



INDEPENDENT INVESTIGATIONS DIVISION

Interim Report Concerning the Police-Involved In-Custody
Death in Baltimore City on August 4, 2022

March 1, 2023

**Interim Report of the Independent Investigations Division of the Maryland Office of the
Attorney General Concerning the Police-Involved In-Custody Death of
Eugene Douglas on August 4, 2022**

Pursuant to Md. Code, State Gov't § 6-602, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this interim report to Baltimore City State's Attorney Ivan Bates regarding the police-involved in-custody death of Eugene Douglas.

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 a 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).

The delay in receiving the autopsy report in this case, in contrast with the finality of all other aspects of this investigation, led the Baltimore City State's Attorney's Office to request the IID to provide this interim report. This interim report is being provided to Baltimore City State's Attorney Bates on February 28, 2023. It is important to note that while the circumstances of Mr. Douglas's death indicate that he likely died from an accidental drug overdose, this has not yet been confirmed by the written autopsy. This interim report premises in its legal analysis on that assumption, but the IID will provide an updated, final report once it receives the autopsy report.

I. Introduction

On August 4, 2022, at approximately 11:15 a.m., Baltimore Police Department ("BPD") officers responded to the 2400 block of Sherwood Avenue for the report of a possible drug overdose. Once on scene, Officer Gregory Vilchez located an adult male, later identified as Eugene Douglas, in distress being restrained by a civilian in the roadway. Officer Vilchez handcuffed and put leg restraints on Mr. Douglas to restrain him and prevent further injury. Emergency medical personnel arrived on scene moments later and began treating Mr. Douglas, who became unconscious. Medics then placed Mr. Douglas on a stretcher and put him inside an ambulance. Once inside the ambulance, Officer Vilchez removed the handcuffs and leg restraints as requested by paramedics. Mr. Douglas was taken to a local hospital, where he was pronounced dead.

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

This interim report includes an analysis of Maryland statutes that may be relevant in a case of this nature. The IID considered the elements of each possible charge, BPD departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Baltimore City State’s Attorney’s Office—not the Attorney General’s Office—retains prosecution authority in this case, this interim report does not make any recommendations as to whether any individual should or should not be charged.

II. Factual Findings

The following findings are based on a forensic examination of the scene as well as review of body-worn camera video, radio transmissions, reports from the medical examiner and interviews with law enforcement witnesses. All materials reviewed in this investigation are being provided to the Baltimore City State’s Attorney’s Office with this interim report and are listed in Appendix A.

A. First Call

On August 4, 2022, at 10:44 a.m., a man called 911 to report a naked man in the middle of the street at the intersection of 25th Street and Harford Road in Baltimore. The caller said that the man was “spazzing out.” Baltimore Police Department Officer Gregory Vilchez and Officer Deborah Murray were dispatched to that location. According to Officer Murray, she and Officer Vilchez were not able to locate anyone fitting the description at that location. They both left the scene and told dispatchers that they did not find anyone matching the description.

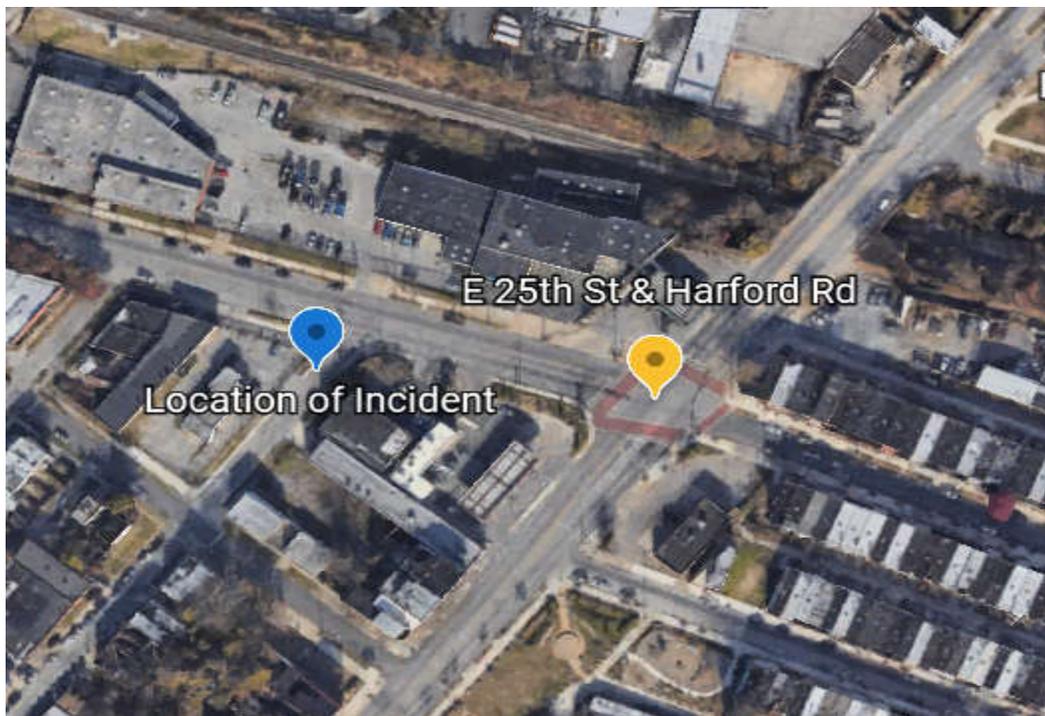


Image 1: Depicts with a yellow marker, the location of the first incident. The blue marker indicates where Mr. Douglas was found.

B. Incident

At 11:15 a.m., an unknown individual called 911 to report that a naked man was “running around in the street. The individual reported that the naked man had been there for at least 30 minutes, and that he might be suicidal. The dispatch officer put the call out as an attempted suicide, and Officer Vilchez and Officer Murray were sent to that location. Officer Vilchez, who was equipped with a body-worn camera, arrived on scene at 11:19 a.m. When he arrived, [REDACTED] and three unknown individuals were with Mr. Douglas in the roadway on Sherwood Ave., near the intersection of 25th Street about one block from the location of the first 911 call¹. For purposes of this interim report, the unknown individuals will be referred to as Civilian A, Civilian B, and Civilian C. Civilian A was on the ground with Mr. Douglas. Civilian A’s back was on the ground and his arms and legs were wrapped around Mr. Douglas. Mr. Douglas was on top of Civilian A with his back facing Civilian A. Mr. [REDACTED] Civilian B and Civilian C were standing around Mr. Douglas.



Image 2: Still photograph from Officer Vilchez' body-worn camera footage. Civilian A is on the ground restraining Mr. Douglas with his arms and legs.

Mr. Douglas was in distress, struggling with Civilian A and yelling out. Civilian A told Officer Vilchez that he was restraining Mr. Douglas because, “he tried to hit his head on the ground.” Mr. [REDACTED] told Officer Vilchez, “til the medics come, we got this right now.” At

¹ IID Investigators, along with BPD, attempted to identify the unknown witnesses on scene, but those attempts were unsuccessful. Those efforts are discussed further in section II(C)(3) of this interim report.

11:20:34 a.m., another unknown individual, who will be referred to as Civilian D, arrived on scene.

Body-worn camera footage shows that at 11:20:43, Civilian A suggested that they, “hit him with another Narcan.” Mr. ██████ can be seen on the body-worn camera footage giving Civilian B a box. One of the civilians on scene said they already gave Mr. Douglas three doses, but Civilian A responded that he could receive up to six. Civilian B administered Narcan to Mr. Douglas at 11:21:12 a.m. as Officer Vilchez put on a pair of rubber gloves. Civilian C is also seen to be holding a box of Narcan. Statements made by the civilians that were captured on Officer Vilchez’s body-worn camera indicate that the civilians on scene administered four or five doses of Narcan to Mr. Douglas. Only one of those doses was administered while Officer Vilchez was present. After this incident, investigators photographed and recovered an empty Narcan bottle at the scene.



Image 3: Photographs of the scene captured a container of Narcan recovered from the scene

Civilian D asked Officer Vilchez, “yo, why you watchin’, bruh?” Officer Vilchez responded, “you guys told me not to touch him, you got him.” Mr. ██████ told Civilian D that they informed Officer Vilchez they were in control until the ambulance arrived. About 30 seconds later, Officer Vilchez bent down and touched the shoulders of Civilian A, who was still on the ground restraining Mr. Douglas. Mr. Douglas began swinging his right arm. Officer Vilchez grabbed Mr. Douglas’ arm with his left hand. He told Mr. Douglas to calm down as he rubbed Mr. Douglas’ upper arm.

As Mr. Douglas continued to struggle with Civilian A, Officer Vilchez used both his hands to hold Mr. Douglas’ arms still. At 11:23:00 a.m., Officer Vilchez handcuffed Mr. Douglas with his hands in front of his body. A civilian on scene poured water on Mr. Douglas’ face. Officer Vilchez went back to his cruiser to retrieve leg restraints and, when he returned moments later, Baltimore City Fire Department (“BCFD”) was tending to Mr. Douglas, who was still being restrained by Civilian A. At 11:23:45 a.m., Officer Vilchez placed leg restraints on

Mr. Douglas with the assistance of members of BCFD and began holding Mr. Douglas' legs still with his hands. They all continued to restrain Mr. Douglas as medics rendered aid.



Image 4: Still image from body-worn camera of Officer Vilchez as he placed handcuffs on Mr. Douglas. Civilian A can be seen with his head at the bottom left of the frame and his legs around Mr. Douglas' waist.



Image 5: Still image from the body-worn camera of Officer Vilchez as Officer Vilchez placed leg restraints on Mr. Douglas.

At 11:24:51 a.m., Civilian A got off the ground and sat on top of Mr. Douglas' hip but was instructed by Officer Vilchez and medics to get off. One minute later, Officer Vilchez stopped holding Mr. Douglas' legs with his hands. Officer Murray then arrived on scene, and medics continued to aid Mr. Douglas. About two minutes later, Civilian A said, "I guess he went to sleep." Civilian B, Civilian C, and Civilian D left the scene at that time without speaking to police or paramedics.

At 11:27:41 a.m., Officer Vilchez assisted medics in placing Mr. Douglas on a stretcher while other medics gave Mr. Douglas oxygen. Civilian A told medics, "I'm not gonna lie, I know he had fentanyl in his pocket, and I ain't see it when I checked his pockets." The medics put Mr. Douglas in the ambulance and Officer Vilchez went back and sat in his car for about two minutes. After Mr. Douglas was put in the ambulance, Civilian A left the scene without speaking to officers or paramedics. Officer Murray went to Officer Vilchez's car and told him to take the handcuffs off Mr. Douglas. Officer Vilchez then exited his car, put on rubber gloves, and got inside the ambulance.

Once inside, Officer Vilchez's body-worn camera captured medics performing chest compressions on Mr. Douglas. At 11:30:08 a.m., Officer Vilchez removed both the hand and leg restraints. While Officer Vilchez was in the ambulance, one medic indicated that Mr. Douglas did not have a pulse. Officer Vilchez got out of the ambulance and told Officer Murray that Mr. Douglas, "was in cardiac arrest right now." He then went back to his cruiser. At some point, Mr. [REDACTED] left the scene without speaking to officers or paramedics. Officer Vilchez asked Officer Murray, "Did everybody clear? Nobody stayed to give a statement?" Officer Murray replied, "No." Officer Vilchez walked back to the ambulance and called the incident in to dispatch.

At 11:41:52 a.m., medics advised Officer Vilchez that Mr. Douglas had a pulse, and they were taking him to Johns Hopkins Hospital. Officer Vilchez got back in his cruiser and followed the ambulance. He arrived at the hospital at 11:49 a.m. [REDACTED]

BPD contacted the Maryland State Police (“MSP”), who notified the IID of the officer-involved fatality. IID personnel responded to the scene and assumed control of the investigation. MSP Detectives also arrived and assigned a lead detective.

C. Medical Examination

The IID has not yet received the written autopsy from the Office of the Chief Medical Examiner. This section will be completed upon receipt of the autopsy.

D. Statements

1. Firefighters and medics

All responding firefighters and medics were interviewed by the IID, MSP, and BPD. Each statement given by the firefighters and medics was consistent with body-worn camera video that was obtained during the investigation. When the medics arrived on scene, Mr. Douglas was already in handcuffs and being restrained by the officers and civilians on scene. None of the medics witnessed Officer Vilchez using any other type of force on Mr. Douglas.

The firefighters and medics all stated in their interviews that Mr. Douglas was only conscious for a short time after medics’ arrival. Medics assisted with getting Mr. Douglas in leg restraints and began rendering aid. The medics, with the assistance of Officer Vilchez, placed Mr. Douglas on a stretcher and put him in the ambulance. Mr. Douglas was unconscious at that point. In the ambulance, Mr. Douglas went into cardiac arrest. Medics then asked Officer Murray to take off the restraints. A short time later, Officer Vilchez went in the ambulance and took the handcuffs and leg restraints off Mr. Douglas. EMS services transported Mr. Douglas to Johns Hopkins Hospital. They turned over the treatment to personnel at the hospital at that time.

2. Law Enforcement Officers

a. Officer Vilchez

b. 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). BPD’s Use of Force Reporting, Review, and Assessment policy, which is attached in Appendix B of this interim report, requires both involved officers and witness officers to thoroughly document the forced used. The policy states that “escorting, touching, or handcuffing a person with minimal or no resistance does not constitute a Level 1 Use of Force.” As such, Officer Vilchez was not required by policy to document this incident.

All subjects of criminal investigations—including police officers—have a right under the Fifth Amendment not to make any statement. Officer Vilchez declined to be interviewed by the IID. However, Officer Vilchez’s body-worn camera captured him on scene telling other officers that when he arrived, there were about three people wrestling with Mr. Douglas on the ground. He said, “He was literally spazzing out, really violent.” Officer Vilchez said that the civilians on scene told him that Mr. Douglas kept trying to bang his head on the ground.

Officer Vilchez said, “When I got there, they were restraining him, so I put handcuffs on him, I put leg shackles also, and as soon as I put the handcuffs, he relaxed.” Officer Vilchez told Lt. Walton, “There was no force used by me, just the people that were restraining him, but they all cleared.” While placing Mr. Douglas in restraints is considered a use of force, Officer Vilchez’s statement is otherwise consistent with the body-worn camera footage.

c. Officer Murray

Officer Murray was interviewed by the IID and BPD on August 18, 2022. Officer Murray’s attorney was present for the interview. Officer Murray said that she and Officer Vilchez responded to a call for a naked man in the street approximately 30 minutes prior to this incident.

Officer Murray said the second call came in as an attempted suicide. Officer Murray said that when she arrived on the scene, Officer Vilchez was already there. She saw Civilian A sitting on top of Mr. Douglas. Medics were also surrounding him, attempting to calm him down. Officer Murray saw that Mr. Douglas had “shackles and handcuffs on him.” Officer Murray described that Mr. Douglas was acting “like a fish out of water” and scraping his head on the ground.

Additional medics arrived on scene shortly thereafter. Officer Murray said that they began rendering aid to Mr. Douglas by turning him on his side. They then put him on a stretcher, put a breathing apparatus on him, and put him in the ambulance. Officer Murray said that one of the medics asked to take the restraints off Mr. Douglas.

3. Civilian Witnesses

a. [REDACTED]

The IID interviewed [REDACTED] on September 27, 2022. Mr. [REDACTED] worked at [REDACTED] which was located across the street from the incident. Mr. [REDACTED] observed Mr. Douglas for several minutes on the day of the incident, prior to the events described in this interim report. He said that Mr. Douglas’ pants were down and he was incoherent and stumbling in and out of the street. Mr. [REDACTED] said that several cars had to slow down and maneuver around Mr. Douglas to avoid hitting him. Mr. [REDACTED] did not call 911, nor did he see police or medics arrive on scene.

b. Other Witnesses

Body-worn camera footage obtained from BPD revealed that two BPD officers spoke with several people in the immediate area on the day of the incident. They told BPD officers that they were not on scene and did not witness the interaction between Officer Vilchez and Mr. Douglas. BPD officers were not able to locate any of the witnesses that were with Mr. Douglas during the incident. Investigators with the IID also spoke with several other people in the local area and left business cards in an attempt to locate these witnesses in the days and weeks following Mr. Douglas' death. The IID was able to identify one individual, Mr. [REDACTED] but he declined to speak with investigators. None of the other civilians that were with Mr. Douglas were located.

III. Involved Parties' Backgrounds

As part of its standard investigative practice, the IID obtained information regarding Mr. Douglas and Officer Vilchez's criminal histories, as well as Officer Vilchez's departmental internal affairs records and relevant training. In this case, this information did not affect the analysis of potential criminal charges.

A. Eugene Douglas

Mr. Douglas was a 57-year-old Black male who lived in Baltimore City. According to Mr. Douglas' cousin, Mr. Douglas was homeless; however, he used the cousin's address in Baltimore County. To the extent it exists, any criminal history is being provided to the Baltimore City State's Attorney's Office with this interim report.

B. Officer Gregory Vilchez

Officer Vilchez was hired by BPD on March 16, 2015, and is currently assigned to the Eastern District of Patrol. He is a 33-year-old Hispanic man. [REDACTED]

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

IV. Applicable Policies

BPD has the following policies concerning overdose and persons in police custody. The complete policies are attached as Appendix B.

A. Overdose Response and Investigation Protocol (Policy 801)

BPD policy provides protocols outlining the way in which officers shall respond to someone experiencing an overdose. These protocols require patrol officers to "request and render medical aid for the victim." For a suspected opioid overdose, the policy requires the officer to

administer Narcan, if trained to do so. The policy then requires officers to treat the location as a crime scene and process the scene accordingly. Lastly, it requires officers to “locate and identify all persons on scene.”

The policy places further protocols in the event of a fatal overdose, which include all the above and require officers to notify their permanent-rank supervisor and the homicide unit.

B. Use of Naloxone/Narcan for Opioid Drug Overdoses (Policy 821)

BPD policy establishes guidelines for the administering of Narcan. Per the policy, officers are trained to look for symptoms associated with opioid overdose to include “1) Unconsciousness, lethargy, and confusion, pinpoint pupils; 2) Shallow or no breathing; 3) Suppressed cardiac function and weakened pulse rate; 4) changes in one’s skin color, generally to blue or gray, especially in the lips, fingertips, or feet.” It specifies that uniformed officers, trained to administer Narcan are issued Narcan kits that they are required to carry during their shifts.

C. Persons in Police Custody (Policy 1114)

BPD policy does not specifically address restraining an individual experiencing an overdose for the safety of themselves or others. However, it does provide that “when there is a ... withdrawal or overdose ... members shall immediately render aid consistent with their training and notify their supervisor and the Communications Section.” It further provides that “the member shall then request that a medic respond to the scene or transport the detainee directly to the nearest hospital emergency room.”

VI. Applicable Law and Analysis

The IID analyzed Maryland statutes and affirmative defenses that could be relevant in a death of this nature. This section presents the elements of each possible criminal charge and analyzes these elements considering the findings discussed above. The interim report focuses specifically on Officer Vilchez’ actions as it relates to putting restraints on Mr. Douglas.

A. Excessive Force

Effective July 1, 2022, the Maryland Use of Force Statute made 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). It further requires that in order to be in violation, the force must result in the “serious physical injury or death of a person.”

Before the Use of Force Statute was enacted, Maryland had no specific crime punishing officers’ use of excessive force. Instead, officers could be charged with the same crimes as any civilian, including force-related crimes such as murder, manslaughter, and assault. Officers could not be convicted of these offenses if they had acted reasonably; that is, if they acted as a reasonable officer would given the circumstances. Now, with the Use of Force Statute, officers

may still face these traditional charges, but they may also face the specific charge of using excessive force if the force they used was not necessary and proportional given the totality of the circumstances.

The Use of Force Statute’s reference to “the totality of the circumstances” likely encompasses several factors that courts have previously considered when evaluating officers’ uses of force, including, but not limited to: the severity of the underlying crime; the existence of an articulable basis to believe that the suspect is armed; the threat, if any, the suspect posed; information known to the officer before the use of force; time of day; how the officer approached the suspect; whether the officer issued a warning or threat to the suspect; whether the officer afforded the suspect an opportunity to respond to commands; the suspect’s statements; the suspect’s mental well-being; attempts to evade or resist arrest; aggressive behavior; and the reactions of other officers to the use of force. *See generally, Graham*, 490 U.S. at 396; *Koushall v. State*, 249 Md. App. 717, 730; *Estate of Blair by Blair*, 469 Md. at 23, 25-26; *Salvato v. Miley*, 790 F.3d 1286, 1293 (11th Cir. 2015); *Deering v. Reich*, 183 F.3d 645, 650-52 (7th Cir. 1999). Also likely factoring into this analysis is the Use of Force Statute’s requirement 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).

The terms “necessary” and “proportional” are not defined by statute or by Maryland case law. However, [an opinion](#) 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).

The Use of Force Statute provides that 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).² Officers must have probable cause 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)).

² “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).

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 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”).

The Use of Force Statute specifically provides that an officer must cease the use of force when either of the above conditions are no longer met, or when the target of the force is under the officer’s control.³ Physical restraint is not a prerequisite to “control.” *Michigan v. Long*, 463 U.S. 1032, 1051 (1983) (“During any investigative detention [*i.e.*, a *Terry* stop], the suspect is ‘in the control’ of the officers in the sense that he may be briefly detained against his will.”) (cleaned up). An individual who is complying with an officer’s commands without physical restraint is under the officer’s control because the officer has a “directing influence” over them. *See Bryant v. State*, 229 Md. 531, 537 (1962) (citations omitted) (applying dictionary definitions of “control,” *i.e.*, “to exercise restraining or directing influence over”); *cf. Bailey v. State*, 412 Md. 349, 371 (2010) (“Although the display of force often involves placing the individual who is seized in handcuffs, application of handcuffs is not a necessary element of an arrest.”); *Henderson v. State*, 89 Md. App. 19, 23 (1991) (suspect was not seized where he “was neither under the physical control of the officers, nor was he acquiescing to their authority”).

Unintentional violations of the Use of Force Statute do not constitute criminal offenses. While it is possible the General Assembly meant only that the officer’s action need be intentional, it is more likely that the General Assembly meant to require that the officer knew the level of force that is permissible and intentionally crossed that threshold. The Office of the Attorney General’s Opinions Division stated in a January 18, 2023, advice letter to the Prince George’s County State’s Attorney’s Office that this latter interpretation was better supported by the plain language of the statute.⁴ Letter of Assistant Attorney General Rachel A. Simmons to State’s Attorney Aisha N. Braveboy, Prince George’s County State’s Attorney’s Office (Jan. 18, 2023). Causation is an essential element that must be proven in order for the State to move forward under this statute. The State is required to prove “but-for causation” (*i.e.*, but for the defendant’s conduct, the death would not have occurred) and “legal causation” (*i.e.*, the ultimate harm was reasonably foreseeable given the defendant’s actions and was reasonably related to those actions). *State v. Thomas*, 464 Md. 133, 152 (2019) (citing *Palmer v. State*, 223 Md. 341,

³ Subsection 3-524(d)(2)(ii) states that an officer must cease the use of force when “the police officer determines that force will no longer accomplish a legitimate law enforcement objective.” (Emphasis added.) This standard seems to be subjective, based entirely on the officer’s own determination. It seems it would be difficult for the State to prove that an officer who continued to use force had already subjectively determined such force to be unnecessary.

⁴ 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.

352-53 (1960)). The chain of causation may be broken by an “unforeseen and intervening event” that more immediately causes the death. *Pagotto*, 127 Md. App. 271, 364 (1999), *aff’d* on other grounds by *State v. Pagotto*, 361 Md. 528 (2000).

Whether there has been sufficient attenuation to break the causal chain is a fact-specific inquiry. In *Pagotto*, an officer was charged with involuntary manslaughter when his gun accidentally discharged during a traffic stop, killing the car’s driver. *Id.* at 358. The then-Court of Special Appeals found that the officer had not legally caused the driver’s death because the driver’s attempted flight from the stop, which may have caused the officer’s gun to discharge, constituted an intervening cause. *Id.* However, in *Goldring v. State*, the same Court held that one street racer was criminally liable for his co-racer’s death, even though it was the decedent who lost control of his car, because the conditions of the race were so inherently dangerous that death was reasonably foreseeable. 103 Md. App. 728, 739 (1995).

In this case, it would be difficult for the State to prove that Officer Vilchez’s force intentionally exceeded that which was necessary and proportional. With respect to necessity, Mr. Douglas was flailing his body on the street and needed to be restrained for his own safety. In theory, another option Officer Vilchez had available to restrain Mr. Douglas was with his hands or body, however, Civilian A had already unsuccessfully attempted that. With respect to proportionality, placing handcuffs was a relatively minor show of force in order to control Mr. Douglas who was in distress. When Mr. Douglas went into cardiac arrest, Officer Vilchez removed both the handcuffs and the leg restraints at the request of the medics.

Further, it would be difficult for the State to prove that Officer Vilchez’ use of handcuffs caused Mr. Douglas’ death. The facts and circumstances surrounding Mr. Douglas’ death indicate Mr. Douglas died as a result of an accidental overdose, and that his death was not related to Officer Vilchez placing him in restraints, presuming the autopsy concludes this. Mr. Douglas’ medical crisis presented an “unforeseen and intervening event” that was contemplated in *Pagotto*. See *Pagotto*, 127 Md. App. at 364.

B. Second Degree Assault

The crime of second-degree assault requires the State to prove: (1) that the defendant caused offensive physical contact to the victim; (2) that the contact was the result of an intentional or reckless act of the defendant and not accidental; and (3) that the contact was not legally justified. MPJI-Cr 4:01 Second Degree Assault, MPJI-Cr 4:01 (2d ed. 2021). “‘Reckless act’ means conduct that, under all circumstances, shows a conscious disregard of the consequences to other people and is a gross departure from the standard of conduct that a law-abiding person would observe.” *Id.*

One possible legal justification for physical conduct is the “law enforcement justification defense,” which acknowledges that every police officer “must commit a ‘technical’ battery in order to make an arrest” and has legal justification to do so, so long as the force used is not excessive. *French v. Hines*, 182 Md. App. 201, 264-65 (2008) (citations omitted). But if the officer uses excessive force in effectuating an arrest, the privilege is lost. *Id.*

Prior to the enactment of the Maryland Use of Force Statute, Public Safety § 3-524, whether an officer's use of force was excessive was evaluated under a standard of objective reasonableness "in light of the facts and circumstances confronting them." *Lombardo v. City of St. Louis, Missouri*, 594 U.S. ___, 141 S. Ct. 2239, 2241 (2021) (per curiam) (quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989)); *accord State v. Pagotto*, 361 Md. at 555 (applying the *Graham* reasonableness standard). In determining whether an officer's use of force was reasonable, attention was to be paid to "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396.

There has not yet been any judicial analysis of how the Maryland Use of Force Statute, effective July 1, 2022, affects the applicability of this reasonableness analysis. The Use of Force Statute, as detailed in Section IV(A) above, provides that officers may only use necessary and proportional force. It is possible that this standard completely supplants reasonableness as the benchmark against which officers' conduct should be measured. On the other hand, it is possible that the necessary and proportional 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). However, the opinion notes that necessity and proportionality would presumably be important factors in the reasonableness determination because of the new statutory standard and because this standard has now been integrated into police department policies statewide.

In this case, there is little evidence to prove that Officer Vilchez did not act pursuant to the law enforcement justification. When officers arrived on scene, Mr. Douglas was being restrained by civilians to prevent him from hurting himself, such as by banging his head on the asphalt street. As Mr. Douglas was struggling with a civilian, Officer Vilchez placed his hands on Mr. Douglas' arm in what appeared to be an attempt to calm him. When Mr. Douglas attempted to flail his arms, Officer Vilchez used a firmer grip and placed handcuffs in the front of Mr. Douglas' body. He subsequently placed leg restraints on Mr. Douglas, which he later removed when requested to do so by the medics. Given Mr. Douglas' actions, there is no evidence to suggest that placing handcuffs and leg restraints on Mr. Douglas was unreasonable or otherwise excessive under *Graham*.

C. Reckless Endangerment

The crime of reckless endangerment requires that State prove: (1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; (2) that a reasonable person would not have engaged in that conduct; and (3) that the defendant acted recklessly. MPJI-Cr 4:26B Reckless Endangerment, MPJI-Cr 4:26B (2d ed. 2021). "The defendant acted recklessly if he was aware that his conduct created a risk of death or serious physical injury to another and then he consciously disregarded that risk." *Id.*

The actions at issue in a reckless endangerment charge are the “reckless conduct and not the harm caused by the conduct. . .,” *Minor v. State*, 326 Md. 436, 442 (1992). Whether the defendant’s conduct created a substantial risk of death or physical injury is an objective determination and is not dependent upon the subjective belief of the defendant. *Id.* at 443. “The test is whether the . . . misconduct, viewed objectively, was so reckless as to constitute a gross departure from the standard of conduct that a law-abiding person would observe, and thereby create the substantial risk that the statute was designed to punish.” *Id.* The requisite gross departure is satisfied by negligence that is “gross or criminal, *viz.*, such as manifests a wanton or reckless disregard of human life.” *Mills v. State*, 13 Md. App. 196, 200 (1971) (interpreting voluntary manslaughter), cert. denied, 264 Md. 750 (1972). A substantial risk of harm must be created and then disregarded for a defendant to be guilty of reckless endangerment. *Williams v. State*, 100 Md. App. 468, 503-04 (1994).

As noted above, the available evidence does not indicate the officer’s conduct was reckless, as Mr. Douglas was experiencing a medical emergency which caused him to engage in violent behavior that put himself at risk of harm.

D. Involuntary Manslaughter

The crimes of first-degree murder, intentional second-degree murder, and voluntary manslaughter do not warrant analysis given the facts of this incident. First, there is a lack of any requisite intent on behalf of the involved officer as evidenced by their behavior during his interaction with Mr. Douglas. Second, there is a lack of causation between the Officer Vilchez placing Mr. Douglas in restraints and Mr. Douglas’ death. Those homicide-related charges are addressed briefly below.

The crime of involuntary manslaughter requires the State to prove: “(1) that the defendant acted in a grossly negligent manner; and (2) that this grossly negligent conduct caused the death of [Mr. Douglas].” MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d Ed. 2021). Gross negligence is conduct which “amount[s] to a wanton and reckless disregard for human life.” *Duren v. State*, 203 Md. 584, 588 (1954). The Court of Appeals has held that, “a violation of police guidelines *may* be the basis for a criminal prosecution.” *State v. Pagotto*, 361 Md. at 557 (citing *State v. Albrecht*, 336 Md. 475, 502-03 (1994)) (emphasis in original). The Court clarified that, “while a violation of police guidelines is not negligence *per se*, it is a factor to be considered in determining the reasonableness of police conduct.” *Id.* (citations omitted). Maryland courts have considered officers’ policy violations as evidence of negligence, recklessness, unreasonableness, and corrupt intent. *See, e.g., Albrecht*, 336 Md. at 503; *Pagotto*, 361 Md. at 550-53; *Koushall v. State*, 249 Md. App. 717, 728-29 (2021), *aff’d*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022); *Kern v. State*, No. 2443, Sept. Term 2013, 2016 WL 3670027, at *5 (Md. Ct. Spec. App. Jul. 11, 2016); *Merkel v. State*, No. 690 Sept. Term 2018, 2019 WL 2060952, at *8 (Md. Ct. Spec. App. May 9, 2019); *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 398 (2006) (civil litigation). However, a “hypertechnical” violation of policy, without more, is not sufficient to establish gross negligence. *Pagotto*, 127 Md. App. at 304.

It is unlikely the State could prove Officer Vilchez was grossly negligent in his response to Mr. Douglas, in part, because the evidence suggests they were acting within BPD policy. While awaiting paramedics, Officer Vilchez attempted to calm Mr. Douglas by rubbing his arm and using restraints to ensure that Mr. Douglas did not harm himself further or the civilians on scene. Additionally, as to the second element of an involuntary manslaughter charge, there is also no basis to conclude that the Officer Vilchez caused Mr. Douglas' death.

E. Misconduct in Office

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

While the State need not show direct evidence of intent when alleging malfeasance, as discussed above, the available evidence does not indicate that Officer Vilchez engaged in an unlawful act. *See Pinheiro v. State*, 244 Md. App. 703, 722 n. 8 (2020). Regarding misfeasance and nonfeasance there is no evidence that Officer Vilchez acted with a corrupt intent, defined as “depravity, perversion, or taint.” *Id.*

As noted above, the elements for nonfeasance in office are similar to that of malfeasance with the exception that the State would be required to prove that an officer failed to act when he was required to. The available evidence does not suggest that Officer Vilchez' lack of action when he initially arrived on scene constituted a willful abuse of authority, let alone a lack of judgment. To the contrary, when Officer Vilchez arrived on scene, his actions fell within BPD policies. Medics were enroute, and Mr. Douglas was being restrained by a civilian when Officer Vilchez arrived on scene. Mr. Douglas was not displaying symptoms that required the administering of Narcan per BPD policy.

VII. Conclusion

This interim report has presented factual findings and legal analysis relevant to the death of Eugene Douglas that occurred on August 4, 2022, in Baltimore City, Maryland. Please contact the IID if you would like us to supplement this interim report in any other way through further investigation or analysis. The final report will be transmitted upon receipt of the autopsy report.

Appendices

Appendix A – Materials Reviewed

911 Calls (1 recording)
Body Worn Camera (5 videos)
Cad Reports (1 item)
Civilian Witness Statements (7 Videos and 1 audio recording)
Departmental Policies (3 items)
IA History and Training Records (3 items)
Medical Records (3 items)
OAG Reports (23 items)
OCME (8 photographs, 1 conference sheet, and 1 property receipt)
Officer Witness Statements (2 videos and 1 written interview notes)
Other Video (1 Video)
Photographs (104 photographs)
Police Reports (7 items)
Subpoenas (4 items)
Use of Force Reports (4 items)

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

Appendix B – Relevant Baltimore City Policies

See attached.

Appendix B
Relevant Baltimore City Policies



Policy 725

Subject USE OF FORCE REPORTING, REVIEW, AND ASSESSMENT	
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By Order of the Police Commissioner

POLICY

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

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

CORE PRINCIPLES

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

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

Level 1 Use of Force — Includes:

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

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

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

execution of SWAT team or federal task force duties.

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

Level 2 Use of Force — Includes:

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

Level 3 Use of Force — Includes:

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

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

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

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

GENERAL

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

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

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

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

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

Level 2 Use of Force

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

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

Level 3 Use of Force

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

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

REQUIRED ACTION

Supervisor Responsibilities: Conducting a Use of Force Review

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

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

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

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

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

Level 1 Use of Force

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

Level 2 Use of Force

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

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

Supervisor Responsibilities On-Scene:

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

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

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

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

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

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

Level 3 Use of Force

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

Lieutenant

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

Executive Officer/Captain (If applicable to the command)

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

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

Commanding Officer

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

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

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

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

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

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

Division Chief

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

Use of Force Assessment Unit Member

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

UFAU Supervisor

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

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

UFAU Commander

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

UFAU Administrative Coordinator

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

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

Use of Force Statistical Data Collection and Reporting

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

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

APPENDICES

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

ASSOCIATED POLICIES

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

RESCISSION

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

COMMUNICATION OF POLICY

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

APPENDIX A

Form 93, Weapons-Pointing Report

Form 93/19
Weapons-Pointing Report

Incident CC#: _____ Supervisor's Name: _____

Date & Time of Incident: _____ Supervisor's Assignment: _____

Location of Incident: _____ Today's Date: _____

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

Please provide a brief narrative describing the incident:

Supervisor's Signature: _____

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

APPENDIX B

Force Report, Form 96

POLICE DEPARTMENT BALTIMORE, MARYLAND

USE OF FORCE STATEMENT Form 96/19

Date: _____

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

Date _____ Time _____ Location _____

TO: _____ (Commander of member who used force)

FROM: _____ (Member who used force and Seq#)

SUBJECT: Force Statement

Date: _____ Time: _____ Location: _____ CC#: _____

I respectfully report the following facts:

Page _ of _

Please sign at the bottom of your statement

APPENDIX C

Use of Force Review, Form 99

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

APPENDIX C

Use of Force Review, Form 99

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

APPENDIX C

Use of Force Review, Form 99

Subject of the Use of Force:

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

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

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

If firearm involved: Caliber: _____ Make/Model: _____ Serial#: _____ Stolen:

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

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

What/where on their body? _____

How were injuries sustained? If Other, Explain: _____

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

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

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

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

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

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

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

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

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

APPENDIX C

Use of Force Review, Form 99

Involved Member(s):

Name: _____ Sequence#: _____ Assignment: _____

Race: _____ Sex: _____ Age: _____ Years of Service: _____ Prior Military Service: _____

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

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

Explain the nature of this Officer's injury: _____

Officer's condition: _____

Type of Force Used by this Member:

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

Explain in detail; below:

[Empty text box for explanation]

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

Explain in detail; below:

[Empty text box for explanation]

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

Explain in detail; below:

[Empty text box for explanation]

Body Worn Camera for this member:

Was this Officer issued a BWC? Yes No

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

If No, Explain why: _____

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

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

If No, Explain why: _____

In the event of a Malfunctioning Device for this Member:

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

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

Please Explain: _____

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

If No, Explain: _____

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

If No, Explain: _____

Click for Additional Involved Member

Delete Additional Involved Member

APPENDIX C

Use of Force Review, Form 99

De-Escalation:

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

Damaged Property Personal / Departmental:

Was there any property damage? Yes No If Yes, to whose property?
Name: _____ Address: _____ Phone#: _____
Describe damage:

Were photographs taken of the damage? Yes No If Yes, by whom: _____

Area Canvass:

Was an area canvass completed? Yes No If Yes, describe area/perimeters including street names:

Aside from BWC, were there any CCTV Cameras or private cameras in the area?
CCTV Camera(s): Yes No Location(s): _____
Private Camera(s): Yes No Location(s): _____
Other (I.E. cell phone): Yes No Owner/Location(s): _____
If footage was found, did you attempt to secure and review it? Yes No If No, Explain: _____
If footage was found, did you complete a Video Retrieval Request and submit to CECU? Yes No If No, Explain:

APPENDIX C

Use of Force Review, Form 99

Additional Witnessing Officers:

What other Departmental members were present when the UOF occurred?

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

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

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

Witness Information:

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

If No, Explain: _____

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

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

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

If Yes, save and upload to system.

APPENDIX C

Use of Force Review, Form 99

Counseling, Training and Misconduct Referrals:

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

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

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

If Yes, explain in detail:

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

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

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

If Yes, list the Date & Time: _____

If No or N/A, explain in detail: _____

Rendering of Opinion:

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

Explain your reasoning in detail:

Signed By _____ Date:

APPENDIX D

Public Safety Statement, Form 97

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

APPENDIX F

Use of Force Review Submission Table

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

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

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



Policy 801

Subject	
OVERDOSE RESPONSE AND INVESTIGATION PROTOCOL	
Date Published	Page
23 September 2016	1 of 5

By Order of the Police Commissioner

POLICY

1. **Sanctity of Human Life.** The policy of the Baltimore Police Department (BPD) is to value and preserve human life in all situations.
2. **Overdose Investigations.** Opioid-related overdose fatalities in Maryland increased by 106% between 2011 and 2015, and are expected to continue to rise¹. The BPD shall thoroughly investigate overdose cases to ascertain the source of supply for the chemical substance and assign criminal culpability where appropriate.
3. **Maryland Good Samaritan Law.** A person who, in good faith, seeks, provides, or assists with the provision of medical assistance for a person experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal prosecution for a violation of 5-601, 5-619, 5-620, 10-114, 10-116, and 10-117 of the Criminal Law Article if the evidence for the criminal prosecution was obtained solely as a result of the person's seeking, providing, or assisting with the provision of medical assistance. Additionally, a person who reasonably believes that they are experiencing a medical emergency after ingesting or using alcohol or drugs shall be immune from criminal arrest, charge, or prosecution for violation of the above statutes if the evidence for the criminal arrest, charge, or prosecution was obtained solely as a result of the person seeking or receiving medical assistance.

REQUIRED ACTION

Non-Fatal Overdose

Patrol Response

1. Render/request medical aid for the victim.
2. If opioid overdose is suspected, administer Naloxone® if trained to do so (See Policy 821, *Use of Naloxone/Narcan for Opioid Overdoses.*)
3. Locate and identify all persons on scene.
4. Obtain initial factual information from all individuals involved/on scene. Be mindful that family members and associates can provide valuable information about the victim's history of

¹ Maryland Department of Health and Mental Hygiene – Overdose Death Report, June 2016.

addiction/drug abuse as well as possible suppliers and locations where the victim may have purchased the illegal substance.

5. Treat the location as a potential crime scene. Establish a crime scene log, when necessary.
6. Obtain the cell phone and home phone numbers of the victim. Attempt to gain consent to view the cell phone for any text messaging, photographs, or phone numbers that may be related to the source of supply for the overdose substance.

NOTE: Members issued a BWC shall memorialize the attempt to gain consent, as well as record the viewing of the contents of the cell phone into the BWC.

7. Process the scene. This shall include photographing evidence, if necessary, with a BPD-issued digital camera or mobile device.
 - 7.1. In cases of prescription overdose, photograph prescription pill bottles.
8. Secure and submit all evidence. This may include:
 - 8.1. Any suspected controlled dangerous substances or chemical agents believed to have been ingested by the victim.
 - 8.2. Drug paraphernalia (e.g., hypodermic syringe, gelatin capsules, spoon, aluminum foil, glass pipe, etc.).
 - 8.3. CCTV footage.
9. Complete/submit a Crime Incident Report, titled "Overdose," before the end of your tour of duty. The report must contain the following information:
 - 9.1. Victim, witness and/or suspect name, address, date of birth, telephone numbers, and additional pertinent identifying information.
 - 9.2. Detailed crime scene description to include all items of evidence recovered.

NOTE: Include any monikers or identifying markings/characteristics on paraphernalia (e.g., symbols, stars, words/names, colored capsules, etc.) as this may assist investigators with identifying where and from whom the substance was purchased.

- 9.3. Identity of all persons on scene and information they provided.
- 9.4. In cases of prescription overdose (or state if the information is not available):
 - 9.4.1. Medication type, dosage, date prescription was issued, and physician's name.
 - 9.4.2. Name of the pharmacy identified on the prescription container.
 - 9.4.3. Pharmacy prescription number.
 - 9.4.4. Name and address of patient on the label.

Policy 801	OVERDOSE RESPONSE AND INVESTIGATION PROTOCOL	Page 3 of 5
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- 9.4.5. Number of tablets/capsules the victim ingested and remaining pill count.
- 9.4.6. Reason for the medication.
- 9.5. In cases involving other chemical agents, attempt to identify the substance and its source, and include such information in the Crime Incident Report.
- 9.6. Name of hospital where the victim was transported (when applicable).
- 9.7. Information related to the possible source of supply for the overdose substance, obtained through a lawful search of the cell phone, such as:
 - 9.7.1. Phone numbers.
 - 9.7.2. Contact names.
 - 9.7.3. Text messages.
 - 9.7.4. Photographs/videos.
 - 9.7.5. Social media information.
- 10. Complete/submit a Heroin/Opioid Overdose Report (See Appendix A).

Patrol Supervisor

- 1. Respond to the scene of the call.
- 2. Ensure the scene has been processed and all evidence submitted to the Evidence Control Unit (ECU).
- 3. Ensure all reports have been submitted and are complete and accurate.
- 4. Scan and email the Heroin/Opioid Overdose Report (see Appendix A), the Crime Incident Report, and any photographs, property receipts, etc. to Overdose@Baltimorepolice.org.

Fatal Overdose

Patrol Response

- 1. Notify a permanent-rank supervisor to respond to the scene.
- 2. Notify the Homicide Section.
- 3. Be guided by the Homicide Section primary investigator for further investigatory actions/reporting.
- 4. Seize/submit all cellular telephones or mobile devices belonging to the victim or suspects.

Policy 801	OVERDOSE RESPONSE AND INVESTIGATION PROTOCOL	Page 4 of 5
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Patrol Supervisor

1. Respond to the scene of the call.
2. Ensure the scene has been processed and all evidence submitted to the Evidence Control Unit (ECU).
3. Ensure all reports have been submitted and are complete and accurate.
4. Scan and email the Heroin/Opioid Overdose Report (see Appendix A), the Crime Incident Report, and any photographs, property receipts, etc. to Overdose@Baltimorepolice.org.

Crime Scene Unit

1. Respond and process the scenes of all suspected overdose deaths as requested by the Homicide Section.
2. Ensure photographs are loaded to the VeriPic system within the Crime Scene Sciences/Evidence Section.

Homicide Unit

1. Determine if a response to a suspected overdose death is warranted.
2. Direct all investigatory actions of suspected overdose deaths.

Homeland Security Section / Cyber Crimes Unit

1. Assist with the downloading of cellular/mobile device data when requested.
2. Review/collect all overdose reporting.
3. Analyze trends and assign cases for follow-up investigation.

APPENDIX

- A. Heroin/Opioid Overdose Report

ASSOCIATED POLICIES

Policy 703, *Death and Serious Assault Investigations*
Policy 821, *Use of Naloxone/Narcan For Opioid Drug Overdoses*
Policy 1401, *Control of Property and Evidence*
Policy 1402, *Management of Evidentiary CDS*

COMMUNICATION OF POLICY

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



Policy 821

Subject	
USE OF NALOXONE/NARCAN FOR OPIOID DRUG OVERDOSES	
Date Published	Page
1 July 2016	1 of 7

By Order of the Police Commissioner

POLICY

The purpose of this policy is to establish guidelines for proper use and administration of Naloxone (Narcan®) to effectively treat and reduce the fatalities associated with Opioid overdoses.

- 1. Render Aid.** It is the policy of the Baltimore Police Department (BPD) to aid persons suffering from opioid drug overdoses by having trained patrol officers carry and administer Narcan®.
- 2. Application.** Uniformed members of the BPD may administer Narcan® whenever they, based on their training and experience, reasonably believe that a citizen is the victim of an opioid drug overdose. Narcan® kits are not issued to plainclothes officers.
- 3. Procedures.** Members must use proper procedures, as further explained in this policy, when administering Narcan®.
- 4. Training.** BPD will ensure officers who will administer Narcan® are properly trained in the use and deployment of Narcan® in accordance with the laws of the State of Maryland and BPD policy.
- 5. Symptoms.** Members shall render medical aid, consistent with their training and experience, to individuals showing signs of drug overdose of any kind and shall notify the Communications Unit. Members shall request that a medic respond to the scene or transport the individual directly to the nearest hospital emergency room.

DEFINITIONS

Naloxone – Also referred to as Narcan®, is an intranasal prescription medication that can be used to reverse the effects of an opioid drug overdose.

Opioids – A class of drugs that include, but are not limited to, heroin, morphine, oxycodone, methadone, hydrocodone, and codeine.

NARCAN BACKGROUND AND INTENDED USE

Heroin-related overdose fatalities in Maryland increased by 88% between 2011 and 2013, and are expected to continue to rise. Because of this overdose crisis, agencies nationwide have begun equipping and training police officers on the use of Narcan®.¹

¹ *Washington Post*, Overdose deaths from heroin galvanizing leaders in Maryland and Virginia, by Jenna Johnson and Rachel Weiner, January 24, 2015 <http://www.washingtonpost.com/local/me-politics/overdose-deaths-from->

1. Symptoms of opioid overdose include:
 - 1.1. Unconsciousness, lethargy, and confusion, pinpoint pupils;
 - 1.2. Shallow or no breathing;
 - 1.3. Suppressed cardiac function and weakened pulse rate;
 - 1.4. Changes in one's skin color, generally to blue or gray, especially in the lips, finger tips, or feet.
2. Left untreated, opioid overdoses may lead to death.
3. Narcan® works by temporarily reversing the effects of the abused substance, allowing the victim to regain consciousness and resume normal breathing.
4. Narcan® is safe to administer to anyone including children, pregnant women, and the elderly.
5. If Narcan® is administered to an individual whose condition was not caused by an opioid overdose, the drug will have no negative effect.
 - 5.1. Individuals may have an allergic reaction to Narcan®. Members will seek immediate medical assistance for the individual if he or she exhibits signs of an allergic reaction, including hives or swelling in the face, lips, or throat.
 - 5.2. Patients who experience an allergic reaction from naloxone, such as hives or swelling in the face, lips, or throat, should seek medical help immediately. See Substance Abuse and Mental Health Services Administration website: <http://www.samhsa.gov/medication-assisted-treatment/treatment/naloxone>
6. Narcan® is not effective on individuals who have used non-opioid drugs including benzodiazepines (e.g., Xanax, Klonopin, Valium, etc.), bath salts, cocaine, alcohol or methamphetamines.
7. Narcan® is generally effective within two (2) to five (5) minutes of administration. However, if the victim does not wake up within three (3) minutes, the officer should administer a second dose.
8. Rescue breathing should be performed while waiting for Narcan® to take effect.
9. Narcan® will wear off after 30 to 90 minutes. It is therefore critical that when the drug is administered, the recipient should be immediately transported to the hospital.
10. Individuals who are revived from opioid overdoses may regain consciousness in an agitated and combative state and exhibit symptoms associated with withdrawal.

REQUIRED ACTION: MEMBER USE OF NARCAN®

Upon successful completion of Narcan® training, members will be issued a Narcan® Kit. Each member with Narcan® training shall:

1. Ensure that he/she is equipped with a Narcan® kit during each tour of duty and that it is readily accessible.
 - 1.1. Inspect the Narcan® kit prior to each shift.
 - 1.2. Report missing or damaged Narcan® kits, via an Administrative Report, Form 95, directly to your supervisor and/or Shift Commander.
2. Upon encountering an individual who is unresponsive and appears to have suffered from an opioid overdose:
 - 2.1. Notify the dispatcher that Emergency Medical Services (EMS) is needed.
 - 2.2. If the individual is conscious speak to him or her, identify yourself as a police officer and explain that you are there to help.
 - 2.3. Request a second officer to respond.
3. If the individual continues to be unresponsive, administer Narcan®, consistent with training, in the following manner:
 - 3.1. Open the kit.
 - 3.2. Remove and open the box of Narcan®.
 - 3.3. Remove the yellow caps from the syringe.
 - 3.4. Remove the purple cap from the Narcan® ampule.
 - 3.5. Insert the atomizer onto the end of the syringe.
 - 3.6. Gently screw the Narcan® ampule into the syringe.
 - 3.7. Insert the atomizer into a nostril and depress the Narcan® ampule halfway into the syringe, remove and insert into the other nostril and depress the other half of Narcan® ampule into the nostril.
4. Observe the individual for two to three minutes. If there is no improved breathing or regained consciousness, administer a second dose of Narcan®.
5. Notify the dispatcher that Narcan® has been administered and request the dispatcher notify EMS that Narcan® has been administered.
6. Attempt to attain information from individuals on the scene, if present, about the incident.

7. Upon EMS arrival, notify them why opioid overdose was suspected and what actions you took to correct the overdose.
8. Follow the medic to the hospital if the individual is still unconscious.
9. Contact the Maryland Poison Control Center at 1-800-222-1222 to report the details of the administration of the Narcan®, within two hours.
10. Notify the Homicide Unit for all fatal overdoses and be guided accordingly as to scene preservation and submission of potential evidence. Initiate crime scene management and investigative procedures.
 - 10.1. If an individual has suffered a fatal overdose, fill out additional appropriate report (e.g. Suspicious Death, Homicide, etc.).
11. Discard the used Narcan® tube and ampules into an appropriate trash receptacle. It is not necessary to treat as medical or biohazard waste.

REQUIRED ACTION: MEMBER REPORTING FOR USE OF NARCAN

1. Fill out and submit the Baltimore Police Naloxone Deployment Reporting Form ("Narcan Report"), Form 18-15 upon completion of your tour of duty (See Appendix A).
2. Scan and email a copy of all related reporting to the Narcan® Coordinator, PDTA at Naloxone@baltimorepolice.org.
3. The following business day, report to PDTA to refill the Narcan® kit.
4. Obtain a Central Complaint Number and complete a Narcan Report, Form 18-15 (See Appendix A) including the EMS report number and hospital, if any, to which the individual was transported. Also include the following:
 - 4.1. Explain efforts to revive the overdosed individual (e.g., rescue breathing, chest compressions, administered Narcan®, other).
 - 4.2. Amount of Narcan® administered.
 - 4.3. Change in individual after the administration of the Narcan® (e.g., regained consciousness or failed to regain consciousness).
 - 4.4. If the individual regained consciousness, what was the individual's behavioral reaction (e.g., aggressive, yelling, calm, confused or seems normal).

REQUIRED ACTION: SUPERVISORS

1. Respond to calls where Narcan® is being administered when possible.
2. Ensure proper protocols are being followed and review reports documenting the use of Narcan®.

3. Ensure patrol officers in their supervision attend training for the use of Narcan® for opioid overdoses at PDTA when classes become available.

REQUIRED ACTION: NARCAN® COORDINATOR

1. Ensure an adequate, non-expired supply of Narcan® is available for BPD use.
2. Replace Narcan® that is damaged, unusable, expired or deployed.
3. Ensure all personnel have successfully completed Narcan® training prior to treating individuals with Narcan®.
4. Ensure that any deployment of Narcan® to an individual will have a corresponding police report documenting such deployment.
5. Notify Baltimore City Health Department, Behavioral Health Systems and University of Maryland point of contact, within 24 hours of any administration of Narcan®, whether it was successful in saving a life or not.

REQUIRED ACTION: PROFESSIONAL DEVELOPMENT AND TRAINING ACADEMY (PDTA)

The PDTA shall:

1. Train and certify police officers in the use of Narcan®.
2. Issue a Narcan® Kit and certification card to members who completed the Narcan® training and successfully passed the Narcan® test.
3. Store all Narcan® at the PDTA in a locked cabinet in accordance with the State of Maryland and Department of Health's rules and regulations.
4. Maintain all of the records in accordance with State of Maryland and Department of Health's rules and regulations.

REQUIRED ACTION: COMMUNICATIONS UNIT

Dispatcher Responsibilities:

1. Pay special attention to all 60, 60A, 58, 62 or "possible overdose" calls and text with PROQA information for mention of any opioid drug used by individuals needing medical attention (e.g., Heroin, Morphine, Oxycodone, Methadone, Hydrocodone, Codeine).
2. Message in C-CAD call/unit history "Narcan® Used" when advised by an officer.
3. Set the type (ST) to 60N, when advised by the officer on scene.
4. Assign back-up unit(s) when requested.

5. Notify BCFD as part of the "comment" field in the request for a 10-38. The comment field should have a record of the unit# and "Narcan® given."
6. The EMS request (RA) must be entered as soon as the patrol officer advises of the use of Narcan®.
7. Advise sector supervisor when Narcan® is administered by an officer.

APPENDIX

- A. Baltimore Police Naloxone Deployment Reporting Form ("Narcan Report") Form 18-15

ASSOCIATED POLICIES

Policy 1115, *Use of Force*

Policy 1401, *Control of Property and Evidence*

Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*

COMMUNICATION OF POLICY

This policy is effective on the date listed herein. Commanders are responsible for informing their subordinate of this policy and ensuring compliance.

APPENDIX A

Narcan Report, Form 18-15

Baltimore Police Naloxone
Deployment Reporting Form

CAD #:		Complaint #:	
Date of Overdose: / /		Time of Overdose: : <input type="checkbox"/> AM <input type="checkbox"/> PM	
Location where overdose occurred:			
Gender of the person who overdosed: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Unknown			
Signs of overdose present (check all that apply)			
<input type="checkbox"/> Unresponsive	<input type="checkbox"/> Breathing Slowly	<input type="checkbox"/> Not Breathing	<input type="checkbox"/> Blue lips
<input type="checkbox"/> Slow pulse	<input type="checkbox"/> No pulse	<input type="checkbox"/> Other (specify):	
Suspected overdose on what drugs (check all that apply)			
<input type="checkbox"/> Heroin	<input type="checkbox"/> Benzos/ Barbituates	<input type="checkbox"/> Cocaine/ Crack	<input type="checkbox"/> Suboxone <input type="checkbox"/> Any other opioid
<input type="checkbox"/> Alcohol	<input type="checkbox"/> Methadone	<input type="checkbox"/> Don't Know	<input type="checkbox"/> Other (specify):
Details of Naloxone Deployment			
Number of doses used:	Did Naloxone work: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Sure		
If yes, how long did it take to work:	<input type="checkbox"/> <1 min	<input type="checkbox"/> 1-3 min	<input type="checkbox"/> 3-5 min <input type="checkbox"/> >5 min <input type="checkbox"/> Don't Know
Patient's response to Naloxone	<input type="checkbox"/> Responsive and alert <input type="checkbox"/> Responsive but sedated <input type="checkbox"/> No response to Naloxone		
Post-Naloxone withdrawal symptoms (check all that apply)	<input type="checkbox"/> None <input type="checkbox"/> Irritable or Angry		
<input type="checkbox"/> Dope sick (e.g. nauseated, muscle aches, runny nose, and/or watery eyes)	<input type="checkbox"/> Physically Combative		
<input type="checkbox"/> Vomiting	<input type="checkbox"/> Other (specify):	Did the person live: <input type="checkbox"/> Yes <input type="checkbox"/> No	
What else was done:	<input type="checkbox"/> Sternal Rub	<input type="checkbox"/> Recovery position	<input type="checkbox"/> Rescue breathing <input type="checkbox"/> Chest compressions
<input type="checkbox"/> Automatic Defibrillator	<input type="checkbox"/> Yelled	<input type="checkbox"/> Shook them	<input type="checkbox"/> Oxygen
<input type="checkbox"/> EMS Naloxone	<input type="checkbox"/> Bystander Naloxone	<input type="checkbox"/> Other (specify):	
Disposition:	<input type="checkbox"/> Care transfer to EMS <input type="checkbox"/> Other (specify):		
Notes / Comments			
Officer's Name & Seq #		Officer's Signature	
Supervisor's Name & Seq #		Supervisor's Signature	
		Date of Report	
		Date	

This form shall be scanned and forwarded to the Professional Development and Training Academy – Naloxone@baltimorepolice.org.



Policy 1114

Subject	
PERSONS IN POLICE CUSTODY	
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By Order of the Police Commissioner

POLICY

The purpose of this policy is to ensure the safety and security of detainees, members, facility staff members, and the public when a person is taken into custody and transported.

CORE PRINCIPLES

Safety. Members shall ensure the safety of detainees at all times. Members shall treat all detainees in a humane manner throughout the time they are in custody, including before, during, and after transportation, with due regard for their physical safety and protection, consistent with sound principles of detainee security.

Duty to Provide Medical Attention. When there is an obvious injury, complaint of injury, signs of medical distress, withdrawal or overdose, or when any detainee requests medical attention, members shall immediately render aid consistent with their training and notify their supervisor and the Communications Section. The member shall then request that a medic respond to the scene or transport the detainee directly to the nearest hospital emergency room. Refer to Policy 1121, *Detainees in Hospital Environments*, for specific policies regarding the safety and security of detainees in hospital environments and hospital details.

Youths. Youth detainees shall not be transported in the same compartment as adult detainees. If a youth is taken into custody, refer to Policy 1202, *Interactions with Youth*.

DIRECTIVES

General Procedures

1. At all times, detainees shall be secured and transported in a manner that ensures their safety.
2. Transporting members shall ensure that seatbelts, the Transportation Video Cameras (TVC), and other safety equipment are properly functioning. Detainees may only be transported in seats with functioning seatbelts. When a detainee is transported in a police vehicle, members shall ensure that:
 - 2.1. Only vehicles with safety barriers and sufficient, functioning seatbelts for each detainee are used for transport. Additionally, all prisoner transport vans shall be outfitted with a grip strap along the rear area of each seat.
 - 2.2. The detainee is secured with the provided seat belt or authorized restraining device.

- 2.3. The member's body-worn camera is activated throughout the duration of the transport.
3. Members shall never leave a detainee unattended in the transport vehicle.
4. Members shall not engage in any unrelated enforcement activities unless failure to act would result in imminent risk of death or serious bodily injury.
5. If transporting a detainee in a vehicle equipped with a TVC, ensure the TVC is recording from the first moment a detainee is placed in the vehicle until the detainee is removed from the vehicle.

Medical Attention Procedures

6. If a medical issue or injury is present or arises, ensure the detainee's safety is maintained at all times. Request/Provide medical attention prior to transporting a detainee, unless transporting the detainee directly to a medical facility.
7. Take precautions not to aggravate any injury when searching and restraining the detainee.
8. Ensure the detainee is guarded at all times.
9. Request a medic unit respond to the scene or transport the detainee directly to the nearest hospital emergency room.
10. Ensure the medical facility or medic unit number is noted on a Supplemental Report to the Incident Report as well as the date and time treatment was provided.
11. When a detainee is ill, hurt, or injured and is to be admitted to a hospital before being processed at Central Booking, the member shall follow the procedures outlined in Policy 1121, *Detainees in Hospital Environments* (currently being drafted).
12. If a detainee refuses treatment at a medical facility, obtain a copy of the detainee's written refusal of treatment from the medical facility, provide it to the booking personnel, and note the refusal on a Supplemental Report.
13. Make note of the medical issue and the assistance given on Charge Information Form, Form 12 (see Appendix A).
14. When observing a detainee in custody, members shall carefully consider the following to provide appropriately for the safety of detainees:
 - 14.1. Statements that might indicate suicidal intent,
 - 14.2. Signs of depression or humiliation,
 - 14.3. Evidence of prior suicide attempts (e.g., scars),
 - 14.4. Activity which would lead a prudent individual to suspect a potential for danger of self-harm (e.g., banging of the head against a wall or hard object, charging into hard objects, etc.),

- 14.5. Evidence or information about health conditions or mental health status received from family, friends, or other sources, and
- 14.6. Information regarding previous arrests, such as the suspect resisted or assaulted the arresting member.
15. Manage all reports of detainees with possible or obvious mental illness, emergency evaluations, and related issues in accordance with Policy 713, *Petitions for Emergency Evaluation & Voluntary Admission*.
 - 15.1. If a detainee meets the criteria for emergency psychological evaluation, members shall:
 - 15.1.1. Immediately transport the detainee to the appropriate medical facility, in accordance with Policy 713, *Petitions for Emergency Evaluation & Voluntary Admission*.
 - 15.1.2. Provide the required supporting documentation to the medical facility treating the detainee, and
 - 15.1.3. Request an emergency evaluation for any detainee coming into police custody who exhibits any intent toward suicide, self-harm or other signs of mental illnesses.

NOTE: A detainee does not need to voice suicidal intent to cause an emergency evaluation. Any combination of factors which may cause alarm on the part of a member might trigger an evaluation. Any suicide attempt or attempt at self-harm shall immediately require an evaluation.

16. Determine if the detainee is under any prescribed medication prior to transporting them from the detention facility, mental health facility, or hospital, and ensure the medication accompanies the detainee in sufficient quantity to cover the anticipated time in departmental custody. The medication shall:
 - 16.1. Be capable of being administered orally,
 - 16.2. Not require refrigeration, and
 - 16.3. Be prescribed by a medical professional, authorized and licensed to prescribe the medication.

Arrest Procedures

17. In an attempt to minimize the risk of injury to members and others during arrest situations, members shall handcuff all detainees as soon as possible and when safe to do so.

NOTE: If medical circumstances make it unreasonable to handcuff a detainee, members will refrain from handcuffing the arrestee. Un-handcuffed arrestees shall be guarded by a minimum of two members.

18. Members shall check handcuffs for tightness and double lock as soon as it is safe to do so prior to transport.
19. When a handcuffed detainee complains that handcuffs are too tight and/or are hurting the detainee, the member having custody of the detainee shall, as soon as reasonably possible, check the handcuffs to make sure that they are not too tight. In general, the member should be able to place one finger between the handcuff and the detainee's wrist. If the handcuffs are too tight they shall be loosened and relocked.
20. Members shall never leave handcuffed detainee on hot pavement or in a face-down prone position. Members shall protect the detainee from environmental factors (e.g., snow, rain, extreme temperatures, etc.) when determining how and where to place detainees awaiting transport.
21. Use of force, including chemical irritants or CEW's, is very rarely needed or appropriate once a detainee is restrained. Members shall not use force against detainees who are handcuffed or otherwise restrained, except in exceptional circumstances where the totality of circumstances makes it reasonable and necessary to prevent injury or escape. Members are cautioned that force that may be proportional against an unrestrained person may not be proportional when used on a restrained detainee (see Policy 1115, *Use of Force*).

Search Procedures

22. When a detainee is transported in a police vehicle, members shall ensure that the detainee is searched by the arresting member and the transporting member before being placed in a police transport vehicle. See Policy 1109, *Warrantless Searches*, for guidance on searches incident to arrest.

NOTE: As a general rule, the arresting member and the transporting member should both conduct the search. Ensure the search complies with the following policies: Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*, Policy 1013, *Strip Searches and Body Cavity Searches*, and Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning (LGBTQ) Individuals*.

23. The transporting member shall ensure the transport vehicle is inspected for any property left inside prior to placing the detainee in the vehicle and again after the detainee is removed from the vehicle.

NOTE: If any contraband and/or CDS are found in the vehicle, the transporting member shall recover them in accordance with Policy 1401, *Control of Property and Evidence*.

Restraint Procedures

24. At all times, detainees shall be secured in a manner that ensures their safety.
25. Detainees shall be restrained in a manner that does not cause undue pain, undue risk of injury, or actual injury.

26. Members are **prohibited** from transporting detainees who are restrained in a prone position (including the so-called "hog-tie" position).
27. Members are **prohibited** from handcuffing detainees to any part of the vehicle being used for transport.

NOTE: All passengers, regardless of age and seat location, shall be restrained by seat belts or other authorized restraining devices. Maximum number of detainees transported cannot exceed number of seatbelts.

Transportation Procedures

28. For every instance of detainee transport, the transporting member shall transmit the below information via police radio and/or report the following information on the Charge Information Form, Form 12 (see Appendix A), which shall be preserved for review.
29. Transporting members shall report via radio:
 - 29.1. The number of detainees in custody that are being transported,
 - 29.2. The location where detainee(s) enter(s) the transport vehicle (if different from arrest location),
 - 29.3. The destination to which the detainee(s) are being transported,
 - 29.4. When the transportation vehicle departs the scene with dispatch providing the official timestamp,
 - 29.5. When the transportation vehicle arrives at the destination with dispatch providing the official timestamp, and
 - 29.6. Any request for medical attention by the detainee or transporting member.
30. Members shall include the above information via the Charge Information Form, Form 12, as well as:
 - 30.1. The starting and ending mileage on the vehicle,
 - 30.2. Whether the transport vehicle made any additional stops,
 - 30.3. Whether at any time the member perceived the detainee in custody to be in need of medical attention,
 - 30.4. Whether force was used during transport,
 - 30.5. Whether the detainee was adequately restrained by a seatbelt during transport, and
 - 30.6. Whether the detainee was injured during transport, the nature of the injury, and whether first aid or medical care was provided.

NOTE: Every injury that is reported to have occurred during transport shall be reviewed as a use of force or, if appropriate, as part of a vehicle crash investigation.

31. Members shall make reasonable accommodations for detainees with disabilities or who are pregnant. When there is an arrest involving a detainee with a disability requiring a wheelchair, crutches, prosthetic devices or other medical equipment, members shall take the following actions:

31.1. Transport the detainee in a transport vehicle to the appropriate facility.

31.2. Transport medical equipment to the final destination of the individual who requires it. If possible, the medical equipment shall be transported in the same vehicle as the individual who requires them if this can be done without creating potentially hazardous conditions.

31.3. If portable, fold and place the wheelchair or other equipment in the trunk of the transporting vehicle. If the equipment is electric, members shall secure it in a prisoner transport van and transport it to the facility where the detainee is taken.

32. Members responsible for prisoner transportation shall be aware of detainees' physical well-being to ensure that the individual is transported safely.

32.1. Member shall periodically check on the detainees from the time of arrest to the time of transfer of custody, either by direct observation or through live video transmission, to ensure the safety and security of the member(s) and people being transported, and to check for apparent signs of medical distress or emergency.

32.2. Member shall drive at a speed which does not exceed the speed limit and in a manner that is calculated to preserve the safety and security of the detainee being transported.

EXCEPTION: If the detainee requires urgent and emergency medical care, the transporting member may exceed the posted speed limit, as allowed for emergency vehicles under the state law.

32.3. Members are strictly prohibited from transporting a detainee in a manner intended to create discomfort to the detainee including unnecessary speeding, braking, or sharp turns.

33. Males and females shall not be transported in the same compartment of a vehicle.

33.1. If the vehicle contains only one compartment used for transporting detainees, BPD shall use separate vehicles to transport males and females.

33.2. Transgender, intersex, and/or gender non-conforming individuals shall be transported with other arrestees of the same gender identity and expression, unless the individual, or any other individual expresses a safety concern, in which case the individual shall be transported alone.

34. Youths and adult detainees shall not be transported in the same compartments. See Policy 1202, *Interactions with Youth*, for all other guidance pertaining to youths in custody.
35. Detainees are not permitted to communicate with others (e.g. attorneys, family members) during transport.
36. Transporting members shall submit all completed Charge Information Forms, Form 12, to their supervisor by the end of their tour of duty.

Destination/Arrival Procedures

37. The detainee shall remain handcuffed upon arrival at any facility (e.g., Headquarters, District station house, Baltimore Central Booking and Intake Facility (CBIF)).
38. Sufficient sworn personnel shall be present when moving detainees from the transporting vehicle to the booking facility or other locations that might afford the opportunity for the escape of the detainee or injury to the member or others.
39. The detainee shall be escorted by more than one sworn member for all restroom breaks.
40. When a detainee is transported to a police building and placed in a holding cell, the detainee shall remain the responsibility of the transporting member until the detainee is transported from the facility.

NOTE: The transporting member may relinquish custody of the detainee to another sworn member. This transfer of custody shall be clearly communicated between both members, and the member assuming custody of the detainee shall again search the detainee.

Booking & Intake Center Procedures

41. Members shall enter CBIF by vehicle through the door located on the Madison Street side of the building and park in the provided temporary space.
42. Members shall remove the detainee from the transport vehicle and take them to the detainee sally port designated for the detainee's gender identity. Members shall announce their presence through the intercom and the door shall be opened. The detainee shall remain handcuffed during this process.

NOTE: A member shall be met by a correctional officer, who shall search the detainee for contraband, conduct an evaluation, and obtain information about the detainee. A member may be searched if the correctional officer believes the member is still armed. A member shall wait in the sally port area for this assessment to be completed.

43. The member shall advise CBIF personnel of any potential medical or security risks.
44. The member shall immediately assume responsibility for any narcotics, weapons, or contraband found on the detainee that warrants criminal charges. The correctional officer shall be included in the chain of custody for the Property Receipt, Form 56, and members shall refer

to Policy 1401, *Control of Property and Evidence*, when taking property or evidence into custody,

45. The member shall relinquish responsibility for the detainee to the correctional officer when all the conditions set forth by CBIF are met for the booking process. The member shall then retrieve their handcuffs at the search room prior to the strip search and after the detainee clears medical.
46. The detainee's personal property shall be accepted by CBIF but shall be limited to:
 - 46.1. Clothing being worn by the detainee upon arrival, and
 - 46.2. Non-contraband personal property.

NOTE: Members may be required to transport and transfer detainees to other agencies/facilities. In these instances, members shall determine the point and time of transfer, and adhere to the intake procedures for that agency/facility.

Escape and In-Custody Death Procedures

47. If a detainee escapes from police custody, the custodial member shall:
 - 47.1. Immediately notify a supervisor and request the supervisor to respond, who shall in turn notify the Office of Professional Responsibility (OPR) and submit a BlueTeam entry.
 - 47.2. Immediately notify the Communications Section, providing:
 - 47.2.1. Time of the escape,
 - 47.2.2. Location of the escape,
 - 47.2.3. Direction and method of travel of the escapee, and
 - 47.2.4. Description of the escapee.
 - 47.3. Prepare an Incident Report that includes:
 - 47.3.1. Time of escape,
 - 47.3.2. Location of escape,
 - 47.3.3. Direction and method of the escapee,
 - 47.3.4. Description of the escapee,
 - 47.3.5. Circumstances of the escape,
 - 47.3.6. Notifications made.
48. In all situations where a detainee dies while in the custody of the BPD, the member shall:

- 48.1. Notify a command staff member immediately and secure the scene.
- 48.2. Notify the Homicide Section.
- 48.3. Request activation of Special Investigation Response Team (SIRT) by communications.
- 48.4. Refer to Policy 710, Level 3 *Use of Force Investigations / Special Investigation Response Team (SIRT)*.

REQUIRED ACTION

Communications Section

49. Acknowledge transporting members' departure and arrival radio reports with the official timestamp.
50. Coordinate the dispatch of medical attention and/or specialized units in instances of detainee injury, escape, or death.

Supervisors

51. Initiate a review of every injury that is reported to have occurred during transport as a use of force, or if appropriate, as part of a vehicle crash investigation.
52. If detainee requires medical attention, determine how many members will be assigned to guard and assign members as needed (See Policy 1121, *Detainees in Hospital Environments*).
53. Respond to the scene in instances of detainee escape or death. Immediately notify OPR, and initiate a BlueTeam entry.
54. Collect all completed Charge Information Forms, Form 12, from transporting members by the end of their tour of duty.
55. Review reports for completeness and sign reports to ensure compliance with this directive.

Shift Commanders

56. If a detainee is injured and admitted to a medical facility as a result of police action or use of force, ensure the Special Investigations Response Team (SIRT) is immediately notified. A BlueTeam entry shall be completed.
 - 56.1. In cases where the detainee's injury is serious and/or potentially life-threatening, notification shall be made promptly, even if a decision as to the detainee's admission to a medical facility has not yet been made.
 - 56.2. In cases of serious injury or death, which necessitate response and/or investigation by the Homicide Section, the Shift Commander shall notify Homicide at 410-396-2100.

57. If a detainee is badly injured and is admitted to a medical facility for a stay exceeding 24 hours, Shift Commanders shall seek a Bed Side Commitment (See Policy 1117, *Adult Booking Procedures*) by the end of their tour of duty.

Education & Training Section

58. Provide a training of at least eight hours to members who drive transport vans on the safe and humane transportation of detainees to include:
- 58.1. BPD policy and procedures related to transport,
 - 58.2. Safe driving methods,
 - 58.3. Identification of medical stress and injuries, and
 - 58.4. Proper restraint techniques.
59. Four hours of the above required training may be satisfied by general training programs that address the safe transportation of detainees, the identification of medical distress and injuries, and proper restraint techniques.

Audits & Inspections Section

60. Conduct quarterly audits of the transportation process to determine if members properly followed correct transportation procedures and that detainees who are being transported are not placed at risk of injury. The audits include:
- 60.1. A review of information for at least five randomly selected instances of transport of detainees from each police district within the previous quarter, including reviewing all video recordings associated with each instance; reviewing and analyzing location, time, and odometer information to calculate the speed that the transport vehicle was driven; and reading any reports associated with the arrest, detention, and transport of the detainee;
 - 60.2. An analysis of the data collected during the previous quarter, as outlined in the **Transportation Procedure** — page 5 in this policy.
 - 60.3. A review of every injury reported to have occurred during transportation to determine if there are any trends related to transport policies or practices;
 - 60.4. Random and unannounced spot-checks of at least three transportation vehicles from each BPD district to inspect for use of seatbelts and operation of the TVC system.

Fugitive Units

When a person is taken into custody by the Fugitive Unit, members shall adhere to the following procedures in addition to those listed above:

61. At no time shall a member transport more than one detainee without the approval of a permanent-rank supervisor.

62. Prior to the transport, members shall ensure the vehicle is equipped properly with functioning seatbelts, a spare tire, jack, and lug wrench. The vehicle shall also have properly inflated tires and sufficient fuel and oil. All guidelines under **Transportation Procedures** — Page 5 of this policy shall be met.
63. Members shall obtain expense approval from the Office of the State's Attorney and acquire forms and detainee documentation. The member shall submit this documentation to Fiscal Services.
64. The detainee shall be made as comfortable as possible, given the length of the trip, and shall be secured to the extent needed to prevent escape and maintain safety with appropriate restraints per unit's operating procedures.
65. Members shall schedule restroom breaks and meal consumption prior to departure to alleviate the need for interrupted transport.

NOTE: Members shall re-secure detainees in the transport vehicle following any meal consumption or restroom break.

66. Should a detainee escape occur in another jurisdiction, the transporting member shall be guided by the policy of that jurisdiction. In the absence of a Memorandum of Understanding (MOU) between the BPD and the jurisdiction, search and apprehension of the detainee shall be handled by the other agency.

NOTE: The transporting member shall immediately notify the jurisdictional agency, OPR, and the member's immediate supervisor, who shall make the BlueTeam entry and ensure all subsequent notifications are made.

APPENDICES

A. Charge Information Form, Form 12

ASSOCIATED POLICIES

Policy 503, *Transportation of Passengers in Departmental Vehicles*
Policy 710, *Level 3 Use of Force Investigations / Special Investigations Response Team (SIRT)*
Policy 713, *Petitions for Emergency Evaluation & Voluntary Admission*
Policy 720, *Interactions with Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning (LGBTQ) Individuals*
Policy 825, *Transport Vehicle Camera (TVC) System*
Policy 1013, *Strip Searches and Body Cavity Searches.*
Policy 1109, *Warrantless Searches*
Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs & Searches*
Policy 1115, *Use of Force*
Policy 1117, *Adult Booking Procedures*
Policy 1121, *Detainees in Hospital Environments*
Policy 1202, *Interactions with Youth*
Policy 1401, *Control of Property/Evidence*

RESCISSION

Remove and destroy/recycle Policy 1114, *Persons in Police Custody*, dated 1 July 2016.

COMMUNICATION OF POLICY

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

APPENDIX A

Charge Information Form, Form 12

Charge Information Form Form 12, rev. 10.4.18									
BOOKING INFORMATION									
BIN:					DATE & TIME OF ARREST:				
ARRESTING AGENCY:					PRIMARY CHARGE:				
Arresting Officer (Rank and Name)					Sequence Number		Unit Number		Assignment
Location of Arrest (Street, City/County, Zip Code)							Post of Arrest		
Central Compliant Number					Juvenile Custody Number (if applicable)				
Warrant Number					Traffic Citation Number				
PRISONER INFORMATION									
PRISONER SOBRIETY: <input type="checkbox"/> SOBER <input type="checkbox"/> HAS BEEN DRINKING <input type="checkbox"/> INTOXICATED <input type="checkbox"/> OTHER: _____									
Arrestee's Name (Last, First, Middle)					Name Used (if different)				
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other or Unknown	Race	Date of Birth (MMDDYY)		Age	Height	Weight	Hair Color	Eye Color	
Arrestee's Address (Number, Street Name, Apartment)									
Arrestee's Address (City, State, Zip Code)									
School of Attendance (if applicable)					School Address (if applicable)				
Was Arrestee Searched?		Location Where Search Conducted			Description of Contraband Recovered (if applicable)				
Special Circumstances, Remarks, or Information Related to this Prisoner or Arrest									
TRANSPORT INFORMATION									
TRANSPORT THIS PRISONER TO <input type="checkbox"/> BCBIC <input type="checkbox"/> BCJJC <input type="checkbox"/> Other _____									
TO BE CHARGED AS <input type="checkbox"/> AN ADULT <input type="checkbox"/> A JUVENILE									
Transporting Officer (Rank and Name)					Sequence Number		Unit Number		Assignment
Transport Starting Location (If Different from Arrest Location, Street, City/County, Zip)						Time Departed Starting Location	# of Others Transported	Starting Mileage	
Transport Destination Location (Street, City/County, Zip)			Did Transport Make Any Additional Stops?	If "YES", Please Provide Address(es) (Street, City/County, Zip Code)			Ending Mileage	Time of Arrival at Destination	
Was Arrestee Seat-Belted? <input type="checkbox"/> Yes <input type="checkbox"/> No		If "NO", Or if Arrestee's Seatbelt Was Not Fastened Continuously Throughout the Transport, Please Explain							
Was Force Used During Transport? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES", Please Explain									
At Any Time Did the Transporting BPD Member Perceive the Arrestee to Be In Need of Medical Attention? <input type="checkbox"/> Yes <input type="checkbox"/> No									
Was the Arrestee Injured During Transport? <input type="checkbox"/> Yes <input type="checkbox"/> No If "YES", State the Nature of Injury and Whether First Aid or Medical Care Was Provided.									
Supervisor's Signature:			Supervisor's Seq. #.				Date:		