



INDEPENDENT INVESTIGATIONS DIVISION

Interim Report Concerning the Police-Involved Death in
Montgomery County on July 22, 2023

September 28, 2023

**Report of the Independent Investigations Division of the Maryland Office of the
Attorney General Concerning the Officer-Involved Death of
Franklin Adonis Castro Ordonez, on July 22, 2023**

Pursuant to Md. Code, State Gov't § 6-602, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Howard County State's attorney Richard H. Gibson, Jr. regarding the officer-involved shooting of Franklin Castro Ordonez on July 22, 2023, in Silver Spring, Maryland.¹

The IID is charged with "investigat[ing] all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian" and "[w]ithin 15 days after completing an investigation ... transmit[ing] 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 § 6-602(c)(1), (e)(1). Due to a delay in receiving forensic testing results in this case, in contrast to the finality of all other aspects of the investigation, the IID and the State's Attorney agreed that an interim report would be useful. This interim report is being provided to State's Attorney Gibson on September 28, 2023. The IID will supplement this interim report when it receives the relevant forensic analyses.

I. Introduction

At approximately 10:35 a.m. on July 22, 2023, the Montgomery County Police Department ("MCPD") received a 911 call reporting a stabbing at a business in the 12200 block of Veirs Mill Rd. Officers arrived and located the victim, an adult woman. During the officers' initial response, MCPD received a second 911 call reporting that two women had been stabbed in a residential neighborhood near the business. When more officers arrived in that area, they found two adult women suffering from stab wounds and discovered a fourth stabbing victim, an adult man.

After neighborhood residents gave officers a description and the direction of travel of a male suspect, later identified as Franklin Castro Ordonez, numerous officers came to the area to search for him. MCPD Sgt. John Cameron located Mr. Castro Ordonez armed with a knife in the 4300 block of Havard St. and called for backup. Ofc. Justin Lee responded to Sgt. Cameron's call, and upon arrival, exited his patrol car and approached Mr. Castro Ordonez on the sidewalk. Ofc. Lee commanded Mr. Castro Ordonez to "drop the knife" several times, but Mr. Castro Ordonez did not comply. Instead, Mr. Castro Ordonez moved rapidly toward Ofc. Lee while holding the knife as Ofc. Lee gave commands and backed away from him. In response, Ofc. Lee discharged his handgun three times, striking Mr. Castro Ordonez, who fell to the ground. Officers immediately called for emergency medical services and provided aid until paramedics arrived. Mr. Castro Ordonez was pronounced dead on scene.

¹ This report is provided to the Howard County State's Attorney pursuant to an agreement between the Montgomery County State's Attorney's Office and the Howard County State's Attorney's Office whereby each office reviews officer involved civilian fatalities that occur in the other's jurisdiction.

This report includes an analysis of Maryland offenses that could be relevant in a case of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Howard 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 individuals should or should not be charged.²

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officers’ conduct. The IID’s analysis does not consider issues of civil liability or the department’s administrative review of officers’ conduct. Certain information—specifically, compelled statements made by subject officers—may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been considered in the IID’s investigation.

II. Factual Findings

The following findings are based on an examination of the shooting scene as well as a review of body-worn camera footage, dash camera video footage; computer-aided dispatch records; police radio transmissions, recordings, and reports; interviews with civilian and law enforcement witnesses, analysis from the Office of the Chief Medical Examiner, and ballistic analysis. The IID also recovered footage from several private surveillance cameras in the area; one camera captured a stabbing attack on one of the victims, and others captured the shooting and the events preceding it. All of the private footage was consistent with the other evidence. All materials reviewed in this investigation are being provided to the Howard County State’s Attorney’s Office with this report and are listed in Appendix A.

The events described below occurred during daylight with clear weather. Unless otherwise noted, all information provided in this section was obtained from a review of private surveillance video and MCPD body-worn and in-car camera footage.

A. Initial Events

According to MCPD and paramedic dispatch records, beginning at 10:35 a.m., MCPD received multiple 911 calls reporting that a young Hispanic male suspect—later identified as Franklin Castro Ordonez—had stabbed a woman with a large kitchen knife in a store located at 12211 Viers Mill Rd. then fled the premises. A little less than a minute later, MCPD received a second 911 call reporting a stabbing on Colie Dr., a nearby residential street. Officers and paramedics were dispatched to both locations and found four victims: a woman who had been stabbed in the back multiple times at the store; two women who had been stabbed in the neck on Colie Dr.; and a man who had been slashed across the forearm on Colie Dr. Additionally, callers

² Effective October 1, 2023, the IID will have the sole authority, where appropriate, to prosecute police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual. For incidents occurring before that date, the local State’s Attorney retains sole prosecution authority.

and on-scene witnesses told MCPD officers and dispatchers that Mr. Castro Ordonez was last seen between houses on Havard St., a north-south road connected to Colie Dr. In response, multiple officers, including Sgt. John Cameron and Ofc. Justin Lee, began using their patrol cars to establish a perimeter in the area. Sgt. Cameron drove on Colie Dr. toward Havard St., while Ofc. Lee drove on Elby St., approximately two blocks north of Colie Dr.

At 10:44 a.m., a female bystander stopped Sgt. Cameron near the intersection of Colie Dr. and Havard St., a few houses away from where the fourth victim had been attacked. She showed him a photo on her phone that, in her words, were of the “dude that just stabbed a lady”—Mr. Castro

Ordonez. The bystander then told Sgt. Cameron that she had seen Mr. Castro Ordonez walk into a wooded area between two houses on Havard St. At 10:45 a.m., after looking at the photo and directing the bystander toward other officers, Sgt. Cameron turned right at the intersection and radioed, “Put me on Havard between Colie and Littleton where the suspect was seen going into the woods.”

As Sgt. Cameron drove along Havard St., he briefly stopped to ask a male bystander if he had seen Mr. Castro Ordonez, but they were unable to communicate because of a language barrier. Sgt. Cameron continued driving forward, then, at approximately 10:46 a.m., he used a nearby driveway to turn around and drive in the opposite direction. During an interview with IID and MSP investigators, Sgt. Cameron stated that he turned his car around because he saw an unknown person in his peripheral vision, and wanted to find out who it was. Almost immediately after the patrol car had turned around, the person, later identified as Mr. Casto Ordonez, began running toward it from a grassy lot between two houses on the west side of Havard St. He was holding a large kitchen knife and attempted to slash the driver’s side door of Sgt. Cameron’s patrol car with it. During his interview, Sgt. Cameron said that the knife did not actually make contact with the car.

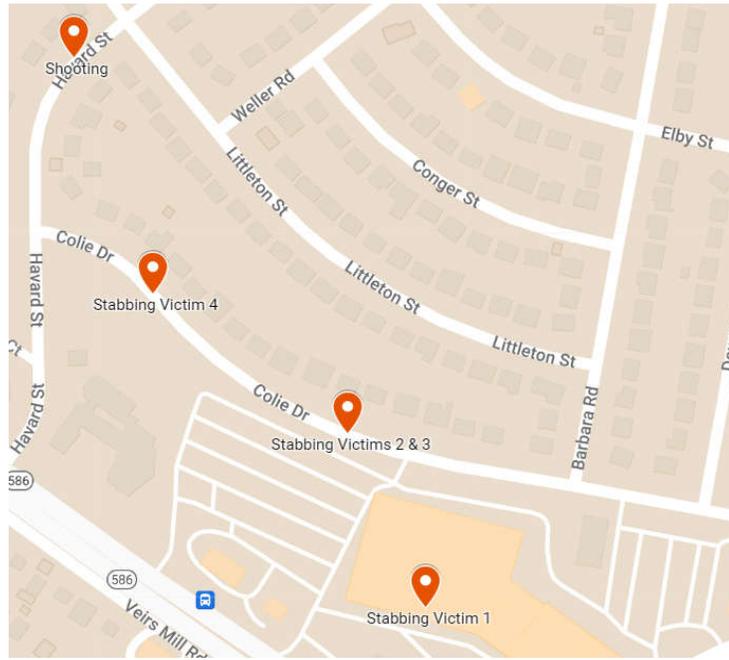


Image 1: A map of the locations of the stabbing victims and the site of the shooting.



Image 2: Still photographs from Sgt. Cameron's in-car camera, showing Mr. Castro Ordonez holding a knife (circled in red) and moving toward Sgt. Cameron's patrol car on Havard St. as it drove toward Colie Dr.

In response, Sgt. Cameron drove away from Mr. Castro Ordonez and relayed the attack to dispatch, saying "Suspect is armed where I'm at, just tried to stab my car." Sgt. Camerson used another driveway to turn his patrol car around a second time, then drove in the direction Mr. Castro Ordonez had run. Immediately afterward, Ofc. Lee radioed that he was heading to Sgt. Cameron's location. In the meantime, Mr. Castro Ordonez briefly ran away from Sgt. Cameron before stopping at the intersection of Havard St. and Littleton St. When Sgt. Cameron saw Mr. Castro Ordonez again, he radioed that Mr. Castro Ordonez was "running up Littleton." Ofc. Lee arrived seconds after Sgt. Cameron's radio transmission and turned left onto Littleton St.

At approximately 10:47 a.m., as Ofc. Lee's patrol car turned onto Littleton St., Mr. Castro Ordonez turned around and walked back towards Sgt. Cameron's patrol car, and Sgt. Cameron radioed, "Got him walking now on Havard, still a knife in his hand." When he got closer to Sgt. Cameron's car, Mr. Castro Ordonez ran forward and again slashed at, and missed, the driver's side door with the knife. Sgt. Cameron reacted by driving forward, making a U-turn, then accelerating back toward Mr. Castro Ordonez, who had moved back toward the grassy lot near the male bystander. Sgt. Cameron slowed down and told the bystander to get away from the area, then drove his patrol car onto the sidewalk, facing toward Mr. Castro Ordonez.



Image 3: Still photograph from Sgt. Cameron's in-car camera, showing Ofc. Lee's car (circled in blue) turning onto Littleton St. and Mr. Castro Ordonez heading toward the driver's side of Sgt. Cameron's patrol with the knife in his hand (circled in red) as it drove toward Littleton St.

B. The Shooting

Around the same time (10:47 a.m.), Ofc. Lee reversed his patrol car down Littleton St., then pulled forward onto Havard St. and radioed, "Black shirt, black pants, red stripe, he's got a knife in his hand, right hand." He then got out of his car, drew his handgun, and ran toward Mr. Castro Ordonez using the sidewalk near [REDACTED] Havard St., yelling, "Give it up man! Drop the knife! Give it up man!" Initially, Mr. Castro Ordonez was facing away from Ofc. Lee, walking downhill in the grassy lot, but he turned toward Ofc. Lee at the sound of the commands.

Mr. Castro Ordonez then ran uphill toward Ofc. Lee for about three seconds; in response, Ofc. Lee began backing away along the sidewalk while saying "He's charging at me, he's charging." At that point, Mr. Castro Ordonez stopped running and walked toward Ofc. Lee along the sidewalk for three to four seconds with the knife held down by his right leg. Ofc. Lee continued backing away and yelling "Drop the knife! Drop the knife! Drop the knife man! Drop the knife!" Mr. Castro Ordonez then broke into a run, closing the distance between himself and Ofc. Lee. Simultaneously, Ofc. Lee radioed, "He's charging at me! He's charging at me! Don't do it! Don't do it!" before firing his handgun three times.



Image 4: Still photos from Ofc. Lee's body-worn camera (L) and Sgt. Cameron's in-car camera (R), showing Mr. Castro Ordonez running toward Ofc. Lee with the knife (circled in red) approximately a second before the shooting.



Image 5: Still photos from a private surveillance camera that captured the shooting, numerically labeled in chronological order. The knife in Mr. Castro Ordonez's hand is circled in red in each picture. Shown are: (1) Mr. Castro Ordonez walking toward Ofc. Lee with the knife; (2) Mr. Castro Ordonez beginning to run toward Ofc. Lee; (3) Mr. Castro Ordonez continuing to run toward Ofc. Lee with the knife; and (4) Ofc. Lee pointing his handgun at Mr. Castro Ordonez about a second before the shooting. The images also show that Ofc. Lee continuously backed away from Mr. Castro Ordonez throughout the encounter.

All three shots struck Mr. Castro Ordonez and he fell to the ground. Ofc. Lee radioed "Shots fired, shots fired! Suspect down! Suspect down!," then moved the knife into a patch of

grass near the sidewalk and radioed dispatch that it had been secured.³ At 10:48 a.m., seconds after the shooting, Sgt. Cameron exited his patrol car, joined Ofc. Lee on the sidewalk, and handcuffed Mr. Castro Ordonez. They were joined by other MCPD officers and two Montgomery County Sheriff's Office (MCSO) deputies shortly afterward, all of whom worked together to administer medical aid to Mr. Castro Ordonez. They located, sealed, and bandaged Mr. Castro Ordonez's gunshot wounds, then checked him for a pulse. The officers did not detect a pulse, so they took turns giving Mr. Castro Ordonez chest compressions until paramedics arrived and took over treatment at 10:55 a.m. Mr. Castro Ordonez was pronounced dead at the scene approximately one minute later.



Image 6: Photo of the knife that Mr. Castro Ordonez had been holding as it was recovered from the scene.

C. Civilian Witness Statements

IID investigators interviewed three civilian eyewitnesses on the day of the shooting. Only two of the witnesses were present on Havard St. before officers arrived; one was the male bystander that Sgt. Cameron tried to speak to, and the other was a neighbor who had been working on a vehicle in his driveway. Both reported that they saw Mr. Castro Ordonez's first attempt to "attack" Sgt. Cameron's patrol car, then saw Ofc. Lee arrive on scene. The third witness arrived around the same time as Ofc. Lee. All three witnesses saw that Mr. Castro Ordonez was armed with a knife and heard Ofc. Lee giving commands while backing away. All three witnesses told investigators that they saw Ofc. Lee fire his handgun to defend himself from Mr. Castro Ordonez.

D. Subject Law Enforcement Officers

Under Maryland law effective July 1, 2022, a police officer must "fully document all use of force incidents that the officer observed or was involved in." Public Safety § 3-524(e)(4). The law does not provide further guidance about what "fully document" means. The MCPD Use of Force Policy requires that "each officer who uses or observes a use of force...is ordered to report the use of force accurately and completely on an incident or supplemental report by the end of their tour of duty," except in cases when an officer uses deadly force. In those cases, another officer must complete the incident report.

All subjects of criminal investigations—including police officers—have a right under the Fifth Amendment not to make any statement. That right also applies to written statements. Thus, if a statement is directly ordered, the result of threat, or otherwise compelled (*i.e.*, not voluntary),

³ When the shooting scene was processed by MSP crime scene technicians, the knife was recovered from the same location that Ofc. Lee placed it, as shown in Image 5.

it cannot be used against an officer in a criminal investigation and should not be considered by criminal investigators. *Garrity v. State of N.J.*, 385 U.S. 493 (1967) (holding that officers' statements made under threat of termination were involuntary); *Department of Public Safety and Correctional Services v. Shockley*, 142 Md. App. 312, 325 (2002) ("the dispositive issue is whether [the supervisor] **demand**ed that the appellee answer the questions") (emphasis in original).

Ofc. Lee declined to be interviewed following the shooting. While on scene, he did not make statements about what happened. He also did not complete a MCPD incident or supplemental report.

E. Witness Law Enforcement Officers' Statements

MSP and IID investigators interviewed the two MCSO deputies who initially provided first aid to Mr. Castro Ordonez. Their statements were consistent with the available evidence and with the factual section of this report, but neither deputy (nor any of the MCPD officers who arrived simultaneously with them) witnessed the shooting or the events that immediately preceded it. Other than Ofc. Lee, Sgt. Cameron was the only other police officer to witness the shooting.

Sgt. Cameron was interviewed by IID and MSP investigators on August 10, 2023. He also made statements on his body-worn camera on the day of the shooting. Like the deputies, the statements that he provided were consistent with the available evidence and the factual section of this report. Additionally, some of his statements, discussed below, provided additional context into his impressions, perceptions, and/or thought processes throughout the incident.

On his body-worn camera shortly after the shooting, Sgt. Cameron recounted his perception of the incident to a fellow officer, saying "There was a guy working on his car right there. And I went up and I turned around and I came back and, yelling at him to get out of his car. Or, get away from his car. And I see Lee in my peripheral, coming this way on foot. I'm picking up the radio and I'm trying to scream in the radio get back in your car, get back in your car, get back in your car. He didn't. And then I come around here, and I pulled up on the curb, and I'm right in the middle of the..." then trailed off.

In his interview, Sgt. Cameron gave investigators further details about the two times Mr. Castro Ordonez attempted to slash at his patrol car. Sgt. Cameron said that after the first time Mr. Castro Ordonez approached the cart, he maneuvered away to give himself time to come up with a plan to safely apprehend Mr. Castro Ordonez. Sgt. Cameron also told investigators that at the time, he believed that he "did not have any way to deal with [Mr. Castro Ordonez] directly, other than to get out of [his] car and engage him one on one." Sgt. Cameron said that he was trying to think of a way to resolve the incident without resorting to using "force on force," because he wanted to take Mr. Castro Ordonez into custody and "didn't want anybody to die on that scene." Sgt. Cameron said that during the second time Mr. Castro Ordonez approached his car, he made a "purposeful stabbing motion" at the driver's side window, near his face. Sgt. Cameron also said that during the second time Mr. Castro Ordonez approached the car, he and Mr. Castro Ordonez were able to make eye contact with each other, and Mr. Castro Ordonez did not appear

intoxicated or confused about what he was doing; instead, Sgt. Cameron stated that he believed he saw “malicious intent” in Mr. Castro Ordonez’s expression. Sgt. Cameron said that after the second attack—and an unsuccessful attempt to get the male bystander to leave the area—he briefly lost track of Mr. Castro Ordonez, and drove his patrol car onto the sidewalk to use it as a barricade between the bystander and a potential attack. Sgt. Cameron stated that once he was on the sidewalk, he realized that he had inadvertently placed himself in potential crossfire, because Mr. Castro Ordonez was moving toward Ofc. Lee with the knife.

Sgt. Cameron stated that he believed Ofc. Lee’s life was in danger at the time of the shooting. Further, based on his own experience and MCPD training and procedures, Sgt. Cameron opined that under the circumstances it would have been inappropriate for an officer to deploy anything other than deadly force. Sgt. Cameron also said that due to various factors—the bystander’s presence, Mr. Castro Ordonez’s actions endangering both the bystander and Ofc. Lee, and the short time and distances involved—he believed that “there wasn’t enough time for Lee to deploy any other option,” and “had I been Lee I would have drawn my firearm as well” to protect the nearby citizen and himself. Finally, he opined that as a police supervisor, he believed that Ofc. Lee’s use of force was “proportional and necessary.”

Sgt. Cameron told investigators that he did not hear Mr. Castro Ordonez say anything during the incident. He also said that he is not Ofc. Lee’s immediate supervisor; they work on the same schedule but are assigned to different patrol areas.

III. Involved Parties’ Backgrounds

As part of its standard investigative practice, the IID obtained information regarding all involved parties’ criminal histories, and the department internal affairs records and relevant training of the involved officer(s). To the extent it exists, any criminal history is being provided to the State’s Attorney’s Office with this report.

Franklin Castro Ordonez was a 19-year-old Hispanic man who lived in Gaithersburg, Maryland.

Ofc. Justin Lee is an Asian man who was 24 years old at the time of the shooting. He had been employed by MCPD since January 31, 2022. Ofc. Lee has no relevant disciplinary complaints or internal affairs records with the Department.

IV. Applicable Policies

This section discusses MCPD policy officers’ use of force, including their decisions to use deadly force. The complete policy is attached as Appendix B.

A. MCPD FC 131– Use of Force

This policy states that MCPD officers may only use force “when under the totality of the circumstances, it is necessary and proportional to prevent an imminent threat of physical injury to a person or effectuate a legitimate law enforcement objective.” The policy defines the use of

force as “the intentional use of any weapon...by a law enforcement officer other than compliant handcuffing or unresisted escorting, in response to the action or inaction of an individual in order to...overcome the resistance of an individual(s) to gain compliance, control, or custody.” It defines “necessary” force as that which is used “only if the officer has no other reasonable alternative(s) under the totality of the circumstances to prevent imminent physical harm or accomplish another legitimate law enforcement objective,” and “proportional” force as “[t]he degree and amount of force that corresponds to, and is appropriate, in relation to the level of resistance or aggression facing the officer, or the objective that the officer is attempting to accomplish.” It also states that officers must take steps to de-escalate a situation “when time, circumstances, and safety allow,” but they are “not required to jeopardize their own safety by pursuing alternatives that are not reasonable under the totality of the circumstances.”

Regarding deadly force, the policy provides: “Officers may use deadly force if such force is necessary, as a last resort due to a lack of reasonable and safe alternatives, to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury.” Factors to be considered in evaluating the totality of the circumstances include: “[w]hether the subject was posing an immediate threat to officers or a danger to the community,” “[p]re-assault indicators – [t]he subject’s actions and statements (as reasonably perceived by the officer at the time),” “[t]he availability of and proximity or access to weapons by the subject,” and “[t]he severity of the crime or suspected offense.” Additionally, the policy provides that officers “shall provide and obtain medical treatment consistent with their training as soon as it is safe and practical for individuals . . . [w]ho show signs of injury as a result of any use of force.”

The policy requires officers who use force to complete use of force reports *except* in cases where deadly force is used or where a firearm is discharged; another officer completes the incident report in those cases.

VI. Applicable Law and Analysis

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

A. Excessive Force

Effective July 1, 2022, the Maryland Use of Force Statute makes it a crime for officers to intentionally use force that is not, “under the totality of the circumstances . . . necessary and proportional to: (i) prevent an imminent threat of physical injury to a person; or (ii) effectuate a legitimate law enforcement objective.” Public Safety § 3-524(d)(1). The statute also requires that “when time, circumstances, and safety allow, [officers shall] take steps to gain compliance and de-escalate conflict without using physical force.” Public Safety § 3-524(e)(1).

To prove excessive force, the State must prove: (1) that Ofc. Lee was a police officer;⁴ (2) that Ofc. Lee used force against Mr. Castro Ordonez; (3) that the force used was not necessary and proportional to prevent an imminent threat of physical injury to Ofc. Lee, another person, or to effectuate a legitimate law enforcement objective; (4) that Ofc. Lee intended to use such force; and (5) that the use of force resulted in serious bodily injury or death to Mr. Castro Ordonez. MPJI-Cr 4:36 Unlawful Use of Force by a Police Officer, MPJI-Cr 4:36 (2d ed. 2022). In determining whether Ofc. Lee’s use of force was necessary and proportional, the factfinder should consider all the surrounding circumstances. *Id.*

The terms “necessary” and “proportional” are not defined by statute or by Maryland case law. However, [an opinion](#)⁵ issued by the Office of the Attorney General concluded that the “necessary and proportional” standard “involves three core principles”:

First, the use of force is not “necessary” unless there is no reasonable alternative to using force that, under the circumstances would safely and effectively achieve the same legitimate ends. Second, even when the use of some force is necessary, the degree and amount of force must correspond to, and be appropriate in light of, the objective that the officer aims to achieve. Third, the proportionality requirement further prohibits an officer from using force if the harm likely to result is too severe in relation to the value of the interest that the officer seeks to protect.

107 Md. Op. Att’y Gen. 33, 66 (Feb. 25, 2022) (emphasis added).

As mentioned above, the statute also provides that the use of necessary and proportional force may be appropriate to “prevent an imminent threat of physical injury to a person” or to “effectuate a legitimate law enforcement objective.” Public Safety § 3-524(d)(1)(i), (ii). “Imminent” is defined as “likely to occur at any moment; impending.” *Howell v. State*, 465 Md. 548, 564 n. 15 (2019).⁶ Officers must have probable cause to believe that an individual poses such an imminent threat. *Estate of Blair*, 469 Md. at 23. Probable cause “means something less than ‘more likely than not.’” *Whittington v. State*, 474 Md. 1, 41 n. 29 (2021) (quoting *Freeman v. State*, 249 Md. App. 269, 301 (2021) (cleaned up)).

The Use of Force Statute does not define “legitimate law enforcement objective,” but other sections of the Public Safety Article provide some guidance. For example, Section 3-701 defines “legitimate law enforcement objective” as “the detection, investigation, deterrence, or

⁴ A “police officer” includes any police officer as defined in Public Safety § 3-201 or a special police officer as defined in Public Safety §3-301. Public Safety § 3-524(b)(3)(i), (ii).

⁵ The Opinions Division is a unit within the Office of the Attorney General that is responsible for answering significant legal questions involving Maryland law or other law that governs the actions of Maryland public officials. The Division issues both formal opinions and less formal advice letters; neither serves as binding precedent, though they may be used as persuasive authority.

⁶ “Imminent” differs from “immediate,” which means “occurring or accomplished without lapse of time; instant; of or relating to the present moment.” *Howell*, 465 Md. at 564 n. 15. However, imminence still requires a reasonable degree of proximity and specificity; a threat that may occur “sometime in the future” is not imminent. *Madrid v. State*, 474 Md. 273, 339 (2021).

prevention of crime, or the apprehension and prosecution of a suspected criminal.” Public Safety § 3-701(a)(7); *see also* Public Safety § 3-509(a)(8) (defining a “legitimate law enforcement purpose” as “the investigation, detection, or analysis of a crime or a violation of the Maryland vehicle laws or the operation of terrorist or missing or endangered person searches or alerts”).

There is no dispute that Ofc. Lee was acting in his capacity as a police officer when he fired at Mr. Castro Ordonez. Nor is there any dispute that Ofc. Lee’s bullets struck Mr. Castro Ordonez and caused his death. Thus, there would be two potential remaining questions for the factfinder. First, a factfinder must determine whether Ofc. Lee’s use of force was necessary and proportional to either counteract an imminent threat of physical injury or to accomplish a legitimate law enforcement objective. Second, if Ofc. Lee’s use of force was excessive, and a factfinder would need to determine if the use of force was *intentionally* excessive.

Regarding necessity and proportionality, Ofc. Lee fired his handgun only when Mr. Castro Ordonez ran at him with a knife, twice, after ignoring repeated commands to drop it. Further, in addition to giving verbal commands, Ofc. Lee had unsuccessfully attempted de-escalation tactics prior to the shooting, including backing away to create distance between himself and Mr. Castro Ordonez. With regard to whether Ofc. Lee had a legitimate law enforcement objective, Mr. Castro Ordonez had stabbed multiple people and attempted to attack a police vehicle with a knife moments before Ofc. Lee approached him. Mr. Castro Ordonez was holding a large knife when Ofc. Lee encountered him, and, as previously mentioned, he did not comply with Ofc. Lee’s commands to give up and drop the knife.

B. Homicide Charges

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. Castro Ordonez; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no mitigating circumstances.” *Id.* Second-degree murder and voluntary manslaughter require the State prove a specific intent to kill. *Chisum v. State*, 227 Md. App. 118, 135-36 (2016). But, “[i]f 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); *see also Chisum*, 227 Md. App. at 133, 136.

Intentional second-degree murder may be reduced to voluntary manslaughter if a defendant acted pursuant to a partial self-defense, partial defense of others, or law enforcement justification. Manslaughter is a common law crime in Maryland. *Bowers v. State*, 227 Md. App.

310, 314 (2016). To prove voluntary manslaughter, the State must prove that the defendant: (1) caused the death of the decedent; and (2) intended to kill the decedent. MPJI-Cr 4:17.2; MPJI-Cr 4:17.3.

Complete self-defense (*i.e.*, the use of deadly force was completely justified) is one possible defense that an accused person could raise against the homicide charges listed above. In addition to proving its case, the State must disprove an assertion of complete self-defense in order to secure a conviction under those charges. Complete self-defense exists where: (1) the accused was not the aggressor; (2) the accused actually believed that [he was] in immediate or imminent danger of death or serious bodily harm; (3) the accused's belief was reasonable; and (4) the accused used no more force than was reasonably necessary to defend [himself] in light of the threatened or actual force. MPJI-Cr 4:17.2; *see also Porter v. State*, 455 Md. 220, 234-36 (2017). If the accused acted in complete self-defense, no charge is appropriate. MPJI-Cr 4:17.2.

Another possible defense is law-enforcement justification. 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 officers “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).

For either of these defenses—self-defense or law-enforcement justification—the reasonableness of the officers' actions “must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated.” *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider “the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham v. Connor*, 490 U.S. 386, 397 (1989)). To reasonably use deadly force, an officer must have “probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others.” *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)). If an officer used more force than was reasonably necessary, “the privilege is lost.” *French v. Hines*, 182 Md. App. 201, 265-66 (2008).

When analyzing the reasonableness of an officer's actions, the United State Supreme Court and Maryland appellate courts have looked to the surrounding circumstances. “Determining whether the [level of] force used to effect a particular seizure is ‘reasonable’ under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual's Fourth Amendment interests against the countervailing governmental interests at stake.” *Randall v. Peaco*, 175 Md.App. 320, 331 (2010) (citing *Graham*, 490 U.S. at 396). “The test of reasonableness under the Fourth Amendment [...] requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Id.* However, “an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm.”

Estate of Blair by Blair, 469 Md. at 24 (emphasis in original). Violations of departmental policy are one “factor to be considered in determining the reasonableness of police conduct.” *Pagotto*, 361 Md. at 557 (citations omitted).

There has not yet been any judicial analysis of how the Maryland Use of Force Statute, discussed above, affects the applicability of this common law reasonableness analysis as it pertains to these defenses. The Use of Force Statute, as detailed above, provides that officers may only use necessary and proportional force. It is possible that the new “necessary and proportional” standard supplants reasonableness as the benchmark against which officers’ conduct should be measured. But it is also possible that the new standard applies only to the new excessive force offense created by the Maryland Use of Force Statute, leaving reasonableness as the appropriate standard for other offenses. The Office of the Attorney General’s Opinions Division concluded that this latter interpretation is more likely for several reasons, including the fact that the General Assembly did not express an intent to supersede the existing reasonableness standard for offenses other than the newly created excessive force crime. [Letter](#) of Assistant Attorney General Rachel A. Simonsen to State’s Attorney Aisha N. Braveboy, Prince George’s County State’s Attorney’s Office (Jan. 18, 2023).

The Opinions Division noted, however, that necessity and proportionality may still be salient factors in the reasonableness determination because the new standard has now been incorporated into law enforcement policies and training statewide. *Id.* The advice letter states: “Maryland’s appellate courts have often considered an officer’s compliance with police department policies or training guidelines when assessing the reasonableness of the officer’s use of force.” *Id.* (citing *Koushall*, 479 Md. at 152, 156 & n.11 (non-compliance with departmental policy “highlight[ed] the [officer’s] unreasonable use of force under the circumstances”); *Albrecht*, 336 Md. at 477-78, 487, 502-03 (noting that “the record [was] replete with evidence . . . that [the officer] did not comply with . . . departmental guidelines, procedures or practices” and, thus, did not act as “act as a reasonable police officer under the circumstances” but, rather acted “in a grossly negligent and reckless manner”); *Pagotto*, 361 Md. at 550-53 (considering three departmental guidelines about how to approach a suspect when analyzing convictions for involuntary manslaughter or reckless endangerment)).

In this case, Ofc. Lee responded to a 911 call in a marked patrol car and in full police uniform, then approached and attempted to apprehend Mr. Castro Ordonez, who was suspected of stabbing multiple people and attempting to attack a police vehicle with a knife. Ofc. Lee initially attempted to end the confrontation by backing away from Mr. Castro Ordonez and giving him verbal commands, but Mr. Castro Ordonez instead advanced toward Ofc. Lee with a knife in his hand. Thus, for those reasons, as well as the reasons discussed in the previous section, the available evidence in this case would make it difficult to prove that Ofc. Lee’s use of deadly force was not in complete self-defense or completely within a law-enforcement justification.

C. Other Charges

There are additional potential charges that are not discussed further because they would merge with the homicide charges discussed above. Those charges include: first-degree assault,

Sifrit v. State, 383 Md. 116, 137 (2004); and reckless endangerment, *Williams v. State*, 100 Md. App. 468, 490-91 (1994). The analysis of these charges would parallel that of the charges above.

There are other charges which could not be proven unless the State proved one of the charges above as a requisite predicate offense. Those charges include: use of a firearm in the commission of a crime of violence, Criminal Law § 4-204(b); and misconduct in office, a common law offense. Specifically, regarding misconduct in office, there is no evidence the officers acted with “a sense of depravity, perversion, or taint” necessary to establish the required corrupt intent. *Sewell v. State*, 329 Md. App. 571, 604 (2018) (citation omitted).

This report has presented factual findings and legal analysis relevant to the death of Franklin Castro Ordonez that occurred on July 22, 2023, in Montgomery County, Maryland. Please contact the IID if you would like us to supplement this report in any other way through further investigation or analysis.



INDEPENDENT INVESTIGATIONS DIVISION

Supplemental Report Concerning the Police-Involved
Death in Montgomery County on July 22, 2023

December 8, 2023

**Supplemental Report of the Independent Investigations Division of the
Maryland Office of the Attorney General Concerning the Police-Involved
In-Custody Death of Franklin Castro Ordonez on July 22, 2023**

The Office of the Attorney General’s Independent Investigations Division (the “IID”) is charged with “investigat[ing] all police-involved incidents that result in the death of a civilian” 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 § 6-602(c)(1), (e)(1).

Due to the delay in receiving the results of the autopsy examination and relevant supplemental testing, in contrast to the finality of all other aspects of the investigation, the IID and the Howard County¹ State’s Attorney (“SAO”) agreed that an interim report would be useful. The IID agreed to supplement the interim report upon receipt of the autopsy examination and other relevant testing. On September 28, 2023, the IID transmitted its interim report to the SAO.

This supplemental report provides the results of the previously outstanding examinations and concludes the IID’s investigation.

I. Autopsy Examination

Franklin Castro Ordonez’s autopsy was conducted by Dr. John A. Stash, deputy chief medical examiner at the Office of Chief Medical Examiner, on July 23, 2023. The IID received the final autopsy report on November 28, 2023. Dr. Stash’s opinion states:

This 19-year-old Hispanic male, FRANKLIN ADONIS CASTRO [OR]DONEZ, died of Multiple Gunshot Wounds. The manner of death is homicide.²

Dr. Stash noted that Mr. Castro Ordonez had suffered three gunshot wounds, and referred to them as Gunshot Entrance Wound A, Gunshot Entrance Wound B, and Gunshot Entrance Wound C.

Gunshot Wound A, on the front of Mr. Castro Ordonez’s neck, came from a projectile that “perforated skin, subcutaneous tissue, muscle, larynx, esophagus, fractured the sixth and seven cervical vertebrae, perforated dura, spinal cord (transected), muscle, and penetrated into a subcutaneous tissue.” The projectile was recovered from Mr. Castro Ordonez’s body during the

¹ This report is provided to the Howard County State’s Attorney pursuant to an agreement between the Montgomery County State’s Attorney’s Office and the Howard County State’s Attorney’s Office whereby each office reviews officer involved civilian fatalities that occur in the other’s jurisdiction.

² 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.

autopsy. Its wound path was directed front to back and downward, and there was no evidence of soot deposition or gunpowder stippling on the surrounding skin. Generally, stippling occurs when unburned gunpowder particles strike the skin at close range (approximately two feet away or closer), so the absence of stippling means that the shot did not occur at close range.³

Gunshot Wound B, on Mr. Castro Ordonez's upper left chest, came from a projectile that "perforated skin, subcutaneous tissue, muscle, fractured the left side of the sternum at the level of the left clavicle/ first rib, perforated aortic arch, trachea... outer layer of the esophagus... fractured the fifth and sixth thoracic vertebrae, perforated dura, thoracic spinal cord (hemi-transected), muscle, and penetrated into subcutaneous tissue." The projectile was recovered from Mr. Castro Ordonez's body during the autopsy. Its wound path was directed front to back, left to right, and downward, and there was no evidence of soot deposition or gunpowder stippling on the surrounding skin.

Gunshot Wound C, on Mr. Castro Ordonez's lower mid right flank, was caused by a projectile that "perforated skin, subcutaneous tissue, muscle, subcutaneous tissue, and skin," then exited the mid right flank. No projectile or projectile fragments were recovered from this wound. Its wound path was directed upward, slightly front to back, and slightly right to left, and there was no evidence of soot deposition or gunpowder stippling on the surrounding skin.

II. Supplemental Testing

To supplement to the available evidence, the IID requested that the Maryland State Police (MSP) Forensic Sciences Division test the knife recovered at the scene for the presence of Mr. Castro Ordonez's fingerprints. There were no latent fingerprints on the knife.

III. Legal Analysis

In the interim report, the IID conducted its legal analysis using the evidence available at that time, which did not include the autopsy report or the supplemental testing results. While the information described in Sections I and II of this report sheds light on several details of Mr. Castro Ordonez's death that were not previously available, it does not contravene any of the previously reviewed evidence or the interim report's factual conclusions. Specifically, the autopsy report corroborates the footage captured by police body-worn and private surveillance cameras, which show that Mr. Castro Ordonez was shot three times by MCPD Ofc. Justin Lee. The supplemental testing does not contradict the video footage that showed Mr. Castro Ordonez wielding the knife during the same period. Accordingly, the supplemental testing and autopsy reports do not change any of the legal analyses in the interim report.

This supplemental report has presented additional factual findings relevant to the investigation into the shooting death of Franklin Castro Ordonez on July 22, 2023, in Silver Spring, Maryland. This report concludes the IID's investigation into this matter. Please contact the IID if you would like us to undertake any additional investigative steps.

³ See J. Scott Denton, MD et al., *Practical Pathology of Gunshot Wounds*, ARCHIVES OF PATHOLOGY & LABORATORY MED., (2006) 130 (9), 1283-89, <https://doi.org/10.5858/2006-130-1283-PPOGW>.

Appendices

Appendix A – Materials Reviewed

911 Calls (14 recordings and 1 certification)
Body Worn Camera Video (87 videos)
CAD Reports (9 items)
Civilian Witness Statements (4 recordings and 1 written)
Dash Cam Video (9 videos)
Departmental Policies (5 items)
IA History and Training Records (2 items)
Lab Reports (4 items)
Medical Records (1 item)
MSP Reports (12 items)
OAG Reports (13 reports)
OCME (15 photographs)
Officer Witness Statements (4 recordings)
Other Video (914 recordings)
Photographs (213 items)
Police Reports (4 items)
Subpoenas (3 items)
Use of Force Reports (1 item)

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

Appendix B – Relevant Montgomery County Police Department Policies

See attached.

Appendix B
Relevant Montgomery County
Departmental Policies



RESPONSE TO RESISTANCE AND USE OF FORCE

FC No.: 131

Date: 07-01-22

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61).

Contents:

- I. Policy
 - II. Definitions
 - III. Force Options
 - IV. Firearms
 - V. ***Conducted Energy Weapons***
 - VI. Less-Lethal Devices
 - VII. Custody and Transport Responsibilities
 - VIII. Use of Force Reporting Requirements
 - IX. Use of Force and Weapons Review Committee
 - X. Training/Certification Requirements
 - XI. CALEA Standards
 - XII. Proponent Unit
 - XIII. Cancellation
 - XIV. Citations***
- Appendix A: Use of Force Report – MCP 37 Criteria for Use

I. Policy

- A. ***This policy establishes the manner in which all officers of the Montgomery County Department of Police ("MCPD") may use force to achieve a legitimate law enforcement objective, when no other peaceful resolution exists, and the obligations officers have before, during, and after a use of force incident.***
- B. This policy recognizes that in certain situations, the use of force is unavoidable and there is no way to specify the exact amount or type of force to be applied in every possible situation. However, this policy serves as a guideline to all department personnel who respond every day to dynamic situations that are tense, uncertain, and rapidly evolving ***that require intervention to protect the lives of the officers or other persons.***
- C. The department respects the sanctity and dignity of every human life. The department is committed to accomplishing this mission with respect and a minimal reliance on the use of force, and by using de-escalation ***when feasible and safe to do so***, to safely resolve a situation without needing to resort to the use of force.
- D. The decision to use force requires careful attention and continual assessment of the situation, threats, options, and risks, with the goal of resolving the encounter peacefully.

- E. Officers may only use force *when under the totality of the circumstances, is necessary and proportional to prevent an imminent threat of physical injury to a person or effectuate a legitimate law enforcement objective. This authority is limited by the applicable laws of Montgomery County, the State of Maryland, federal law, the United States Constitution, and the provisions of this policy.*
- F. In determining the appropriate force to be used by an officer, the nature of the threat or resistance faced or perceived by the officer as compared to the force employed should be considered.
- G. The decision to employ any force, including the use of firearms, may be considered excessive by law and agency policy or both, if it knowingly exceeds a degree of force that was necessary *and proportional based* on the *totality of circumstances of the* specific situation.
- H. Use of force in response to resistance decisions are made under exceedingly varied scenarios and often on a split-second basis, *and officers are not expected to possess all knowledge of every aspect of the interaction, or to act at the time of the interaction as if they had the benefit of perfect hindsight.*

II. Definitions

- A. Active Resistance: Refers to any action or evasive movements a subject takes to avoid or physically counteract an officer's attempts to detain or place them in custody, and/or take control. Active resistance may include but is not limited to pushing away, tensing arm muscles to avoid handcuffing, or pulling away from an officer who is using force in response to resistance in the lawful performance of their duties.
- B. Alternatives: Tactics and methods used by a law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, de-escalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation with reduced, or without the, use of force. With respect to the use of deadly force, such term includes the use of less lethal force.¹
- C. Carotid Restraint: A technique applied in an effort to control or disable a subject by applying pressure to the carotid artery, the jugular vein, or the neck with the purpose or effect of controlling a subject's movement or rendering a subject unconscious by constricting the flow of blood to and from the brain.²
- D. De-escalation tactics and techniques: Proactive actions and approaches used by a law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person's voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical *repositioning* techniques, slowing down the pace of an incident, waiting out a subject, creating distance between the officer and the threat, and requesting additional resources to resolve the incident.³
- E. Deadly Force: Force that creates a substantial risk of causing death or serious bodily injury, including the discharge of a firearm, a carotid restraint, or a neck restraint.⁴
- F. Excited Delirium: *A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphora, hostility, exceptional strength, and endurance without fatigue.*
- G. Exigent: *Situations where there is a pressing or demanding need to take immediate action.*⁵
- H. Less Lethal Force: Any degree of force that is not likely to have a lethal effect.⁶

- I. Medical Treatment: A minimum of an on-scene response by a medically trained professional.
- J. ***Necessary: Force is necessary only if the officer has no other reasonable alternative(s) under the totality of the circumstances to prevent imminent physical harm or accomplish another legitimate law enforcement objective. When force is necessary, the use of force shall be used in a manner that avoids unnecessary injury or risk of injury to all persons involved.***⁷
- K. Neck restraint: A technique involving the use of an arm, leg, or other firm object to attempt to control or disable a subject by applying pressure against the windpipe or the neck with the purpose or effect of controlling a subject's movement or rendering a subject unconscious by blocking the passage of air through the windpipe.⁸
- L. ***Officers: For purposes of this policy, officers mean all sworn law enforcement personnel, and special police and security officers employed by the Security Services Division.***
- M. Passive Resistance: A refusal by an unarmed person to comply with an officer's verbal command or physical control techniques by non-active means. Examples include, but are not limited to, ignoring verbal instructions by failing to respond or move, linking arms, or going limp.
- N. Probable Cause: Facts and circumstances that would lead a reasonable person to believe that a crime has been committed and a particular individual has committed that crime.
- O. ***Proportional: The degree and amount of force that corresponds to, and is appropriate, in relation to the level of resistance or aggression facing the officer, or the objective that the officer is attempting to accomplish.***⁹
- P. Protective Instruments: ***Less-lethal*** devices or tools authorized by the department that are intended to protect the officer or others or to affect an arrest, investigative stop/detention, or seizure ***when other alternatives are unsuccessful in achieving a peaceful outcome.***
- Q. Response to Resistance: Any action other than compliant handcuffing or unresisted escorting that an officer is required to use to compel compliance to arrest an individual suspected of committing a crime, temporarily detain an individual to complete an investigation, or to address an immediate threat to the safety of the public, law enforcement officers, or persons as a result of non-compliance with a legitimate law enforcement purpose.
- R. Restrained Individual: An individual who is under control and is not actively resisting arrest by use of intentional force that threatens serious bodily injury.¹⁰
- S. Scene: The location(s) where force was utilized during an event.
- T. Serious Bodily Injury: Means bodily injury that creates a substantial risk of death, causes a serious, permanent disfigurement, or results in long term loss or impairment of any bodily member or organ.¹¹
- U. Striking: Hitting forcibly and deliberately with a weapon; a body part such as a hand, elbow, knee, or foot; or any other implement.¹²
- V. Totality of the circumstances: All credible facts known to the law enforcement officer leading up to and at the time of the use of force, including the actions of the person against whom the law enforcement officer uses such force and the actions of the law enforcement officer.¹³

- W. Under control: In custody and in restraints, to include handcuffs, and/or is calm and non-combative that it is clear and unambiguous that the subject is compliant.
- X. ***Use of Force: The intentional use of any weapon, instrument, device, means, or physical effort(s) by law enforcement other than compliant handcuffing or unresisted escorting, in response to the action or inaction of an individual in order to control, restrain, or overcome the resistance of an individual(s) to gain compliance, control, or custody.***

III. Force Options

- A. An officer may encounter situations that require not only the officer's presence, but some form of verbal or non-verbal communication. This communication may take the form of providing information, giving commands, physical gestures, or directions, asking, or answering questions, conducting interviews, etc. It may also take the form of issuing specific instructions to individuals or groups, dealing with arguments, verbal assaults, or threats, handling disputes, disagreements, etc. The department recognizes that some situations require the application of force.
- B. All officers have a number of force options available to use in those situations where force is necessary ***and proportional under the totality of the circumstances.*** Examples may include but are not limited to:
1. Subduing or arresting a physically assaultive person
 2. Instances that reasonably threaten the safety of an officer or other person
 3. Stopping a person who is attempting to flee or escape a lawful detention or arrest
 4. When directing, controlling, or escorting resistive or physically uncooperative persons
 5. Other situations where persons who are being placed into custody are non-compliant or resistant to lawful orders
 6. To overcome resistance directed at the officer or others
 7. To prevent physical harm to the officer or to another person
- C. ***Officers will when time, circumstances, and safety allow, take steps to gain compliance and de-escalate conflict without using physical force. De-escalation may include slowing a situation down so that time, distance, cover, and assembling additional resources can be used to an officer's advantage to stabilize the situation and reduce the immediacy of the threat.***
- D. ***Officers shall not intentionally escalate a situation or create the need to use force unless necessary to achieve a lawful purpose. The dynamics of any situation can quickly change which may cause the officer(s) to escalate or de-escalate the type, degree, and amount of necessary and proportional force they are using against an individual.***
- E. ***Officers are not required to jeopardize their own safety by pursuing alternatives that are not reasonable under the totality of the circumstances—circumstances which are likely to include, among other things, the amount of time that the officer has to make a decision and the immediacy of the threat facing the officer.***
- F. ***Officers responding to an attack do not necessarily need to use the exact same type, degree, or amount of force as a subject.***

- G. Officers may not use, or threaten to use, force for the following reasons:
1. To resolve a situation more quickly, unless the extended delay would risk the safety of the person involved, officers, or others, or would significantly interfere with other legitimate law enforcement objectives;
 2. To punish a person or to retaliate against them or to impose punishment;
 3. Based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected classification.
- H. ***Officers shall cease the use of force as soon as the person on whom the force is used:***
1. ***is under the police officer's control;***
 2. ***no longer poses an imminent threat of physical injury or death to the police officer or to another person; or***
 3. ***the officer(s) determine that force will no longer accomplish a legitimate law enforcement objective.***
- I. A person need not strike or attempt to strike an officer to be considered a physical threat (verbal threats, verbal defiance, physical stance, etc.) as long as an officer ***believes*** that the person is physically threatening and has the present ability to harm the officer or another ***person***.
1. Examples of actions or observations that may lead an officer to believe that a person is a threat include, but are not limited to:
 - a. clenched fists;
 - b. displayed hostility or anger;
 - c. verbal threats;
 - d. aggressive stance;
 - e. non-compliance ***with lawful commands***, and
 - f. furtive movements, among other things.
 2. Under the law, officers are not obligated to retreat when confronted with a threat.
- J. The department relies on the officer's judgment and discretion to employ necessary ***and proportional*** force under ***the totality of the circumstances of each situation***.
- K. ***The more immediate the threat and the more likely that the threat will result in death or serious bodily injury, the greater the level of force that may be necessary and proportional to counter it.***

L. Authorized Use of Less Lethal Force

1. Less-Lethal force, as defined herein, may be used if necessary and proportional in order to affect the constitutionally permissible detention of an individual. Examples of such constitutional detentions include, but are not limited to:
 - a. When the officer has probable cause to believe the individual has committed a criminal offense;
 - b. To effect an investigative detention; or
 - c. To effect service of an Emergency Evaluation Petition, Extreme Risk Protective Order, or other similar civil order.
2. Less-Lethal force may involve the use of defensive tactics (hands/body) and/or protective instruments.
3. Although the department issues authorized protective instruments *and equipment*, in exigent circumstances, officers are not prohibited from using *any weapons, means*, object, or instrument *at their disposal regardless of their training and/or the object's intended purpose*, in order to *defend* themselves or others as long as the *weapons, means*, object *or instrument* is used in accordance with this policy.

M. Authorized Use of Deadly Force

1. Officers may use deadly force if such force is necessary, as a last resort due to a lack of reasonable and safe alternatives, to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury. Such force must not create substantial unnecessary risk of injury to a third person.
2. Officers may only use deadly force against a fleeing person if:
 - a. Such force is necessary, as a last resort due to a lack of reasonable and safe alternatives, to prevent imminent and serious bodily injury or death to the officer or another person;
 - b. The use of such force creates no substantial unnecessary risk of injury to a third person; and
 - c. **Probable cause** exists that the fleeing person committed a felony that threatened or resulted in death or serious bodily injury.
3. ***When practical, officers shall attempt to identify themselves as a law enforcement officer and state their intention to use deadly force before using a firearm or employing deadly force.***

N. Unauthorized Use of Force:

Officers are prohibited from the following *actions*:

1. Utilizing a neck or carotid restraint against an individual unless the use of deadly force would be authorized;
2. Shooting at a moving vehicle unless the vehicle is being used as a weapon and/or the circumstances would authorize the use of deadly force;

3. Intentionally placing themselves in the path of a moving vehicle where an officer's use of deadly force would be the probable outcome. When confronted by an oncoming vehicle, officers will move out of its path, if possible, rather than fire at the vehicle;
 4. Shooting from a moving vehicle unless circumstances would authorize the use of deadly force;
 5. Striking a *handcuffed*/restrained individual, ***unless the individual poses an imminent threat of serious bodily injury or death to the officer(s) or another person;*** or
 6. Firing warning shots.
- O. Factors to Consider when Employing Force in Response to Resistance:
1. ***The department relies on the officer's judgment and discretion to employ necessary and proportional force based on the totality of the circumstances of each encounter.***
 2. Factors to consider in ***the evaluation and articulation of the totality of the circumstances*** include, but ***are*** not limited to:
 - a. The seriousness of the crime or suspected offense;
 - b. Whether the subject was posing an immediate threat to officers or a danger to the community;
 - c. The level of threat or resistance presented by the subject;
 - d. The potential for injury to bystanders, officers, or subjects;
 - e. The risk or apparent attempt by the subject to escape;
 - f. Pre-assault indicators - The subject's actions and statements (as reasonably perceived by the officer at the time);
 - g. The time available to an officer to make a decision;
 - h. The training and experience of the officer;
 - i. The availability of and proximity or access to weapons by the subject;
 - j. Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion, and the number of officers available versus number of subjects;
 - k. Whether there is a hostile crowd present at the scene that threatens the safety of officers or others;***
 - l. Environmental factors such as night, day, snow, ice, terrain, etc.
 - m. Known or perceived physical disability and/or perceived abilities of the subject (e.g., known police fighter);
 - n. Previous violent or mental history of the subject known to the officer at the time;
 - o. Perception of the use of alcohol and/or drugs by the subject;

- p. Officer on the ground or other unfavorable position that could compromise the officer's safety and their ability to defend themselves and the safety of bystanders; and
- q. Any other exigent circumstances.

P. Destruction of Animals

1. Humane Destruction of Injured Animals

Officers may discharge their firearms to destroy injured animals when no other reasonable alternative exists. Factors taken into account must include backstop, location, bystanders, etc. When an animal is destroyed, officers must complete the MCP 37, "Use of Force Report," in accordance with Appendix A. An incident report will be completed for the destruction of injured domestic animals (cats, dogs, cattle, horses, etc.). An incident report is not required for the humane destruction of non-domestic animals (deer, raccoons, and other wildlife). Officers will attempt to locate the owner of a destroyed domestic animal.

2. Destruction of Dangerous or Vicious Animals

If an officer destroys a dangerous or vicious animal (domestic or non-domestic) that presents a threat to the safety of the officer or another, an incident report documenting the incident shall be completed in addition to the MCP 37. This includes attempted destruction by firearm. Officers who are confronted by dangerous animals are encouraged to consider the use of non-firearm alternatives, to include a CEW. An MCP 37 is required in cases where an officer uses a protective instrument against a dangerous or vicious domestic animal.

IV. **Firearms**

A. Drawing a Firearm

- 1. Firearms may be drawn whenever officers reasonably fear for their safety or the safety of others.
- 2. ***Officers shall only point a firearm at an individual when circumstances create a reasonable belief that it may be immediately necessary for the officer to use deadly force. When the officer no longer reasonably believes that deadly force may be immediately necessary, the officer shall, as soon as practicable, secure or holster the firearm.***
- 3. ***Although the use of an officer's service weapon under the right circumstances can discourage resistance and ensure officer safety in potentially dangerous situations without the need to resort to actual force, unnecessarily or prematurely drawing a service weapon can limit an officer's force options in controlling a situation, unnecessarily escalate an encounter, and may result in an unwarranted or negligent discharge of the service weapon.***

B. Consideration of Backstop

- 1. When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders.
- 2. When possible, officers should give consideration to background, bystanders, and ***location prior to discharging a firearm.***

V. Conducted Energy Weapons

- A. A *conducted energy weapon (CEW)* is a less-lethal weapon, the deployment of which is a serious use of force.
- B. A *CEW* may only be deployed when an officer is confronted with circumstances that present a risk of immediate danger to the officer or others that is likely to be mitigated by use of the *CEW*.
- C. Use of the *CEW* will be in accordance with the guidance set forth in the department's *Conducted Energy Weapons* policy (FC 133).

VI. Less-Lethal Devices

- A. Less-Lethal Devices are intended to provide a less-lethal use of force option with greater standoff distance than other protective instruments. Officers using these devices will be trained in their use, shall maintain any certifications as required, and shall utilize these devices consistent with the training provided.
- B. All officers who use these devices must ensure that any person struck with a projectile and in custody receives a prompt medical evaluation by emergency medical services and, if necessary, treatment at a hospital. Officers will request that the appropriate emergency medical service provider transport the person.
- C. If emergency medical *services* refuse to transport the person an on-scene supervisor will ensure the person is transported to the hospital by an officer, and the refusal is documented in an incident report. Photos of all injuries will be taken.

VII. Custody and Transport Responsibilities

A. Important Considerations

- 1. Officers must be mindful of certain indicators and/or conditions when detaining or arresting a person. The following conditions and/or indicators may potentially contribute to sudden unexpected death following extreme physical exertion and/or restraint;
 - a. Excited Delirium
 - b. Alcohol or drug use/abuse
 - c. Obesity
 - d. Display of erratic/psychotic behavior
 - e. Incoherent speech
 - f. State of agitation
 - g. Subject intentionally injuring themselves
 - h. Subject disrobing or naked

2. Officers must recognize these factors and closely monitor a subject in custody in the aftermath of a struggle when one or more of the above indicators are present and the scene is secure, and the safety of the officers and bystanders is no longer at risk.
- B. Officers must take appropriate measures so that the individual being transported is able to breathe without restriction and if possible, should lay the subject on their side or seated in an upright position. Officers must avoid transporting subjects in a face-down position whenever possible.

C. Medical Emergencies

1. Officers must immediately summon emergency medical assistance if the subject exhibits or complains of trouble breathing, becomes unresponsive, exhibits reduced levels of consciousness, or if in the officer's opinion the subject requires evaluation or medical treatment.
2. Officers shall render medical aid, consistent with their training, as soon as practical and safe to do so.

D. Medical Treatment

Officers and supervisors shall provide and obtain medical treatment consistent with their training as soon as it is safe and practical for individuals:

1. Who show signs of injury as a result of any use of force;
2. Who request medical attention;
3. When the officer or supervisor reasonably believes an individual is in need of medical attention as a result of any use of force;
4. Who show obvious signs that chemical restraint may be necessary:
 - a. Officers must specifically request an Advanced Life Support Unit (ALS).
 - b. ALS units carry medication which can assist in treating individuals suffering from excited or agitated delirium.
5. Who have been exposed to ***any less-lethal force option including a CEW, protective instrument, or projectile.***
6. ***If it becomes necessary for an officer to transport an individual directly to the closest available medical treatment facility based on exigent circumstances, officers shall immediately notify a supervisor for authorization to do so.***

E. Tactical Medics

1. Tactical Medics of the Emergency Services Unit (ESU) will meet the requirement of on-scene medical treatment, when deployed with the Tactical Section on high-risk incidents such as raids, Emergency Response Team (ERT) incidents, and other Tactical Section Operations.
2. During the course of these operations, Tactical Medics may perform initial treatment and evaluation of injured or ill persons in accordance with Maryland Medical Protocols established by the Maryland Institute for Emergency Medical Services Systems (MIEMSS).

3. Tactical Medics will also document any refusal of medical treatment and/or transport according to Maryland Medical Protocols.
 4. If a higher level of medical care or transport to a medical facility is required, the Tactical Medic will facilitate requesting any additional medical resources.
 5. Decentralized Tactical Medics working in their primary duty assignment (not supporting the Tactical Section) will summons on-scene medical assistance for individuals who require medical treatment as the result of any use of force.
- F. Medical treatment will not be refused for any individual who requests it.
- G. If safety circumstances reasonably dictate moving the subject to another location, officers may have emergency medical *services* personnel meet the officers at a nearby location to assess the subject and render aid.

VIII. Use of Force Reporting Requirements

- A. All uses of force must be submitted on an MCP37 and be documented on an incident report. If multiple officers use force on an event, each officer's use of force must be articulable on its own merits.
- B. Each officer who uses ***or observes a use of force as defined in this policy***, is ordered to report the use of force accurately and completely on an incident or supplemental report by the end of their tour of duty. Exceptions ***to this requirement are when*** an officer:
1. ***Uses*** Deadly force;
 2. ***Uses*** force that causes death or serious injury;
 3. Discharges their firearm in any other incident (other than destroying seriously injured or aggressive wildlife or in training), will not complete an incident report. Another officer will complete the incident report in these cases; or ***is***
 4. ***Injured or disabled and unable to do so.***
- C. When to Report Use of Force or Firearms Discharge

The MCP 37 will be completed in the following circumstances (refer to Appendix A):

1. ***Anytime the intentional use of any physical effort(s), other than compliant handcuffing or unresisted escorting, are used in order to control, restrain, or place an individual in custody.***
2. Following the use of any force which results in an injury to an individual.
3. When an individual claims to have been injured as a result of use of force.
4. Whenever force is applied using a protective instrument.
5. Whenever a firearm is discharged other than authorized target practice.
6. Whenever a department canine inflicts injury on any subject or suspect in conjunction with a canine deployment.

7. Anytime an officer is assaulted or ambushed.
 8. ***Anytime a service weapon, CEW, and/or OC spray is pointed at an individual.***
 - a. ***In those incidents involving Tactical Section officers and Special Events Response Team (SERT) operations and tactics, the following exemption applies:***
 - i. ***the act of sweeping, scanning, or covering an area with a service weapon, CEW, or OC spray while trying to assess/identify potential threats does not constitute a documentable use of force for purposes of this policy;***
 - ii. ***documentation (i.e., MCP 37 and any required event/supplemental reports) is required when an individual is identified as a threat and any service weapon, CEW, or OC Spray is pointed at the individual in an attempt to gain his or her compliance; and***
 - iii. ***although other officers may find themselves in a rare situation similar to that described during Tactical Section and/or SERT operations, the Tactical Section and SERT exemption does not extend to those activities and a MCP 37 and applicable incident/supplement reports are required.***
- D. One Subject - One MCP 37
1. When multiple officers are involved in a response to resistance/use of force incident with one subject, it will be considered a single event for reporting purposes.
 2. Only one MCP 37 is needed unless more officers are involved than can be documented on a single MCP 37; in that case, additional MCP 37s must be completed ***referencing the same CR#***. However, each officer is involved in using force, and the force used by each officer, must be documented on the MCP37.
- E. Multiple Subjects - Multiple MCP 37s
1. When response to resistance/force is used against more than one subject in an incident, a separate MCP 37 must be completed for each subject.
 2. In those instances, where ***SERT*** tactics are used for crowd/riot control during mass disturbances/protests that involve a response to resistance/use of force against multiple subjects whose identities cannot be established, a single MCP 37 will be completed that includes basic known information (e.g., date, time, CR number, location, type of force used, reason, etc.). Additional details related to the incident, including the circumstances and nature of the force used, will be documented in the incident report.
- F. The MCP 37 will be completed prior to the end of the tour of duty and submitted to a supervisor, along with the required incident report and/or supplements. The report will be forwarded, via the chain of command, to the bureau chief who, after review, will forward it to the Policy and Planning Division. No copies of the MCP 37 will be maintained other than those kept by the Policy and Planning Division.
- G. The MCP 37 will be used administratively to evaluate response to resistance/use of force department-wide and will not be used by the Internal Affairs Division (IAD) in any subsequent investigation. An annual report summarizing the data from these forms will be made to the Use of Force and Weapons Review Committee, which, after review, will report its analysis and any recommendations to the Chief of Police.

H. Officer's Responsibilities

1. In every circumstance described in Section VIII.C. above, officers are required to adhere to the following *requirements*:
 - a. On-duty officers must immediately report the incident to their on-duty supervisor. Off-duty officers must immediately report the incident to an on-duty supervisor in the district of occurrence.
 - b. Officers will complete or provide information for the completion of an incident report(s), charging document(s), and/or the MCP 37. If the officer involved in the use of force does not complete some or all of the required documentation, then the reporting officer must ensure the information is accurately recorded.
 - c. The reporting officer(s) will identify the source of the information in the required documentation. If it is investigatively necessary to keep the source out of the required documentation, then the identity of the source will be maintained on notes in the officer's and/or detective's case file.

I. Supervisor's Responsibilities

1. An *on-scene officer* will immediately notify an on-duty patrol supervisor of, and the on-duty supervisor will respond to:
 - a. all *CEW* deployments;
 - b. firearm discharges (except for the humane destruction of non-domestic animals);
 - c. less-lethal device deployment; and
 - d. any use of force that results in any injury that requires first aid, medical treatment, or transportation to a medical facility, or in-custody death.

Note: Supervisors are required to notify the Duty Commander, or a District Executive of the district of occurrence during daytime hours Monday-Friday, of any of the above incidents.
2. Notifications: Supervisors are required to make the below notifications in the circumstances described regardless of whether the involved employee is on or off-duty.
 - a. Homicide Section: Immediately notify a Homicide Section supervisor in the following instances:
 - i. All intentional firearm discharges by an employee, whether injuries occur or not, with the exception of authorized range practice or the destruction of dangerous or injured animals.
 - ii. All unintentional firearm discharges by an employee that result in an injury to anyone, including the involved officer.
 - iii. All incidents where an individual sustains life-threatening injury as a result of police action.
 - b. Internal Affairs Division (IAD): Immediately notify IAD in the following instances:
 - i. All firearm discharges involving departmental firearms and authorized off-duty firearms, regardless of injury (except range practice or the humane destruction of non-domestic animals).
 - ii. Any range practice or destruction of an animal incident resulting in injury.

- iii. Any use of force incident resulting in death or serious injury requiring the immediate hospitalization of a person in police custody.
- iv. Any other event or situation as may be deemed necessary after consultation with an executive officer.
- c. Training and Education Division (TED): Notify the TED to provide a replacement firearm, as appropriate.

In addition to the above notifications, supervisors shall also:

- 3. Complete the MCP 37 if the officer is unable to complete it.
- 4. Review the submitted MCP 37 and any required supplements for accuracy and completeness.
- 5. Review any ***body worn camera system (BWCS) and mobile video system (MVS)*** recordings when officers are involved in a reportable response to resistance/use of force incident. Supervisors shall report potential violations of law or policy through their chain of command in accordance with departmental procedures.
- 6. Ensure that an incident report and any additional reports are completed and submitted if required.
- 7. In incidents involving firearms discharges (except for authorized range practice or for the purpose of destroying animals), the supervisor will complete the MCP 37. In the section for supervisor's comments, the supervisor will indicate that the incident is under investigation and not provide any judgment about the circumstances.
- 8. Forward the MCP 37 and any required supplement reports to the bureau chief via the chain of command prior to the end of the tour of duty.
- 9. In instances where force was used to destroy a dangerous animal (domestic or non-domestic) that presented a threat to the safety of the officer or anyone else, supervisors will forward a copy of the incident report through the chain of command to their respective bureau chief. The bureau chief will, in turn, forward copies of the incident report to IAD for review.
- 10. Remove any officer from line duty who has been involved in any use of force that results in death or serious physical injury and refer them to the department's Traumatic Incident Program in accordance with that program's guidelines. (See FC 310, "Administrative Leave" and Appendix O of the FOP Collective Bargaining Agreement).
- 11. On-duty supervisors in the district of occurrence will ensure that off-duty officers involved in reportable use of force events fulfill the requirements of this ***policy***. The on-duty supervisor will ***ensure that an MCP 37 is completed and submitted which will automatically be routed to the off-duty officer's supervisor.***

J. Executive Responsibilities

- 1. Executives shall review all response to resistance/use of force incidents that occur under the executives' chain of command ***to ascertain compliance with applicable laws, regulations, and the requirements of this policy.*** This will include a review by the respective employee's bureau chief or designee.

2. Executives who observe a potential violation of law or policy shall report such violation to the Director, Internal Affairs Division. This review will include:
 - a. A review of all submitted MCP 37 and associated incident reports, to include any supplement reports.
 - b. A review of all BWCS and *MVS* footage of the incident.

K. Duty to Intervene

1. Every officer has an obligation to ensure compliance, by themselves and others, with department directives and regulations, as well as all applicable laws. Officers must comply with the duty to intervene requirements of Function Code 300, Rule 6 – *Use of Force*.
2. Officers who intervene with another's actual force must report such intervention with their supervisor as soon as practical.
3. Any officer who makes such a report is protected from retaliation consistent with department policy.

L. Unknown Cause Weapons Discharge

2. Whenever a weapons system, such as a firearm, *CEW*, or less-lethal device, discharges by unknown cause, officers are to notify their supervisor immediately. Supervisors are to:
 - a. Ensure medical treatment is provided to any injured parties as provided for by department policy,
 - b. Document any damage to department or civilian property.
 - c. Secure, and treat as evidence, the weapon system and accessories (to include holster) if applicable. Supervisors shall utilize the Crime Scene Unit if necessary.
 - d. Notify a district executive or Duty Commander and the Internal Affairs Division.
2. Contact the Director, Training and Education Division (TED). The Director, TED, or designee, will ensure that:
 - a. A replacement weapon system is provided for an officer.
 - b. The affected weapon system and its' related accessories are seized, treated as evidence, and examined by internal and, if necessary, external subject matter experts.
 - c. A thorough investigation is conducted, and report issued, highlighting the suspected cause of the unknown weapon discharge and, if necessary, recommendations to prevent a future occurrence.
 - d. The investigation shall be separate but cooperative and concurrent to any investigation conducted by the Internal Affairs Division. Such report shall be provided to the Chief of Police no later than 90 days after the unknown cause weapon discharge.

IX. **Use of Force and Weapons Review Committee**

- A. The Use of Force and Weapons Review Committee will ***be responsible for the following:***

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1. Review *of any* use of force incidents referred by a bureau chief, as well as all in-custody deaths and intentional discharges of firearms by department personnel.
 2. Report the results of ~~this~~ *any* review, along with any conclusions or recommendations, to the Chief of Police, as requested.
 3. Focus on overall operations and procedures and not on individuals.
 4. Periodically evaluate the list of authorized departmental firearms and protective instruments and, in coordination with the Joint Health and Safety Committee, make recommendations concerning approval, adoption, and required training/certification.
- B. Information for the committee will be provided by the Policy and Planning Division. Recommendations from the committee will be forwarded to the Labor-Management Relations Committee.
- C. The *Use of Force and Weapons Review* Committee will be comprised of:
1. At least two executive officers from the Patrol Services Bureau (PSB) - (one will be the administrative lieutenant of PSB);
 2. One executive officer from the Investigative Services Bureau;
 3. One executive officer from the Internal Affairs Division (IAD);
 4. One executive officer from the Field Services Bureau (FSB);
 5. The Executive Officer to the Chief of Police;
 6. The Director, Policy and Planning Division;
 7. A representative from the Office of the County Attorney; and
 8. The Director, Training and Education Division, who will serve as the chair of the committee.
- D. Bureau representatives will be appointed by their respective Bureau Chiefs.
- E. The committee will meet at least quarterly.
- F. The chair of the committee may create subcommittees as necessary.
- G. The Policy and Planning Division will be the *sole* repository for the MCP 37 and will provide annual reports to the committee and the FOP.
- H. The Policy and Planning Division will conduct an annual analysis of use of force activities, policies, and practices consistent with MCPD internal requirements and applicable CALEA standards. *The results of this analysis will be shared with Department executives and the Use of Force and Weapons Review Committee.*
- I. The department shall *comply with* all external *reporting requirements* as required by law.

X. Training/Certification Requirements**A. Authorization**

1. ***Each officer shall receive training on the agency's use of force policy, any pertinent legal updates, and the importance of critical decision making and de-escalation.***
2. Only officers who have successfully completed specified training courses and any required recertification courses as determined by the department are authorized to carry and/or use any defensive tactic, protective instrument, less-lethal device, or firearm.

B. Annual Certification

1. Each officer must certify annually with all approved firearms, less-lethal devices, and protective instruments that the officer is authorized to use.
2. Annual firearms certification must meet the standards of the Maryland Police *Standards* and Training Commission and department training standards.
3. Officers who attend, but fail to pass, handgun qualification shall receive remediation training as soon as possible and be provided an opportunity for additional qualification attempts. The Director, TED, shall notify the employee's respective Division Director of the failure and the need for additional remediation.
4. Failure to recertify annually on any firearm, less-lethal device, or protective instrument will withdraw from the officer the authorization to carry or utilize that force option.
5. In the case of the department-issued handgun, the weapon will be immediately turned over to range staff, and the officers' police powers suspended, until recertification is completed. In the case of all other department issued weapons (to include rifles, shotguns, protective instruments, or less-lethal devices), such equipment will be immediately turned in to a sworn academy staff member until recertification is completed.
6. Officers who fail to qualify with their off-duty handgun or personal purchase rifles are prohibited from carrying that weapon until qualified.
7. ***All use of force training, including remedial training, shall be properly documented.***

C. Use of Force Policies

1. Officers will be provided a copy of, and instruction in, the department's *response to resistance*/use of force policy prior to being authorized to carry any firearm or protective instrument.
2. ***Sworn Officers and Special Police Officers (SPOs) are ordered to sign an affirmative written sanctity of life pledge and a training completion affirmation stating that the officer/SPO understands and shall comply with the Maryland Use of Force Statute pursuant to Md. Public Safety Article 3-524.***

XI. CALEA Standards: 6th Edition, 1.2.10, 4.1.1 – 4.1.7**XII. Proponent Unit: Office of the Chief**

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XIII. Cancellation: This *policy* cancels Function Code 131, effective date *05-17-21* and Headquarters Memorandum *22-01 dated 02-01-2022*.

XIV. Citations

1. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
2. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
3. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
4. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
5. *Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/exigent>. Accessed 24 May 2022*
6. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
7. *Maryland Office of the Attorney General Opinion, Maryland Use of Force Statute, Memorandum to the Superintendent of the Maryland State Police dated February 25, 2022.*
8. *Montgomery County Code, Chapter 35-Police; Section 35-6A.*
9. *Maryland Office of the Attorney General Opinion, Maryland Use of Force Statute, Memorandum to the Superintendent of the Maryland State Police dated February 25, 2022.*
10. *Montgomery County Code, Chapter 35-Police; Section 6A.*
11. *Montgomery County Code, Chapter 35-Police; Section 6A.*
12. *Montgomery County Code, Chapter 35-Police; Section 6A.*
13. *Montgomery County Code, Chapter 35-Police; Section 6A.*



Marcus G. Jones
Chief of Police

**Use of Force Report – MCP 37
Criteria for Use**

**Appendix A
FC 131**

Incident	Instructions/Notifications	Reports Required
<ul style="list-style-type: none"> • <i>Anytime the intentional use of any physical effort(s), other than compliant handcuffing or unresisted escorting, are used in order to control, restrain, or place an individual in custody.</i> • When injury occurs from use of force • When injury is claimed to have occurred from use of force • Use of a protective instrument 	<ul style="list-style-type: none"> • MCP 37 and supplement(s) forwarded via chain 	<ul style="list-style-type: none"> • Police report and supplement(s) related to incident as required (MCP 37 referenced) • MCP 37
<p>Intentional discharge of firearm – other than authorized target practice and destruction of animals</p>	<ul style="list-style-type: none"> • MCP 37 forwarded via chain • Immediate notification of IAD and Homicide Section 	<ul style="list-style-type: none"> • Police report related to incident as required (firearm discharge referenced) • MCP 37
<p>Unintentional discharge of firearm <u>with</u> injuries</p>	<ul style="list-style-type: none"> • MCP 37 forwarded via chain • Immediate notification of IAD and Homicide Section 	<ul style="list-style-type: none"> • Police report related to incident as required (firearm discharge referenced) • MCP 37
<p>Unintentional discharge of firearm <u>without</u> injuries</p>	<ul style="list-style-type: none"> • MCP 37 forwarded via chain • Immediate notification of IAD 	<ul style="list-style-type: none"> • Police report related to incident as required (firearm discharge referenced) • MCP 37
<p>Incident resulting in death or serious injury</p>	<ul style="list-style-type: none"> • MCP 37 and supplement(s) forwarded via chain • Immediate notification of IAD and Homicide Section 	<ul style="list-style-type: none"> • Police report and supplement(s) related to incident as required (firearm discharge referenced) • MCP 37
<p>Use of force against a police officer (police officer assaulted/ambushed)</p>	<ul style="list-style-type: none"> • MCP 37 and supplement(s) forwarded via chain 	<ul style="list-style-type: none"> • Police report and supplement(s) related to incident as required (MCP 37 referenced) • MCP 37
<p>Destruction of a non-domestic animal</p>	<p>MCP 37 forwarded to Policy and Planning Division (direct from supervisor via unit commander)</p>	<ul style="list-style-type: none"> • No police report • No CR # (event # required) • MCP 37 only
<p>Destruction of a domestic animal (including attempted destruction by firearm)</p>	<ul style="list-style-type: none"> • MCP 37 forwarded via chain 	<ul style="list-style-type: none"> • Police report related to incident as required (MCP 37 referenced) • MCP 37
<p>Destruction of a dangerous/vicious animal (including attempted destruction by firearm)</p>	<ul style="list-style-type: none"> • MCP 37 forwarded via chain 	<ul style="list-style-type: none"> • Police report related to incident as required (MCP 37 referenced) • MCP 37

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Incident	Instructions/Notifications	Reports Required
Canine (K-9) infliction of injury	<ul style="list-style-type: none">• MCP 37 forwarded via chain	<ul style="list-style-type: none">• Police report related to incident as required (MCP 37 referenced)• MCP 37• MCP 741
<i>Pointing of a service weapon, CEW, or OC Spray at an individual</i>	<ul style="list-style-type: none">• <i>MCP 37 forwarded via chain</i>	<ul style="list-style-type: none">• <i>Police report and supplement(s) related to incident as required (MCP 37 referenced)</i>• <i>MCP 37</i>