENT Form 96/19

Date: \_\_\_\_\_

Pursuant to Maryland law and Baltimore Police Department Policy, you are hereby ORDERED to provide a report, explaining the facts and circumstances regarding your use of force. This report MUST be completed prior to the end of your shift/tour of duty. Failure to complete this report, as ORDERED, could lead to disciplinary action.

Date \_\_\_\_\_ Time \_\_\_\_\_ Location \_\_\_\_\_

TO: \_\_\_\_\_ (Commander of member who used force)

FROM: \_\_\_\_\_ (Member who used force and Seq#)

SUBJECT: Force Statement

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_ CC#: \_\_\_\_\_

I respectfully report the following facts:

APPENDIX C

## Use of Force Review, Form 99

CC#: _____	<u>SUPERVISOR</u>
Supervisor's Name: _____ Supervisor's Sequence#: _____ Supervisor's Assignment: _____	
<b>Disclosure:</b>	
1. Did you witness this Use of Force incident or were you present when this UOF occurred?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. If present, did you have any physical contact with the subject of the force?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Did you direct any of the actions of your subordinates prior to, or during this UOF incident, which directly or indirectly caused the involved member to have contact with the subject of the use of force?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If you answered YES to any of the questions above, STOP; another supervisor must complete the UOF review.</b>	
<hr/>	
<b>Level 3 - Use of Force:</b>	
1. Was deadly force used in this incident or is this an In-Custody Death Investigation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Did an officer discharge their weapon, to include any unintentional or negligent discharge?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Did the UOF cause great or substantial bodily harm, to include injury resulting in hospital admission, loss of consciousness or a broken bone?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Was the subject of the UOF struck in the head, neck, sternum, spine, groin or kidneys with an impact weapon?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Did the subject of the UOF sustain more than 3 cycles of a CEW during a single encounter?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Was there any significant misconduct by an Officer during the UOF?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If you answered YES to any of the questions above, STOP; and notify SIRT immediately to complete the UOF review.</b>	
7. Is a member of SIRT completing this form?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
<b>Level 2 - Use of Force:</b>	
1. Was there any physical contact with the subject that resulted in an injury or complaint of injury to the subject?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Did the subject sustain three or fewer cycles of a CEW in a single encounter to include drive stun mode?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Was OC Spray or other chemical agents used on the subject or deployed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Were any less-lethal weapons utilized against the subject, regardless if the subject was struck?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Was a canine utilized against the subject, regardless if any injury did or did not occur?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Was the subject struck with an impact weapon, other than any intentional strike to the head, neck, sternum, spine, groin or kidneys?	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. Did an Officer intentionally strike a vehicle with a vehicle, or strike the subject with a vehicle?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
<b>Level 1 - Use of Force:</b>	
1. Did the Officer use force to gain control of the subject who exhibited Active Resistance or more aggressive behavior that did not result in actual injury or alleged injury?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Did the Officer point a firearm or CEW at the subject?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Did the Officer use force to take down the subject where there was no obvious injury or complaint of injury?	<input type="checkbox"/> Yes <input type="checkbox"/> No

**APPENDIX C**

**Use of Force Review, Form 99**

<b><u>Level 1 Use of Force Report</u></b>		
<b><u>Incident Overview</u></b> (Choose one):		
Was this an On-View? <input type="checkbox"/>	Was this a Call for Service? <input type="checkbox"/>	Was this an Off Duty Incident? <input type="checkbox"/>

**APPENDIX C**

**Use of Force Review, Form 99**

**Subject of the Use of Force:**

Subject's Name: \_\_\_\_\_ D.O.B.: \_\_\_\_\_ Address: \_\_\_\_\_ Phone#: \_\_\_\_\_

Race:  Sex:  Age: \_\_\_\_\_ Any known Gang Affiliation?  Indication of Mental Illness?

Was Subject Armed?  Weapon Type:  Was a Firearm Discharged?  Weapon Recovered?

If firearm involved: Caliber: \_\_\_\_\_ Make/Model: \_\_\_\_\_ Serial#: \_\_\_\_\_ Stolen:

Was the subject handcuffed?  Yes  No How was the subject handcuffed? \_\_\_\_\_ (Behind back, to railing, etc.)

Did the subject complain of any injuries?  Yes  No Subject's Condition:

What/where on their body? \_\_\_\_\_

How were injuries sustained?  If Other, Explain: \_\_\_\_\_

Did the member take steps to render aid?  Yes  No Explain: \_\_\_\_\_ (Loosen handcuffs, sit upright, etc.)

Was a medic called?  Yes  No Was subject transported to a hospital?  Yes  No How transported? \_\_\_\_\_

What hospital?  Was individual transported to hospital for injuries sustained due to the U.O.F.?  Yes  No

Was the individual transported to the hospital for **ANY** other reason other than injuries sustained from the U.O.F.?

\_\_\_\_\_

Was subject released?  Yes  No If Yes, were hospital release forms collected?  Yes  No Under the influence?

Were photographs taken of injuries or claim of injuries?  Yes  No If No, Explain: \_\_\_\_\_

If Yes, by who? (Crime Lab, Unit#, etc.): \_\_\_\_\_

What was the final disposition of the subject of the Use of Force such as, released from custody (Issued a citation, investigative stop, arrested, taken to CBIF/Juvenile Booking Facility, charges filed, etc)?

\_\_\_\_\_

[Click for Additional Use of Force Subjects](#) [Delete Use of Force Subject](#)

**APPENDIX C**

**Use of Force Review, Form 99**

**Involved Member(s):**

Name: \_\_\_\_\_ Sequence#: \_\_\_\_\_ Assignment: \_\_\_\_\_

Race:   Sex:   Age: \_\_\_\_\_ Years of Service: \_\_\_\_\_ Prior Military Service:

Was this Officer injured:  Yes  No (See diagram in blue team for mark-up) Were there photographs of the injury?  Yes  No  N/A

Was this Officer transported to the hospital?  Yes  No If Yes, what hospital: \_\_\_\_\_

Explain the nature of this Officer's injury: \_\_\_\_\_

Officer's condition:

**Type of Force Used by this Member:**

Did the Officer use force to gain control of the subject who exhibited Active Resistance or more aggressive behavior that did not result in actual injury or alleged injury?  Yes  No

Explain in detail; below:

Did the Officer point a firearm or a CEW at the subject?  Yes  No

Explain in detail; below:

Did the Officer use force to take down the subject where there was no obvious injury or complaint of injury?  Yes  No

Explain in detail; below:

**Body Worn Camera for this member:**

Was this Officer issued a BWC?  Yes  No

If issued, was BWC worn at the time the force was used?  Yes  No  N/A If Yes, was it activated?  Yes  No

If No, Explain why: \_\_\_\_\_

If Yes, was it tagged UOF & titled correctly by a non involved permanent rank supervisor?  Yes  No

Did the BWC capture the UOF?  Yes  No If Yes, at what time into the recording did the actual UOF occur? \_\_\_\_\_

If No, Explain why: \_\_\_\_\_

**In the event of a Malfunctioning Device for this Member:**

Was the BWC inoperable at the time force was used?  Yes  No

If not, was the reason for non-activation documented in writing or via recording on the BWC?  Yes  No

Please Explain: \_\_\_\_\_

Upon discovering a BWC malfunction, did the member immediately report the malfunction to a supervisor?  Yes  No

If No, Explain: \_\_\_\_\_

Did the supervisor notify the BWC Unit immediately to ensure repair/replacement of the malfunctioning BWC device?  Yes  No

If No, Explain: \_\_\_\_\_

APPENDIX C

Use of Force Review, Form 99

De-Escalation:

Were de-escalation tactics used? [ ] Yes [ ] No If No, why not? \_\_\_\_\_
Did involved member give verbal commands prior to action? [ ] Yes [ ] No Did involved member create distance? [ ] Yes [ ] No
Did involved member speak in a calm manner? [ ] Yes [ ] No Did the involved member use cover? [ ] Yes [ ] No
Was a negotiator required? [ ] Yes [ ] No If yes, did the involved member call for a negotiator? [ ] Yes [ ] No
Were specially trained officers/unit (CIT Trained) needed? [ ] Yes [ ] No If Yes, did the involved member request [ ] Yes [ ] No the unit?

Damaged Property Personal / Departmental:

Was there any property damage? [ ] Yes [ ] No If Yes, to whose property?
Name: \_\_\_\_\_ Address: \_\_\_\_\_ Phone#: \_\_\_\_\_
Describe damage:
[ ]
Were photographs taken of the damage? [ ] Yes [ ] No If Yes, by whom: \_\_\_\_\_

Area Canvass:

Was an area canvass completed? [ ] Yes [ ] No If Yes, describe area/perimeters including street names:
[ ]
Aside from BWC, were there any CCTV Cameras or private cameras in the area?
CCTV Camera(s): [ ] Yes [ ] No Location(s): \_\_\_\_\_
Private Camera(s): [ ] Yes [ ] No Location(s): \_\_\_\_\_
Other (I.E. cell phone): [ ] Yes [ ] No Owner/Location(s): \_\_\_\_\_
If footage was found, did you attempt to secure and review it? [ ] Yes [ ] No If No, Explain: \_\_\_\_\_
If footage was found, did you complete a Video Retrieval Request and submit to CECU? [ ] Yes [ ] No If No, Explain:
[ ]

**APPENDIX C**

**Use of Force Review, Form 99**

**Additional Witnessing Officers:**

What other Departmental members were present when the UOF occurred?

Last Name	First Name	Seq#	Assignment	Was a detailed Form 95 submitted by this Officer?	Did Form 95 articulate events that took place during UOF?	Was member injured?	Were photographs of the injuries taken?
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Add Officer</b>		<b>Delete Officer</b>					

If any witnessing Officer(s) were injured, please explain the nature of their injuries below:

\*\*\* Please note, utilize the diagram in Blue Team for mark-up \*\*\*

**Witness Information:**

Are there Non L.E.O. witnesses to this incident?  Yes  No

If No, Explain: \_\_\_\_\_

List the names, addresses and contact information for each witness:

Last Name	First Name	Address	Contact#	Provided a Written Statement?	Provided a Verbal Statement via BWC?
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Add Additional Witness</b>		<b>Delete Additional Witnesses</b>			

Did witness(es) give a recorded statement **NOT** captured on BWC?  Yes  No

**If Yes, save and upload to system.**

**APPENDIX C**

**Use of Force Review, Form 99**

**Counseling, Training and Misconduct Referrals:**

Did you issue a written counseling to any officers involved in the UOF incident?  Yes  No

If Yes, explain in detail (attach counseling form):

Were you directed, or, have you referred any officers involved in the UOF incident for additional training?  Yes  No

If Yes, explain in detail:

Did you refer this incident to your Command or OPR for excessive force or misconduct?  Yes  No

If Yes, explain in detail (List all Blue Team entries):

Was the subject of an excessive force provided with OPR & CRB contact numbers?  Yes  No  N/A

If Yes, list the Date & Time: \_\_\_\_\_

If No or N/A, explain in detail: \_\_\_\_\_

**Rendering of Opinion:**

Do you reasonably believe the use of force was consistent with Departmental Policy and training?  Yes  No

Explain your reasoning in detail:

Signed By \_\_\_\_\_ Date:



APPENDIX D

## Public Safety Statement, Form 97

Public Safety Statement Form 97/18	<b>Baltimore Police Department</b> <b>Public Safety Statement (Officer Involved Shooting)</b>
C.C.#: _____	Date: _____
<b><u>Directions to on-scene supervisor:</u></b>	
This is a <u>compelled</u> statement. The permanent-rank supervisor compelling this statement:	
<ul style="list-style-type: none"> <li>• Will <u>not</u> deviate from its content.</li> <li>• Will disseminate public safety information <u>immediately</u> via radio as appropriate.</li> </ul>	
<p>The police supervisor receiving this information is required to submit a written statement to the Special Investigations Response Team. The statement is to include that the Public Safety Statement was formally given to the involved officer, the content of the answers given by the involved officer, and the supervisor did not deviate from the specified questions.</p>	
<p>“Officer, I am directing you to give me a public safety statement. Due to the immediate need to take action, you are ordered to answer the following questions listed below. If you refuse to answer these questions relating to the performance of your official duties, you will be subject to Department charges, which could result in your dismissal from the Department.”</p>	
Requesting Supervisor’s Name _____	Seq# _____
Time _____	
<p>“At this time and to the <b><u>best of your knowledge</u></b>, please answer the following”:</p>	
<ol style="list-style-type: none"> <li>1. From what type of weapon, where, and in what direction did you fire rounds?</li> <li>2. In what direction did the suspect(s) fire rounds?</li> <li>3. If you know of anyone injured, what is her/his location?</li> <li>4. If any suspects are outstanding, what are their descriptions?</li> </ol>	
<p><b><u>Supervisors:</u></b> If there are <u>no</u> outstanding suspects, proceed directly to question #5, otherwise ask questions #4 (a-d).</p>	
<ol style="list-style-type: none"> <li>a. What was their direction of travel?</li> <li>b. How long have they been gone?</li> <li>c. With what weapons were they armed?</li> <li>d. Are there any other safety risks known about the outstanding suspect(s)?</li> </ol>	
<ol style="list-style-type: none"> <li>5. Does any evidence need protection?</li> <li>6. Any known witnesses?</li> <li>7. Where are they located?</li> </ol>	
<p>“Officer _____, in order to prevent the contamination of your statement, I order you not to discuss this incident with anyone, including your supervisors or command staff, prior to the arrival of the assigned investigators, with the exception of your legal representation.”</p>	



**APPENDIX F**

**Use of Force Review Submission Table**

Rank	Force Review Submission Timeframe					
	End of Tour	72 HRS	5 Days	16 Days	30 Days	45 Days
<b>Sergeant</b>	Initial Entry Level 1 & 2	Complete Review Level 1 & 2				
<b>Lieutenant</b>	Initial Entry Level 1 & 2	Complete Review Level 1 & 2				
		Complete Review of Sergeant's Review Level 1 & 2				
<b>Captain</b>			Complete Review of Supervisors' Review			
<b>Major</b>				Complete Review of Supervisors' Review and Submit Level 2 to UFAU	Complete Review of Supervisors' Investigation and Close Level 1	Extension
						Complete Review of Supervisors' Review and Close Level 1 Submit Level 2 to UFAU

**APPENDIX G****Use of Force Preliminary Review Checklist for Supervisor****Baltimore Police Department****Use of Force Preliminary Review Checklist for Supervisors**

#	Action Steps	Y	N	Comment
1.	Identify all involved members.			
2.	Collect Administrative Reports (Form 95s) from involved members in Level 1 and Level 2 Reportable Use of Force Incidents.			
3.	Identify all witnessing members.			
4.	Collect Administrative Reports (Form 95s) from witnessing members in ALL Reportable Use of Force Incidents.			
5.	Identify and interview all witnessing civilians.			
6.	Attempt to obtain written statements from civilian witnesses.			
7.	Obtain contact information for witnessing civilians.			
8.	Ensure Crime Lab recovers/submits any items of evidentiary value.			
9.	Take note of any CCTV or other surveillance cameras in area, document locations, and attempt to review and retrieve the footage; if unable to view or retrieve document reason why. If footage is retrieved, upload the footage into Blue Team.			
10.	Review and tag body-worn camera (BWC) footage.			
11.	Note any departmental or private property damaged as a result of a member's involvement and photograph the damage.			
12.	Photograph all injuries and/or claims of injury to anyone involved.			
13.	Photograph anyone involved to denote the lack of injury to each participant when applicable.			
14.	Photograph the exact location of the body where CEW probes, baton strikes, hand/foot strikes, etc. impacted the body of the suspect or officer.			
15.	Photograph the scene in an attempt to accurately depict lighting, weather, vehicle placement, points of cover, etc.			
16.	Include drawings if they can help explain the facts in a complex incident.			
17.	Document your on-scene actions.			
18.	Include a brief summary of the disposition of the subject after force was used, such as released, charges filed, or sent to the hospital for evaluation.			
19.	Render an opinion as to whether or not the use of force was consistent with departmental policy and training.			
20.	Complete Blue Team entry prior to the conclusion of your tour of duty.			



# Policy 1115

Subject	
<b>USE OF FORCE</b>	
Date Published	Page
<b>24 November 2019</b>	<b>1 of 11</b>

*By Order of the Police Commissioner*

## POLICY

The purpose of this policy is to establish when a member may use force, and members' duties before, during, and after the Use of Force. The decision to use force requires careful attention and continual assessment of the situation, threats, options, and risks, with the goal of resolving the encounter peacefully.

**While members must at all times comply with the minimum legal requirements governing the Use of Force, they must also comply with even stricter standards set forth by Department policy.**

## CORE PRINCIPLES

1. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
2. **Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.
3. **Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.
4. **De-Escalation.** Members shall use De-Escalation Techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).
5. **Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.
6. **Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.
7. **Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force Reasonable, Necessary, and Proportional to respond to the threat or resistance to effectively and safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.
8. **Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

9. **Duty to Intervene.** Members shall intervene to prevent the abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).
10. **Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.
11. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.
12. **Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Active Aggression** — Active Aggression is when a person attacks or attempts to attack a member or another person. Strikes, kicks, or attempted strikes or kicks with hands, fists, the head, elbows, knees, or an instrument, constitute Active Aggression.

**Aggravated Aggression** — Aggravated Aggression is when a person presents an Imminent Threat of death or Serious Physical Injury to the member or another person based on the Totality of the Circumstances. Aggravated Aggression represents the least encountered but most serious threat to a member or other person. Even when confronted with Aggravated Aggression, the member is required to make every reasonable effort to de-escalate and to continuously assess the member's Use of Force.

**Chemical Agents** — Substances designed to irritate the eyes and mucous membranes (CS gas, PepperBall, Mk-9 Pepper Fogger, smoke, etc.).

**Chokehold/Neck Hold** — A Chokehold or Neck hold is any hold or contact with the neck that may inhibit breathing by compression of the airway in the neck, may inhibit blood flow by compression of the blood vessels in the neck, or that applies pressure to the front, side, or back of the neck. Chokeholds/Neck Holds are prohibited unless the use of Deadly Force/Lethal Force is justified.

**Conducted Electrical Weapon (CEW)** — A weapon designed to discharge electrical impulses in two modes:

**Drive Stun** — Pulling the trigger on the CEW with the cartridge removed or discharged, and placing the electrodes upon the skin/clothing of the person. Drive Stunning does not cause neuro-muscular incapacitation but causes severe pain.

**Probes Deployment** — Probes Deployment is the primary way that CEWs are used. With a cartridge attached, pulling the trigger fires two probes with barbs on the end that can penetrate the clothing or skin of a person. The two probes are connected to the CEW by wires and upon contact, if an electrical circuit is established, the CEW delivers pulsed electricity into the person, and overrides the person's voluntary motor function. Probes Deployment also causes significant pain.

**Deadly Force/Lethal Force** — Any force likely to cause death or Serious Physical Injury, whether the member intended to cause death or Serious Physical Injury or not. Deadly Force/Lethal Force includes, but is not limited to:

- The discharge of a firearm at a person;
- Strikes with any hard object such as a baton, flashlight, radio, weapon stock/handle, or Improvised Impact Weapon to the head, neck, sternum, spine, groin, or kidneys;
- Intentionally striking a person's head against a hard, fixed object such as a roadway, concrete floor, wall, or iron bars;
- Knee strikes or kicks to a person's head;
- Any strikes to a person's throat;
- "Knee drops" against a prone or supine person's head, neck, or torso;
- Chokeholds/Neck Holds;
- Shooting someone in the head, neck, chest, or back, with a Less-Lethal Launcher at close range.
- The use of any force on a person whose health, age, condition, or circumstances make it likely death or Serious Physical Injury will result.

**De-Escalation Techniques** — De-Escalation Techniques are actions taken by members that are designed to eliminate the need to use force in order to resolve any event or situation. De-Escalation Techniques include: talking to a person using a tone of voice and language that is not aggressive or confrontational; creating space or placing barriers between the member and the person; waiting the person out when circumstances permit; permitting a person to move about when safe; permitting a person the opportunity to make statements or ask questions; slowing down the pace of an incident; tactical re-positioning and requesting additional resources. The guiding principles for de-escalation are patience, flexibility, and the desire to resolve each situation peacefully (See Policy 1107, *De-Escalation*).

**Imminent Threat** — A person presents an Imminent Threat when the person has the means and ability to harm the member or another person, and the member reasonably believes the person intends to deliver that harm.

**Improvised Impact Weapon (IIW)** — An Improvised Impact Weapon (IIW) is a device or object that is not a department approved weapon, but is nonetheless used as an impact weapon (e.g., flashlight, radio, or stick). Such weapons may be unpredictable, ineffective, or exert unexpectedly high levels of damage (e.g., board with protruding nail). Consequently, members shall use Improvised Impact Weapons only in rare, emergency conditions where members lack an authorized Baton or other approved less-lethal alternatives, and use of an Improvised Impact Weapon is reasonable and necessary to defend against a person displaying Active or Aggravated Aggression.

**Less-Lethal Force** — Force that, when employed as designed, intended, and consistent with policy and training, is not likely to cause death or Serious Physical Injury. Devices of Less-Lethal Force may include, but not be limited to, a DS-3027 bean bag, FN-303, Pepper Ball rounds, batons/impact weapons, O.C. spray, and CEW. The way a Less-Lethal Force device is used and the circumstances in which it is used could constitute Deadly Force/Lethal Force.

**Less-Lethal Launchers/Munitions** — A delivery tool that, when used as designed and intended, is less likely to cause death or Serious Physical Injury than a conventional lethal weapon such as a firearm. Less-Lethal Launchers/Munitions are only approved for use by certified members.

**Physical Force** — A member uses Physical Force any time a member coercively touches, directly or indirectly, any person. Physical Force includes holds, grabs, blows, and strikes as well as the use of instruments, such as batons, devices, such as CEWs, tools such as O.C. spray, canines, or firearms, whether

lethal or less-lethal.

**Reasonable, Necessary, and Proportional** — The review of every Use of Force shall be to determine whether it was reasonable, necessary, and proportional in light of the Totality of the Circumstances that were known, or should have been known, to the member, and in light of the mandates of BPD Policies.

**Reasonable** — A member uses Reasonable Force when the member uses no more force than required to perform a lawful purpose.

**Necessary** — Force is necessary only when no reasonably effective alternative exists. When force is Necessary, members shall use force in a manner that avoids unnecessary injury or risk of injury to members and civilians.

**Proportional** — Proportionality measures whether the force used by the member is rationally related to the level of resistance or aggression confronting the member.

**NOTE:** Members who use force that is not Reasonable, Necessary, and Proportional will be subject to corrective action, possible discipline, possible criminal prosecution, and/or civil liability.

**Resistance** — Members may face the following types of Resistance to lawful directives:

**Active Resistance** — Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the member or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the member's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by a member or purely defensive reactions to force does not constitute Active Resistance.

**Passive Resistance** — Passive Resistance is when a non-assaultive person fails to comply with the member's commands without attempting to flee. Passive Resistance may include, but not be limited to, going limp, standing stationary and not moving based upon lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.

**Serious Physical Injury** — Serious Physical Injury is when there is disfigurement or substantial disruption or harm to one or more body parts, organs, or systems. The term includes, for example, brain injury, with or without unconsciousness, gunshot wounds, cardiac arrhythmia, difficulty breathing, cardiac or respiratory arrest, broken bones, dislocations, torn ligaments or tendons, or significant bleeding. This list is not exhaustive and is intended only to provide representative examples for guidance.

**Temporary Pain** — Any pain or complaint of pain that is brief, does not result in injury, and is delivered as a means to gain compliance. Temporary Pain may result from the application of, but is not limited to, elbow grips, wrist grips, shoulder grips, pressure point techniques, and/or forcible takedowns.

**Totality of Circumstances** — The Totality of Circumstances consists of all facts and circumstances surrounding any event. The facts and circumstances may include but are not limited to:

- Whether an offense has occurred;
- The nature of the offense;
- The seriousness of the offense;
- The size and strength of the person;
- The number of persons;



- The availability of weapons;
- Whether the person is exhibiting signs of mental illness or is experiencing a behavioral health crisis;
- Whether a person suffers from a medical or behavioral health disability, physical or hearing impairment, is impaired by alcohol or drug use, or may be non-compliant due to a language barrier;
- Other force options;
- Availability of non-force options, including tactical repositioning, going to cover, or other De-Escalation Techniques;
- Environmental factors;
- Availability of back up and specialized units.

**Use of Force** — Any Use of Force or show of force that falls within Level 1, Level 2, or Level 3 force as defined in this policy. Use of Force Levels are:

**Level 1 Use of Force** — Includes:

- Using techniques that cause Temporary Pain or disorientation as a means of gaining compliance, hand control or escort techniques (e.g., elbow grip, wrist grip, or shoulder grip), and pressure point compliance techniques. Force under this category is not reasonably expected to cause injury,
- Pointing a firearm, Less-Lethal Launcher, or CEW at a person,
- “Displaying the arc” with a CEW as a form of warning, and
- Forcible takedowns that do not result in actual injury or complaint of injury.

NOTE: Escorting, touching, or handcuffing a person with minimal or no resistance does not constitute a Level 1 Use of Force.

EXCEPTION #1: SWAT team members and members assigned to work on a federal task force will not be required to report the pointing of a firearm at a person as a Use of Force during the execution of SWAT team or federal task force duties.

EXCEPTION #2: Pointing of a firearm at a person by any member, if done solely while entering and securing a building in connection with the execution of an arrest or search warrant, will not be a Use of Force. A permanent-rank supervisor must still complete a Form 93, Weapons-Pointing Report detailing the incident (See Policy 725, *Use of Force Reporting, Review, and Assessment*).

**Level 2 Use of Force** — Includes:

- Force that causes or could reasonably be expected to cause an injury greater than Temporary Pain or the use of weapons or techniques listed below — provided they do not otherwise rise to a Level 3 Use of Force:
- Discharge of a CEW in Drive-Stun or Probes Deployment, in the direction of a person, including where a CEW is fired at a person but misses,
- Use of OC spray or other Chemical Agents,
- Weaponless defense techniques including, but not limited to, elbow or closed fist strikes, open hand strikes, and kicks,
- Discharge of a Less-Lethal Launcher/Munitions in the direction of a person,
- Canine-inflicted injuries that do not rise to a Level 3 Use of Force,
- Non-weapon strikes to the head, neck, sternum, spine, groin, or kidney area, and
- Striking of a person or a vehicle with a vehicle that does not rise to Level 3 Use of Force.

**Level 3 Use of Force** — Includes:

- Strikes to the head, neck, sternum, spine, groin, or kidney area with an impact weapon,
- Firearm discharges by a BPD member,
- Applications of more than three (3) CEW cycles in a single encounter, regardless of the mode or duration of the application, and regardless of whether the applications are by the same or different members,
- CEW application for longer than 15 seconds whether the application is a single continuous application or from multiple applications,
- Uses of Force resulting in death, Serious Physical Injury, loss of consciousness, or requiring hospitalization, and
- Uses of Deadly Force/Lethal Force.

**NOTE:** Hospitalization refers to admission to the hospital, and does not include treatment and release in the emergency department, no matter how long the stay.

**DIRECTIVES****Use of Force**

1. Sworn members have the authority to use Reasonable force when Necessary to accomplish lawful ends. This authority is limited by the laws of the State of Maryland, federal law, the United States Constitution, and the provisions of this policy. Members must conform their actions to the law, the Constitution, and BPD policies. When members use force, they shall exercise the utmost restraint. When practical, members should announce that force will be utilized prior to the application of such force.
2. Members shall prevent or stop the illegal, inappropriate, or excessive Use of Force by other members. Failure to intervene may subject a member to disciplinary action (See Policy 319, *Duty to Intervene*).
3. Members may only use weapons and/or force techniques that are allowed by policy and on which the member is trained, unless warranted by the Totality of Circumstances.

**De-Escalation**

Members shall, unless it is not possible to do so, avoid the Use of Force by using De-Escalation Techniques, including verbal persuasion and warnings, slowing down the pace of an incident, waiting out persons, using barriers, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources such as specialized units, CIT trained members, behavioral health care providers, or negotiators, before resorting to force, and to reduce the need for force. De-Escalation Techniques mitigate the threats and gives officers time to utilize extra resources, and increases time available to call more officers or specialty units (See Policy 1107, *De-Escalation*).

1. Members shall talk to the person; attempt to convince the person to comply; reduce any threat presented by withdrawing to a position that is tactically advantageous; or take actions that allow the member greater distance and time, in order to de-escalate a situation or deploy a lesser force option or no force at all.

2. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions including, but not limited to, immediately approaching a person without proper evaluation of the situation, failing to leave sufficient space between the member and the person, closing the reactionary gap, or escalating a situation.
3. Members shall not use tactics that unnecessarily escalate an encounter or create a need for force.
4. Members shall de-escalate force immediately as resistance decreases.
5. If the member has no alternative to using force, the member shall use only the amount of force that is Reasonable, Necessary and Proportional to respond to the threat or resistance and shall immediately reduce the level of force as the threat or resistance lessens or stops.

### Critical Thinking

Prior to using force, members shall use a critical thinking and decision-making framework to analyze and respond to incidents. This framework will allow members to uphold the sanctity of life and protect themselves by decelerating and stabilizing a situation to minimize the likelihood of a Use of Force incident. Using this framework, members will:

1. Assess the situation, threats, and risks;
2. Gather relevant facts about the incident;
3. Consider police powers and BPD policy;
4. Identify options and determine the best course of action; and
5. Act, review, and re-assess the situation.

### Restrained Persons

1. Members shall not use force against persons who are handcuffed or otherwise restrained, except in exceptional circumstances where the Totality of Circumstances makes it Reasonable and Necessary to prevent injury or escape. Members are cautioned that force that may be Proportional against an unrestrained person may not be Proportional when used on a restrained person. As with any Use of Force, members shall be required to use De-Escalation Techniques and critical thinking in order to avoid the Use of Force.
2. Members shall not use force against a handcuffed or restrained person if the person's actions only present a risk of property damage.
3. Members shall **not** position a restrained person face-down as it may cause positional asphyxia, placing persons on their back can cause radial nerve damage to the wrist and forearm area. Restrained persons are to be seated or placed on their side.

### Use of Deadly Force/Lethal Force

1. The use of Deadly Force/Lethal Force shall always be the last resort.
2. Members shall not use Deadly Force/Lethal Force unless they have exhausted de-escalation

(See Policy 1107, *De-Escalation*) and Less-Lethal Force options have been tried and failed, or are not safe based on the Totality of Circumstances.

3. A member may use Deadly Force/Lethal Force when they reasonably believe such action is immediately necessary to protect a member or another person from an Imminent Threat of death or Serious Physical Injury.
4. Prior to the decision to employ Deadly Force/Lethal Force members shall consider environmental considerations such as field of fire, backdrop, bystanders, potential for ricochet, possibility of over-penetration, and other risks to life.
5. Where safety permits, a member should identify himself/herself as a law enforcement officer and state his/her intention to use Deadly Force/Lethal Force before using a firearm or employing Deadly Force/Lethal Force.
6. A member may use Deadly Force/Lethal Force to prevent the escape of a fleeing person if force is authorized and no Reasonable force alternative exists that is within BPD policy, the member has given a verbal warning to the person (if time, safety, and circumstances permit), and there is probable cause to believe that:
  - 6.1. The person has committed or is in the process of committing a felony involving the infliction or threatened infliction of Serious Physical Injury or death, and
  - 6.2. The escape of the person would pose an Imminent Threat of death or Serious Physical Injury to the member or another unless the person is apprehended without delay, and
  - 6.3. Members have identified themselves as law enforcement officers, have stated their intention to use Deadly Force/Lethal Force, and have given the person a reasonable opportunity to comply voluntarily, if time, safety, and the circumstances permit.

#### **Restrictions on the Use of Deadly Force/Lethal Force**

1. Deadly Force/Lethal Force shall not be used to subdue persons whose conduct is a threat only to property.
2. Deadly Force/Lethal Force shall not be used against persons whose conduct is a threat only to themselves.
3. **The following are prohibited** unless the use of Deadly Force/Lethal Force is authorized and no reasonable alternatives exist:
  - 3.1. Discharge of a firearm at a person.
  - 3.2. Strikes with any hard object, such as a baton, flashlight, radio, weapon stock/handle, or IIW to the person's head, neck, sternum, spine, groin, or kidneys.
  - 3.3. Intentional strikes of a person's head against a hard, fixed object including, but not limited to, a roadway, concrete floor, wall, or iron bars.
  - 3.4. Kneeing or kicking a person's head, neck, back, or torso, including "knee drops" onto a prone or supine person.

- 3.5. Intentionally deploying a CEW to the neck, chest, groin or face of a person.
  - 3.6. Application of Chokeholds/Neck Holds.
  - 3.7. Discharge of a Less-Lethal Launcher to the chest, neck, or head at close range.
  - 3.8. The use of any force on a person whose health, age, condition, or circumstances make it likely that death or Serious Physical Injury will result.
4. Firing warning shots is prohibited.
  5. Firing into crowds is prohibited.
  6. Members shall not fire any weapon from or at a moving vehicle, except:
    - 6.1. To counter an immediate threat of death or Serious Physical Injury to the member or another person, by a person in the vehicle using means other than the vehicle.
    - 6.2. To counter a situation where the member or another person is unavoidably in the path of the vehicle and cannot move to safety. Members shall not position themselves in the path of a moving vehicle where they have no option but to use Deadly Force/Lethal Force.

NOTE: Refer to Policy 409, *Firearms Regulations*, for instructions on the use of firearms.

## **REQUIRED ACTION**

### **Duty to Intervene**

Members shall intervene to stop any member from using excessive force. Intervention may be verbal and/or physical (see Policy 319, *Duty to Intervene*).

**NOTE: Failure to intervene may subject a member to disciplinary action. Members must immediately, or as soon as safety allows, notify a permanent-rank supervisor after such an intervention.**

### **Duty to Provide Medical Assistance**

1. When there is a visible injury, complaint of injury, signs of medical distress, or when medical attention is requested by any person, members shall immediately render aid consistent with their training and shall request that a medic respond to the scene, or transport the person directly to the nearest hospital emergency room. The member shall then notify their supervisor and the Communications Section.
2. If a person has been subjected to impact by any type of Less-Lethal Force including CEW, impact weapons or impact projectile, he/she will be provided with medical treatment. If the person refuses medical treatment or leaves the location (e.g., persons of an unlawful gathering dispersed by Less-Lethal Force that may voluntarily leave without aid), members must document the actions taken to identify and render aid to the person in the Use of Force Review.

### Children and Youth

1. As with any encounter, members are expected to continually assess the situation, employ De-Escalation Techniques, and seek peaceful resolutions during incidents involving children and youth.
2. Members will, when feasible, recognize and employ developmentally-appropriate and trauma-informed tactics including, but not limited to, using a calm and natural demeanor, and avoiding threatening language. Members will also account for any fear-based reactions children and youth may experience during an encounter.
3. When force against a child or young person is necessary, take into account personalized factors of the child or young person including, apparent age, body size, and relative strength of the member relative to the child or young person; and risk posed by the child or young person; and,
4. In the case of injury resulting from a Use of Force, in addition to the requirements to render aid, summon medical care and notify a supervisor, the member will notify the child or young person's parent, guardian, or other responsible adult.

### Reporting

1. All members will adhere to the Use of Force guidelines found in Policy 725, *Use of Force Reporting, Review, and Assessment*.
2. Members of the BPD must notify a permanent-rank supervisor immediately, or as soon as practicable, following a Use of Force. The supervisor will notify the Shift Commander by the end of the shift during which the force occurred. The notification will contain basic information concerning the incident. Any member with knowledge that another member used force must also immediately report that Use of Force to a permanent-rank supervisor. In all instances, the permanent-rank supervisor will conduct a thorough review of the Use of Force, and document this review by completing a BlueTeam entry before the conclusion of the supervisor's tour of duty.
3. The failure of any commander, supervisor or member to fulfill any of the requirements of this policy will not prevent, inhibit or otherwise affect the ability of the Department to conduct an investigation of any misconduct arising from a Use of Force incident or to otherwise discipline a member for any violation of this policy.

**ASSOCIATED POLICIES**

Policy 302,	<i>Rules and Regulations</i>
Policy 319,	<i>Duty to Intervene</i>
Policy 409,	<i>Firearms Regulations</i>
Policy 414,	<i>Less-Lethal Munitions and Chemical Agents</i>
Policy 710,	<i>Level 3 Use of Force Investigations / Special Investigation Response Team (SIRT)</i>
Policy 719,	<i>Conducted Electrical Weapon</i>
Policy 724,	<i>Performance Review Board</i>
Policy 725,	<i>Use of Force Reporting, Review, and Assessment</i>
Policy 824,	<i>Body-Worn Camera</i>
Policy 1107,	<i>De-Escalation</i>
Policy 1111,	<i>Batons / Impact Weapons</i>
Policy 1114,	<i>Persons in Police Custody</i>
Policy 1118,	<i>Oleoresin Capsicum Spray</i>
Policy 1602,	<i>Canine Procedure</i>

**RECISSION**

Remove and destroy/recycle Policy 1115, *Use of Force*, dated 2 March 2018.

**COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.