



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Shooting Death in
Baltimore County on June 4, 2022

December 27, 2022

**Report of the Independent Investigations Division of the Maryland Office of the
Attorney General Concerning the Police-Involved Shooting Death of
Joseph Robert Thompson on June 4, 2022**

Pursuant to Md. Code, State Gov't § 6-106.2¹, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Baltimore County State's Attorney Scott Shellenberger regarding the police-involved shooting death of Joseph Robert Thompson.

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 December 22, 2022. This report is being provided to Baltimore County State's Attorney Scott Shellenberger on December 27, 2022

I. Introduction

On June 4, 2022, at approximately 8:40 p.m., officers with the Baltimore County Police Department ("BCPD") responded to an apartment complex on Virginia Avenue in Towson, Maryland, for, what was described by dispatch as, the report of an "unknown trouble." When officers arrived on scene, they heard gunshots coming from inside the building. The officers entered the building and proceeded to the 11th floor, which is where the 911 caller reported the trouble taking place.

Once on the floor, officers identified the apartment where the disturbance was reported to have occurred and knocked on the door. An adult man, later identified as Joseph Robert Thompson, answered the door armed with a handgun and pointed it at officers. Mr. Thompson and Officers Scott Johnson, Cody Klapka, and Robert Fitzgerald exchanged gunfire. Mr. Thompson was struck 11 times and died on scene. One officer suffered a gunshot wound to the hand and was taken to a local hospital with non-life-threatening injuries. Officers also found an adult woman inside the apartment suffering from gunshot wounds; she was taken to a local hospital and later released. The investigators later determined that the woman was shot by Mr. Thompson.

This report details the IID's investigative findings based on a review of body-worn camera ("BWC") footage, officer and civilian interviews, firearms analysis, Mr. Thompson's autopsy, and personnel records for the involved officer. All materials reviewed in this investigation are being provided to the Baltimore County State's Attorney's Office with this report and are listed in Appendix A.

This report also includes an analysis of Maryland statutes that may be relevant in a police-involved shooting death of this nature. The IID considered the elements of each possible charge, BCPD departmental policies, and Maryland case law to assess whether any charge could

¹ Effective on July 1, 2022, this statute was replaced by Md. Code, State Gov't § 6-602. Since this incident happened on June 4, 2022, State Gov't § 6-106.2 was still in effect.

be supported by the facts of this incident. Because the Baltimore County 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 individual should or should not be charged.

II. Factual Findings

The following findings are based on a forensic examination of the shooting scene as well as review of body-worn camera video, radio transmissions, and interviews with civilian and law enforcement witnesses. All police officers that responded to the scene were equipped with body-worn cameras. All information described below comes from the body-worn camera footage unless otherwise indicated.

A. Initial Response

On June 4, 2022, at approximately 8:40 p.m., officers with the Baltimore County Police Department (“BCPD”) responded to a high-rise apartment complex on Virginia Avenue in Towson, Maryland, for what dispatch described as an “unknown trouble.” The officers were responding a 911 call from approximately 8:35 p.m. in which the caller said that she heard a woman screaming, “somebody call 911,” and heard a loud bang. She told 911 that she heard this on the 11th floor of the building.²

BCPD Officer Nicolas Mabry was the first to respond to the building, at approximately 8:40 p.m. Upon arrival, he spoke with a woman, who he later told investigators said she heard loud noises and screaming coming from the building.

As Officer Mabry was asking individuals outside of the building to use their access cards to let him in, two gunshots were fired from inside the building. One resident opened the door to the building, and Officer Mabry went into the lobby while informing dispatch, “gunshots coming from the building.” About one minute later, three other officers arrived in the lobby. Officer Klapka suggested taking the stairs to the 11th floor, “I know it’s a lot, but it is better than getting pinned down in the fucking elevator.”

Officers Johnson and Austin Hay retrieved their rifles from their cars before entering the lobby. Officer Mabry returned to his cruiser to get his rifle as well. Officers Kralick, Klapka, and Fitzgerald were armed with handguns. At 8:44 p.m., all six officers took the elevator to the 11th floor. According to radio transmissions, dispatchers requested additional officers to block the surrounding streets and set up a perimeter. Dispatch requested a hostage negotiation team and tactical team, while officers set up a staging area at the Towson District.

² Although not known by police at the time, investigation revealed later that Mr. Thompson and Ms. [Redacted] were dating for several months before the shooting. Ms. [Redacted] told investigators that she went to Mr. Thompson’s apartment to end their relationship and get her belongings. They got into an altercation which resulted in Mr. Thompson shooting Ms. [Redacted] multiple times. Ms. [Redacted] while shot in the apartment, screamed for help.

B. The Shooting

When officers arrived on the 11th floor at approximately 8:46 p.m., there was a man standing at the opening of the elevator. Officers gave him commands to show his hands, which the man did. Officers then patted him down to ensure he was not armed. On officers' body-worn camera footage, the man is heard telling the officers three different apartment numbers that he heard the shots coming from. Officers appeared confused because they were unable to find the apartment. The man finally clarified for officers that the shots were being fired from apartment 1108.

Officers Johnson and Hay proceeded down the hallway with their rifles raised, followed by Officers Kralick and Klapka, who were armed with handguns. Officer Mabry remained at the entrance of the hallway with his rifle pointed down another hallway to ensure that no threats could surprise officers. Officer Fitzgerald, armed with a handgun, stayed at the entrance of the hallway. The four officers passed apartment 1108 then asked the man to confirm which apartment the shots were coming from. The man confirmed the shots were coming from apartment 1108.

When they got to apartment 1108, Officers Johnson and Hay stood on the left side of the door; Officers Kralick and Klapka stood on the right side of the door. At approximately 8:47 p.m., Officer Hay knocked on the door and all four officers pointed their firearms towards the door. About five seconds later, Mr. Thompson opened the door with a gun in his right hand. Officer Kralick immediately said, "Let me see your hands." Mr. Thompson immediately stepped through the doorway, raised his gun toward Officer Kralick, and fired, striking Officer Kralick in his right hand. Officers immediately returned gunshots.



Image 1: Still photograph from Officer Kralick's body-worn camera footage that depicts Mr. Thompson as he emerged from apartment 1108 with a gun in his right hand.



Image 2: Image from Officer Kralick's body-worn camera footage showing a muzzle flash coming from Mr. Thompson's gun as he fired towards Officer Kralick.

Officer Johnson, who was standing to the left of the door, fired six rounds from his rifle. Officer Klapka, standing to the right of the door, fired four rounds from his handgun. Officer Fitzgerald, who was down the hallway near the elevator, fired one round from his handgun. According to the autopsy, Mr. Thompson was struck a total of 11 times, in the abdomen, upper back, buttocks, and all four extremities.

When Mr. Thompson shot at officers, Officers Kralick and Klapka ran down the hallway towards the elevator and took cover behind a wall. Officer Kralick then called out, “I’m hit, I’m hit, I’m hit, I’m hit, I’m hit.” Officer Kralick told Officer Klapka he was struck in the hand. Officers rolled Officer Kralick on his back, called for medics, and started putting a bandage on his wound.

After the shooting, officers did not render medical aid to Mr. Thompson. Officer Mabry dragged Mr. Thompson by his ankle from the door of the apartment into the common hallway, allowing other officers to go inside. Approximately two minutes after the shooting, Officers advised dispatch that Mr. Thompson appeared to be “10-7,” meaning deceased. Thirty seconds later, other officers arrived on scene, placed handcuffs on Mr. Thompson, then checked for a pulse.

One minute after the shooting, officers entered apartment 1108, where they found [Redacted] suffering from multiple gunshot wounds, including a gunshot to the right side of her head. They immediately called for an additional medic. Officers moved Ms. [Redacted] from the couch and on to the floor. The officers physically examined Ms. [Redacted] for injuries and asked her questions to determine her level of consciousness. Ms. [Redacted] was breathing and responsive. They compressed Ms. [Redacted] gunshot wounds and attempted to keep her calm until medics arrived.

Medics can be seen tending to Mr. Thompson on the building’s surveillance camera footage at 9:20 p.m., 30 minutes after the shooting. Paramedics were unable to revive Mr. Thompson. Mr. Thompson died on scene. Officer Kralick and Ms. [Redacted] were transported to area hospitals. Officer Kralick was released the following day, while Ms. [Redacted] was released several weeks later.

III. Investigation

A. Initial Response

After the shooting, BCPD contacted the Maryland State Police (“MSP”), who notified the IID of the officer-involved fatality. IID and MSP personnel responded to the scene of the shooting and assumed control of the investigation.

B. Medical Examination

Mr. Thompson’s autopsy was conducted by the Office of the Chief Medical Examiner (“OCME”), on June 5, 2022. The medical examiner identified Mr. Thompson’s cause of death as

“Multiple Gunshot Wounds.” She deemed the manner of death to be “Homicide.”³ OCME finalized the medical report and sent it to the IID on November 21, 2022.

The medical examiner observed that Mr. Thompson had a total of 11 gunshot wounds to the abdomen, upper back, buttocks, and all four extremities. None of the wounds showed evidence of soot or gunpowder stippling, and thus no indication that the shots occurred from close range. One wound was in the right side of the abdomen; the round caused injury to the right rib, liver, stomach, and left rib, causing “spillage of stomach content into the abdominal cavity.” This bullet traveled right to left, however, the medical examiner was not able to note the front/back or up/down directionality. A second wound was to Mr. Thompson’s upper right back; the round struck his right rib, right lung, aorta, spinal cord, left lung, and left rib. The bullet traveled back to front and right to left, however, the medical examiner was not able to discern the up/down directionality. A third wound was to Mr. Thompson’s upper right back, causing converging injuries with the second gunshot wound. This bullet traveled back to front, right to left, and downward. Mr. Thompson also had seven gunshot wounds to all four of his extremities and one gunshot wound to his right buttock. These shots did not injure vital organs but “contributed to the overall blood loss.”

C. Firearms Analysis

The MSP Crime Lab analyzed the firearms of the three discharging officers and Mr. Thompson, along with casings and bullets from the scene. This office received the report on November 21, 2022. This analysis showed the following.

Officer Klapka fired four rounds from his Glock 17 9mm gun. The casings from his gun were recovered from both the right and left side of the hallway on the right side of the door. Three of the bullets were recovered down the hallway toward the window. A fourth bullet was recovered inside apartment 1108, in a closet by the front door. A bullet fragment from Officer Klapka’s gun was recovered from Mr. Thompson’s right hand during the autopsy.

Officer Fitzgerald fired one round from his Glock 17 9mm gun. The casing from his gun was recovered from the hallway near the elevator. One bullet was recovered on the right side of the hallway between apartment 1108 and apartment 1109.

Officer Johnson fired six rounds from his .223 caliber Colt Rifle. The casings from his rifle were recovered to the left of apartment 1108 in the hallway. Two bullets were recovered from Mr. Thompson’s left arm during the autopsy.

³ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Office of the Chief Medical Examiner of Maryland uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. “Homicide” applies when death results from a volitional act committed by another person to cause fear, harm, or death. These terms are not considered a legal determination, rather they are largely used to assist with public health statistics. “*A Guide for Manner of Death Classification*”, First Edition, National Association of Medical Examiners, February 2002.

Other than the three shots to Mr. Thompson's hand and arm described above, it was not possible for forensic examiners to determine which bullets caused which injuries to Mr. Thompson. And while forensic evidence determined that Officers collectively fired 11 rounds, and Mr. Thompson was struck 11 times, it is not possible to know whether every bullet struck Mr. Thompson or whether some bullets passed through Mr. Thompson's body then created a second entry wound.

A 9mm Plymer 80 handgun, with no serial number, was recovered near Mr. Thompson's body. Three casings fired from this gun were recovered in the hallway outside apartment 1108, and 4 casings were recovered inside the apartment. Two bullets fired from his gun were recovered under the knee of Mr. Thompson.

D. Civilian Witnesses

[Redacted] was interviewed by BCPD on August 1, 2022, and by the IID and MSP on August 22, 2022. Ms. [Redacted] said she had dated Mr. Thompson for several months. Ms. [Redacted] told investigators that she knew Mr. Thompson had a gun that he carried. On the night of the shooting, she took a rideshare to Mr. Thompson's home to end the relationship and get her belongings.

While she was there, the two began fighting. Ms. [Redacted] said that Mr. Thompson hit her over the head with his gun and she fell to the floor. Mr. Thompson then shot her in the leg. When Ms. [Redacted] attempted to call Mr. Thompson's sister, Mr. Thompson said, "don't play with me," then shot her twice in the leg and once in the head. She screamed for someone to call 911. After being shot in the head, Ms. [Redacted] does not recall much other than the police arriving to help her.

On the night of the shooting, the IID investigators made attempts to interview the woman who initially called 911 and the man who led them to Mr. Thompson's apartment. Both refused to be interviewed at that time. The IID investigators in the days following the incident reached out to them on at least two occasions, but they did not respond.

E. Shooting Officer Statements

Officers Klapka, Fitzgerald, and Johnson declined to be interviewed by the IID. These officers, like the subjects of any criminal investigation, have the right under the Fifth Amendment to not make any statements. None of the three officers made statements about the shooting that were captured on body-worn camera footage. The officers did not write any reports after the incident.

F. Witnessing Officer Statements

As part of its standard investigative practice, MSP and the IID interviewed all officers who witnessed the shooting. Those interviews are summarized below. The account provided by each officer is consistent with his body-worn camera footage. They did not write reports in connection to the shooting.

1. Officer David Kralick

Officer Kralick is a sworn police officer with the BCPD. He was interviewed by the IID and MSP on June 27, 2022. Officer Kralick responded to the location of the incident from the police station. While driving to the scene, Officer Kralick heard another officer radio that he heard gunshots coming from the apartment complex. When Officer Kralick arrived on scene and got out of his car, Kralick said that he heard two shots coming from the building.

A resident of the building let Officer Kralick inside, and he joined Officer Mabry by the elevators. Other officers gathered in front of the elevators and determined that they should proceed as if there was an active shooter in the building. Officers Hay, Mabry, and Johnson went to their cars to get their patrol rifles before proceeding to the 11th floor. Officers Kralick, Klapka, and Fitzgerald proceeded to the 11th floor with their handguns. Officer Kralick said that all of the officers took the elevators to the 11th floor.

When they arrived on the 11th floor, the officers encountered a person at the elevator who they determined was unarmed. Officer Kralick said that the individual initially told the officers that the shots were coming from 1109. Officer Kralick said that he, along with Officers Klapka, Hay, and Johnson, proceeded down the hallway to apartment 1109. He said that when they arrived at 1109, however, the person at the elevator clarified that he lived in 1109 and that the shots were coming from 1108.

According to Officer Kralick, the officers moved back to apartment 1108 and, “stack up on the door. It’s an inward opening door. We get two rifles on the hinge side...two handguns, me and Klapka, on the right side.” Officer Kralick said that Officer Mabry stayed near the elevator to cover the entire hallway with Officer Fitzgerald.

Officer Kralick said they knocked on the door and Mr. Thompson opened the door “right away.” Officer Kralick said he was “in a ready position with my firearm directly in front of my face.” Officers gave commands for Mr. Thompson to show his hands. When Mr. Thompson stepped through the doorway, Officer Kralick said that Mr. Thompson extended his arm with a black gun in his hand. Officer Kralick said that “as I saw the handgun come up, my finger went to the trigger, and then I saw the muzzle...I attempted to return fire, but my finger didn’t work.” At that time, Officer Kralick realized that he had been shot in the finger.

Officer Kralick said that he “ducked out to get to cover” at that time. The other officers on scene returned gunfire. Officer Fitzgerald then wrapped Officer Kralick’s hand in gauze. Officer Klapka took Officer Kralick to the stairwell and then took Officer Kralick’s shirt and vest off to ensure there were no other injuries. Officer Kralick gave his lieutenant his gun and was then taken to the hospital.

2. Officer Nicholas Mabry

Officer Mabry is a sworn police officer with BCPD. He was interviewed by the IID and MSP on June 27, 2022. Officer Mabry was conducting a traffic stop nearby when he heard the call for “unknown trouble” go out on the radio. He was the first officer to respond to building

and talked with someone that was standing outside the building. Officer Mabry said that woman told him she heard loud noises and screaming coming from the building. As Officer Mabry was trying to gain access to the building, he heard what he believed was two gunshots inside the building.

Officer Mabry said that he waited in the lobby for other officers to respond. Once they did, he went to his car to get his patrol rifle. When he got back to the lobby, he and six other officers got into the elevator and went to the 11th floor. When the doors to the elevator opened, there was a man who told the officers that he lived in apartment 1109 and the shots were coming from apartment 1108.

Officer Mabry said that as officers began walking down the hallway towards apartment 1108, he remained at the end of the hallway covering a different hallway off the area near the elevator. Officer Mabry heard officers knocking then giving commands to “let me see your hands.” Officer Mabry heard several “bangs” before turning towards the hallway leading to apartment 1108. He saw Officers Kralick and Klapka running toward him for cover. Officer Kralick yelled several times that he was hit.

Officer Mabry walked toward apartment 1108 and saw Mr. Thompson laying on the ground in front of the doorway of apartment 1108. He observed a gun near Mr. Thompson. Officer Mabry said that he and Officers Hay and Johnson moved Mr. Thompson and entered the apartment. Officer Mabry saw Ms. [Protected Personal Information] on a couch in the living room suffering from multiple gunshot wounds. Officers began applying pressure on her gunshot wounds until medics arrived.

3. Officer Austin Hay

Officer Hay is a sworn police officer with the BCPD. He was interviewed by the IID and MSP on June 27, 2022. Officer Hay said that he and Officer Johnson arrived at the building in the same car. When he got off the elevator on the 11th floor, he saw an individual near the elevator. The individual gave information to officers about where the shots were coming from.

Officer Hay went to the apartment the individual directed him to with three other officers. He posted up on the “hinge side” of the door. Officer Hay then knocked. When Mr. Thompson came out of the door, he fired on officers. Officer Hay said that other officers returned fire. Officer Hay did not return fire because his “backdrop” had officers in his line of fire.

When Mr. Thompson fell to the ground, Officer Hay went inside the apartment and saw Ms. [Protected Personal Information] on the couch suffering from multiple gunshot wounds. She was unable to talk. Officer Klapka asked Ms. [Protected Personal Information] if Mr. Thompson was the individual that shot her. Officer Hay believed that she nodded her head.

IV. Involved Parties’ Background

As part of its standard investigative practice, the IID obtained information regarding the criminal histories of Mr. Thompson and Officers Klapka, Fitzgerald, and Johnson, as well as departmental internal affairs records and relevant training for Officers Klapka, Fitzgerald, and

Johnson. In this case, this information did not affect the analysis of potential criminal charges.

A. Joseph Robert Thompson

Mr. Thompson was a 67-year-old Black man who lived in Towson, Maryland. To the extent it exists, any criminal history is being provided to the Baltimore County State's Attorney's Office with this report.

B. Officer Cody Klapka

Officer Klapka was hired by BCPD on June 9, 2018, and is currently assigned to the Central Patrol Division. He is a 30-year-old white man. [Redacted] Protected Personnel Information [Redacted] The IID also reviewed Officer Klapka's internal affairs file and did not find any information relevant to the analysis of this incident. To the extent it exists, any criminal history is being provided to the Baltimore County State's Attorney's Office with this report.

C. Officer Robert Fitzgerald

Officer Fitzgerald was hired by BCPD on December 8, 2018, and is currently assigned to the Central Patrol Division. He is a 26-year-old white man. [Redacted] Protected Personnel Information [Redacted] The IID also reviewed Officer Fitzgerald's internal affairs file and did not find any information relevant to the analysis of this incident. To the extent it exists, any criminal history is being provided to the Baltimore County State's Attorney's Office with this report.

D. Officer Scott Johnson

Officer Johnson was hired by BCPD on December 10, 2005, and is currently assigned to the Central Patrol Division. He is a 39-year-old white man. [Redacted] Protected Personnel Information [Redacted] The IID also reviewed Officer Johnson's internal affairs file and did not find any information relevant to the analysis of this incident. To the extent it exists, any criminal history is being provided to the Baltimore County State's Attorney's Office with this report.

V. Applicable Policies

BCPD has the following policy concerning officers' use of force and active assailant incidents.

Field Manual, General Order 2021-01, Article 12: Use of Force/Weapon Systems

This policy states: "deadly force will only be used when reasonable and necessary to protect the safety and lives of others, and/or the members themselves." It instructs that "deadly force may be applied in immediate danger situations, where present peril or jeopardy exists and that action must be taken instantly or without considerable delay." The policy further instructs

that the “determining factor[s]” in evaluating whether deadly force is appropriate are “the level of force being used” and “the immediate potential for death or serious bodily injury to the officer or innocent bystanders/victims.”

The policy includes the use of patrol rifles, permitting “the deployment of a patrol rifle by a certified sworn member to assist officers responding to an incident or situation where the weapon can be utilized in a support position against a suspect(s) who is believed to be a potential threat to officers and the public.” While the policy requires the shift/unit commander to approve the deployment of a patrol rifle, it provides an exception for the deployment if “a certified, sworn member encounters an immediate life-threatening situation.”

Field Manual, Article 11-7.0 Active Assailant Incidents

This policy defines an active assailant as “one or more suspects actively engaged in committing and/or attempting to commit acts of violence by gunfire or other violent means, while having unrestricted access to additional victims.” The primary objective when responding to active assailant incidents is to “neutralize the threat, and stop death and injury caused by the active assailant.”

The first officers on scene are responsible for, among other things, gathering information and relaying it to the communications center, requesting a supervisor to the scene and “mov[ing] immediately as a contact team(s) directly into the Hot Zone in order to neutralize the active assailant.”

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 Murder⁴

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. Thompson]; (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

⁴ 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).

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).⁵

Self-defense is one 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.*

Defense of others is also a 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)).

For these defenses—self-defense, defense of others 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

⁵ Because there is no dispute that all three officers intended to fire his weapon at Mr. Thompson, this report will not analyze unintentional (“depraved heart”) second-degree murder.

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, BCPD policy states, “deadly force will only be used when reasonable and necessary to protect the safety and lives of others, and/or the members themselves.”

In this case, the State would need to prove that Officers Klapka, Fitzgerald, and Johnson did not act in self-defense, defense of other officers, or pursuant to law-enforcement justification. The available evidence suggests that officers were responding to the apartment for a call for a loud bang and a woman screaming for aid. Officers heard gunshots coming from both inside and outside the building and went to Mr. Thompson’s apartment to confront what they believed was an active assailant. As Mr. Thompson was opening the apartment door, officers immediately demanded to see his hands. Mr. Thompson stepped through the door armed with a gun in his right hand, raised his gun toward Officer Kralick, and fired at least three rounds at officers at close range. One bullet struck Officer Kralick in the hand. Three officers immediately returned fire. As evidenced by the fact that Mr. Thompson did, in fact, seriously injure one officer, the officers had reason to believe that he could seriously harm or kill them as he came out of the apartment and fired at them.

Further, Officers Klapka, Fitzgerald, and Johnson had no lesser level of force available that would have been appropriate. Because they believed they were encountering an active shooter, they had their guns drawn as they approached the apartment and knocked on the door. Mr. Thompson failed to comply with commands to show his hands and immediately fired on officers. This left officers no opportunity to attempt lesser force options.

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 Officers Klapka, Fitzgerald, and Johnson’s beliefs that they and other officers were in imminent danger was unreasonable or that they used an unreasonable level of force. Because Mr. Thompson immediately fired his gun at officers when the door opened, it is apparent that officers had reason to fear serious physical injury or death.

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 their 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 only pursue a charge for misconduct in office under a theory of misfeasance if it could establish that Officers Klapka, Fitzgerald, and Johnson acted unreasonably or used an unreasonable amount of force. *See Riley v. State*, 227 Md. App. 249, 264 (2016).

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 the involved officers came to a considered decision to kill Mr. Thompson; the evidence suggests they were 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 only 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.

Involuntary manslaughter is an “unintentional killing done without malice, by doing some unlawful act endangering life, or in negligently doing some act lawful in itself, or by the negligent omission to perform a legal duty.” *Cox v. State*, 311 Md. 326, 331-32 (1988) (citations omitted). The defendant’s negligence “must be gross, that is, criminally culpable.” *Cox v. State*, 69 Md. App. 396, 401 (1986). To prove involuntary manslaughter under a theory of gross negligence, the State must establish: “(1) that the defendant acted in a grossly negligent manner; and (2) that this grossly negligent conduct caused the death of [Mr. Thompson].” MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr

4:17.9 (2d Ed. 2021). “‘Grossly negligent’ means that the defendant, while aware of the risk, acted in a manner that created a high degree of risk to, and showed a reckless disregard for, human life.” *Id.* In this incident, the available evidence does not indicate officers acted in a grossly negligent manner. As discussed above, the available evidence suggests that Officers Klapka, Fitzgerald, and Johnson’s use of lethal force was consistent with departmental policy and they had reason to believe that Mr. Thompson posed an imminent threat of death or serious harm.

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). The State would need to prove that the officers acted unreasonably or recklessly. Further, self-defense applies to the crime of reckless endangerment, *Jones v. State*, 357 Md. 408, 430 (2000), so the previous analysis of self-defense applies here as well.

VII. Conclusion

This report has presented factual findings and legal analysis relevant to the police-involved shooting death of Joseph Thompson that occurred June 4, 2022, in Towson, Maryland. Please contact the IID if you would like us to supplement this report through further investigation or analysis.

Appendices

Appendix A – Materials Reviewed

911 Calls (1 audio recording and 1 information sheet)
Body Worn Camera Video (10 videos)
CAD Reports (1 items)
Civilian Witness Documents (1 item)
Civilian Witness Statement (4 audio recordings and 2 reports)
Decedent Documents (1 image)
Departmental Policies (4 items)
IA History & Training Records (13 items)
KGA Communications (4 recordings)
Lab Reports (7 items)
Medical Records (5 items)
OAG Reports (3 items)
OCME (2 reports)
Officer Witness Statements (3 interviews and 3 Summaries)
Other Video (16 videos)
Photographs (284 photographs and 1 case media log)
Police Reports (9 items)
Search Warrants (1 warrant and 1 return)
Subpoena (1 item)

All materials reviewed have been shared with the Baltimore County State's Attorney's Office via a secure filesharing service.

Appendix B – Relevant Baltimore County Policies

See attached.

Appendix B
Relevant Baltimore County Policies

USE OF FORCE/WEAPON SYSTEMS

Article 12

12-1.0 Use of Force Incidents [rev. 08/2021]

- 12-1.1 *Use of Force Continuum* [rev. 05/2011]
- 12-1.2 *Use of Deadly Force* [rev. 05/2011]
- 12-1.3 *Form 253 Preparation Instructions* [rev. 08/2021]

12-2.0 Handcuffing Procedures [rev. 08/1998]

12-3.0 Use of Less Lethal Weapons [rev. 04/2019]

- 12-3.1 *Conducted Electrical Weapon (CEW)* [rev. 08/2021]
- 12-3.2 *Beanbag Munitions Weapon (BMW)* [rev. 10/2020]
- 12-3.3 *Expandable Baton (EB)* [rev. 02/2017]
- 12-3.4 *Use of Pepper Aerosol Restraint Spray (ARS)* [rev. 04/2019]

12-4.0 Firearms [rev. 09/2019]

- 12-4.1 *Authorized Firearms* [rev. 10/2014]
- 12-4.2 *Service Firearms* [rev. 10/2020]
- 12-4.3 *Privately Owned, Department-Approved Firearms* [rev. 10/2020]
 - 12-4.3.1 *Approval/Qualification Process For Off Duty Use of Handguns* [rev. 10/2020]
 - 12-4.3.2 *Approval/Qualification Process For On Duty Use of Handguns* [rev. 10/2020]
 - 12-4.3.3 *Approval/Qualification Process for On Duty Use of Privately Owned Patrol Rifles* [rev. 10/2020]
- 12-4.4 *Specialized Firearms/Weapons* [rev. 10/2020]
- 12-4.5 *Shotguns* [rev. 10/2020]
- 12-4.6 *Patrol Rifles* [rev. 10/2020]

12-5.0 Holsters [rev. 10/2020]

12-6.0 Weapon Mounted Lights [rev. 09/2019]

12-7.0 Firearms Discharges [rev. 08/2021]

- 12-7.1 *Investigative Responsibility* [rev. 08/2020]
- 12-7.2 *Public Safety Statements* [rev. 10/2020]

12-8.0 Firearms Training and Qualifications [rev. 05/2011]

12-9.0 Firearms Maintenance and Repair [rev. prior to 1994]

12-10.0 Armed Air Travel [rev. 05/2011]

12-11.0 Law Enforcement Officers Safety Act (LEOSA) [rev. 08/2021]

USE OF FORCE / WEAPON SYSTEMS

12-1.0 USE OF FORCE INCIDENTS

DEFINITIONS

- **Active Resistance** - physically evasive movements or behaviors to defeat an officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.
- **Deadly Force** - the amount of force reasonably calculated to cause death or serious bodily injury.
- **De-Escalation** - the use of techniques or tactics in an attempt to diffuse a potentially hostile, emotional, or violent situation. De-escalation, may, among other things, be used by members, if circumstances allow, to mitigate the need to use physical force. In the use of force context, the goal of de-escalation is to gain compliance.
- **De-Escalation Techniques** - techniques designed to diffuse a situation as described above. These include, but are not limited to: using verbal communication skills to transfer a sense of empathy and calm to an agitated person; building a sense of rapport and understanding with an individual experiencing a crisis; providing time and space to an agitated individual when appropriate; using non-verbal communication skills and active listening skills; on-going assessments of evolving situations; additional/specialized resources and various other techniques as instructed by the Training Section.
- **Force** - any execution of a physical act to control a person, overcome resistance and/or defend oneself or another. Force may entail the use of body parts, issued departmental equipment, or an instrument of necessity.
EXCEPTION: Routine use of handcuffs or similar restraining devices used to ensure officer safety.
- **Immediate Danger** - present peril or jeopardy, such that action must be taken either instantly or without any considerable loss of time.
- **Imminent Death** - immediate death, such as is apparent, present, and/or immediate and must be dealt with instantly.
- **Instrument of Necessity** - an item at hand or in close proximity that can be used immediately without delay (e.g. flashlight, clipboard, etc.).
- **Neck Restraint** - any hold or restraint of the neck which is intended to restrict the ability to breathe or restrict the flow of blood to the brain. Neck restraints include, but are not limited to: strangle holds, choke holds, lateral vascular neck restraints, carotid restraints, and sleeper holds.
- **Reasonable Belief** - both a belief and the existence of facts that would persuade a reasonable officer on the scene to that belief.
- **Serious Physical Injury** - physical injury that creates a substantial risk of death or causes permanent or protracted serious disfigurement, loss of the function of any bodily member or organ, or the impairment of the function of any bodily member or organ.
- **Substantial Force** - use of force (excluding firearms discharges) which causes injury to an individual.

GENERAL

- It is the policy of the Department that officers hold the highest regard for the sanctity of human life, dignity, and liberty of all persons. Our members are trained and retrained in the areas of Constitutional policing, and the lawful use of force.
- Officers are trained to use only that force reasonable and necessary to accomplish their lawful duties. As such, the use of deadly force will only be used when reasonable and necessary to protect the safety and lives of others, and/or the members themselves.

- Officers must communicate to the subject their identity, purpose and intention, unless the circumstances are such that the subject already knows, or unless such communication cannot be reasonably made.
- Officers will utilize de-escalation techniques along with their training (e.g., Integrating Communications, Assessment, and Tactics (ICAT), etc.), when safe and practical to do so, to ensure they:
 1. Are communicating, re-assessing the situation, and using the best tactics to defuse a situation, and
 2. Use the least amount of reasonable and necessary force needed to safely control a situation.
- Officers using force resulting in an injury will immediately render first aid when safe and practical to do so.
- A copy of the Form 253, Use of Force Report, will be submitted through the officer's chain of command to the Internal Affairs Section (IAS) within 72 hours by the officer's precinct/section commander.

EXCEPTION: Uses of force involving firearms discharges by a member. Refer to Field Manual, Article 12, Section 7.0, Firearms Discharges.
- The use of neck restraints is prohibited.

EXCEPTION: Neck restraints may only be used under exigent circumstances, in defense against serious bodily injury or death. Justification for this exception rests solely with the member.
- All members must recognize and act upon their Duty to Intervene and to Report any member conducting an act that violates the law or constitutes gross misconduct (e.g., excessive force, theft, fraud, sexual misconduct, harassment, falsifying documents, etc.). Intervention may be verbal and/or physical. The failure to intervene and/or report the incident may subject a member to disciplinary action.

EXCEPTION: When intervening was not safe and/or practical or another member was already taking action to intervene and additional intervention was not necessary.

OFFICERS

- Immediately notify the shift commander of the precinct wherein the incident occurred.

NOTE: If the use of force occurred within another jurisdiction, the member will immediately notify the Baltimore County 9-1-1 Communications Center for notification of the member's commander and their on-duty shift/unit commander via the 9-1-1 Police Liaison.
- May voluntarily give a public safety statement in reference to the circumstances surrounding uses of force that result in an unusual occurrence (Refer to Field Manual, Article 12, Section 7.2, Public Safety Statements).

NOTE: Involved members may decline to answer the public safety statement questions.
- Complete and submit a Form 253 prior to the end of their tour of duty when any of the following circumstances exist:
 1. Force is used involving Department-issued equipment, personal equipment, or an instrument of necessity.

NOTE: For firearms discharges, see Field Manual, Article 12, Section 7.0 (Firearms Discharges).
 2. A member's body part (e.g., fist, elbow, knee, foot, head, etc.) is used to administer a strike (e.g., defensive, compliance, etc.) to an individual.
 3. A Department canine intentionally bites or purposefully inflicts injury to an individual the canine team intended to seize.
 4. An individual in custody has visible or apparent injuries inflicted due to police action that indicate medical treatment may be necessary. This includes when treatment is refused.
 5. Force is used, and a shift/unit commander requests completion of a Form 253.

- Place a written narrative detailing the use of force actions and justification in the appropriate incident report, and not in the Statement of Charges and/or attached to the Form 253.
- Submit appropriate incident and medical injury reports detailing the incident.
NOTE: Medical injury reports must be completed even if medical treatment is refused.

SUPERVISORS

- For all uses of force that result in an unusual occurrence (i.e., uses of force resulting in serious physical injury or death), will not conduct formal administrative interviews of the member(s) involved. They will only ask the involved member(s) the Public Safety Statement questions outlined in Field Manual, Article 12, Section 7.2, Public Safety Statements, when applicable.

SHIFT/UNIT COMMANDERS

- Immediately notify the precinct commander of the precinct where the incident occurred, and if different, the commander of the member involved when a use of force requiring completion of a Form 253 has occurred.
- If force results in death or whenever death is imminent, notify the:
 1. Homicide/Missing Persons Unit.
 2. Forensic Services Section (FSS).
 3. Precinct commander and member's commander.
 4. 9-1-1 Police Liaison.
 5. Internal Affairs Section (IAS).
 6. Legal Section.

NOTE: During non-business hours have the 9-1-1 Police Liaison notify the above commands.

- For all uses of force that result in an unusual occurrence, will not conduct formal administrative interviews of the member(s) involved. They will only ask the involved member(s) the Public Safety Statement questions outlined in Field Manual, Article 12, Section 7.2, when applicable.
- Prepare a written summary including statements made and recorded in the original police report by the:
 1. Officer using force.
 2. Witnesses and other officers.
 3. Victim, when applicable.

EXCEPTION: Written summaries for uses of force that were unusual occurrences will not be completed.

- Ensure the Form 253 has been completed.
- Ensure photographs of the officer(s) and suspect(s) injuries and/or impact areas are taken, regardless of whether an injury is visible.

NOTE: If an injury is:

1. Visible, the photographs will be taken by the FSS, unless the FSS is in Restricted Response Mode.
 2. Not visible, the shift/unit commander will decide if the photographs will be taken by a member of the FSS or a member of their command.
- Forward the Use of Force package to the member's commander to include the:
 1. Written summary.
 2. Completed Form 253.
 3. All photographs of the officer(s) and suspect(s) injuries and/or impact areas or reference numbers to obtain photographs from the FSS.
 4. Form 273, Sick or Injured Person Medical Report.
 5. Prisoner Incarceration Log.
 6. Form 91, Daily Summary Report.

7. Prisoner medical records and/or authorization for release of medical records from the prisoner.
8. Completed police reports, including the Form 166, Arrest Report.

MEMBER'S COMMANDER

- Reviews the written summary and police reports of the incident for accuracy and completeness.
- Determines if any violation(s) of Department policy or procedure has occurred and initiates a Form 258, Statement of Incident, if the use of force appears to be in violation of Department policy.
- If violations are present, consults with their division commander and the IAS to determine what investigative action is warranted.
- If no violation occurred, makes an assessment and endorsement of the incident and forwards the completed investigation for review.
- Forwards all completed investigations to their division commander for review.
- If force results in a serious physical injury, may recommend, after consultation with their chain of command and the IAS Commander:
 1. If the member should continue at present duty status or be placed in a non-line function.
 2. When the member will return to regular duty, if the member is placed in a non-line function.

NOTE: Recommendations will be presented to the Chief of Police who will determine whether a member will be placed in a non-line function, and will determine when members placed in a non-line function may return to regular duty.

- If substantial force results in death or serious physical injury:
 1. Places the member in a non-line function.
 2. Refers the member to the appropriate psychological services caregiver.

NOTE: The above actions will be documented in the appropriate report.

3. May recommend return of the member to regular duty:
 - a. When deemed appropriate, after consultation with their chain of command and the IAS Commander; and
 - b. After the member obtains a release from the psychological services caregiver.

NOTE: Recommendations will be presented to the Chief of Police who will determine when members placed in a non-line function may return to regular duty.

DIVISION COMMANDERS

- Forward completed investigations to the IAS.

NOTE: If the use of force investigation identifies serious policy violations or concerns, the division commander will forward the completed investigation to their bureau chief for review prior to forwarding it to the IAS.

TRAINING SECTION

- Ensures that the mandates of this Department and the Maryland Police Training and Standards Commission (MPTSC) will be followed for the courses of instruction, and met by each member in order to use any Department-issued weapon.
- Maintains a record of members who are qualified with authorized Department weapons and establishes courses of instruction.
- May be consulted by commanders for questions regarding use of force/weapon systems training/tactics in relationship to an incident.

INTERNAL AFFAIRS SECTION (IAS)

- Maintains statistics on use of force incidents.

- Advises the Chief of Police of use of force statistics.
- Is authorized to initiate investigations concerning the use of force by Department members.
- Reviews all use of force incident reports.
- Conducts administrative investigations for uses of force that result in an unusual occurrence in accordance with Administrative Manual, Article 3 (Administrative Investigations and Reports).

BUREAU CHIEF OF THE CRIMINAL INVESTIGATIONS BUREAU (CIB)

- Determines which section or unit within the CIB will complete the criminal investigation, when a criminal investigation is required in reference to a use of force that did not involve the discharge of a departmental firearm or a privately owned, Department-approved firearm.

REFERENCES

- Administrative Manual, Article 2 (Discipline).
- Administrative Manual, Article 3 (Administrative Investigations and Reports).

12-1.1 USE OF FORCE CONTINUUM

GENERAL

- The Training Section will be responsible for training officers in the proper application of the Use of Force Continuum.
- Officers must evaluate the immediate circumstances and select the appropriate level of force for each situation.
- Officers in close proximity are reminded that officer safety is paramount and officers are not required to confront an adversary without having an advantage. Officers need the ability to disengage, or escalate to a higher force option, to escape injury and/or maintain control.
- Officers are not required to start at the lowest level of the force continuum. The officer's goal in any use of force situation is two-fold:
 1. Self-protection, the protection of other officers and the public.
 2. To control a person through arrest, seizure, custody, or detention.
- Certain factors and circumstances surrounding a confrontation (officer vs. subject) will impact the use of force decision. Specific factors and circumstances include, but are not limited to:
 1. Differences in age, gender, size, fitness, or skill level.
 2. The presence of multiple subjects.
 3. The proximity of a weapon.
 4. Disability or injury to the officer.

VERBAL TACTICS

- Directives and/or commands that tell the subject what action is required for compliance. Verbalization should continue throughout the incident when reasonable.

PHYSICAL TACTICS

- Comprises hands-on contact techniques which may be used for escort, guidance, restraint, compliance holds or strikes.

12-1.2 USE OF DEADLY FORCE

GENERAL

- The use of deadly force is most commonly associated with firearms, but is not limited to such weapons. It may include other less lethal weapons, issued equipment, hands/feet, or any instrument of necessity such as a flashlight or any object at hand.

SWORN MEMBERS

- Deadly force may be applied in immediate danger situations, where present peril or jeopardy exists and the officer has a reasonable belief that action must be taken instantly or without considerable delay.
- The determining factor in a deadly force decision is not the crime being committed, but the level of force being used, along with the immediate potential for death or serious bodily injury to the officer or innocent bystanders/victims.

12-1.3 FORM 253 PREPARATION INSTRUCTIONS

Block # (Blocks not listed below are considered self-explanatory).

- 5** The Original Call Title is what the call was dispatched as and the Type of Incident is what is being reported under Maryland law (e.g., burglary, robbery, etc.).
- 8** Reporting Area number.
- 9** If no address is available, list the closest cross reference (e.g., wooded area 200ft south of 415 Main Street, etc.).
- 13** Animal Type: Dog, Cat, etc. Force Option: Conducted Electrical Weapon (CEW), Baton, etc. Result: No Injury, Death, etc.
- 15** The reason that force was used in this incident.
- 16** List only the force options that you used. "Other" could be a body part (e.g., knee, head, etc.) or an instrument of necessity (e.g., flashlight, pen, etc.). List all that apply.
- 17** Same as 16.
- 25A** "Behavior" is the subject's appearance based on your training, knowledge, and experience. If CEW risk considerations are present (e.g., pregnant, elderly, etc.) they must be listed under "other."
- 25B** Threatened force - Could be verbal, gestures, furtive movements, stance, etc.
Physical force - Could be grabbing, pushing, attacking, etc.
Other non-compliant - Could be passive resistance, ignoring commands, fleeing, etc.
- 25D** Subject injured - If yes, describe the injury and include if it is visible or non-visible.
Was First Aid Administered - Water for pepper aerosol restraint spray is considered first aid. Check all that apply and list the first aid administered and explain what was performed (e.g., ice bag, bandage, etc.).
- 25-26** Digital photographs of injuries and/or impact areas must be taken of both the subject and officer regardless of whether an injury is visible.
- 27** Approval Section - The shift/unit commander must list the total number of Forms 253 that were submitted for the incident.

12-2.0 HANDCUFFING PROCEDURES

GENERAL

- This section applies to investigative detention, arrest, emergency evaluation, and any other appropriate situation.
- Authorized restraining devices include: handcuffs, flex cuffs, leg irons, belly belts, and leg bars.

OFFICERS

- Will use discretion regarding whether or not to handcuff and the manner of handcuffing (e.g., leg irons/flex cuffs, hands in front, etc.) based on the following:
 1. Individual's age, sex, and physical condition.
 2. Nature of arrest/custody/detention and the effect on officer/individual security.
 3. Individual's attitude and mental condition.
 4. Past criminal record and other contributing circumstances.
 5. Type of security at destination.
 6. If Pepper Aerosol Restraint Spray (ARS) is used.
- Will, if practical, handcuff the individual in the following manner:
 1. Approach the individual from the rear side.
 2. Place the individual in a tactically inferior cuffing position.
 3. Cuff hands together behind the back.
 4. Double lock the handcuffs.
 5. Search the individual.
- Who use ARS will monitor the individual's physical condition for adverse effects.
- Will monitor all restrained individuals to ensure respiratory function.
NOTE: Chemical impairment, restraint position, and pre-existing health conditions contribute to breathing difficulties.

12-3.0 USE OF LESS LETHAL WEAPONS

LESS LETHAL WEAPONS

- Are not intended, nor reasonably likely to result in death or serious physical injury.
- Include but are not limited to:
 1. Conducted Electrical Weapon (CEW).
 2. Beanbag Munitions Weapon (BMW).
 3. Expandable Baton (EB).
 4. Pepper Aerosol Restraint Spray (ARS).
- Prior to the carry or use of any less lethal weapon the officer must successfully complete a course of training certification designated by the Training Section for each assigned weapon.
- Officers will follow Department policy, procedures and training requirements when deploying a less lethal weapon.

12-3.1 CONDUCTED ELECTRICAL WEAPON (CEW)

DEFINITION

- Conducted Electrical Weapon (CEW) - is a less lethal weapon system designed to use propelled wires or direct contact to conduct energy to affect the sensory and/or motor functions of the central nervous system.

GENERAL

- Only sworn Department personnel who are currently certified in the use of the CEW are authorized to carry and deploy this weapon.
- Recordings created via a CEW that was camera-equipped will be treated the same as BWC system recordings.
- Access to CEW data will be in accordance with Field Manual, Article 16, Section 2.1 (Access to Body Worn Camera (BWC) System Recordings and Audit Trails).

CERTIFICATION PROCESS

- The Bureau Chief of the Professional Standards Bureau (PSB) will determine the sworn assignments within the Department which require CEW certification.
- Members in assignments which require CEW certification must successfully complete a CEW training class conducted by the Firearms Training Team (FTT) and certified by the Maryland Police Training and Standards Commission (MPTSC).
- Annual training will be required to maintain certification and the authority to possess and/or carry the CEW.

NON-CERTIFIED OFFICERS

- Requesting a CEW will broadcast their unit number, location, and a brief description of the circumstances involved.
NOTE: The precinct shift commander will ensure that adequate CEW-equipped personnel are directed to the scene.

CERTIFIED OFFICERS

- May not modify their departmentally issued CEW or related equipment in any way.
- Ensure they comply with the Department's body worn camera policy as directed in Field Manual, Article 16.
- In uniform, will carry a CEW when engaged in patrol functions, other regular field operations, and uniformed secondary employment.
- In plain clothes, will carry a CEW as directed by their shift/unit commander.
- Ensure their CEW is loaded with cartridges as instructed by the Training Section.
- Are responsible for ensuring their CEW's battery is adequately charged.
- Respond to CEW requests by non-certified officers while on duty, as directed by their shift/unit commander.
- Must utilize their assigned CEW.
NOTE: Failure to use the assigned CEW will result in:
 1. Audit trail errors attached to BWC videos captured via an automatic activation.
 2. CEW data assignment errors.
- Discovering that they possess another member's CEW will immediately notify their supervisor who will contact the Technology Section (TS) for instructions.
- Carry the CEW in the appropriate manner, when equipped.
- Must wear the CEW on the side opposite of their handgun.
NOTE: The use of a thigh holster for the CEW is prohibited.
- Perform all required checks prior to placing the CEW in service.
- Ensure the CEW is placed in a secure location when not in use.
- Ensure that the precinct shift commander is aware of any CEW requests and broadcast their estimated time of arrival (ETA) to the requesting unit.
- Notify their supervisor when a CEW is used to gain compliance without discharge.
- Ensure that each situation meets the deployment criteria and that supervisor approval is obtained prior to discharging the CEW, unless exigent circumstances exist.
- Immediately notify the shift commander of the precinct in which the discharge occurred, and their supervisor, when a subject is exposed to any mode of CEW discharge (i.e., struck by probe(s) and/or drive stunned).
- Immediately notify their shift/unit commander of any unintentional discharges.
NOTE: Unintentional discharges occurring off duty will be reported to an on duty shift/unit commander, if the members' commander cannot be reached.
- Report unintentional discharges, via a Form 12L, to the precinct/section commander for review and forward a copy to the FTT.

- Visually inspect the secured subject's contact site, after discharging the CEW.
NOTE: Probes penetrating the skin are considered impaled objects and will only be removed by qualified personnel at a medical facility. Probe wires may be cut at the base of the probes prior to transport.
- Request an Emergency Medical Services (EMS) unit for all incidents in which a subject is exposed to any mode of CEW discharge, and advise them:
 1. Of the number of CEW discharges and the number of probe injuries.
 2. If unusual physical or psychological conditions have been observed or known to pre-exist.
 3. If the subject appears to be under the influence or has a known history of use/abuse of alcohol or drugs.
- After using their CEW to gain compliance without discharge, document the following information, when the appropriate incident report is written:
 1. The member's use of the CEW;
 2. The justification for use of the CEW;
 3. The type of compliance (i.e., dot compliance and/or arc compliance) obtained; and
 4. The serial number of the CEW.
- Complete the following documents after discharging their CEW:
 1. Form 253, Use of Force Report.
NOTE: A Form 253 is required even if the subject is not struck by the probes upon discharge.
 2. Form 273, Sick or Injured Person Report.
EXCEPTION: When the subject was not exposed to any mode of CEW discharge (e.g., probes missed and drive stun mode was not used, etc.).
 3. The appropriate incident report documenting:
 - a. The member's use of the CEW;
 - b. The member's justification for use of the CEW;
NOTE: The immediate threat posed by the subject must be articulated in the report.
 - c. The name and identification number of the supervisor authorizing the use, when applicable.
 - d. The serial numbers of both the CEW and the cartridge(s).
- Download all CEW data to the digital evidence management system (DEMS):
 1. Prior to the end of their tour of duty, when the CEW is used to gain compliance without discharge or a subject is exposed to any mode of CEW discharge.
 2. At a minimum of every 30 days, when only required checks are conducted.
- Contact the TS upon downloading data to the DEMS when the CEW is used to gain compliance without discharge or a subject is exposed to any mode of CEW discharge and provide:
 1. Their name and identification (ID) number;
 2. The serial number of the CEW;
 3. The central complaint (CC) number;
 4. The category for the data;
NOTE: Refer to Field Manual, Article 16 (Body Worn Camera Program) for categories and related retention periods.
 5. The type of compliance (i.e., dot compliance or arc compliance), if applicable.
 6. The date and approximate time the CEW was used.
NOTE: This will allow the TS to ensure the CEW data has been properly tagged and retained as evidence.
- Upon discovering a CEW malfunction, at any time, will immediately report the issue to:
 1. Their supervisor; and
 2. The TS by placing an Office of Information Technology (OIT) service ticket.

DEPLOYMENT CRITERIA AND RISK CONSIDERATIONS

- The CEW may only be used as a method of control against a subject (e.g., arrestee, person in crisis requiring an emergency evaluation, etc.) being taken into custody who poses an immediate threat to the safety of officers or others.
- Consideration must be given to a subject's mental status when determining if the CEW is the most appropriate method of gaining control of the individual, given the elevated risks of CEW use on persons with mental illness.
- An immediate threat must be articulated for each individual CEW cycle used on a subject.
- Officers must continually assess risk factors as the situation evolves, and follow training procedures for the use of the CEW on subjects who are:
 1. Running.
 2. In a flammable/explosive environment.
 3. Known to be pregnant.
 4. Obviously frail or infirm.
 5. Handcuffed or flex cuffed.
 6. Children.
 7. Elderly.
 8. Physically handicapped.
- Members need to be aware of elevated risks of multiple CEW uses, and consider the use of available alternate methods of control, should an immediate threat continue to exist after three consecutive CEW cycles.
- CEW discharges from multiple CEW devices on a subject are discouraged, unless exigent circumstances exist. In the event that multiple CEWs are being used on a subject, members will not knowingly cycle the CEWs at the same time.
- The CEW may be used to stop a threatening animal.

CEW PROHIBITIONS

- Aiming at the subject's head, neck, groin area, or chest area near the heart, unless exigent circumstances exist.
- Use in drive stun mode for pain compliance only, unless exigent circumstances exist.
- Discharging from a moving vehicle.
- Use on a subject that is behind the wheel of a motor vehicle or operating any vehicle, unless exigent circumstances exist.
- Use on a subject that is on an elevated surface or other location where a fall may cause substantial injury or death.
- Use on subjects wading in water, where the environment poses a potential drowning risk.
NOTE: This does not prohibit the use of a CEW on subjects standing on wet surfaces (e.g., use in the rain, etc.).
- Use while off duty.
EXCEPTION: While working uniformed secondary employment or acting in the capacity of a law enforcement officer.
- Use which is inconsistent with training procedures.
- Use on passive subjects who do not pose an immediate threat to the safety of officers or others.
- Use on subjects who are only a danger to themselves, where there is no immediate threat to officers or others.

SUPERVISORS

- Ensure that only certified officers carry and deploy the Department-issued CEW.
- Respond immediately to all incidents of CEW deployment or anticipated discharge.

- Ensure an EMS response and transport of all subjects exposed to any mode of CEW discharge to a medical facility where medical screening of the subject will be conducted and probes removed.
- Ensure that the Forensic Services Section (FSS) responds to take photographs of the incident scene, probe penetration marks, drive stun marks, and any secondary injuries. The FSS will collect expended cartridges with probes (handle as biohazard sharps), and other pertinent evidence.
- Ensure a Form 253, a Form 273, and the appropriate incident report are completed, when required.
- Ensure certified officers download CEW data and contact the TS when the CEW is used to gain compliance without discharge or a subject is exposed to any mode of CEW discharge.

SHIFT/UNIT COMMANDERS

- Ensure members issued a CEW are carrying the CEW in accordance with the policy provided in this section.
- Respond to the scene any time a subject has been exposed to any mode of CEW discharge.
- Contact the Homicide/Missing Persons Unit to conduct an investigation whenever a CEW has been discharged and a fatality occurs.
- Comply with all policies and procedures directing administrative investigations as stated in the Administrative Manual, Article 3.

PRECINCT/SECTION COMMANDERS

- Review all CEW discharges to ensure compliance with the Department's Use of Force Policy.
- Appoint a CEW coordinator for the precinct/section.
- May suspend a member's ability to carry a CEW at any time, for cause.
NOTE: Notification of the suspension will be passed up the precinct's/section's chain of command to the PSB Commander.

CEW COORDINATORS

- Maintain a list of assigned CEW certified officers.
- Ensure any defective or damaged cartridges are returned to the Firearms Training Team (FTT) for replacement.
- Periodically check the DEMS to ensure certified officers are completing the required CEW function checks.
- Ensure the FTT receives a copy of any correspondence documenting an unintentional or negligent discharge.
- Maintain a supply of replacement cartridges.
- Ensure CEWs relinquished by suspended members are delivered to the Materials & Facilities Management Unit (MFMU) for safekeeping.
NOTE: The CEW Coordinator will ensure that the battery and cartridges have been unloaded from the CEW and that all CEW data contained on the member's battery is uploaded to the DEMS. A spare battery and all assigned cartridges will accompany the member's CEW to the MFMU.

FIREARMS TRAINING TEAM (FTT)

- Trains members in the use, care, and application of the CEW.
- Maintains training records of all certified CEW members.
- Organizes meetings with appropriate personnel to critique deployment incidents, when necessary.
- Receives and assigns CEW cartridges.

TECHNOLOGY SECTION (TS)

- Receives and assigns CEW units and corresponding equipment.
EXCEPTION: Cartridges.
- Conducts periodic audits of CEW system data to ensure accuracy of CEW digital output data.
- Maintains CEW inventory records.
- Conducts CEW maintenance and repairs.
- Provides first line support to CEW field users.
- Ensures CEW data is properly categorized as evidence, upon notification that CEW data has been downloaded due to a CEW having been used to gain compliance without discharge or a subject was exposed to any mode of CEW discharge.
- Ensures a member's assigned CEW is collected, prior to endorsement of a Form 244, Departmental Separation Clearance Form, when a member resigns, retires, or is otherwise terminated from service with the Department.

MATERIALS & FACILITIES MANAGEMENT UNIT

- Stores a member's assigned CEW, cartridges, and a spare battery, when a member has been suspended from duty.
NOTE: The CEW, cartridges, and battery will be returned to the member upon return from suspension, when the training requirements have been satisfied.

INTERNAL AFFAIRS SECTION (IAS)

- Receives and reviews the submitted Forms 253, and Forms 273.
- Reviews CEW system data.
- Conducts annual data analysis to establish CEW use of force critique data.

REFERENCES

- Administrative Manual, Article 3 (Administrative Investigations and Reports).
- Field Manual, Article 16 (Body Worn Camera Program).

12-3.2 BEANBAG MUNITIONS WEAPON (BMW)

DEFINITION

- Beanbag Munitions Weapon (BMW) - consists of a 12-gauge shotgun that fires a specially designed round. The round contains a projectile consisting of a ballistic-fiber reinforced flexible sock (cloth) filled with #9 lead shot which delivers approximately 100psi of kinetic energy on impact without penetrating a soft target.

GENERAL

- Only sworn Department personnel who are currently certified in the use of the BMW are authorized to carry and deploy this weapon.
- The BMW provides law enforcement personnel with an additional method of controlling subjects who may be dangerous or violent to themselves or others.

SELECTION PROCESS

- Officers requesting certification training will submit a Form 12L, Intra-Department Correspondence, through the chain-of-command, to the precinct/section commander.
- Officers requesting certification with the BMW must maintain qualification with the issued 12- gauge shotgun.
- Officers selected to train with the BMW must successfully complete and maintain satisfactory scores for all established training requirements.

PROCEDURES

- The BMW will be stored unloaded in the precinct armory with an empty chamber and the safety engaged in a case with 10 rounds of 12-gauge beanbag munitions.
- All BMWs, munitions and cases will be of distinctive color and clearly marked "Less Lethal Weapon". The weapon will be strictly dedicated for less lethal use only and will be identified by a distinctive color-coded stock.
- Beanbag munitions will be inspected to ensure they are properly marked. This is to be certain that no round other than beanbag munitions will be used.

CERTIFIED OFFICERS

- Sign out the weapon and munitions at the beginning of their tour of duty.
- Inspect the weapon to ensure that:
 1. The weapon is a designated "less lethal weapon."
 2. All munitions are designated "less lethal."
 3. The weapon is in good condition and properly maintained.
- Deploying the BMW will consider:
 1. The level of force being confronted.
 2. The proximity/access of subject to officers or others.
 3. The departmental use-of-force continuum and safety priorities.
- Must ensure that all personnel on the scene are aware that less lethal rounds are involved in the event; the standard warning to other personnel will be "BEANBAG!"
- Deploying the BMW must have a backup officer present who can provide lethal cover.
- May submit a Form 145A, Request to Carry Non-Departmental Equipment, for approval of privately owned accessories.

NOTE: Refer to the Non-Departmental Equipment Guidelines.

DEPLOYMENT CRITERIA

- Shift/unit commanders may authorize the deployment of the BMW only after:
 1. Determining if the situation warrants the use of the BMW.
 2. Considering the safety of the officer, citizens involved and innocent bystanders.
- When exigent circumstances are present, qualified personnel may deploy the weapon prior to authorization of the shift/unit commander; however, the squad supervisor and shift commander must be notified immediately if the weapon is discharged.
- The deployment of the BMW will be permitted for use when the officer intends to take a subject into custody and/or:
 1. The subject is armed with a potentially dangerous weapon.
 2. The subject, through words or actions, threatens to inflict serious bodily harm to him/herself or others.
 3. Discharging a beanbag projectile provides the best alternative under the circumstances to prevent personal injury to the subject, other persons, or law enforcement personnel.
 4. Deterring an attacking animal.
- Prior to loading the weapon in a deployment situation, the officer will physically inspect each round before loading it into the weapon to ensure that it is a beanbag munitions shell.
- When practical, the officer deploying the BMW will verbally direct/control the efforts to affect the subject's surrender.
- When practical, targeted subjects should be warned of the impending use of the BMW.
- The following considerations should be taken to reduce the potential for causing death or serious physical injury:
 1. Avoid aiming the BMW directly at the head or neck of the intended target.
 2. When engaging a target, the officer should evaluate the effectiveness of each round that is fired. Compliance and/or incapacitation are the desired goal. Other force options should be considered when rounds are ineffective.

INVESTIGATIONS

- All subjects who are struck by beanbag munitions will be immediately transported to a medical facility for routine examination, regardless of injury. This will be documented in the police report and a Form 273, Sick or Injured Person Medical Report.
- The Forensic Services Section (FSS) will photograph the area of the body struck by the round, even if there are no visible injuries, and collect any pertinent evidence.
- Each use of the BMW will be documented on a Form 253, Use of Force Report.
- The Homicide/Missing Persons Unit (HMPU) will conduct a criminal investigation to determine if a violation of the law has occurred when the weapon causes or contributes to life threatening injury, as determined by the HMPU. Absent life threatening injury or death, all investigations, discharge review, and policy determinations will be the responsibility of the discharging officer's precinct/section commander.

NOTE: When a subject's injury requires more than routine medical treatment and HMPU will not conduct the investigation, the IAS will initiate an Unusual Occurrence Investigation as outlined in the Administrative Manual, Article 3.

SUPERVISORS

- Ensure that certified members properly secure the BMW (i.e., locked in a tethered case or secured in a departmentally installed retention device) in their police vehicle until approval is obtained for its deployment.

SHIFT/UNIT COMMANDERS

- Advise the 9-1-1 Police Liaison, upon discharge of a BMW.
- Notify the precinct/section commander immediately, when a BMW is fired at a subject.
- Ensure the completion of the Form 253 and the collection of critical documents and statements from those involved in the occurrence.
- Secure the weapon, impact projectile, and spent cartridge for collection by the FSS.
- In accordance with Administrative Manual, Article 3, if an Unusual Occurrence investigation is necessary, contact the IAS Commander.

PRECINCT/SECTION COMMANDERS

- May suspend or revoke an officer's BMW certification at any time.
- Review all reports submitted by the shift/unit commander and ensure that case investigation reports and final disposition recommendations are forwarded to the IAS Commander.

INTERNAL AFFAIRS SECTION COMMANDER

- Determines the need for further action.
- Maintains files of all reports and investigations involving discharges of BMWs.
- Submits an annual report to the Chief of Police summarizing the use of all BMWs.

FIREARMS TRAINING TEAM (FTT)

- Trains selected members in the use, care, and application of the BMW.
- Maintains training records of all certified BMW members.
- Conducts annual cleaning and maintenance of the BMW weapons.

REFERENCES

- Administrative Manual, Article 3 (Administrative Investigations and Reports).
- Non-Departmental Equipment Guidelines.

12-3.3 EXPANDABLE BATON (EB)

DEFINITION

- Expandable Baton (EB) - is a defensive, impact weapon consisting of steel telescoping shafts which lock into place upon full extension.

GENERAL

- Only Department personnel who are currently certified in the use of the EB are authorized to carry and deploy this weapon.
- The EB provides law enforcement personnel with an additional method of controlling subjects who may be dangerous or violent to themselves or others.

OFFICERS

- Are required to attend and successfully complete an EB training class conducted by the Training Section. Testing will include both accumulated knowledge and skills proficiency. Any additional training required to maintain certification and the authority to possess and/or carry the EB will be determined by the Training Section.
- Will not use the EB in any manner inconsistent with Department training.
- Complete a Form 253, Use of Force Report, and forward to their supervisor whenever the EB is used on a subject.
- Are responsible for the cleaning and maintenance of the EB in accordance with the training recommendations.

12-3.4 USE OF PEPPER AEROSOL RESTRAINT SPRAY (ARS)

PEPPER AEROSOL RESTRAINT SPRAY (ARS)

- May be used in arrest situations when the:
 1. Subject has failed to comply with the officer's instructions.
 2. Officer is about to use self-defense tactics against an active hostile resistance or after aggressive resistance to arrest is anticipated or occurring.

NOTE: The subject should be warned of impending use, if practical.
- May be used at any time when confronting aggressive animals.

SWORN MEMBERS

- Using ARS will immediately notify their supervisors.
- Offer assistance to any innocent bystanders who may feel the effects of ARS.
- Initiate a Form 12L, Intra-Department Correspondence, explaining the circumstances when an accidental exposure to ARS occurs.
- Summon medical assistance immediately if an arrestee displays an unexpected reaction to ARS.
- In addition to the preceding requirements, if an individual exposed to ARS, whether intentional or not, requires medical treatment or dies:
 1. Alert his/her supervisor of the individual's physical condition.
 2. Treat the ARS canister used in the incident as evidence and handle it according to procedures established in the Evidence Packaging Manual.
 3. Submit a Form 128R, Retention of Property/Evidence, along with the canister. Indicate on the Form 128R that the canister must be held 42 months from the date of the incident. The canister may be disposed of at that time.
- Complete a Form 253, Use of Force Report, and forward to their supervisor.

REPLACEMENT (ARS) CANISTER

- May be obtained from the Materials & Facilities Management Unit or if closed, from the precinct commander, or designee. Officers requesting a replacement canister will:
 1. Submit a Form 121, Procurement and Maintenance Request Form, along with the canister requesting replacement.
 2. If the canister is being held as evidence, submit a copy of the Form 128R, in lieu of the canister.

REFERENCES

- Administrative Manual, Article 2 (Discipline).
- Evidence Packaging Manual.
- Field Manual, Article 5 (Prisoners).

12-4.0 FIREARMS

DEFINITIONS

- Apply only to this article unless otherwise stated.
- Firearms:
 1. Department-issued firearms.
 2. Privately owned, Department-approved firearms.
- Firearms discharge:
 1. Intentional discharge.
 2. Unintentional discharge.
 3. Discharge of a member's firearm by another person.

SWORN MEMBERS

- May only justify use of a firearm by the facts known at the time a decision to use the firearm is made. Facts unknown, no matter how compelling, cannot be considered later when determining if the use of a firearm was justified.
- Must communicate to a suspect their identity, purpose, and intention to fire, unless the circumstances are such that the suspect already knows or unless such communication cannot be reasonably made.
- May discharge a firearm in the performance of their police duties only in the following circumstances:
 1. Self-defense from death or serious injury.
 2. In defense of another person from death or immediate danger of serious physical injury.
 3. When all other reasonable means have been exhausted to apprehend or prevent the escape of a person who is known or believed to have the potential to cause imminent death or serious injury.
 4. When an officer is on foot and a vehicle is being used against the officer, or another person, and the safety of innocent persons would not be jeopardized.
 5. To dispose of or humanely destroy an injured animal.
 6. During training/qualifications at the Department's or any other approved range facility.
- Will not discharge a firearm in the performance of their duties in the following circumstances:
 1. From a moving vehicle.
EXCEPTION: When the occupants of another moving vehicle are using or attempting to use deadly force against an officer and the safety of innocent persons would not be jeopardized (e.g., ricocheting bullets, out-of-control vehicle, etc.).
 2. To fire warning shots.

3. To call for assistance, except in extreme emergency. Justification for this exception rests solely with the member involved.

12-4.1 AUTHORIZED FIREARMS

SWORN MEMBERS

- Ensure Department-issued firearms and privately owned, Department-approved firearms are kept in a secure place when not in use. Access must be limited to ensure safety.
- Carry their issued firearm at all times while on duty, unless otherwise authorized by their commander or current procedures.
- Conceal their firearms from public view when not in uniform, except when present at crime scenes, assignments at law enforcement facilities where their official police identification is visible and they are readily identifiable as police officers, or when prior approval has been allowed by their commanders.
- May be armed when off duty with their:
 1. Department-issued firearm.
 2. Privately owned, Department-approved firearm.**EXCEPTION:** Officers who have not completed the Field Training Program unless they were hired under the Lateral Entry Program or are performing a work-related function (e.g., traveling to/from work assignment, court, etc.).
- 3. Privately owned firearm if they are authorized to possess the weapon by a valid concealed weapons permit or legislation (i.e., Law Enforcement Officers Safety Act of 2004).

12-4.2 SERVICE FIREARMS

SWORN MEMBERS

- Are issued firearms authorized by the Chief of Police.
- Are issued firearms by the Materials & Facilities Management Unit.
- Must be cognizant of the type of people they may be dealing with when at local institutions or hospitals, and, if the circumstances are appropriate, make every effort to secure the firearm to protect themselves and others.
- Are responsible for the condition of their issued firearms and will:
 1. Keep the firearm clean and ready for use at all times.
 2. Not modify any Department-issued firearm.
 3. Obtain repair, maintenance, and adjustments as necessary from a certified Firearms Training Team (FTT) armorer.
EXCEPTION: Tactical Unit special weapons.
 4. Keep firearms loaded with ammunition approved by the Training Section.
 5. Keep a round chambered when carried on duty.
NOTE: Topping-off the magazine by adding an additional round is prohibited.

SUPERVISORS

- Inspect service firearms weekly to ensure they are properly maintained.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.3 PRIVATELY OWNED, DEPARTMENT-APPROVED FIREARMS

GENERAL

- Sworn members may carry a privately owned, Department-approved firearm, only after qualifying on a Department-approved course of fire. The member must also meet all Maryland Police Training and Standards Commission (MPTSC) requirements before being allowed to carry the firearm.
- Failure to maintain qualification on an annual/semi-annual basis or meet firearms requirements will result in cancellation of the member's privilege to carry a privately owned, Department-approved firearm.
- Probationary officers not hired under the Lateral Entry Program must complete field training prior to obtaining approval to carry a privately owned, Department-approved firearm.
NOTE: Officers may submit their request during field training, but will only be approved at the completion of field training.
- Firearms must meet all requirements listed in the Non-Departmental Equipment Guidelines to be approved for use, unless the specific firearm was previously approved by the Training Section for the member and the member has continuously maintained certification with that firearm.
- When a member's privately owned, Department-approved firearm is submitted into evidence due to its use during an incident, the firearm will be returned to the member as soon as practicable.
NOTE: When a member's privately owned, Department-approved patrol rifle is being held as evidence, and the member's patrol rifle certification is not suspended or revoked, the Department will issue the member a patrol rifle to use, if one is available.

FIREARMS CRITERIA

- Must meet the specifications listed on the Non-Departmental Equipment Guidelines.

FIREARMS PROHIBITIONS

- Altering or otherwise modifying a Department-approved firearm without the authorization of the FTT.
NOTE: The addition of an approved accessory listed in the Non-Departmental Equipment Guidelines is not considered a modification.

AMMUNITION CRITERIA

- Ammunition type and caliber will be determined and posted by the Training Section with the approval of the Training Section Commander.
- Refer to the Non-Departmental Equipment Guidelines.

APPROVED PATROL RIFLE ACCESSORIES

- Listed on Non-Departmental Equipment Guidelines.
- All approved patrol rifle accessories must be inspected by a member of the FTT prior to use on duty.
EXCEPTION: Pistol Grip Sleeves.

SWORN MEMBERS

- Must be able to demonstrate field disassembly, assembly, and a function check of the firearm.
- Are provided ammunition for qualification, only if the privately owned, Department-approved firearm is of the same caliber as the Department-issued service firearm.
- Keep privately owned, Department-approved firearms in excellent working condition and loaded with ammunition approved by the FTT.
- May have a maximum of two privately owned, Department-approved handguns approved for off duty use.

- May have only one privately owned, Department-approved patrol rifle approved for on duty use.
- Notify their commanders immediately, and in writing, when their privately owned, Department-approved firearm has been lost, stolen, sold, etc.
- Are responsible for all service, maintenance, knowledge, care, and safe and proper storage of all privately owned, Department-approved firearms.
- Working a plain clothes assignment or special detail may carry their privately owned, Department-approved handgun, in lieu of their issued handgun, when the member meets the qualifications outlined in this article and the member's bureau chief approves the request.

TRAINING SECTION

- Develops and maintains the criteria and prohibitions for privately owned, Department-approved firearms and accessories.
- Provides updates to the Non-Departmental Equipment Guidelines, as needed.
- Inspects the mechanical condition of privately owned, Department-approved firearms prior to qualification and ensures that the weapons conform to policy.
- May inspect the mechanical condition of privately owned, Department-approved firearms prior to re-qualification to ensure the firearm conforms to policy.
- Monitors qualifications for passing scores.
- Indicates approval and signs the Form 145, Weapons Request/Registration, if the member has qualified with the privately owned, Department-approved firearm described, or indicates disapproval and notifies the member's commander in writing that the member did not qualify.
- Conducts re-qualification for a privately owned, Department-approved firearm when the member is regularly scheduled for Department issued firearms qualifications.
EXCEPTION: Privately owned, Department-approved patrol rifle re-qualification will be completed on a patrol rifle re-qualification date.
- Maintains a file of approved Forms 145.
- Has final authority for privately owned, Department-approved firearm approval.

TRAINING SECTION COMMANDER

- Provides revisions to the Non-Departmental Equipment Guidelines, as needed.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.3.1 APPROVAL/QUALIFICATION PROCESS FOR OFF DUTY USE OF HANDGUNS

GENERAL

- A member's commander may approve the request for a sworn member to carry a privately owned, Department-approved handgun while off duty.

SWORN MEMBERS

- Desiring to carry a privately owned, Department-approved handgun off duty must:
 1. Complete a Form 145, Weapons Request/Registration, to their commander requesting permission to carry an off duty firearm.
 2. Report to the range with the preliminarily approved weapon, and the Form 145, during their scheduled semi-annual qualification, or at a time designated by the Firearms Training Team (FTT) with:
 - a. An approved holster.
 - b. Two magazines.
 - c. Approved ammunition (if required).
 - d. Documented specifications (i.e., manual) for the firearm.

3. Qualify with the firearm after it has been inspected and approved by the FTT.
 4. Return the Form 145 to their commander for final approval after posting passing scores on Maryland Police Training and Standards Commission (MPTSC) approved day and reduced light firearm qualification courses.
- Failing to qualify with a privately owned, Department-approved handgun may not carry the firearm until qualification mandates are met and their commander approves the Form 145.
 - Whose commander has denied their request, may appeal their commander's decision to their division commander.
- NOTE:** Members whose chain-of-command does not include a division commander will appeal their commanders' decisions to their bureau chief.

COMMANDERS

- Distribute approved and disapproved Forms 145 as follows:
 1. Original - to the Professional Standards Bureau.
 2. Copy - to the member's command file.
 3. Copy - to the FTT.
 4. Copy - to the member.

DIVISION COMMANDERS

- Review appeals from members whose commanders have denied their requests to carry a privately owned firearm off duty.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.3.2 APPROVAL/QUALIFICATION PROCESS FOR ON DUTY USE OF HANDGUNS

GENERAL

- A member's bureau chief may approve the request for a sworn member to carry a privately owned, Department-approved handgun in lieu of the service handgun while on duty.

NOTE: Members whose chain-of-command does not include a bureau chief will submit their requests to the Bureau Chief of the Professional Standards Bureau.
- Requests to carry a privately owned, Department-approved handgun in lieu of a member's issued handgun will be submitted using a Form 12L, Intra-Department Correspondence.
- A member's authorization to use a privately owned, Department-approved handgun on duty is assignment specific. Members transferred to a new assignment must be approved by their bureau chief to continue their use of the handgun on duty.
- Members will review the Non-Departmental Equipment Guidelines for specifications detailing which handguns will be considered for on duty use.

SWORN MEMBERS

- Desiring to carry a privately owned, Department-approved handgun on duty will:
 1. Submit a Form 12L, and a Form 145, Weapons Request/Registration, through their chain of command to their bureau chief requesting preliminary approval to carry their privately owned, Department-approved handgun, in lieu of their issued handgun.

NOTE: Submitted Forms 12L must include an explanation identifying an operational necessity supporting the member's request.
 2. Report to the range with the weapon, and the preliminarily approved Form 145, during their scheduled semi-annual qualification, or at a time designated by the Firearms Training Team (FTT) with:
 - a. An approved holster.
 - b. Two magazines.

3. Qualify with the firearm after it has been inspected and approved by the FTT.
 4. Return the Form 145 to their commander for final approval after posting passing scores on Maryland Police Training and Standards Commission (MPTSC) approved day and reduced light firearm qualification courses.

NOTE: Members approved to carry privately owned, Department-approved handguns on duty are required by the MPTSC to fire additional rounds of ammunition for qualification.
- Failing to qualify with a privately owned, Department-approved handgun, may not carry the firearm until qualification mandates are met and their commander and bureau chief approve the Form 145.

COMMANDERS

- Approve submitted Forms 12L with Forms 145 only when the request is supported by an operational necessity.
- Submit approved Forms 12L and Forms 145 to their bureau chief for final approval.
- Provide members with a copy of their approved Form 12L and Form 145.
- Ensure a copy of the Form 12L approved by the bureau chief is attached to each copy of the Form 145.
- Distribute approved and disapproved Forms 145 as follows:
 1. Original - to the Professional Standards Bureau.
 2. Copy - to the member's command file.
 3. Copy - to the FTT.
 4. Copy - to the member.

BUREAU CHIEFS

- Approve or deny requests to carry privately owned, Department-approved handguns on duty.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.3.3 APPROVAL/QUALIFICATION PROCESS FOR ON DUTY USE OF PRIVATELY OWNED PATROL RIFLES

GENERAL

- A sworn member's bureau chief may approve their request to carry a privately owned, Department-approved patrol rifle while on duty.

NOTE: Members whose chain-of-command does not include a bureau chief will submit their requests to the Bureau Chief of the Professional Standards Bureau.
- Requests to carry a privately owned, Department-approved patrol rifle will be submitted using a Form 12L, Intra-Department Correspondence.

NOTE: If the member is not currently certified as a patrol rifle operator, the member will indicate that they wish to also participate in the patrol rifle program and carry their privately owned, Department-approved patrol rifle.
- A sworn member's authorization to use a privately owned, Department-approved patrol rifle on duty is assignment specific. Members transferred to a new assignment must be approved by their bureau chief to continue their use of the firearm on duty.
- Should a member's privately owned, Department-approved rifle become unavailable (e.g., sold, damaged, etc.), he/she may continue to participate in the Patrol Rifle program using a Department-issued rifle, if one is available.

SWORN MEMBERS APPROVED TO PARTICIPATE IN THE PATROL RIFLE PROGRAM

- May submit a request to their bureau chief to carry a privately owned, Department-approved patrol rifle while on duty.
- Desiring to carry a privately owned, Department-approved patrol rifle on duty will:
 1. Submit a Form 12L and a Form 145 through their chain of command to their bureau chief requesting preliminary approval to carry their privately owned, Department-approved patrol rifle.
NOTE: If only requesting to participate in the program, only a Form 12L is needed.
 2. Report to the range with the rifle, and the preliminarily approved Form 145, at a time designated by the Firearms Training Team (FTT) with:
 - a. A case with a tether and a lock.
 - b. Three magazines.
 - c. Documented specifications (i.e., manual) for the rifle.
 3. Qualify with the rifle after it has been inspected and approved by the FTT.
 4. Return the Form 145 to their commander for final approval by the commander and bureau chief after posting passing scores on Maryland Police Training and Standards Commission (MPTSC) approved day and reduced light firearm qualification courses.
- Failing to qualify with a privately owned, Department-approved patrol rifle, may not carry the firearm until qualification mandates are met and their commander and bureau chief approves the Form 145.

COMMANDERS

- Submit approved Forms 12L and Forms 145, Weapons Request/Registration, to their bureau chief for preliminary and final approval.
- Forward a copy of all Forms 12L and Forms 145 approved by the bureau chief to the FTT.
- Provide members with a copy of their approved Form 12L and Form 145.
- Ensure a copy of the Form 12L approved by the bureau chief is attached to each copy of the Form 145.
- Distribute approved and disapproved Forms 145 as follows:
 1. Original - to the Professional Standards Bureau.
 2. Copy - to the member's command file.
 3. Copy - to the FTT.
 4. Copy - to the member.

BUREAU CHIEFS

- Approve or deny requests to carry privately owned, Department-approved rifles on duty.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.4 SPECIALIZED FIREARMS/WEAPONS

GENERAL

- Specialized firearms/weapons are not standard issued firearms or weapons and require specific selection, training, and certification standards.
- Units requiring the use of a firearm or weapon other than standard issue will submit documentation through the unit commander detailing the reasons, to include:
 1. Description of the firearm/weapon requested.
 2. Approval of the firearm by the Maryland Handgun Review Board and the Training Section.
- Each command level within the requesting bureau will review and comment on the request.
- The bureau chief, after reviewing all documentation, will approve or deny the request.

- If the request is approved, the requesting unit commander will ensure that all weapons training and qualification mandates are met prior to the weapons being issued or exchanged.
 - The Training Section will be responsible for the training, maintenance, and certification records of specialized weapons issued to all members not assigned to the Tactical Unit.
 - The Tactical Unit is responsible for the training, and maintenance of all specialized weapons assigned to the Unit. A written Standard Operating Procedure (SOP) will be maintained for each type of specialized weapon placed in service by the Tactical Unit and approved through the proper channels.
- NOTE:** The Tactical Unit will provide its members' weapon qualification dates and scores to the Training Section for forwarding to the Maryland Police Training & Standards Commission (MPTSC).

12-4.5 SHOTGUNS

GENERAL

- Shotguns are issued to most marked patrol units and selected support units and will be inspected:
 1. And cleaned on a weekly basis.
 2. Annually by a Firearms Training Team certified armorer to ensure the firearms are functioning properly.
- The shotgun will be an optional weapon for all sworn members of the Department. Members with recruit status will be trained to use the shotgun during initial firearms training. Upon graduation from the Training Academy, the qualification will become optional.
- This policy will not release non-certified officers from the responsibility of safety. All officers will be given safety briefings at In Service Training, providing instruction on how to safely unload, handle and clean a shotgun.
- Only shotgun-certified officers will deploy the shotgun. However, all officers will inspect the shotgun for safety and security during their daily vehicle inspection to ensure it is properly secured in the electronic rack with the safety on.
- The shotgun will be deployed for situations in accordance with the Department's firearms policy as outlined in this article.

CERTIFIED OFFICERS

- Will qualify on a Maryland Police Training and Standards Commissions (MPTSC) approved course of fire with the shotgun during the calendar year.
- If the weapon is deployed during the shift, will remove the live round from the chamber and load it back in the magazine tube. After ensuring the safety is on, secure the shotgun back into the electronic rack.
- At the end of the tour of duty, will ensure the shotgun is secured in the patrol vehicle.
- Conduct daily inspections on the condition of the shotgun ammunition.
- May submit a Form 145A, Request to Carry Non-Departmental Equipment, for approval of privately owned accessories.

NOTE: Refer to the Non-Departmental Equipment Guidelines.

SHIFT/UNIT COMMANDERS

- Maintain a list of shotgun-certified officers assigned to their shift/unit.
- Ensure that shotguns are cleaned on a weekly basis.
- Monitor the deployment of the shotgun by officers assigned to their shift/unit.

PRECINCT/SECTION COMMANDERS

- Maintain a current list of shotgun certified officers in their command, obtained from the Training Section.
- Maintain a record of all shotguns and ammunition issued to his/her command and ensure the weapons and ammunition are properly stored, inspected and maintained.
- Establish a proper storage area and protocol for weapon accessibility.

TRAINING SECTION

- Provides all training required for entry-level users of the shotgun and In Service qualifications for established users.
- Maintains all training records of qualified shotgun users and provides qualification information to the MPTSC.
- Repairs, as necessary, all Department owned shotguns and conducts maintenance on an annual basis.
- Provides safety briefings during yearly In Service Training to instruct all officers in the proper methods of unloading and safe handling of the shotgun along with instructions for cleaning the shotgun.
- Suspends the certification of an officer who fails to maintain minimum qualification scores and notifies the officer's commander by telephone followed by written notification. This suspension will be in effect until minimum scores have been achieved.
- Establishes a list of approved accessory items.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-4.6 PATROL RIFLES

GENERAL

- The Department will permit the deployment of a patrol rifle by a certified sworn member to assist officers responding to an incident or situation where the weapon can be utilized in a support position against a suspect(s) who is believed to be a potential threat to officers and the public.
- Only certified, sworn members will deploy the weapon, and will do so consistent with the Department's Use of Force policy.
- The patrol rifle is for limited use as defined in this policy. When the Tactical Unit assumes responsibility for the situation, specific instructions will be provided by the Incident Commander to the sworn members who are deployed with their patrol rifles.
- Sworn members approved to participate in the Department's Patrol Rifle Program, may request the approval of their bureau chief to carry a privately owned, Department-approved patrol rifle on duty.

NOTE: Sworn members receiving approval to carry a privately owned patrol rifle will immediately return their Department-issued patrol rifle and associated equipment (e.g., magazines, case, etc.) to the Materials & Facilities Management Unit, if applicable.

SELECTION CRITERIA AND PROCESS

- The bureau chief will determine the number of patrol rifles and certified sworn members assigned to each precinct/section.
- Sworn members requesting certification training will submit a Form 12L, Intra-Department Correspondence, through the chain-of-command to the precinct/section commander.

NOTE: Members will also include a Form 145 if requesting to qualify with a privately owned rifle.

- The precinct/section commander will assess the sworn member's qualifications to participate in the program after consultation with the Training Section Commander, or designee.
- Commanding officers will recommend selected sworn members to their division commander for review. The division commander will make recommendations to the bureau chief. The bureau chief will make the final determination as to which members will be selected for certification training.
- Sworn members selected to train with the patrol rifle must successfully complete and maintain satisfactory scores as prescribed by Maryland Police Training and Standards Commission (MPTSC).
NOTE: MPTSC requires certified officer to successfully complete two courses of fire for qualification (i.e., one during each half of the calendar year).
- The Training Section will issue/assign the Department's patrol rifles to certified, sworn members for deployment as per this policy.

DEPLOYMENT CRITERIA

- Deployment will be at the discretion and approval of the shift/unit commander or higher ranking member and will be deployed only by a sworn member certified for its use. Shift/unit commanders may deploy the patrol rifle for an unplanned, spontaneous field incident, and/or when circumstances exist where they determine the deployment of the patrol rifle would allow for a tactically superior advantage. Considerations for deployment include but are not limited to potential threats of suspects who are:
 1. Believed to be wearing protective body armor.
 2. Armed with, or have immediate access to a weapon.
 3. Situated in a tactically superior position.**EXCEPTION:** When a certified, sworn member encounters an immediate life-threatening situation that meets the deployment criteria he/she may deploy the patrol rifle without prior approval.
- When requesting a patrol rifle, an officer will broadcast his or her unit number, location, and the fact that a patrol rifle is needed.

CERTIFIED SWORN MEMBERS

- Only certified, sworn members are authorized to deploy a patrol rifle in the field. Sworn members who are equipped with the patrol rifle will:
 1. Upon beginning their tour of duty, notify communications that they are available and patrol rifle equipped.
 2. Properly secure (i.e. locked in a tethered case or secured in a departmental installed retention device) the unloaded patrol rifle, three magazines, and 90 rounds of ammunition in their police vehicle until approval is obtained for its deployment.
NOTE: Sworn member using a locked, tethered case will secure it to the vehicle.
 3. Respond to requests for a patrol rifle as needed.
 4. Ensure that each situation meets the deployment criteria and that approval is obtained prior to deploying the patrol rifle at an incident, unless exigent circumstances exist.
 5. Verbally report the deployment circumstances to the shift commander as soon as possible. The details of the incident justifying deployment will thereafter be submitted via a Form 12L through the chain-of-command prior to the end of the member's tour of duty.
 6. Clean, maintain, and properly secure the patrol rifle when not in use.
NOTE: Department-issued rifles will be stored in the assigned precinct/section's armory/vault when not in use.
- Who are promoted to the rank of Corporal may elect to retain their Department-issued patrol rifle at the discretion of their assigned precinct/section commander.

- At or above the rank of sergeant will not be assigned a Department-issued patrol rifle.
NOTE: Sworn members at or above the rank of sergeant may continue to participate in the Patrol Rifle program, but must do so using a privately owned, Department-approved rifle.
- May elect to maintain their certification even if a patrol rifle is no longer assigned to them.
- Who are de-certified or whose certification is suspended or revoked, will return their assigned Department-issued equipment to the Materials & Facilities Management Unit.
NOTE: Members who are de-certified, or whose certification is suspended or revoked, will not possess their privately owned, Department-approved patrol rifle during their tour of duty until their certification has been restored.
- Will ensure they are immediately identifiable as a law enforcement officer by wearing an identifiable outer garment that displays "POLICE" (e.g., issued traffic vest, issued uniform jacket, etc.) prior to deploying a patrol rifle.
NOTE: Non-uniformed members deploying patrol rifles will notify the dispatcher of this fact and relinquish their position to a uniformed patrol rifle operator at the first opportunity.

SHIFT/UNIT COMMANDERS

- Respond to all patrol rifle requests.
- Determine if deployment of the patrol rifle is appropriate.
NOTE: Generally, the shift/unit commander's decision to deploy the patrol rifle will be made at the scene. However, in exigent circumstances, authorization may be given via telephone or police radio prior to arrival.
- Ensure non-uniformed members deploying patrol rifles are replaced with uniformed patrol rifle operators at the first opportunity.
- Make the necessary notifications and documentation if the patrol rifle is discharged.
- Ensure that appropriate documentation is completed.
- Ensure any patrol rifle discharged during a member's tour of duty is inspected by the FTT.

PRECINCT/SECTION COMMANDERS

- May suspend or revoke a sworn member's patrol rifle certification at any time.
- Monitor certified, sworn members' shift assignments within his/her command to ensure adequate patrol rifle certified officer coverage.
- Maintain a current list of sworn members within his/her command who are certified to deploy the patrol rifle (obtained from the Training Section).
- Maintain a record of all patrol rifles issued to his/her command and ensure that the weapons are properly stored and maintained.
- Establish a proper storage area and weapon/accessories protocol for maintenance, accounting and accessibility.
- Of certified, sworn members transferring to other assignments will confirm and advise the new commanding officer, via a Form 12L, that the member is currently certified, approved, and authorized to use the weapon.
NOTE: If the sworn member is authorized to use a privately owned, Department-approved patrol rifle on duty, the:
 1. Current commander will include this information in his/her Form 12L.
 2. Receiving commander will ensure approval of the bureau chief is obtained prior to the sworn member carrying the rifle on duty in his/her new assignment.
- Critique all situations involving the deployment of the patrol rifle for appropriateness.
- Ensure a copy of the Form 12L documenting the deployment is sent to the Firearms Training Team (FTT).

9-1-1 COMMUNICATIONS CENTER

- Broadcasts the need for a patrol rifle and the location of the request.
- Assigns the patrol rifle equipped unit to the call as backup.

- Notifies and assigns the shift commander to respond.

12-5.0 HOLSTERS

DEFINITIONS

- Duty holster - a holster issued by the Department for the issued service weapon for use by any member.
- Administrative holster - a holster issued by the Department for the issued service weapon for use by:
 1. On duty members conducting plain clothes or administrative duties.
 2. Any member while off duty.
- Privately owned pre-approved holster - a holster that has been pre-approved by the Training Section for on duty use by members conducting plain clothes or administrative duties.
- Privately owned holsters that have not been pre-approved - holsters that have not been pre-approved by the Training Section for on duty use. Prior to use of these holsters on duty, requesting members must obtain the approval of their bureau chief, the Training Section, and their precinct/section commander.

NOTE: Consult the Non-Departmental Equipment Guidelines for the list of privately owned pre-approved holsters and the specifications used to evaluate privately owned holsters that have not been pre-approved for on duty use.

MEMBERS

- Use the Department's issued duty holster while on duty.

EXCEPTIONS:

1. Members conducting plain clothes or administrative duties may:
 - a. Choose to use the Department's issued administrative holster in lieu of the duty holster.
 - b. Obtain approval via a Form 145A, Request to Carry Non-Departmental Equipment, to use a privately owned holster that has been pre-approved for on duty use by members conducting plain clothes or administrative duties in lieu of the duty holster.
 2. Members conducting plain clothes duties may obtain permission to use a privately owned holsters that are not pre-approved for on duty use in lieu of the duty holster if:
 - a. There is a specific operational necessity supporting use of the holster; and
 - b. Use of the holster has been approved by the member's Bureau Chief, the Training Section, and their precinct/section commander.
- Must use an issued holster or a privately owned holster complying with the specifications displayed on the Non-Departmental Equipment Guidelines when qualifying at the Department's range.
 - Are encouraged to contact the Training Section prior to the purchase of any holster they intend to submit for Department approval for on duty use, or for use during qualifications at the Department's range, to ensure it complies with all of the specifications displayed on the Non-Departmental Equipment Guidelines.
 - Submit a Form 145A, Request to Carry Non-Departmental Equipment, to their commander to request permission to use a privately owned pre-approved holster on duty.
 - Submit a Form 12L, Intra-Department Correspondence, with the Form 145A if they are requesting permission to use a privately owned holster that is not pre-approved for on duty use on duty.

NOTE: Submitted Forms 12L must include an explanation identifying an operational necessity supporting the member's request.

- Authorization to use a privately owned holster that is not pre-approved for on duty use is assignment specific. Members transferred to a new assignment must be approved by their bureau chief to continue use of the holster on duty.

COMMANDERS

- Review Forms 145A submitted by members.
- Consult the Non-Departmental Equipment Guidelines or contact the Training Section to determine if a privately owned holster is:
 1. Pre-approved for on duty use.
 2. Not pre-approved for on duty use.
- May sign Forms 145A and approve the use of holsters that are pre-approved for on duty use without additional authorization from their bureau chief or the Training Section.
- May only sign Forms 145A and approve the use of holsters that are not pre-approved for on duty use, after the use of the holster has been approved by the member's bureau chief and the Training Section.

EXCEPTION: A member's precinct/section commander may allow the use of a holster that is not pre-approved for on duty use, and has not been approved by the member's bureau chief and the Training Section, when exigent circumstances exist. Precinct/section commanders allowing the use of a holster that is not pre-approved, and has not been approved by the member's bureau chief and the Training Section, must submit a Form 12L to their bureau chief providing an operational necessity, justification for allowing the on duty use of the holster, and an articulated duration of the particular use.

- Review Forms 12L to ensure the members' requests to use privately owned holsters that are not pre-approved on duty are supported by an operational necessity.
- Submit approved Forms 12L to the bureau chief for final approval.
- Ensure copies of Forms 12L authorizing on duty use of privately owned holsters that are not pre-approved for on duty use are attached to all copies of the associated Form 145A.
- Distribute approved Forms 145A as follows:
 1. Original - to the Professional Standards Bureau (PSB).
 2. Copy - to the member's command file.
 3. Copy - to the requesting member.

BUREAU CHIEFS

- May authorize the on duty use of a holster that is not pre-approved by the Training Section for on duty use.

NOTE: Requests submitted by members whose chain-of-command does not include a bureau chief will be reviewed by the Bureau Chief of the PSB.
- Review Forms 12L to ensure members' requests to use holsters that are not pre-approved on duty are supported by an operational necessity.
- Indicate approval or disapproval on the Forms 12L, and return to the submitting commander.

REFERENCE

- Non-Departmental Equipment Guidelines.

12-6.0 WEAPON MOUNTED LIGHTS

GENERAL

- Do not eliminate the need for a member to carry a primary flashlight.
- Enhance a member's ability to identify and engage a target when the member has justification/reason to have their weapon drawn/deployed.
- Assist members in firing precise shots in low-light conditions.

MEMBERS

- Will not draw/deploy firearms with weapon mounted lights solely due to a need for illumination.
- May use weapon mounted lights only after completing a weapon mounted light course provided by the Training Section.
- Will only use weapon mounted lights issued by the Department on the issued semi-automatic pistols.
- Will not make modifications to the issued weapon mounted light (e.g., adding a pressure activated switch, reactivation of strobe mode, etc.).
- Are not required to use weapon mounted lights on their pistols.
- Ensure the weapon is unloaded and made safe prior to installing or removing the weapon mounted light.

APPROVED USES OF WEAPON MOUNTED LIGHTS

- Situations in which the use or display of the firearm is authorized by the Department's use of force policy.

PROHIBITED USES OF WEAPON MOUNTED LIGHTS

- For illumination during non-threat activities (e.g., examining a driver's license, looking into a vehicle, general searching, etc.).

WEAPON MOUNTED LIGHT ACTIVATION

- Will not be completed by using the strong hand index finger.
NOTE: Using the index finger of the strong hand may lead to an unintentional discharge.

12-7.0 FIREARMS DISCHARGES

GENERAL

- Firearm discharges must be reported to the Department and to the law enforcement agency having jurisdiction (i.e., for incidents occurring outside of Baltimore County) for all discharges of:
 1. Any firearm by a member occurring while the member is on duty or acting in an official capacity as a law enforcement officer.
EXCEPTION: Firearm discharges occurring during authorized training sessions, unless serious physical injury, death, or substantial property damage occurred.
 2. A departmentally issued or departmentally approved, privately owned firearm by a Department member or other person.
EXCEPTION: Firearm discharges occurring during lawful hunting, target practice, and authorized training sessions, where no death, injury, or property damage occurs.
 3. A privately owned, but not departmentally approved firearm by a member or other person, where criminal charges may result against the member.
- Members may document, via a Form 12L, Intra-Department Correspondence, any non-reportable firearm discharge where property damage is incurred, or where the member feels it is in their best interest to have the incident documented (e.g., if the incident may result in civil liability, a complaint to the Department, etc.).
- All reportable firearm discharges will undergo a criminal investigation and an administrative investigation by the entities having investigative responsibility.
EXCEPTION: Humane destruction of animals cases, unless the administrative review by the shift/unit commander indicates that violations of law have occurred.
- When a firearm discharge occurs in another jurisdiction the:
 1. Local law enforcement agency is responsible for the criminal investigation.
 2. Department is responsible for the administrative investigation.

- Firearm discharges by a commissioned law enforcement officer of any agency occurring within Baltimore County will undergo a criminal investigation by the Baltimore County Police Department to determine if violations of the law have occurred, regardless of any administrative investigations being conducted by the other jurisdiction.

EXCEPTION: Cases involving member of the Maryland State Police (MSP), as governed by the Memorandum of Understanding.

NOTE: Information on firearms discharges contained in the remainder of this article refers to criminal investigation procedures and responsibilities. For administrative investigation procedures and responsibilities, refer to Administrative Manual, Article 3.

MEMBERS

- Immediately notify the shift commander of the precinct wherein the discharge occurred, after a reportable firearm discharge.

NOTE: If the discharge occurred within another jurisdiction, the member will immediately notify the local law enforcement agency and the Baltimore County 9-1-1 Communications Center, for notification of the member's commander and their on-duty shift/unit commander via the 9-1-1 Police Liaison.
- Are subject to the laws of the jurisdiction where the firearm discharge occurred.
- Who discharge a firearm to dispose of any animal posing an immediate threat to the safety of humans or to humanely destroy an animal which is injured, will:
 1. Make reasonable attempts to contact the animal's owner or a veterinarian before using the discretion to humanely destroy the animal.
 2. Weigh the totality of the circumstances against the potential hazards associated with a firearm discharge.
 3. Obtain the shift/unit commander's approval when possible and advise him/her of all relevant factors known (e.g., location, lighting, traffic, background, etc.).
 4. Complete a Form 229A, Officer's Firearms Discharge Report for Humanely Destroyed Animals, immediately after the humane destruction of an animal.

NOTE: No incident report is required in these cases, unless property damage or an unusual occurrence took place.
 5. Complete a Form 253, Use of Force Report, and the appropriate incident report after discharging a firearm at any animal posing an immediate threat or attacking an officer or other person.
- May voluntarily give a public safety statement in reference to the circumstances surrounding the firearm discharge (Refer to Field Manual, Article 12, Section 7.2, Public Safety Statements).

NOTE: Involved members may decline to answer the public safety statement questions.
- Involved in an intentional firearm discharge will:
 1. Submit the discharged firearm and associated magazines to a supervisor at the scene, prior to the arrival of the Homicide/Missing Persons Unit (HMPU) or Forensic Services Section (FSS), if practical.
 2. For discharges involving injury or death to a person, the discharging member will submit a Form 12L, prior to the end of their tour of duty, including only:
 - a. The member's name and identification number; and
 - b. A statement that the member was involved in a firearm discharge.

NOTE: No further information or details of the incident will be included in the Form 12L.

EXCEPTION: When the member is injured during the course of the incident, the Form 12L will be submitted as soon as practicable.
 3. Not write any statements or complete any administrative forms until after being interviewed by the HMPU detectives/member conducting the criminal investigation.

EXCEPTION: The Form 12L stating that they discharged their firearm.

4. Remain in the clothing they were wearing at the time of the shooting until a HMPU supervisor/member conducting the criminal investigation arrives to ensure photographs of the member's appearance are taken.

EXCEPTION: Humane destruction of animals where no unusual occurrence took place.

- Complete an original and three copies of a Form 253 when:
 1. Discharging a firearm while on duty or acting in the official capacity as a law enforcement officer; and
 2. The firearm was discharged to address a threat to the safety of the member or another individual (i.e., Use of Force).

NOTE: For discharges involving injury or death to a person, members will complete the Form 253 within 30 days of the incident, when possible, after they have made all statements to the HMPU or investigating unit.

- Complete a Form 12L to document all other firearms discharges (e.g., unintentional discharge, to call for assistance, etc.).

EXCEPTION: Humane destruction of animals where no unusual occurrence took place will be documented on a Form 229A.

REPORTING OFFICER

- Confers with the supervisor of the investigating unit to determine the appropriate offense code(s) and any special reporting requirements.
- Lists pertinent information about the member involved in the *Narrative* tab of the report and not in the *Offenders* tab.
- Documents efforts to contact the animal's owner in the *Narrative* tab of the incident report, when discharging a firearm at any animal posing an immediate threat or attacking an officer or other person.

SUPERVISORS

- Ascertain what occurred from the member(s) involved and witnesses.

NOTE: The supervisor will not conduct formal administrative interviews of the member(s) involved. They will only ask the involved member(s) the Public Safety Statement questions outlined in Field Manual, Article 12, Section 7.2, Public Safety Statements.
- Recover discharged firearms, and all associated magazines, from members who have intentionally discharged their weapons prior to the arrival of the HMPU and FSS, if practical. If a member possessed multiple firearms at the time of discharge (i.e., patrol rifle or shotgun), all firearms and magazines/ammunition in the member's possession at the conclusion of the incident will be recovered.

EXCEPTION: Humane destruction of animals where no unusual occurrence took place.
- Allow discharged firearms and associated magazines to remain with the member if it is impractical to recover the items at the scene.

NOTE: The items will remain with the member until the supervisor can accomplish the recovery (e.g., at the precinct, at the hospital, etc.).
- Clearly identify each recovered weapon and its associated magazines.

NOTE: Each recovered weapon will be collected separately and labeled with the name and identification number of the member it was taken from.
- Leave weapons in the condition that they were recovered (i.e., unfired rounds will not be removed and weapons will not be unloaded).
- Maintain an exact chain of custody for recovered weapons that includes the recovering supervisor's name.
- Secure recovered firearms and magazines in the locked trunk of a police vehicle, if practical, until the HMPU or FSS personnel arrive to take custody of the items.
- Ensure any items dropped or discarded by a member during a shooting (e.g., magazine, etc.) remain undisturbed at the scene for collection by the FSS.

- Recover discharging members' gun belts and/or holsters, if there is damage that is indicative of the member being in a physical struggle, or there is another evidentiary reason.

SHIFT/UNIT COMMANDERS

- When practical, respond to the scene, prior to giving approval for the use of a firearm for the humane destruction of an animal.
- Ensure that the 9-1-1 Communications Center has been notified, when a reportable firearm discharge occurs.
- Respond to shooting scenes in Baltimore County and ensure that the scene is secure, evidence (including police vehicles/equipment) is preserved in its original position, and witnesses are available for interviews by the investigating unit.
- Immediately notify the precinct commander of the precinct where the incident occurred, and if different, the commander of the member involved, upon notification of a reportable firearms discharge by a member.
 - EXCEPTION:** Humane destruction of animals where no unusual occurrence took place.
- Notify the involved member of his/her right to legal counsel.
- Ascertain what occurred from the member(s) involved and witnesses.
 - NOTE:** The shift/unit commander will not conduct formal administrative interviews of the member(s) involved. They will only ask the involved member(s) the questions outlined in Field Manual, Article 12, Section 7.2, Public Safety Statements.
- For cases involving an intentional discharge:
 1. Ensure that the supervisor or the FSS technician responds to the scene and inspects the firearms of all members involved in the incident.
 2. Arrange an escort to the precinct for any member(s) whose firearm is held by the FSS for comparison examination.
 - EXCEPTION:** Humane destruction of animals where no unusual occurrence took place.
- For cases involving an unintentional discharge:
 1. Notify the member that their departmental authority to carry that type of firearm (e.g., handgun, shotgun, specialized weapon, etc.) is suspended.
 - NOTE:** The firearm suspension will remain in effect until the firearm is determined to be functioning properly and the member's knowledge of the firearm has been demonstrated.
 2. Obtain the firearm in question and transport to the nearest precinct to be secured.
 3. Ensure the firearm is transported to the Firearms Training Team (FTT) for examination on the next regularly scheduled workday.
 4. Obtain dates and times for the member(s) involved to report to the FTT to demonstrate their knowledge of the firearm.
 - NOTE:** In most cases this should be the member's next regularly scheduled workday.
- Ensure that all members present when the shooting occurred are separated, but not isolated, until interviewed by the investigating unit(s).
 - NOTE:** Discharging members will be taken to the precinct or other Department facility, given space separated from other involved members, and have a non-involved (i.e., someone who was not at the scene when the shooting took place) member or supervisor with them at all times to address their needs. The non-involved member may be from the same command, a Critical Incident Support Team (CIST) member, Fraternal Order of Police (FOP) representative, etc.
- Encourage members involved in the incident to contact their families, before extensive media coverage begins.
- Assign an officer not involved in the incident to write the incident report, when an incident report is required (i.e., for all firearms discharges except humane destruction of animals where no unusual occurrence took place).

- Review the Form 253 or 229A for accuracy and forward to the precinct/section commander.

PRECINCT/SECTION COMMANDER

- Reviews all reports submitted by the shift/unit commander.
- Ensures that all reports are forwarded to the IAS Commander.

FORENSIC SERVICES SECTION

- Responds to the scene of intentional firearm discharges.
EXCEPTION: Humane destruction of animals where no unusual occurrence took place.
- Takes custody of firearms discharged during incidents.
NOTE: If a member possessed multiple firearms at the time of the discharge (i.e., patrol rifle or shotgun), all firearms and magazines/ammunition in the member's possession at the conclusion of the incident will be recovered.
- Renders firearms safe for packaging.
- Conducts a count of unspent rounds.
- Photographs the member(s) involved in the discharge.

HOMICIDE/MISSING PERSONS UNIT

- Directs the recovery of discharged firearms by the FSS at shooting scenes.
EXCEPTION: Humane destruction of animals where no unusual occurrence took place.

12-7.1 INVESTIGATIVE RESPONSIBILITY

GENERAL

- Upon notification of a firearm discharge, the shift/unit commander will review the available information and circumstances surrounding the incident to determine:
 1. If the incident could result in criminal charges; and
 2. The unit with responsibility for the criminal investigation.
- The unit with criminal investigation responsibility will conduct a complete investigation to determine:
 1. If any violations of law have occurred.
 2. The appropriate criminal charges, when applicable.
- The Bureau Chief of the Criminal Investigations Bureau (CIB) will be consulted for any firearm discharge in which responsibility for the criminal investigation is not explicitly defined by this policy.

HOMICIDE/MISSING PERSONS UNIT (HMPU)

- Responsible for the criminal investigation of reportable firearms discharges occurring within Baltimore County involving:
 1. An injury or death.
 2. A member who is on duty or acting in an official capacity as a law enforcement officer.
EXCEPTION: Animal cases and unintentional discharges where no injury or death results.
- Responsible for the criminal investigation of firearm discharges occurring in Baltimore County by a commissioned law enforcement officer of any other jurisdiction resulting in injury or death.
EXCEPTION: Cases where the criminal investigation is being handled by the Maryland State Police (MSP), in accordance with the Memorandum of Understanding.

VIOLENT CRIMES UNIT

- Responsible for the criminal investigation of intentional firearm discharges occurring within Baltimore County by a commissioned law enforcement officer of any other jurisdiction where no injury or death results.

EXCEPTION: Cases where the criminal investigation is being handled by the MSP, in accordance with the Memorandum of Understanding.

SHIFT/UNIT COMMANDER

- Conducts an initial evaluation and review of all reported firearm discharges and:
 1. Refers the investigation to the unit responsible for the criminal investigation, or
 2. Conducts the investigation if he/she has investigative responsibility.
- Responsible for the criminal investigation of:
 1. Reportable firearms discharges in animal cases.
EXCEPTION: Humane destruction of animal cases, when the administrative review indicates that no violations of Department policy or law have occurred.
 2. Reportable firearms discharges where no injury or death occurs, but criminal charges may result and an entity of the CIB or another jurisdiction is not responsible for the investigation.
 3. Criminal investigation of unintentional firearm discharges occurring within Baltimore County by commissioned law enforcement officers of other agencies where no injury or death results.

EXCEPTION: When the criminal investigation is being handled by the MSP, in accordance with the Memorandum of Understanding.

UNIT WITH INVESTIGATIVE RESPONSIBILITY

- Conducts a thorough criminal investigation.
- Reviews all written statements by members and witnesses.
- Notifies the IAS to respond to the scene, when necessary.
- Initiates criminal charges, if warranted, after consultation with the State's Attorney's Office.
- Prepares an updated version of the Case Report if criminal charges are placed against the member involved.
- Submits a complete report of the criminal investigation to:
 1. CIB - Persons Crimes Section Commander.
 2. Commander responsible for the administrative investigation, and if different, the commander of the member involved.
 3. The State's Attorney's Office.
 4. IAS Commander.
- Submits an updated version of the Case Report once the investigation is no longer active and confidential. The updated version of the Case Report will include any updated and pertinent information (e.g., victim, suspect, vehicle, etc.).

REFERENCE

- Administrative Manual, Article 3 (Administrative Investigations and Reports).

12-7.2 PUBLIC SAFETY STATEMENTS

PUBLIC SAFETY STATEMENTS

- Are time sensitive statements used to ascertain what occurred from members involved in or witnessing a firearms discharge or other unusual occurrence.
- Obtained by the first shift/unit commander or supervisor arriving at the scene.
NOTE: Shift/unit commander and supervisors shall not deviate from the questions listed below when obtaining public safety statements.

- Ensure:
 1. Consistency of information gathered; and
 2. Protection of the involved officers' rights.
- Are limited to the details of the incident that pertain to matters that effect public safety.
- Are gathered without any Miranda advisement.
- Must be given voluntarily (i.e., involved members can decline to answer the public safety statement questions).
- Are not interviews or part of the administrative investigation.

PUBLIC SAFETY STATEMENT QUESTIONS

- Did you fire your weapon, and what direction did you fire?
- Approximately (i.e., not exact) how many rounds did you fire?
- Did the suspect fire their weapon? If so, what direction?
- Approximately (i.e., not exact) how many rounds did the suspect fire?
- Are you aware of anyone who is injured? If so, what is their location?
- Are you aware of the location of any unsecured weapons? If so, where are they?
- If any suspects are outstanding, what are their descriptions?

NOTE: If there are outstanding suspects, the following questions will be asked:

1. What was their direction/mode of travel?
2. How long have they been gone?
3. What type of weapons did they have?
4. What other safety risks are known about the outstanding suspects?

- Are you aware of any witnesses? If so, where are they located?
- Does any evidence need protection? If so, where is it located?

NOTE: The responding shift/unit commander or supervisor should use the circumstance of the incident to determine which of the Public Safety Statement questions are appropriate to ask of each of the involved members to ensure the public is safe.

12-8.0 FIREARMS TRAINING AND QUALIFICATIONS

SCHEDULING

- Firearms Training Team (FTT) personnel will determine the number of personnel scheduled for training/qualifications each day in the interest of safety and accommodations.
- Members unable to attend on the scheduled day will advise their supervisor of the circumstances involved. Supervisors will reschedule the member for the next available date.

TRAINING

- Firearms training will consist of classroom instruction, range practice, and skill/knowledge drills, as determined by the FTT personnel.
- Mandates of this Department and the Maryland Police Training and Standards Commission will be followed for the courses of instruction and met by each member in order to use any Department-issued and/or privately owned, Department-approved firearm.

QUALIFICATION PROCESS

- Each member must qualify and attain a level of proficiency established by the Department.
- Members who fail to qualify will:
 1. Be required by FTT personnel to immediately notify their commander. FTT personnel will follow up with written notification.
 2. Relinquish the firearm upon request and be temporarily assigned to a non-line function.
 3. Attend remedial training arranged by FTT personnel and the member's commander.

4. After remedial training and attainment of the established level of proficiency, be re-tested in order to carry the firearm.
 5. Should a member fail to qualify the first time, completion of qualification is required within 30 days.
- Any member unable to qualify after all avenues of retraining have been completed will be considered incompetent to carry a firearm. The Chief of Police may then pursue, but is not limited to, any of the following:
 1. Reassignment of the member to a non-line function if a physical impairment prevents the member from qualifying.
 2. Utilization of alternatives to retain the member as an employee, if such impairment is temporary.
 3. Termination of employment.

CHANGE OF ISSUED FIREARM

- An officer changing an issued firearm must demonstrate proficiency with the firearm, prior to reporting to duty with the new firearm, if the make and model of the new firearm is different from that which the officer is qualified to carry. FTT personnel will set the qualification requirements.
NOTE: Qualification with a newly issued firearm does not satisfy the semi-annual qualification requirement.

12-9.0 FIREARMS MAINTENANCE AND REPAIR

GENERAL

- When requesting maintenance or repair of Department-issued firearms, members will:
 1. Prepare an original and two copies of a Form 169, Firearms Maintenance Request (top half only).
 2. Sign the form and obtain their commander's approval.
 3. Transport the firearm and the Form 169 to the Firearms Training Team (FTT).
NOTE: If a firearm becomes defective while on the range, a member will complete the Form 169 as prescribed and have a FTT member approve the form. All other applicable procedures will then be followed.
- Repair procedures also apply to privately owned firearms damaged while being carried on-duty when the following criteria are met:
 1. The member has obtained authorization to carry the firearm on duty, per current procedures.
 2. The damage is not a result of the member's misuse, abuse, or negligence.

FTT PERSONNEL

- Acknowledge receipt of the firearm, sign all copies of the Form 169 and describe the firearm loaned.
- Return the original of the Form 169 to the submitting commander.
- Upon completion of maintenance or repairs, complete the bottom portion of the Form 169, noting what work was performed.
- Contact the submitting member or commander to advise of the firearm being ready and return the second copy of the Form 169 for the submitting commander's files.

12-10.0 ARMED AIR TRAVEL

GENERAL

- Sworn members conducting departmental business who are required to carry their firearm during air travel must meet the requirements of the Transportation Security Administration (TSA).

PROCEDURES

- Department members conducting official law enforcement duties requiring them to fly in aircraft while armed will do the following:
 1. Complete the Federal Aviation Administration (FAA) approved "Flying While Armed" training given by the Training Section.
 2. Submit a Form 12L, Intra-Department Correspondence, to their commander stating the purpose for travel, complete flight information, destination, and any pertinent information.
 3. Receive written approval from the commander.
 4. Submit the request for authorization, via telex message, to the National Law Enforcement Telecommunications System (NLETS).
NOTE: This telex request must be made through the Information & Records Management Section.
 5. Receive the NLETS message from the TSA, including a unique alphanumeric identifier for verification at the airport on the day of travel.
 6. Check in with the airline ticket counter on the day of travel, identify him/herself and present a copy of the NLETS message with the unique alphanumeric identifier.
 7. Receive the Person Carrying Firearms (PCFA) forms provided by the airline and proceed to the Armed Law Enforcement Officer (LEO) Screening Checkpoint.
 8. Provide the unique alphanumeric identifier from the NLETS message at the Armed LEO Screening Checkpoint, display his/her badge, credentials, boarding pass, a second form of government photographic identification (e.g., driver's license, passport, etc.) and required airline paperwork to the TSA officer.
 9. Complete the LEO log book and proceed to his/her boarding gate.
 10. Provide the PCFA forms at the boarding gate and inform the gate agent of his/her presence and status.
 11. Board the aircraft when directed and comply with instructions/directions from the flight crew.

12-11.0 LAW ENFORCEMENT OFFICERS SAFETY ACT (LEOSA)

DEFINITIONS

- Qualified Law Enforcement Officer - an employee of a governmental agency who:
 1. Is authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for any violation of law, and has statutory powers of arrest;
 2. Is authorized by the agency to carry a firearm;
 3. Is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
 4. Meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
 5. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
 6. Not prohibited by federal law from receiving a firearm.
- Qualified Retired Law Enforcement Officer - an individual who:
 1. Separated from service in good standing from service with a public agency as a law enforcement officer;
 2. Before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

3. Before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or separated from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, and determined by such agency;
4. During the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the state in which the individual resides or, if the state has not established such standards, either a law enforcement agency within the state in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officer within the state;
5. Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification required; or has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health and for those reasons will not receive or accept the photographic identification required;
6. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
7. Is not prohibited by federal law from receiving a firearm.

GENERAL

- The Law Enforcement Officers Safety Act (LEOSA), Chapter 44, Title 18, United States Code permits both qualified law enforcement officers and qualified retired law enforcement officers to carry a concealed firearm in any state and the District of Columbia without a permit or license.

NOTE: This does not supersede or limit the laws of any state that:

1. Permits private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
 2. Prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park.
- Individuals carrying under LEOSA are required to carry their agency issued identification card.
 - **NOTE:** The identification card carried by retired qualified law enforcement officers must indicate, or be accompanied by, a certification outlining the individual's qualification within the past year to carry under LEOSA.
 - LEOSA exempts qualified law enforcement officers from state laws prohibiting the carry of concealed firearms.
 - Members receiving inquiries from retired/separated officers of this Department about qualifying for the LEOSA, will direct them to the Police Human Resources Section (PHRS).

ACTIVE SWORN MEMBERS WHO ARE QUALIFIED LAW ENFORCEMENT OFFICERS

- May carry the Department-issued service firearm or an approved off-duty firearm.
- Must carry their Department-issued identification card when carrying a firearm.
- Must be currently qualified and complete required firearms training designated by the Firearms Training Team.
- Who carry a firearm outside of Maryland have no police powers and will be subject to federal, state and local laws, which may prohibit the carrying of a firearm on certain public and private property.
- Are reminded that the Baltimore County Police Department is not civilly liable for any actions taken by the member in another state.

- Who are served with any interim, temporary or a final protective or peace order must notify a supervisor immediately and not wait until the officer's next scheduled shift.
- Who have their police powers suspended cannot carry a firearm. Personnel who are the subject of any disciplinary action may not carry a firearm under the provisions of the LEOSA.
NOTE: Disciplinary action is defined as when the member's police powers have been suspended. The disqualification will continue until the member's police powers have been reinstated.
- Who are encountered by an investigating officer/agency from another state or jurisdiction and are questioned about their status as a qualifying officer for the LEOSA, will advise that their employment status can be verified by contacting the Public Safety Building Security Desk.

RETIRED/SEPARATED SWORN MEMBERS WHO ARE QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

- Contact the PHRS to initiate procedures for complying with the LEOSA.
- May qualify with any weapon approved for an active sworn member.
- Are responsible for providing ammunition for their firearm, when qualifying for LEOSA through Baltimore County.
NOTE: No other expense will be incurred by the member.
- Will be issued an identification card that allows them to comply with LEOSA requirements.
NOTE: The PHRS will ensure that an appropriately labeled "Separated" ID card is authorized for issuance to separated members who will be carrying under LEOSA, but do not qualify for retirement.

INVESTIGATIVE PROCEDURES

- Officers encountering an individual carrying a concealed firearm and claiming exemption from prosecution under the LEOSA, will:
 1. Have the individual produce a current law enforcement agency photographic identification verifying their status as an active or retired law enforcement officer.
 2. If the individual is a retired officer, they must also produce verification of qualification within the last 12-month period with the type of firearm they are carrying.

- Will be contacted by:
 1. The on-scene Fire Department Commander when the situation is a fire or disaster.
 2. The EOC, when open.
 3. The 9-1-1 Communications Center, 9-1-1 Police Liaison for all other situations.
- Will have an officer assigned as liaison for police situations.

11-7.0 ACTIVE ASSAILANT INCIDENTS

DEFINITIONS

- Active Assailant - one or more suspects actively engaged in committing and/or attempting to commit acts of violence by gunfire or other violent means, while having unrestricted access to additional victims.
- Contact Team - two or more officers working as a unit with the primary goal of seeking out and engaging an active assailant. Typically contact teams consists of four officers, however, circumstances may dictate a contact team proceeds with less than four members. **NOTE:** Members should not proceed individually, unless exceptional circumstances exist.
- Rescue Team - two or more officers working as a unit with the primary goal of evacuating injured victims. Security is a constant priority for these teams. A rescue team must be prepared to assume the role of a contact team should the circumstances dictate. Team movement will be in a disciplined manner under the control and direction of the team leader.
- Rescue Task Force - a team comprised of two or more police officers and two or more fire department personnel detailed to enter Warm Zones to retrieve wounded persons and bring them to safety.
- Staging Area - the assembly point for officers responding to an active assailant incident, who are not formally dispatched, are in off-duty status, or are law enforcement officers from allied agencies. These officers must check in with the IC or designee to receive an assignment. The staging area should be conveniently accessible, and located in the Cold Zone. The staging area should also be of sufficient size to be able to receive and deploy a large number of responding personnel and equipment. In this area, clear instruction and a synopsis of the incident can be provided. The benefits of identifying a staging area early in the response cannot be overstated. Additional staging areas may need to be established for media, civilian response, elected officials, dignitaries, etc. **NOTE:** No officer/detective will self-dispatch or relieve personnel without command approval.
- Reunification Site (Evacuation Site) - a safe area for evacuees to gather and meet with parents, relatives, friends, etc.

OBJECTIVES

- Primary - to neutralize the threat, and stop death and injury caused by the active assailant.
- Secondary - to apprehend suspects and recover evidence.

GENERAL

- Radio communications will be limited to the members on the scene.
- Units that have patrol rifles must expedite to the scene.
- Non-uniformed officers will wear an outer garment which immediately identifies them as an officer (e.g., issue traffic vest, issued uniform jacket, etc.), if used as part of a contact team, rescue team, or rescue task force. **NOTE:** Non-uniformed officers will remain in close proximity to a uniformed officer, or other officer who is immediately identifiable, if no garment is available to immediately identify them

as a police officer, and additional officers are not present to join the contact teams, rescue teams, or rescue task forces.

- Non-uniformed officers will respond to the Staging Area and await assignment, if not the first officers on the scene.

INCIDENT PRIORITIES (IN DESCENDING ORDER)

- Stop the active assailant.
- Search for additional assailants.
- Locate and treat victims.
- Safe evacuation of the location.
- Establish a command post and a staging area.
- Assign a monitor car as a note taker.

FIRST OFFICERS ON SCENE

- Gather information as rapidly as possible to develop a situational analysis. This can be achieved through various means, including, but not limited to:
 - Information relayed from the 9-1-1 Communications Center.
 - Reports of citizens/witnesses.
 - Sounds of active gunfire or violence.
 - Officers' own observations.
- Immediately identify the Hot Zone to limit exposure of responding units and to prevent or minimize gridlock at the scene.
- Update the 9-1-1 Communications Center with the information obtained.
- Maintain firearms discipline.
- Request a supervisor to the scene.
- Designate a team leader, if the intelligence gathered dictates the use of a contact team(s).
- The team leader will report the strength and predicted route of the team prior to making entry into the scene.
NOTE: This will be done in person to the IC, or through the 9-1-1 Communications Center, if no officer has arrived on scene to fill the role of IC.
- Move immediately as a contact team(s) directly into the Hot Zone, in order to neutralize the active assailant.
- Remain cognizant of the potential for improvised explosive devices and proceed with caution.
- Move in a disciplined manner, under the control and direction of the team leader.
NOTE: If no other option is available, and the scene dictates an exceptional circumstance, it may be necessary for the first responding officer to enter the structure/scene alone.
- Advise if there are known injuries involved, and request the Fire Department, if applicable.

RESCUE TASK FORCES

- Include EMS officers or paramedic personnel assigned to the Baltimore County Fire Department, who are properly equipped to enter Warm Zones with members of the Police Department to retrieve wounded persons and bring them to safety.
- Police personnel will escort medical personnel into the Warm Zone, after the threat has been neutralized or contained, expediting critical care to the most seriously injured.
NOTE: The police personnel assigned to a Rescue Task Force are to stay with the fire department personnel as security and will not leave those personnel.

INITIAL INCIDENT COMMANDER

- Is one of the officers at the scene who is not part of a contact team, rescue team, or rescue task force.
- Assumes and announces command as the IC.
NOTE: This duty may be based on rank, expertise, or seniority.
- Remains outside the scene in order to effectively maintain control of the incident.
- Tracks officers who enter the Hot Zone for safety, investigative purposes, accountability, and proper demobilization, by knowing who and where units are at all times.
NOTE: This must be done to limit the potential for any friendly fire encounters.

FIRST SUPERVISOR ON SCENE (NOT ASSIGNED TO A CONTACT TEAM, RESCUE TEAM, OR RESCUE TASK FORCE)

- Assesses the situation to determine the extent of the incident and what police resources are needed.
- Assumes the role of IC, after arrival on scene and obtaining a full briefing.
NOTE: The initial IC can be designated as responsible for the contact team(s).
- Directs initial responding officers.
- Designates a staging area and command post located in the Cold Zone out of sight of the incident location.
NOTE: The importance of this cannot be overstated. Gridlock can quickly occur within minutes of multiple units arriving on the scene.
- Delegates tasks functionally and geographically, as necessary.
- Designates one car to act as a monitor unit to maintain a written log of all activities.
- Assigns units to secure the Warm and Hot Zones to control and contain the situation.
- Evaluates the need for the Tactical Unit and Hazardous Devices Team, and advises the 9-1-1 Police Liaison.
- Establishes the Warm Zone outside the suspect's field of fire.
- Ensures all personnel maintain firearms discipline.
- Prohibits citizens and unauthorized vehicles from entering the Warm and Hot Zones.
- Determines the need for evacuating civilians and injured persons from areas of potential danger.
- Updates the 9-1-1 Communications Center with new information.
- Requests the Shift Commander to the scene.

DOCUMENTATION COMPLETED BY THE MONITOR UNIT

- Locations of officers and injured civilians within and around the location.
- Unit number and time of arrival of all responding units.
- Nature and time of all requests and notifications.
- Other significant events or pertinent information.

SHIFT COMMANDER

- Responds to the scene and reports to the command post.
- Assumes role of the IC, and utilizes the ICS.
- Follows the ICS and works under a unified command with allied agencies.
- Commands police operations, until relieved by a higher ranking member.
NOTE: Not all allied agencies responding to the incident will be part of unified command. These agencies will be considered assisting agencies consistent with ICS terminology.
- Establishes direct contact with the ranking Fire Department member on scene.
- Evaluates the staging area ensuring it is located in the Cold Zone, and well clear of the incident.

- Ensures enough personnel are responding to the staging area.
- Determines if a Major Incident Response Phase is needed.
- Notifies and coordinates the activities of the responding units.
- Designates a media information area close to, but safe from, the scene.
- Requests a member from the Public Affairs Section to respond to the scene, if necessary.

PRECINCT COMMANDER

- Responds to the scene and assumes the role of IC, until the arrival of the Support Operations Division (SOD) Commander.
- Ensures there are sufficient personnel on scene to handle the emergency.
- Evaluates the need for a reunification site, and its location in the Cold Zone.
NOTE: If a reunification site is established, the Precinct Commander will ensure the Critical Incident Support Team is requested to respond to assist victims, witnesses, and families.
- Is responsible for the Cold Zone and the impact, if any, on the community.
- At the conclusion of the incident:
 1. Ensures members initiate arrests in all cases where there is evidence to support criminal charges and when the CIB does not have primary investigative responsibility.
 2. Initiates emergency evaluation procedures, when appropriate.
 3. Orders all personnel to remain at their assigned positions until reassigned to other duties, or released in coordination with the Tactical Unit Commander.
NOTE: Units will need to hold their positions until the location can be completely cleared.
 4. Ensures that the appropriate CIB unit with investigative responsibility is notified.
 5. Secures and protects the crime scene when the Tactical Unit Commander relinquishes control of it.
 6. Ensures the appropriate incident report and required documentation are completed.

SUPPORT OPERATIONS DIVISION (SOD) COMMANDER

- Responds to the scene and assumes IC duties.
- Employs the strategies necessary to resolve the incident.
- Completes a Form 21, After Action Report, and a Cost Analysis Report for the incident.
- Conducts a documented annual review of this policy, and determines if there are any training issues that need to be corrected.

SUPPORT OPERATIONS SECTION COMMANDER

- Is responsible for the Hot Zone and actions related to tactical and K-9 operations.
- Provides information to the SOD Commander regarding the safest and most effective resolution of the incident.

BEHAVIORAL ASSESSMENT UNIT COMMANDER

- Is responsible for the actions related to the **Crisis** Negotiation Team and the Critical Incident Support Team.

TACTICAL UNIT AND **CRISIS NEGOTIATION TEAM COMMANDERS**

- Are responsible for the actions of their personnel at the scene.
- Maintain communications with their personnel and receive constant updates regarding ongoing dialog, activities, etc.

TACTICAL UNIT

- Evaluates location for method and type of tactical deployment.
- Takes action as determined by the SOD Commander.
- Responds to the staging area if not part of a contact team or rescue team.

PUBLIC AFFAIRS SECTION

- Designates a media information area in a safe location away from the scene, if not already established.
- Coordinates and addresses all requests from the media regarding the incident.
- Provides public safety awareness messages, as needed.

SAFE SCHOOLS FACILITATOR

- Responds to the command post, for all school related incidents.
- Provides blueprints of the affected school's floor plan.
- Provides remote access to the school system's security cameras.
- Acts as a liaison between the Police Department and the school system for any special requests.

NOTE: Notification of the Safe Schools Facilitator will cause the Baltimore County Public Schools Crisis Response Team to be alerted.

- Assists the school system in recovery operations at the conclusion of the incident.

NOTE: The Assistant Safe Schools Facilitator will be responsible for the above listed duties if the Safe Schools Facilitator is unavailable.

BODY WORN CAMERA PROGRAM

Article 16

16-1.0 Body Worn Camera (BWC) System [rev. 09/2019]

16-1.1 *Body Worn Camera (BWC) Use [rev. 10/2020]*

16-1.2 *Body Worn Camera (BWC) Activation and Deactivation [rev. 10/2020]*

16-2.0 Body Worn Camera (BWC) System Recordings [rev. 10/2020]

16-2.1 *Access to Body Worn Camera (BWC) System Recordings and Audit Trails [rev. 09/2019]*

16-2.2 *Body Worn Camera (BWC) System Recording Redaction and Reproduction [rev. 10/2020]*

16-2.2.1 *Formal Requests [rev. 10/2020]*

16-2.2.2 *Absent a Formal Request [rev. 10/2020]*

BODY WORN CAMERA PROGRAM

16-1.0 BODY WORN CAMERA (BWC) SYSTEM

DEFINITIONS

- **Activation** - recording of both audio and video by switching the device from Pre-Event Buffering Mode to Event Mode.
- **Body Worn Camera (BWC)** - an audio-visual recording device (i.e., camera, controller/battery pack, and a connector cable) worn on the person of a Department member.
- **Deactivation** - to stop actively recording the event and return the device to Pre-Event Buffering Mode.
- **Digital Evidence Management System (DEMS)** - a cloud based storage system used to store all BWC recordings.
- **Dock** - a BWC charging and data transfer unit.
- **Event Mode** - actively recording video and audio on the BWC.
- **Mobile Device** - a device connected to the BWC via a wireless connection for the purpose of playback, tagging, and categorizing of system records.
- **Person In Interest** - a person having a greater right of access to a recording than the general public as defined by GP § 4-101.
- **Pre-Event Buffering Mode** - a continuous 30 second video-only (i.e., no audio) recording, which is captured as a part of the full recording once the device is placed in Event Mode (i.e., activated).
- **System Recordings** - audio and/or video captured and uploaded by the BWC.

GENERAL

- The BWC system is a point-of-view style recording system designed to approximate the vantage point of the recording officer.
- The BWC program is designed to benefit the Department, its members, and members of the community by providing recorded material for:
 1. Evidence in court proceedings;
 2. Department training;
 3. Improved complaint resolution; and
 4. Potential public release to enhance public trust in Department activities.
- The BWC system does not live stream system data.

SYSTEM LIMITATIONS

- A BWC does not capture everything that is occurring during an incident (e.g., slight movements or resistance by the subject, or other items that cannot be seen, statements that were not recorded, etc.).
NOTE: System recordings lack the officer's perception of what is taking place.
- The BWC system does not analyze biometric or situational awareness data.

TECHNOLOGY SECTION COMMANDER

- Serves as the Body Worn Camera Program Administrator for the Department.

TECHNOLOGY SECTION (TS)

- Provides first line support to field users of the BWC system.
- Responds to collect BWCs and upload/tag/categorize recordings from members involved in:
 1. Police involved shootings.
 2. In custody deaths.
 3. Other incidents of police activity where death occurs.

- 4. Any other incident as directed by a bureau chief or higher.
- Manages BWC system user accounts.
- Manages BWC system and device settings.
- Ensures the DEMS is configured to:
 1. Enforce security and access controls satisfying County and Criminal Justice Information Services (CJIS) security standards.
 2. Automatically create and track audit and access logs, including all viewing, copying, and editing.
 3. Preserve unedited original versions of stored recordings.

SHIFT/UNIT COMMANDERS

- Notify the TS to respond and collect BWCs from members involved in:
 1. Police involved shootings.
 2. In custody deaths.
 3. Other incidents of police activity where death occurs.
 4. Any other incident as directed by a bureau chief or higher.

16-1.1 BODY WORN CAMERA (BWC) USE

GENERAL

- BWCs will only be used for official purposes.
- BWC devices are individually issued and assigned to members.

MEMBERS

- Only use the BWC system after they have been trained in the use of the system and the Department's BWC policy.
- Only use Department issued recording devices and accessories.
- Will be in uniform or have their badge or the Department's insignia prominently displayed when using a BWC.

NOTE: Articles of clothing containing the word "Police" alone, do not satisfy this requirement.

- Only use the device assigned to them.
- Assigned a BWC will wear the device with the power on, using authorized mounting systems, while engaged in patrol functions or other regular field operations.

EXCEPTIONS:

1. Plain-clothes officers will not wear their assigned BWC when acting in a capacity which requires that their badge or the Department's insignia is not prominently displayed.
 2. Members will not wear their assigned BWC when acting in the capacity of or working with a federal task force performing task-force related duties.
- Will not possess their BWC devices while off duty, unless authorized by their shift/unit commander.
- NOTE:** The shift/unit commander will determine if there is valuable recorded data requiring immediate upload prior to approving a member's request.
- Ensure their BWC is charged, and has sufficient recording space available, prior to their next tour of duty if authorized to possess the device off duty.
 - Discovering that they possess another member's BWC will immediately notify their supervisor who will contact the Technology Section (TS) for instructions.

REPORTING

- Use of a BWC to collect system data (i.e., video and/or audio) is not a replacement for a detailed report.
NOTE: Members will adhere to all Department reporting requirements, regardless of whether BWC system data has been captured of the incident.
- The availability of BWC system data will be documented by:
 1. Selecting “Yes” from the dropdown for the question “Body camera footage available?” on the *Administrative* tab, for incident reports (i.e., Case Reports and Officer Reports) generated within the Records Management System (RMS).
 2. Indicating in the narrative that BWC recordings are available, for reports generated outside of the RMS and for charging documents.
- Members who are assigned a BWC must notify a supervisor, and document an explanation in the incident report, upon becoming aware of a required recording incident that was not recorded.

DEVICE TESTING AND SUPPORT

- Members who are assigned a BWC will perform a BWC function test at the beginning of each shift.
- Members discovering a BWC is malfunctioning, at any time, will immediately report the issue by placing an Office of Information Technology (OIT) service ticket.

16-1.2 BODY WORN CAMERA (BWC) ACTIVATION AND DEACTIVATION

GENERAL

- Policies contained in this section apply only to members equipped with a BWC, and do not place additional requirements on the duties of non-equipped members.
- BWCs should be activated as soon as possible to ensure as much of the incident as possible is captured.
NOTE: If there is immediate danger to the member or others, the BWC should be activated once that immediate danger has been addressed and it has been deemed safe, practical and possible to activate the device.
- BWCs will be automatically activated by the activation/use of BWC integrated equipment/devices (e.g., vehicle emergency equipment, conducted electrical weapon (CEWs), etc.) within signal range.
NOTE: Members must be cognizant of automatic activation of their BWC, and adhere to public notification and deactivation requirements, when applicable.

PUBLIC NOTIFICATION

- Members shall notify individual(s) they are being recorded as soon as possible, unless it is unsafe, impractical, or impossible to do so.
EXCEPTION: Unless otherwise exempted by law.
 - When notification is delayed, it will be given once it is safe, practical, and possible.
- NOTE:** These provisions are satisfied even if another individual becomes a party to the communication after the initial notice has been provided.

REQUIRED BWC ACTIVATION

- Members wearing a BWC will activate the device as soon as possible unless it is unsafe, impractical, or impossible.
- The device will be activated in the following circumstances whether or not they are engaged in a call for service:
 1. Enforcement or investigative activity (e.g., traffic stops, searches, pursuits, arrests, field interviews, stop and frisk situations, etc.).

2. Other activities of a potentially confrontational nature.
3. Emergency vehicle operations.
4. Custodial transports.

PROHIBITED USES OF BWCS

- Non-duty related personal activities.
- Within 500 feet of bomb threat scenes.
NOTE: The device must be powered off at the controller/battery pack.
- During in depth interviews with sexual assault victims beyond the initial call for service assessment.
- Interactions with confidential informants.
- To capture the strip search of an arrestee.
- During court proceedings, unless an on-view incident occurs.
- To capture legally privileged communications (e.g., attorney/client, doctor/patient, etc.).
- Surreptitious recording.
EXCEPTION: Those specifically allowed by law.
- As a replacement for the use of a recorded interview room and/or equipment issued by the Technology Section (TS) specifically for the purpose of recording interviews.
EXCEPTION: When the TS commander has approved the use of a specified BWC for recording interviews.
- Private conversations and administrative activities among Department personnel.
EXCEPTION: During authorized training sessions as directed by an instructor.
- Outside the state of Maryland.
- During uniformed secondary employment.
- By members who have been:
 1. Deputized by a federal government agency and are acting as a member of a federal taskforce; or
 2. Instructed by a member of a federal government agency taskforce to not record.

NOTE: When a prohibited use of the BWC is encountered during an active recording, members will deactivate their BWC when it is safe, practical, and possible to do so.

DISCRETIONARY BWC USES

- Members wearing a BWC have the discretion to activate the device during any legitimate law enforcement contact if the member believes a recording of an incident would be appropriate (e.g., transports of people of the opposite sex, advising of Miranda rights, etc.).
- In order to preserve the dignity of our citizens, members will exercise good judgement prior to the discretionary use of the BWC during situations where a heightened expectation of privacy exists (e.g., restrooms, locker rooms, etc.).

BWC DEACTIVATION

- When deactivation circumstances exist, the member will deactivate the BWC as soon it is safe, practical, and possible to do so.
- Once recording has been activated, members shall not end the recording until one of the following occurs:
 1. The event or encounter has fully concluded.
 2. The member leaves the scene and anticipates no further involvement in the event.
 3. A supervisor has authorized that a recording may cease because the member is no longer engaged in a related enforcement, investigative, or transportation activity.
 4. When a prohibited activation circumstance is encountered.
 5. When the member's video must be played back in the field.

6. Required activation circumstances no longer exists, or did not exist, and the member has determined that:
 - a. A heightened expectation of privacy exists and deactivation is necessary in order to preserve the dignity of our citizens (e.g., locker rooms, restrooms, etc.).
 - b. An accidental activation has occurred.
7. A victim, witness, or other individual wishes to make a statement or share information, but requests not to be recorded or refuses to be recorded.

NOTE: During these situations members may deactivate their BWC in order to obtain the statement or information, and then start recording again when the statement or information has been obtained.
8. As directed by an instructor during an authorized training session.

TECHNOLOGY SECTION (TS) VIDEO MANAGER

- Sends notification to precinct/section commanders regarding identified BWC deficiencies (i.e., failures to activate BWC).

PRECINCT/SECTION COMMANDERS

- Ensure that deficiencies (i.e., failures to activate BWC) that have been identified by the TS Video Manager for members of his/her command are addressed.

16-2.0 BODY WORN CAMERA (BWC) SYSTEM RECORDINGS

SYSTEM RECORDINGS

- Are the property of the Department.
- Will not be altered or tampered with in any manner.
- Will be uploaded to the Department's DEMS without exception.
- Will not be copied, reproduced, shared, posted, downloaded, or disseminated in any manner unless for an official law enforcement purpose.
- Will only be copied, reproduced, shared, posted, downloaded, or disseminated in any manner absent an official law enforcement purpose when authorized by the Chief of Police or the Technology Section (TS) Video Manager.
- Will not be deleted without authorization from the TS Video Manager.
- Of constitutionally protected activities, may only be used to identify persons present at the activity who are suspected of being engaged in illegal activity, or are in need of assistance.
- May not be:
 1. Used to create a database or pool of mugshots.
 2. Used as fillers in photo arrays.
 3. Searched using facial recognition software.

EXCEPTION: Recognition software may be used to analyze the recording of a particular incident when a supervisor has reason to believe that a specific suspect or person in need of assistance may be the subject of a particular recording.
- Are accessible to members based upon the member's rank and assignment within the Department.
- Will be labeled with the proper identification (ID), title, and category(ies) by the uploading member.

RECORDING MEMBERS

- Are responsible for the timely upload, classification, and tagging of their own recordings.

EXCEPTION: Recording uploads conducted by TS personnel.
- Use the dock for uploads unless otherwise authorized by a supervisor or the TS.
- Use the mobile device for playback, tagging, and categorizing in the field prior to docking the BWC, when practical.

- Categorize as *Restricted* accidental recordings that would jeopardize individual dignity or modesty, and document requests for deletion of such recordings on a Form 12L, Intra-Department Correspondence, submitted through their chain of command to the TS.
- Dock their BWC in their assigned dock at the end of their tour of duty where it will remain until the next use, unless otherwise authorized by a shift/unit commander or higher.

MEMBERS UPLOADING SYSTEM RECORDINGS

- Ensure:
 1. The appropriate central complaint (CC) number is properly (i.e., no hyphens or spaces will be used) entered in the *ID* field.
EXCEPTION: Nine zeroes (i.e., 000000000) will be placed in the *ID* field for recordings that are not associated with a particular incident. Officers will also enter a brief description (e.g., accidental recording, desk officer prisoner check, CEW Spark test, etc.) in the *Title* field in these instances.
 2. Any related CC numbers are entered in the *Title* field (e.g., related incidents, warrants, etc.).
- Are responsible for confirming that information entered and/or imported from the Computer Aided Dispatch (CAD) system is correct.
NOTE: Information that is entered incorrectly may result in difficulty locating the video at a later time, incorrect retention periods, and/or a failure to automatically share information with the State's Attorney's Office.

CORPORALS/SERGEANTS/LIEUTENANTS

- Ensure restricted categories have been appropriately applied.

PRECINCT/SECTION COMMANDERS

- Ensure that deficiencies (e.g., uncategorized recordings, recordings given incorrect categories or incorrect CC numbers, etc.) that have been identified by the TS Video Manager for members of his/her command are addressed.

TECHNOLOGY SECTION (TS) VIDEO MANAGER

- Sends notification to precinct/section commanders regarding identified BWC deficiencies (e.g., uncategorized recordings, recordings given incorrect categories or incorrect CC numbers, etc.).

CATEGORIES AND RETENTION

- All categories that apply to the recording will be selected in the *Category* field.
- Members will select at least one primary category (i.e., 1 to 8) for each BWC recording.
- Additional categories will be selected when applicable.
- Investigators should create a case for a video if:
 1. The offense is upgraded or downgraded to ensure the proper retention period is selected.
 2. The jail sentence and/or appeals timeline are found to be longer to ensure the evidence is maintained.
- System recordings will be automatically deleted when the retention period is completed unless held in a case for specific investigatory or judicial purposes.
NOTE: Selection of an incorrect category may cause system recordings to be automatically deleted while they are still needed for specific investigatory or judicial purposes.
- The Department's categories and retention periods are:
 1. *Miscellaneous and Non-Criminal*
 Retention: 18 months.
 Use: Field interviews, non-criminal calls, and accidental recordings.

2. *Routine Traffic*
Retention: 18 months.
Use: Non-jailable and non-arrestable traffic.
 3. *Misdemeanors and Serious Traffic*
Retention: 3 years.
Use: All misdemeanors, jailable and arrestable traffic, and crashes.
 4. *Felony Miscellaneous*
Retention: 10 years.
Use: All felonies not listed in number 5.
 5. *Felony Specified*
Retention: Indefinite.
Use: Homicides, rapes, and first and second degree sex offenses.
 6. *Administrative Investigations*
Retention: 5 years.
Use: Use of force incidents, pursuits, and unusual occurrences.
 7. *CEW Compliance*
Retention: 5 years.
Use: Subject becomes compliant without the discharge of a conducted electrical weapon (CEW).
 8. *Training or Testing*
Retention: 18 months
Use: CEW Spark tests, authorized training, function checks.
 9. *Administratively Restricted*
Retention: 5 years.
Use: A secondary category used to restrict access to a recording. The appropriate primary category must also be selected.
NOTE: When this category is selected, the member will no longer be able to view the recording once it is uploaded, unless they have permission to view restricted recordings.
 10. *Pending Review*
Retention: Indefinite
Use: Technology Section only.
- Members will notify their corporal, sergeant, or lieutenant when categorizing a recording with a restricted category.

16-2.1 ACCESS TO BODY WORN CAMERA (BWC) SYSTEM RECORDINGS AND AUDIT TRAILS

MEMBERS

- Have access to their own recordings, and recordings shared by other members.
- May access recordings for the following purposes:
 1. Report writing or preparation of other official documents.
 2. Court preparation.
 3. Review of prosecution evidence.
 4. Review of victim/witness/suspect statements.
 5. Crime scene observations.
 6. Statement of charges preparation.
 7. Clarifying observations at the scene of an incident.
- Must share recordings with the State's Attorney's Office, upon charging a juvenile suspect.
- Share their recordings with other members and the State's Attorney's Office upon request to further an investigation or for other official purposes.
- Are responsible for proper tagging and categorizing of videos to ensure that videos which require sharing with the State's Attorney's Office are automatically shared.

CORPORALS/SERGEANTS

- Have access to all non-restricted recordings.
EXCEPTION: Corporals who are not detectives have access to their own recordings and other members' non-restricted recordings within their command.
- May access recordings for the following purposes in addition to those listed for members:
 1. Complaint investigation and resolution.
 2. Administrative investigations.
 3. Pursuant to an established Performance Enhancement Plan (PEP).
 4. To further collaborative operational needs.
 5. Auditing to comply with the Line Inspection program.
- Are restricted from accessing recordings for the purpose of:
 1. General performance review.
 2. Routine preparation of performance reports.
 3. Searching, without cause, for policy violations to initiate disciplinary action.
- May share recordings with other members, and the SAO as necessary.

LIEUTENANTS

- Have access to all non-restricted recordings and audit trails.
- May access recordings for the same purposes as those listed for Corporals/Sergeants.
- Have the same restrictions as those listed for Corporals/Sergeants.
- May share recordings with other members, and the SAO as necessary.

SWORN EXECUTIVE CORPS MEMBERS

- Have access to all recordings and audit trails, including restricted recordings.
- May access recordings for the following purposes in addition to those listed for Lieutenants:
 1. Identifying training needs.
 2. Incident critique.
- Have the same restrictions as those listed for Lieutenants.

INTERNAL AFFAIRS SECTION (IAS)

- Have access to all recordings and audit trails.
- May review any recording in the event of an alleged violation of law, or administrative procedure.
- Ensures that members and their representatives are given the opportunity to review all related recordings prior to providing a statement during an administrative investigation.

TECHNOLOGY SECTION (TS)

- May access recordings for the following purposes:
 1. Technical and user support.
 2. Sharing of recordings within the Department beyond those available to field personnel.

TECHNOLOGY SECTION (TS) VIDEO MANAGER

- Has access to all recordings and audit trails.
- May access recordings for the following purposes:
 1. BWC recording system administration:
 - a. Extending retention.
 - b. Sharing of recordings beyond those available to field personnel.
 - c. Reassigning ownership of recordings.
 - d. Selecting/removing a restricted category.
 - e. Pre-deletion review.
 2. BWC policy compliance, including:
 - a. Categorization.

- b. Titling.
- c. Tagging.
- 3. Recording release requests, including:
 - a. Maryland Public Information Act (MPIA).
 - b. Subpoenas.
 - c. Court Orders.
- 4. Redaction and reproduction processing, including:
 - a. *Publicly Releasable*.
 - b. *Person in Interest Releasable*.
 - c. *Non-Releasable*.
- 5. Other Departmental needs as directed by the TS Commander or Chief of Police.

LEGAL SECTION

- May review any recording in the event of an alleged violation of law or administrative procedure, or incident that could result in legal liability.

16-2.2 BODY WORN CAMERA (BWC) SYSTEM RECORDING REDACTION AND REPRODUCTION

GENERAL

- All requests for production of recordings will be sent to the Technology Section (TS) Video Manager.
- BWC recording requests will be fulfilled and redacted in accordance with Department guidelines and all applicable laws.
- In the event that a prosecuting authority (i.e., the State's Attorney's Office, the Maryland State Prosecutor, the United States Attorney's Office or any other criminal or administrative prosecuting authority) has received an open criminal case or an Internal Affairs matter referred to them, the Department will share BWC footage with the prosecuting authority by the end of the next business day, after the prosecuting authority notifies the Department of its investigation.
- BWC recordings requested by the public under the Maryland Public Information Act (MPIA) or subpoenaed by any party will be categorized as:
 1. *Publicly Releasable* - Released to any member of the public subject to public redaction requirements.
 2. *Person In Interest Releasable* - Releasable to a Person in Interest subject to individual redaction requirements.
 3. *Non-Releasable* - Recordings that cannot be released at the time of the request in accordance with legal requirements.

NOTE: The prosecuting authority should be consulted for recordings relevant to a criminal or civil proceeding (e.g., recordings that meet the definition of relevance under the Maryland Rules of Criminal Procedure, the Maryland Civil Rules, or the Federal Rules of Civil Procedure, etc.).

- BWC recordings will be released in accordance with the MPIA.
- Videos may be released at the direction of the Chief of Police without receipt of a formal request.

EXCEPTION: When prohibited by law.

- Voluntary release of a video by the Department absent a formal request, does not preclude persons from making formal requests for release of the full video.

NOTE: Formal requests will be handled in accordance with all applicable laws and Department policy.

- At the discretion of the Chief of Police, BWC footage of an incident in its entirety and without redaction may be viewed with the media subject to federal, state, and local laws governing disclosure of records, with the understanding that only the corresponding BWC footage posted to the Department's public-facing, official website will be provided.
NOTE: This is for the purpose of transparency, clarity, and to assist the media in accurate and complete reporting of the incident.

CHIEF OF POLICE

- Has the authority to modify any aspect of this policy to unilaterally release BWC video if immediate release is required for public safety.
EXCEPTION: Where prohibited by law.
- Has final authority regarding duplications, redaction, release, and deletion of BWC recordings.
- Designates a Video Manager within the Department to act on the Chief's behalf.

LEGAL SECTION

- Shall consult with the prosecuting authority on:
 1. The relevance of BWC footage to a criminal proceeding; and
 2. The release, duplications, redaction, and deletion of BWC recordings, when relevant to criminal proceedings.
- Appears in criminal court proceedings in response to subpoena or discovery requests by defense counsel, when necessary.
- Shall immediately refer subpoenas or discovery requests for BWC recordings in civil matters to the County Office of Law.
NOTE: The Office of Law may determine the relevance of the BWC footage to the civil matter, and may coordinate the release, duplications, redaction, and deletion of BWC recordings. The Office of Law shall appear in civil court proceedings in response to subpoena requests by defense counsel, when necessary.
- Handles MPIA disputes regarding criminal matters.
NOTE: MPIA disputes regarding civil matters will be handled by the County Office of Law.

TECHNOLOGY SECTION (TS) VIDEO MANAGER

- Shall preserve, without redaction, any relevant BWC footage in response to a litigation hold letter from the Office of Law for Baltimore County or a private party.
NOTES:
 1. This does not mean that the BWC footage must be released without redaction.
 2. The litigation hold letter must reasonably identify the BWC footage that is relevant to the litigation.
- Shall immediately release any un-redacted BWC footage to the County Office of Law, upon request.
- Shall, upon receipt of a deletion request for an accidental BWC recording that would compromise the modesty or dignity of a member (e.g., an accidental recording during a bathroom break, etc.):
 1. Assign an appropriate TS supervisor (i.e., a supervisor of the same sex as the member whose modesty or dignity has been compromised, when possible) to confirm the nature of the BWC recording.
 2. Consult with the Legal Section regarding the deletion request.
 3. Upon written advice from the Legal Section, execute an immediate deletion when there is no other duty-related reason to retain the BWC recording.
- Shall identify all relevant BWC footage in response to an MPIA request, subpoena, discovery request, or litigation hold letter.

- Shall consult with the Legal Section in making determinations regarding the release, duplication, deletion, or redaction of BWC recordings requiring an elevated review.
NOTE: An elevated review is conducted for recordings of:
 1. Homicide investigations;
 2. Rape/sex offense investigations;
 3. Strategic and tactical operations that may jeopardize future similar operations;
 4. Domestic violence investigations;
 5. Incidents categorized as Administrative Investigations and/or Administratively Restricted;
 6. Incidents requested by subpoena, court order, or notice of claim;
 7. Officer involved shootings;
 8. Uses of force;
 9. All deaths or serious injuries in police custody;
 10. High profile cases as determined by the TS Video Manager, or designee;
 11. Incidents involving multiple police jurisdictions; and
 12. Any other cases as directed by the Chief of Police.
- May consult the Legal Section in making the determination of the release, duplication, deletion, or redaction of any BWC recordings not requiring an elevated review.
- Ensures redaction of information that is treated confidential as a matter of law (e.g., medical or health information, social security number, etc.) in accordance with applicable Technology Section standard operating procedures, prior to release, when redaction criteria are met.

PUBLIC AFFAIRS SECTION

- Coordinates the viewing of non-redacted videos by members of the media, as described above, upon approval of the Chief of Police.

16-2.2.1 FORMAL REQUESTS

TECHNOLOGY SECTION (TS) VIDEO MANAGER

- Receives, reviews, and processes requests for the production of BWC recordings from court orders and subpoenas.
- Receives, reviews, and processes public requests for copies of BWC recordings in accordance with the Maryland Public Information Act (MPIA), MD. Code Ann. Gen. Provis. §§ 4-401 to 601.
- Estimates, collects, and processes fees associated with request fulfillment in accordance with the MPIA, § 4-206.
- Releases authorized and redacted BWC recordings consistent with Department policy and all applicable laws.
- Sends a denial letter, within 30 days of receipt of the request, explicitly stating the reason, if the release of a BWC recording is not authorized.
- Consults with the Legal Section, and other commands and agencies as needed and directed by the TS Commander.
- Ensures confidential information is not visible/audible prior to the release of a BWC recording.
- Authorizes exceptions to the denial and redaction standards as directed by the Chief of Police.

16-2.2.2 ABSENT A FORMAL REQUEST

DEFINITION

- **Critical Incident** -
 1. An incident involving a use of force by one or more officers that results in the death of or serious physical injury to another;
 2. Any high profile incident that garners a significant public interest or concern; and/or
 3. Any incident in which the Chief of Police determines the release of BWC footage will help enforce the law, preserve the peace, protect people, and/or maintain order.**NOTE:** This definition applies only to this section.

GENERAL

- Absent a formal request, the Chief of Police may release videos of:
 1. Critical incidents; and
 2. Positive actions/interactions involving Department members.
- Release of body worn camera footage will always:
 1. Be done in consultation with the prosecuting authority if the video has the potential to impact a criminal trial and/or involves pending criminal charges; and
EXCEPTION: When videos are unilaterally released by the Chief of Police for public safety.
 2. Balance privacy concerns, the need to comply with federal, state, and local public disclosure laws, full transparency, and the defendant's right to a fair trial.
- Public release of BWC footage in accordance with this policy may be delayed, redacted, edited, or in some cases, the Department may forego public release, in order to:
 1. Comply with federal, state, or local law governing disclosure of records or existing Department procedures;
 2. Protect confidential sources and witnesses;
 3. Protect the rights of the accused (i.e., protect the right to a fair trial);
 4. Protect the identity of victims of sexual assault, victims of domestic violence, and juveniles;
 5. Protect the privacy, life, or safety of any person; and
 6. Protect the location of victims and/or witnesses.
- Sworn members who are significantly involved in a critical incident as defined in this section, or in any other incident deemed appropriate by the Chief of Police, shall be afforded the opportunity to review BWC footage before it is publicly released.
- In cases involving a fatal use of force, immediate family members of the decedent, as determined by the Department, will be afforded the opportunity to review BWC footage before it is publicly released.
- Prior to the release of BWC footage, consideration will be given to privacy rights including an assessment of whether the BWC footage depicts:
 1. Interior places of residences and other places where there is a reasonable expectation of privacy;
 2. Intimate or graphic images;
 3. Images of a person receiving medical attention;
 4. Images of a serious physical injury or a deceased individual;
 5. The location of a domestic violence program;
 6. Information that might reveal the identity of a victim of a sexual assault;
 7. Images of juveniles; and/or
 8. Any other images/information that should not be released, as directed by the Chief of Police.

- Body worn camera footage will not be released for commercial, non-law enforcement, or non-journalistic purposes.
NOTE: This policy is not intended to, and does not create any rights, substantive or procedural, in favor of any person, organization, or party.
- Released BWC footage will be posted to the Department's public-facing, official website for 30 days, after which it may be removed. The posted BWC footage:
 1. May include redactions of faces or other identifying information of involved parties;
 2. May be a reflective sample and/or compilation of available BWC footage; and
 3. Will be subject to all restrictions noted in this policy.

CRITICAL INCIDENTS

- At the discretion of the Chief of Police, after consultation with the prosecuting authority, the Department may publicly release BWC footage within 30 business days of the incident, provided that any initial use of force investigation is completed, and the required notifications have been made.
EXCEPTION: When a non-disclosure period has been granted pursuant to an agreement with the prosecuting authority. The prosecuting authority may request, in writing, a 30-day extension to the Department's release of critical incident BWC footage to the public. In its request, the prosecuting authority should explain, with specificity, how deviating from the standard timeframe for disclosure set forth by the Department is necessary to further the administration of justice. The prosecuting authority's request for an extension will be carefully considered by the Department and the final decision to release BWC footage ultimately rests with the Chief of Police. If the prosecuting authority seeks an additional extension(s), such request(s) should be made in the same manner for each 30-day period, or until the scheduled trial date. If additional trial dates arise, an additional request for extension will be made.
- Release of BWC footage of a critical incident will, at the discretion of the Chief of Police:
 1. Take place at either a news conference or media availability session with a subject matter expert and Public Affairs Section member present to provide context and chronology of the event; or
 2. May be released with written context and without an accompanying live news conference.

POSITIVE ACTIONS/INTERACTIONS INVOLVING DEPARTMENT MEMBERS

- At the discretion of the Chief of Police or designee, the Public Affairs Section may publicly release BWC footage.
- Members aware of footage that may be of interest to the public should notify the Public Affairs Section.

NOTIFICATIONS

- The Chief of Police, or designee will notify the prosecuting authority two business days prior to releasing BWC footage of a critical incident to the public.
EXCEPTION: When the Chief of Police determines that exigent circumstances involving public safety, preserving the peace, and/or maintaining order requires a shorter time period for notice. In these cases, notice must still be provided to the prosecuting authority prior to releasing BWC footage of a critical incident to the public.
- The Chief of Police, or designee will notify the Technology Section (TS) Video Manager and the Public Affairs Section, as soon as possible, when BWC footage is being considered for release.

- The Public Affairs Section will make the following notifications at least 24 hours prior to the release of BWC footage of a critical incident to the public:
 1. Civilian subject(s) of the police action;
EXCEPTIONS:
 - a. If the subject is deceased, the next of kin will be notified.
 - b. If the subject is a juvenile, the parent or guardian will be notified.
 - c. If any of the above parties have retained legal counsel, the legal representative will be notified in lieu of the subject.
 - d. When all reasonable attempts to notify the applicable party have been unsuccessful.
 2. Department members whose BWC footage is to be released;
 3. Department members readily identifiable in the videos and/or significantly involved in the event, as determined by the Chief of Police or designee;
 4. Bureau Chiefs, division commanders, and precinct/section commanders of above listed members;
 5. Baltimore County Fraternal Order of Police; and
 6. Other official agencies involved in the incident or investigation.
NOTE: The Chief of Police has the discretion to make modifications to above notifications (e.g., critical incidents, unrest, etc.).
- The Chief of Police has the authority to modify any aspect of this policy to unilaterally release BWC video if immediate release is required for public safety.
EXCEPTION: Where prohibited by law.