



# INDEPENDENT INVESTIGATIONS DIVISION

Interim Report Concerning the Police-Involved Fatal  
Incident in Baltimore City on November 6, 2022

June 10, 2023

**Interim Report of the Independent Investigations Division of the  
Maryland Office of the Attorney General Concerning the Officer-  
Involved Death of Tyree Moorehead on November 6, 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 officer-involved death of Tyree Moorehead on November 6, 2022, in Baltimore City, Maryland.

The IID is charged with "investigat[ing] all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian" and "[w]ithin 15 days after completing an investigation ... transmit[ing] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-602(c)(1), (e)(1).

The delay in receiving the ballistic analysis and further information from Mr. Moorehead's social media 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 June 10, 2023. The IID will supplement this report when it receives the ballistic analysis and information from Mr. Moorehead's social media.

**I. Introduction**

On November 6, 2022, at approximately 3:40 p.m., Tyree Moorehead was killed by Baltimore Police Department ("BPD") officers in West Baltimore after threatening a woman with a knife. BPD officers went to the area of North Fulton Avenue and West Lafayette Avenue after receiving multiple 911 calls that a man was on top of a woman in the street and threatening her with a knife. When officers arrived on scene, Mr. Moorehead was holding a knife in his hand and standing near a woman, later identified as [REDACTED] who was sitting on the ground. When officers ordered Mr. Moorehead to get down on the ground, he lunged toward [REDACTED] and got on top of her with the knife, holding it near her face. In response, Officer Zachery Rutherford fired his gun 14 times, striking Mr. Moorehead 13 times.

Officers placed chest seals and gauze on Mr. Moorehead's gunshot wounds and began chest compressions until medical personnel arrived on scene. Mr. Moorehead was taken to the hospital, where he died at 4:40 p.m.

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 details the IID’s investigative findings and includes an analysis of Maryland criminal offenses that could be relevant in a case of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Baltimore City State’s Attorney’s Office—not the Attorney General’s Office—retains prosecution authority in this case<sup>1</sup>, this interim report does not make recommendations as to whether any individuals should or should not be charged.

## II. Factual Findings

The following findings are based on a forensic examination of the shooting scene as well as review of body-worn camera video, radio transmissions, ballistic analysis, the autopsy report, and interviews with civilian and 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. Unless otherwise specified, the facts below were captured on officers’ body-worn camera footage. The events described below happened during daylight hours, and the weather conditions were clear.

### A. Events Preceding the Shooting

On November 6, 2022, at approximately 3:35 p.m., at least five people called 911 to report that a man—Mr. Moorehead—had a woman [REDACTED] pinned down on the street while holding a knife near the intersection of North Fulton Ave. and West Lafayette Avenue. One of the callers was [REDACTED] Tyree Moorehead’s father<sup>2</sup>, who told dispatchers, “There’s a guy out here with a knife. Don’t kill him because he is my son.” Another caller said, “Give me the police at Fulton and Lafayette, a guy got a knife at a woman’s neck.” Dispatchers relayed the complaints and location to responding officers via radio and the computer in their patrol car.

Officer Rutherford and Officer Michael Hazel began driving to the location at approximately 3:39 p.m. They were in the same BPD cruiser; Officer Rutherford drove while Officer Hazel sat in the front passenger seat. Both officers activated their body-worn cameras while on their way to the incident. While they drove, a dispatcher can be heard on Officer Rutherford’s body-worn camera footage telling officers that a male armed with a knife was pinning a female down in the street at the intersection of Fulton Ave. and Lafayette St.

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<sup>1</sup> During the 2023 legislative session, the Maryland General Assembly expanded the IID’s purview to include the sole authority, where appropriate, to prosecute police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual. This new authority is effective for incidents occurring on or after October 1, 2023. For incidents occurring before that date, the local State’s Attorney retains sole prosecution authority.

<sup>2</sup> [REDACTED]

## B. The Shooting

Officers Rutherford and Hazel arrived at Fulton Ave. and Lafayette St. at 3:40:33 p.m. As Officer Rutherford got out of the car, he radioed, “Hey, send more units. Send more units. Send more units.” When Officers Rutherford and Hazel were both out of the car, Officer Hazel yelled, “Get down,” while Officer Rutherford radioed, “Signal 13 [officer in need of assistance].” Mr. Moorehead was holding a knife and standing next to [REDACTED] as she was seated on the ground, using her arms to back away from him.



*Image 1: Still photo from Officer Rutherford's body-worn camera footage depicting Mr. Moorehead (orange circle) standing to the left of [REDACTED] (yellow circle) who is on the ground. Mr. Moorehead's father (blue circle) is standing to the right of [REDACTED]*

While Officers Rutherford and Hazel continued to yell for Mr. Moorehead to “get down,” Mr. Moorehead lunged toward [REDACTED] and got on top of her. [REDACTED] was on her back, and Mr. Moorehead was on top of her with his back towards Officer Rutherford. Mr. Moorehead still had the knife in his hand and was holding it up to [REDACTED] face.



Image 2: Still photo from Officer Rutherford's body-worn camera footage. Mr. Moorehead is seen approaching [REDACTED] with a knife in his hand as officers were giving him commands to get on the ground.



Image 3: Still photo from Officer Rutherford's body-worn camera footage capturing Mr. Moorehead on top of [REDACTED]. Mr. Moorehead is holding a knife to [REDACTED] face.

At 3:40:41 p.m., Officer Rutherford began firing at Mr. Moorehead while Mr. Moorehead was still on top of [REDACTED]. While Officer Rutherford was shooting, Mr. Moorehead rolled off [REDACTED] onto his back, then onto his hands and knees before finally lying on his back, still

holding the knife. Meanwhile, [REDACTED] had rolled behind and slightly to the left of Officer Rutherford. [REDACTED] and Mr. Moorehead were approximately 14 feet apart after the shooting, according to a crime scene scan. At 3:40:46 p.m., six seconds after the first shot, Officer Rutherford stopped shooting and yelled “shots” over the radio. He had fired a total of 13 rounds in quick succession and kept his gun pointed at Mr. Moorehead.

Mr. Moorehead, who had been lying on his back for between one and two seconds, reached out with his right hand, which was holding the knife, then put his left hand on the ground and lifted his left shoulder off of the ground. At 3:40:48 p.m., two seconds after his previous shot, Officer Rutherford fired a fourteenth round at Mr. Moorehead, causing him to fall back on the ground. Officer Rutherford again yelled over the radio, “Shots fired! Shots fired.” He then removed the empty magazine from his gun and reloaded it with another full magazine. [REDACTED] was not injured by Mr. Moorhead during the attack, nor was she injured during the shooting.

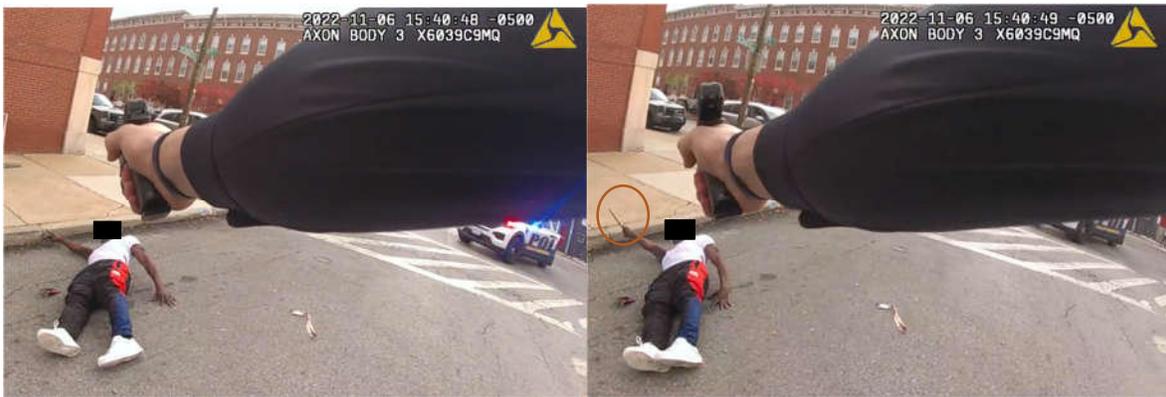


Image 4 and 5: Image 4 is a still photo from Officer Rutherford's body-worn camera showing Mr. Moorehead the moment Officer Rutherford fired the 14<sup>th</sup> round. Image 5 shows Mr. Moorehead holding the knife after the 14<sup>th</sup> shot was fired.



Image 6: Stills from [REDACTED] cell phone video at the time the 14<sup>th</sup> shot was fired. Mr. Moorehead is on the ground. Officer Rutherford is standing in front of a black car with [REDACTED] on the ground behind him (green circle). Mr. Moorehead's father (blue circle) is on the sidewalk to the right of Mr. Moorehead. Officer Hazel (purple circle) is standing to the right of the marked police car.

After he stopped shooting, Officer Rutherford continuously yelled commands for Mr. Moorehead to “drop the knife,” until Mr. Moorehead let go of the knife about 27 seconds after the last shot. Officer Hazel radioed for a medic approximately 11 seconds after the fourteenth shot. Additional officers responded to the scene approximately eight seconds later.

Officer Rutherford kicked the knife farther away from Mr. Moorehead, and at 3:42:06 p.m., put the knife in the driver’s side door compartment of Officer Omar Vega’s car. Sgt. Ryan Hill, who was later interviewed by IID investigators, said Officer Rutherford told him that he believed he put the knife in his own cruiser. Sgt. Hill later learned that Officer Rutherford actually put the knife in Officer Vega’s cruiser, at which point he contacted Officer Vega. Officer Vega told investigators that he located the knife in his car after Sgt. Hill contacted him about it at 4:47 p.m. Officer Vega turned on his body-worn camera after he opened his cruiser door and found the knife. He was instructed by Sgt. Hill to leave the knife in his car with the doors locked. Investigators who were processing the scene recovered the knife from his car.



*Image 7: Picture of the knife that was recovered from Mr. Moorehead.*

About three minutes after the shooting, officers began removing Mr. Moorehead's outer garments. [REDACTED]

[REDACTED] At 3:46:00 p.m., medics began to arrive on scene. Mr. Moorehead was transported to the University of Maryland Medical Center, where he was pronounced dead at 4:04 p.m.

### C. Medical Examination

Mr. Moorehead's autopsy was conducted by Dr. Edernst Noncent of the Maryland Office of the Chief Medical Examiner on November 8, 2022. The IID received the autopsy report on April 27, 2023.

Dr. Noncent identified Mr. Moorehead's cause of death as multiple gunshot wounds and the manner of death as homicide.<sup>3</sup> The report indicated that twelve bullets were recovered from Mr. Moorehead's body and there was "no evidence of contact or close-range discharge associated with any of the gunshot wounds." Four of the gunshot wounds entered in the front of Mr. Moorehead's body, including two in the left abdomen, one in the left lateral hip, and one in the right lateral thigh. The remaining gunshot wounds entered the back of Mr. Moorehead's body, including four in the lower back, three in the left thigh, one in the right buttock, and right side.

Toxicology testing was conducted and was negative.

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

#### D. Mr. Moorehead's Social Media

The IID is currently waiting for additional information regarding Mr. Moorehead's social media profiles.

#### E. Ballistic Analysis

The BPD Forensic Sciences Division is conducting a forensic examination of discharging officer's service weapons. The IID is currently awaiting the analysis.

#### F. Civilian Witness Statements

1. [REDACTED]

[REDACTED] was interviewed on the day of the incident by the IID and BPD. She told investigators that she got off the bus at Lafayette St. and was walking up to Fulton Ave, when she encountered Mr. Moorehead. [REDACTED] said that she did not know Mr. Moorehead. She said that she saw Mr. Moorehead as he was running up the street with a dog and that he asked her for water. [REDACTED] said he grabbed her and began dragging her into the middle of the street by her purse as she attempted to resist.

[REDACTED] realized that Mr. Moorehead had a knife when he started to drag her to the middle of the street. She described the knife as straight on top and curved on the bottom. [REDACTED] said that as she struggled, Mr. Moorehead told her, "I'm going to kill you, stop moving." She also told investigators that throughout the encounter she was screaming for help because she felt that Mr. Moorehead would kill her; however, no one came to her aid.

[REDACTED] said that when she heard the police coming, Mr. Moorehead stood up. She heard officers yelling for Mr. Moorehead to put the knife down, but then he got back on top of her. [REDACTED] recalled, "I remember a police officer coming around and shoot him. I heard three shots and saw blood." Finally, she reported that when officers told her to go to the curb, she followed their instructions. [REDACTED] was not injured during the incident.

2. [REDACTED]

[REDACTED] Mr. Moorehead's father, was interviewed by BPD on the day of the shooting. He was later interviewed by investigators from the IID on December 5, 2022. He told the investigators that he lived on West Lafayette Street and was home shortly before the incident. He said that a friend came to his door, asking him to come out and "get your son."

[REDACTED] said he went outside and saw Mr. Moorehead wrestling with a woman whom he had never seen before. Mr. Moorehead was on top of her with a butcher knife in his hand. While [REDACTED] was unable to hear if Mr. Moorehead or [REDACTED] said anything, he saw them wrestling over [REDACTED] pocketbook. [REDACTED] also said that he had tried to get the knife from his son. However, about four seconds after he got there, the police got to the

scene, and he was unable to get the knife. ██████████ said that he told police, “Don’t shoot him, he has mental issues.” Later, he told BPD investigators that his son was never diagnosed, nor was he seeing any doctors or taking any medications.

██████████ told IID investigators that he saw one police officer approach his son and tell his son to move. He recalled that police shot his son two times before he saw Mr. Moorehead roll onto his back. He said that he saw the officer standing over his son saying, “drop the knife,” as the officer was shooting him. He was not clear whether he meant that there were more than two shots. While ██████████ statements are largely consistent with each other, his recollection of the shooting is not consistent with the body-worn camera footage. The footage shows Officer Rutherford shooting 14 rounds at Mr. Moorehead. He yelled commands for Mr. Moorehead to drop the knife after all rounds were fired.

██████████ told IID investigators that his son founded the “No Shoot Zone” a few years ago. He said it was an organization that would put a “No Shoot Zone” sign in places where there were murders in the city. The hope was that no one else would get killed in that area.

### 3. ██████████

██████████ lives in the area where the shooting took place. She participated in a phone interview with an IID investigator on January 11, 2023. She told the investigator that while she did not know Mr. Moorehead, she has seen him around the neighborhood. ██████████ said that on the morning of the shooting, she had left her dog in the backyard of her residence, but when she returned home later, her dog was no longer there. ██████████ said that approximately 30 minutes later, she began searching for her dog in the neighborhood. She saw Mr. Moorehead at the intersection of Lafayette St. and McKean Ave., holding her dog in one hand and carrying a knife in the other. She told investigators that she asked Mr. Moorehead to return her dog, but she did not approach him because of the knife.

██████████ said that she followed Mr. Moorehead as he walked with the dog toward Fulton Ave. ██████████ said that she saw him grab ██████████ causing her to fall to the ground. Mr. Moorehead was on top of ██████████ while still holding the knife and her dog.

██████████ said that she tried to distract Mr. Moorehead to prevent him from hurting ██████████ ██████████ said that she saw ██████████ try to help ██████████ however, she recalled that Mr. Moorehead called his father “the devil.” Next, ██████████ heard police sirens and observed Mr. Moorehead stand up while ██████████ remained on the ground. When police arrived, she saw an officer get out of the passenger side of the police car and say something, but she was unsure if she heard that officer say, “drop the knife,” or “get down.” She stated that she also saw an officer exit the driver side of the car and start shooting. Her statement to IID investigators was consistent with the body-worn camera footage.

### 4. Other Civilian Witnesses

Body-worn camera footage captured BPD approaching many people in the immediate aftermath of the incident. They also knocked on doors of homes that were in the neighborhood in

an attempt to find witnesses that either saw or recorded the incident. While those attempts were largely unsuccessful, the IID was able to obtain a cell phone video from BPD that was found on social media. IID investigators, in the days after the shooting, also conducted a canvas of the area by knocking on doors and leaving business cards.

BPD did locate [REDACTED] and [REDACTED] while knocking on doors. [REDACTED] [REDACTED] were interviewed together by BPD investigators; that interview was captured on the officers' body-worn camera. [REDACTED] said that they heard a woman outside screaming for help. They initially ignored it, but when the screaming began a second time, they went to their window to look outside. They initially saw Mr. Moorehead on top of [REDACTED]. At some point, [REDACTED] was able to push Mr. Moorehead off of her.

[REDACTED] said that when police arrived, Mr. Moorehead got back on top of [REDACTED] [REDACTED] while holding a knife. They heard Officer Rutherford "give him a warning" then they heard 13 gunshots. Both witnesses said later in their statement that [REDACTED] was able to "scoot up to the car," and away from Mr. Moorehead before the shooting, however, this was not reflected in the video evidence obtained during the investigation. [REDACTED] said that they both heard [REDACTED] tell officers not to shoot Mr. Moorehead. [REDACTED] cannot be heard saying this on the video evidence obtained by the IID.

After the shooting, [REDACTED] told investigators that she saw Mr. Moorehead drop the knife on the ground. She saw other officers "perform CPR on him" and the paramedics came. [REDACTED] provided BPD investigators with a cell phone video that was later given to the IID.

## G. Law Enforcement Officers' Statements

### 1. Officer Zachary Rutherford

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, also requires both involved officers and witness officers to thoroughly document the force used.

All subjects of criminal investigations—including police officers—have a right under the Fifth Amendment not to make any statement. That right also applies to written statements. Thus, if a statement is ordered, the result of threat, or otherwise compelled (*i.e.*, not voluntary), it cannot be used against an officer in a criminal investigation and should not be considered by criminal investigators. *Garrity v. State of N.J.*, 385 U.S. 493 (1967) (holding that officers' statements made under threat of termination were involuntary); *Department of Public Safety and Correctional Services v. Shockley*, 142 Md. App. 312, 325 (2002) ("the dispositive issue is whether [the supervisor] **demand**ed that the appellee answer the questions") (emphasis in original). A walled-off team within the IID analyzed Officer Rutherford's verbal and written statements to determine whether any of them met that legal standard. They determined that some of his statements did meet that standard, *i.e.* were potentially compelled. As such, the statements

were not reviewed by the investigators in this case, and neither Officer Rutherford's statements nor any information derived from them were used in this investigation or are discussed in this report. Those statements will be marked, sealed, and provided to the State's Attorney's Office in a secure form.

Here, Officer Rutherford did not choose to make a voluntary verbal statement to IID or MSP investigators. He did make several statements on scene that were deemed to be not compelled, and that therefore may be considered as part of this investigation. While on scene, Officer Rutherford was asked a series of questions by Sgt. Aguilera that was captured on Sgt. Aguilera's body-worn camera. Officer Rutherford indicated that all shots were fired in one direction, "I hit the target." Officer Rutherford said that he did not believe that any of the rounds went into a window or a house. He told Sgt. Aguilera to, "make sure the female is OK, because he crawled on top of her with a knife."

## 2. Officer Michael Hazel

Officer Hazel was interviewed by the IID and BPD on November 6, 2022. He responded to the scene in the same car as Officer Rutherford and was sitting in the passenger seat. When they arrived on scene, he saw Mr. Moorehead, who was holding a knife, and ██████████ in the street. Officer Hazel stayed by the car, and Officer Rutherford immediately exited the car and went toward Mr. Moorehead and ██████████ They were in the street, but towards the sidewalk.

Officer Hazel recalled that Mr. Moorehead "pounced" on ██████████ while holding a knife. ██████████ yelled for Mr. Moorehead to stop. Officer Hazel thought that Mr. Moorehead was going to injure ██████████ with the knife. He also observed several other individuals in the area, "they were watching; they had their cellphones out." Both he and Officer Rutherford gave Mr. Moorehead verbal commands to "drop the knife." Mr. Moorehead did not comply.



Image 8: Still photograph from Officer Hazel's body-worn camera footage capturing him standing next to the car during the shooting.

Officer Hazel recalled taking cover behind the police car, as Officer Rutherford removed his gun from the holster. He saw Officer Rutherford fire his weapon multiple times toward Mr. Moorehead. He was unable to remember how many rounds Officer Rutherford fired. Officer Hazel said that he did not draw or fire his gun because Officer Rutherford was in his “crossfire.” He further described that he was standing next to the car and Officer Rutherford was “directly across from me” and “the suspect and the victim were in front of him.” Officer Hazel said that after the shooting, he called for medics as other officers were responding to the scene. Officer Hazel said that he stayed with Mr. Moorehead until an ambulance came. Officer Hazel’s account of the events are consistent with his body-worn camera footage.

### 3. Officer Omar Vega

Officer Vega was interviewed by the IID and BPD on February 1, 2023. On the day of the incident, Officer Vega said that he heard a call over the radio for an aggravated assault and began to respond to the location. While en route, he heard Officer Rutherford request additional units to the scene. Shortly after, he heard Officer Rutherford say, “shots fired, send more units.” When he arrived at the scene of the incident shortly after the shooting occurred, he told investigators that he observed Mr. Moorehead on the ground and that Officer Rutherford, who was a couple of feet away from Mr. Moorehead, was telling him to “drop the knife.” Officer Vega saw Moorehead with a “big kitchen knife” that was silver. He recalled seeing Mr. Moorehead let go of the knife then saw Officer Rutherford kick the knife away from Mr. Moorehead’s reach.

Officer Vega recalled asking for a medic and calling for a response from Shock Trauma. He said that when he saw Mr. Moorehead was shot, he went to find a first aid kit in order to tend to his injuries. Officer Vega left the scene of the shooting to follow Mr. Moorehead to Shock Trauma.

Officer Vega told investigators that when he left the scene, he did not know that Officer Rutherford had put the knife in his car. Sgt. Hill contacted him later in the evening and asked Officer Vega to look in his car for the knife. Officer Vega recalled finding the knife in the driver’s side door of his vehicle. He contacted the crime lab, who, in turn, photographed the knife in Officer Vega’s car. Officer Vega then submitted the knife to evidence.

### **III. Involved Parties’ Backgrounds**

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

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

A. Tyree Moorehead

Mr. Moorehead was a 48-year-old Black man who lived in Baltimore, Maryland.

B. Officer Zachary Rutherford

Officer Rutherford is a white man who was 27 years old at the time of this shooting. He was hired by BPD on March 21, 2022. Prior to his employment with BPD, Officer Rutherford was an officer with the Maryland Transit Administration Police for 3 years. Officer Rutherford was hired by the Baltimore County Police Department in June 2018 but resigned prior to completing the academy. [REDACTED]

[REDACTED]

**IV. Applicable Policies**

This section discusses BPD policies and training concerning officers’ use of force, including their decisions to use deadly force. The complete policies are attached as Appendix B.

A. Firearms Regulations (Policy 409) & Use of Force (Policy 1115)

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

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

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

The Use of Force Policy specifies that “[t]he use of Deadly Force/Lethal Force shall always be the last resort,” and shall occur only when officers “reasonably believe such action is immediately necessary to protect a member or another person from an Imminent Threat of death or Serious Physical Injury.” Before using deadly force, officers “shall consider environmental considerations such as field of fire, backdrop.”

## B. Use of Force Reporting, Review and Assessment (Policy 725)

The Use of Force Reporting, Review and Assessment Policy contain the following relevant provisions. The policy categorizes the firing of a gun a “Level Three Use of Force.” Officers must immediately notify their supervisors and the Communications section. It further provides that if the officer is involved in a shooting, they must “provide a Public Safety Statement, Form 97...to their supervisor upon the supervisor’s arrival to the scene.”

## V. Applicable Law & Analysis

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

### A. Excessive Force

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

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

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 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 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 v. Connor*, 490 U.S. 386, 396 (1989); *Koushall v. State*, 249 Md. App. 717, 730 (2021), *aff'd*, 479 Md. 124 (2022); *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23, 25-26 (2020); *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 third element of the jury instruction requires the State to prove that the force used by the officers was not necessary and proportional to prevent an imminent threat of physical injury to officers or other individuals, or to effectuate a legitimate law enforcement objective. Public Safety § 3-524(d)(1). The terms "necessary" and "proportional" are not defined by statute or by Maryland caselaw. 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).<sup>4</sup> Officers must have probable cause to believe that an individual poses such an imminent threat. *Estate of Blair*, 469 Md. at 23. Probable cause "means something less than 'more likely than not.'" *Whittington v. State*, 474 Md. 1, 41 n. 29 (2021) (quoting *Freeman v. State*, 249 Md. App. 269, 301 (2021) (cleaned up)).

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

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<sup>4</sup> "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).

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. 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”).

The fourth element of the jury instruction requires that the officers intended to use force. While it is possible the General Assembly meant only that the officer’s actions must have been intentional, it is more likely the General Assembly meant to require that the officer knew the level of force that would have been 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.<sup>5</sup> 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).

This section will first analyze the first 13 shots, which were fired in quick succession, and then analyze the 14th shot, which occurred after a two-second pause. With respect to Officer Rutherford’s first thirteen shots, in order to bring a charge under this statute, the State would need to prove he intentionally exceeded the amount of force that was necessary and proportional 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). In examining Officer Rutherford’s first 13 shots, the factfinder would likely consider that Officer Rutherford was responding to reports that a man was pinning down a woman while armed with a knife. When he arrived on scene, he saw Mr. Moorehead, armed with a knife, lunge on to [REDACTED]. Thus, Officer Rutherford was aware that a person was at risk of suffering serious physical harm. When Officer Rutherford arrived at the scene, he exited his patrol cruiser and ordered Mr. Moorehead to, “Get down!” twice. Mr. Moorehead responded by lunging toward [REDACTED] with a knife.

Officer Rutherford fired his handgun at Mr. Moorehead directly after Mr. Moorehead lunged onto [REDACTED] with the knife. Crime lab measurements show that the knife’s blade was

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<sup>5</sup> 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.

approximately nine inches long, and body-worn camera footage shows that the blade inches from [REDACTED] face during the incident; there is no doubt that she was in imminent danger of serious physical injury or death when Officer Rutherford began shooting.



*Image 8: Still from Officer Rutherford's body-worn camera footage that shows the blade from Mr. Moorehead's knife near the face of [REDACTED]*

Given the totality of the circumstances, there was no reasonable alternative method that Officer Rutherford could have used to accomplish his law enforcement objectives outside the use of deadly force.

As mentioned, Officer Rutherford paused briefly between firing his thirteenth and fourteenth shots. During this pause, Officer Rutherford got on the radio and said, "Shots." This set of acts requires not only the necessary and proportional analysis, but also an additional analysis of whether and when an officer must cease the use of force. Accordingly, with regard to the fourteenth shot, this section will discuss whether Officer Rutherford was required to cease using force before he fired that final shot, in addition to whether the fourteenth shot was necessary and proportional to the threat he and [REDACTED] faced. It is possible, however, that a reasonable fact finder could find that the pause between the thirteenth and fourteenth round was not adequate for Officer Rutherford to reflect and reassess the circumstances. If that is the case, the fourteenth shot should be analyzed in the same manner as the first thirteen.

The Use of Force Statute requires an officer to cease using force if the person that the force is used against no longer presents an imminent threat of physical injury to another person. Here, the statute would require Officer Rutherford to cease using force if neither he nor [REDACTED] were in imminent danger of being harmed by Mr. Moorehead at the time of the fourteenth shot. Imminent harm means that the source of a threat has the means to injure someone and is in close enough proximity to them to use it, so an injury is likely to occur at any moment. *See Howell*, 465 Md. at 564 n. 15; *Madrid*, 474 Md. at 339. Mr. Moorehead was within a few feet of [REDACTED] and, at the time the fourteenth shot was fired, he reached out with his right hand, which was holding the knife, then put his left hand on the ground and lifted his left shoulder off of the ground, in what appeared to be an attempt of get up. This might suggest that [REDACTED] was in imminent danger as Mr. Moorehead was trying to get off the ground while still holding the knife.



*Image 9: Cell phone footage that shows the position of Officer Rutherford, [REDACTED] and Mr. Moorehead at the time of the fourteenth shot.*

A factfinder would separately analyze the degree to which Mr. Moorehead posed a threat to Officer Rutherford himself. Officer Rutherford was standing between [REDACTED] and Mr. Moorehead, who was still armed with a knife at that point, establishing both the means of harm and proximity to it. A factfinder could consider that Mr. Moorehead could have tried to harm Officer Rutherford with the knife if given the opportunity to get to his feet. The factfinder could give Officer Rutherford leeway on the last shot, given that Mr. Moorehead, in the presence of an officer, had attacked [REDACTED] refused to comply with commands, and was still armed with a knife. On the other hand, a factfinder could also consider that despite Officer Rutherford's proximity to Mr. Moorehead, because of Mr. Moorehead's position on the ground and being shot multiple times, it was not feasible for him to make any meaningful advances that would put Officer Rutherford's safety at risk.

Finally, the Use of Force Statute requires an officer cease using force if the officer determines that using force will no longer accomplish a legitimate law enforcement objective. Officer Rutherford's legitimate law enforcement objectives did not change between the thirteenth and fourteenth shots; his objectives were to protect [REDACTED] and himself, to prevent further crime, and to make sure that Mr. Moorehead could be safely apprehended. If the factfinder concluded that Mr. Moorehead was under the control of Officer Rutherford and was no longer a threat to Officer Rutherford or others, then there was no further law enforcement objective that needed to be accomplished and the fourteenth shot, violated the Use of Force Statute. However, if the factfinder believes, that Mr. Moorehead was not under the control of Officer Rutherford and posed an imminent threat, then the fourteenth shot would be reasonable.

## B. Homicide Charges

In addition to the new excessive force charge, officers may still be charged with traditional statutory and common law offenses. There are two charges related specifically to

officers killing Mr. Moorehead that could be relevant given the facts of this incident: intentional second-degree murder and voluntary manslaughter.<sup>6</sup>

Intentional second-degree murder is a killing done with “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result,” but which is not “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Self-Defense and Perfect/Imperfect Defense of Habitation), MPJI-Cr 4:17.2 (2d ed. 2021). To prove this charge, the State must, among other things, establish beyond a reasonable doubt that the killing was not legally justified. *Id.*

An officer’s use of deadly force is legally justified if it is done in self-defense, in defense of others, or pursuant to law-enforcement justification.

Self-defense and defense of others may be either complete (*i.e.*, the use of deadly force was completely justified) or partial (*i.e.*, the use of deadly force was partially, but not completely, justified). If the defendant acted in complete self-defense or complete defense of others, no assaultive charge, including murder and manslaughter, is appropriate. MPJI-Cr 4:17.2; MPJI-Cr 4:17.3 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Defense of Others), MPJI-Cr 4:17.3 (2d ed. 2021). If the defendant acted in partial self-defense or partial defense of others, the appropriate charge is voluntary manslaughter rather than second-degree murder. *Id.*

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

Complete defense of others exists where: “(1) the defendant actually believed that the person [they were] defending was in immediate or imminent danger of death or serious bodily harm; (2) the defendant’s belief was reasonable; (3) the defendant used no more force than was reasonably necessary in light of the threatened or actual force; and (4) the defendant’s purpose in using force was to aid the person [they were] defending.” MPJI-Cr 4:17.3. Partial defense of others exists where the first and fourth of these elements are present, but the defendant either unreasonably believed the person they were defending was in immediate or imminent danger or unreasonably believed the amount of force they used was necessary. *Id.*

Law-enforcement justification exists where an officer uses “only that amount of force reasonably necessary under the circumstances to discharge his duties.” *Wilson v. State*, 87 Md.

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<sup>6</sup> First-degree murder is not analyzed because there is no evidence that officers’ killing of Mr. Moorehead was premeditated. Unintentional (“depraved heart”) second-degree murder and involuntary manslaughter are not analyzed because there is no dispute that officers intended to fire at Mr. Moorehead.

App. 512, 520 (1991). The defense provides that in using reasonably necessary force, officers are “not liable civilly or criminally for the assault or battery that may result, including, if necessary, the use of deadly force.” *Id.* at 519. The rationale for this justification is that officers’ duties are “markedly different” from those of ordinary citizens, requiring that officers “threaten deadly force on a regular basis.” *Koushall*, 249 Md. App. at 728-29. To use deadly force, an officer must have “probable cause to believe that the suspect poses a threat of serious physical harm.” *Estate of Blair*, 469 Md. at 23-24 (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

Each of these defenses is viable only if an officer acted reasonably. The reasonableness of an officer’s actions “must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated.” *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider “the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham*, 490 U.S. at 397). However, “an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm.” *Estate of Blair*, 469 Md. at 24 (emphasis in original). Violations of departmental policy are one “factor to be considered in determining the reasonableness of police conduct.” *Pagotto*, 361 Md. at 557 (citations omitted).

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

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

As previously discussed, when Officers Rutherford and Hazel were responding to the scene, information was conveyed over the radio that Mr. Moorehead was assaulting [REDACTED] with a knife. This was confirmed when they arrived on scene and saw Mr. Moorehead approach [REDACTED] with a knife and get on top of her. A factfinder could consider that Officer Rutherford's action constituted complete defense of others. Mr. Moorehead was on top of [REDACTED] holding a knife to her face, posing an imminent threat of serious physical injury if Officer Rutherford did not intervene.

A factfinder could also consider that Officer Rutherford was acting pursuant to law-enforcement justification. When Officers Rutherford and Hazel arrived on scene, they yelled several commands to Mr. Moorehead, telling him to get on the ground. In turn, Mr. Moorehead got on top of [REDACTED] while still holding a knife. After the first 13 rounds were fired, Mr. Moorehead did not drop the knife, despite Officer Rutherford's commands to do so. When Mr. Moorehead attempted to get up, Officer Rutherford fired another round. When Mr. Moorehead finally let go of the knife, BPD began to perform life-saving measures on him.

Lastly, a factfinder could also consider that Officer Rutherford was acting in self-defense, specifically with the shots that were fired after [REDACTED] was no longer in immediate danger. Again, Mr. Moorehead was not complying with Officer Rutherford's commands to let go of the knife. Mr. Moorehead made an attempt to get off the ground when he lifted his shoulder off the ground with the knife still in his hand, posing a threat to Officer Rutherford's safety.

Given the totality of the circumstances, because Mr. Moorehead was threatening [REDACTED] with a knife while on top of her and failing to comply with officers' commands, a factfinder could find that there was no reasonable alternative method, outside the use of deadly force, that Officer Rutherford could have used in order to achieve these objectives.

### C. Reckless Endangerment

At the time Officer Rutherford originally fired upon Mr. Moorehead, Mr. Moorehead was directly on top of [REDACTED]. We will therefore consider the appropriateness of a charge that Officer Rutherford's conduct recklessly endangered [REDACTED].<sup>7</sup> Criminal Law § 3-204(a). The Reckless Endangerment statute states: "A person may not recklessly [] engage in conduct that creates a substantial risk of death or serious physical injury to another." To prove reckless endangerment, the State must establish: "(1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; (2) that a reasonable person would not have engaged in that conduct; and (3) that the defendant acted recklessly." MPJI-Cr 4:26B Reckless Endangerment, MJPI-Cr 4:26B (2d Ed. 2021). In short, the State would need to prove that the officers acted both unreasonably and recklessly.

There need not be actual harm for the State to prove reckless endangerment. "Reckless endangerment is quintessentially an inchoate crime. It is designed to punish potentially harmful

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<sup>7</sup> The crime of reckless endangerment requires that the State specify the victim who is being endangered. In this section, we consider only the reckless endangerment of [REDACTED] not Mr. Moorehead, because the endangerment of Mr. Moorehead would merge with the assaultive charges discussed above. *See Williams v. State*, 100 Md. App. 468, 490-91 (1994).

conduct even under those fortuitous circumstances where no harm results.” *Williams v. State*, 100 Md. App.468, 480(1994); *see also Marlin v. State*, 192 Md. App. 134 at 155-56 (2010) (citing several cases that suggest reckless endangerment is meant to deter dangerous conduct, regardless of whether harm occurs).

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

To prove recklessness, the State must show that the defendant “consciously disregarded” the substantial risk to others. *Marlin*, 192 Md. App. at 166 (citation omitted). “The test is whether the [defendant’s] 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 the statute was designed to punish.” *Minor v. State*, 326 Md. 436, 443 (1992).

In the context of officers’ interactions with civilians, relevant factors in the recklessness determination have been found to include: an officer’s modifications to their service weapon; an officer aiming their firearm at a civilian; an officer’s placement of their trigger finger; an officer’s knowledge of the threat, or lack thereof, posed by a civilian; and the proximity of bystanders. *Pagotto*, 361 Md. at 554-55 (finding these factors to have been determinative in *Albrecht*, 336 Md. at 505, but not present in the incident involving Sergeant Pagotto).<sup>8</sup>

In this case, a factfinder might well find that Officer Rutherford’s conduct met the first element of the statute by creating a risk of death or serious injury to ██████████ when he fired his gun while Mr. Moorehead was on top of her. But that does not end the inquiry. Analyzing the second and third elements requires a balancing test: weighing the risk created by Officer Rutherford’s conduct against the potentially greater risk caused to ██████████ by Mr. Moorehead. Indeed, an officer may have a professional duty to intervene when he does see someone at serious risk. *See State v. Kanavy*, 416 Md. 1, 8 (2010) (finding that reckless endangerment can result not only from reckless action, but also from reckless inaction when one has a legal duty).

When determining whether Officer Rutherford’s actions were unreasonable or reckless under those second and third elements, the factfinder could consider that: 1) Officer Rutherford, based on the information that was previously conveyed over the radio, knew that Mr. Moorehead was assaulting ██████████ with a knife prior to his arrival on scene; 2) Mr. Moorehead got directly on top of ██████████ and had a knife to her face at the time of the shooting; 3) Officer

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<sup>8</sup> While *Albrecht* and *Pagotto* considered the mens rea for gross negligence involuntary manslaughter rather than for reckless endangerment, courts have indicated that the two mentes reae are functionally identical. *See State v. Morrison*, 470 Md. 86 (2020).

Hazel, along with at least one other witness on scene, believed that Mr. Moorehead was going to injure ██████████ with the knife; and 4) although ██████████ was directly under Mr. Moorehead at the time the shooting began, she was able to move away after the first four rounds were fired and was therefore at a lesser risk.

#### D. Other Charges

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

The crime of use of a firearm in the commission of a crime of violence requires that the State prove the defendant used a firearm and that they did so while committing “a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony.” Criminal Law § 4-204(b). Second-degree murder and voluntary manslaughter are both crimes of violence. Public Safety § 5-101(c). Second-degree murder, voluntary manslaughter, and involuntary manslaughter are all felonies. Crim. Law §§ 2-204, 2-207. The State could not pursue a charge for the use of a firearm in the commission of a crime of violence unless it could prove one of the predicate offenses.

The crime of misconduct in office requires that the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). It is unlikely the State could pursue a charge for misconduct in office unless it could establish that Officer Rutherford acted unreasonably or used an unreasonable amount of force. *See Riley v. State*, 227 Md. App. 249, 264 (2016) (finding that corrupt intent may be inferred from the doing of a wrongful act).

## VI. Conclusion

This report has presented factual findings and legal analysis relevant to the fatal shooting that occurred on November 6, 2022, in Baltimore, Maryland. Please feel free to contact the IID if you would like us to supplement this report through any further investigation or analysis.



# INDEPENDENT INVESTIGATIONS DIVISION

Supplemental Report Concerning the Police-Involved Fatal  
Incident in Baltimore City, on November 6, 2022

August 28, 2023

**Supplemental Report of the Independent Investigations Division of the Maryland  
Office of the Attorney General Concerning the Officer-Involved Death of  
Tyree Moorehead, on November 6, 2022**

The Office of the Attorney General’s Independent Investigations Division (the “IID”) is charged with “investigat[ing] all police-involved incidents that result in the death of a civilian” and “[w]ithin 15 days after completing an investigation ... transmit[ting] a report containing detailed investigative findings to the State’s Attorney of the county that has jurisdiction to prosecute the matter.” Md. Code, State Gov’t § 6-602(c)(1), (e)(1).

Due to the delay in receiving ballistics analysis and the further information from Mr. Moorehead’s social media in this case, in contrast to the finality of all other aspects of the investigation, the IID and the Baltimore City State’s Attorney (“SAO”) agreed that an interim report would be useful. The IID agreed to supplement the interim report upon receipt of the ballistics analysis and autopsy examinations. On June 10, 2023, the IID transmitted its interim report to the SAO.

This supplemental report provides the previously outstanding evidence and concludes the IID’s investigation.

**I. Ballistics Analysis**

On August 2, 2023, Jeremy Monkres, a forensic scientist with the Baltimore Police Department (“BPD”) Firearms Analysis Unit, conducted a microscopic examination and analysis on the firearms evidence that was submitted from this case. The evidence included Officer Zachery Rutherford’s department-issued service gun, 14 fired cartridge casings, and one bullet fragment recovered from the scene, and 13 bullets and one bullet fragment that were recovered from Mr. Moorehead’s body during the autopsy.

The examination concluded that the 14 cartridge casings were fired from Officer Rutherford’s service weapon. The examination of 12 bullets and two bullet fragments were insufficient to either identify or eliminate them as being fired from Officer Rutherford’s service weapon.

The 13th bullet acquired from Mr. Moorehead’s body was examined and excluded as being fired from Officer Rutherford’s service weapon. The Office of the Chief Medical Examiner described that bullet as being from a prior injury.

**II. Mr. Moorehead’s Social Media**

The IID received information regarding Mr. Moorehead’s Instagram profile, “noshootzone\_colion” on July 5, 2023. It contained no information relevant to this investigation. The information was forwarded to the SAO July 17, 2021, and they advised that no further investigation into social media was warranted.

### **III. Conclusion**

This supplemental report has presented additional factual findings relevant to the investigation into the officer-involved shooting death of Tyree Moorehead in Baltimore, Maryland. Nothing in this report alters the legal analysis provided in the interim report. This report concludes the IID's investigation into this matter. Please contact the IID if you would like us to undertake any additional investigative steps.

## Appendices

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

911 Calls (1 audio recordings)  
Body-Worn Camera Video (9 recordings)  
CAD Reports (3 items)  
Civilian Witness Statements (2 recordings and Sun paper article)  
Communications Audio (1 recording)  
Decedent Documents (5 photographs)  
IA History and Training Records (12 items)  
Medical Records (3 items)  
OAG Reports (25 reports)  
OCME (1 autopsy report with cover letter, 5 additional items, 48 photographs)  
Officer Witness Statements (4 recordings)  
Other Video (2 items)  
Photographs (180 photos)  
Police Reports (23 reports and 1 BPD mapping program and maps)  
Search Warrants (3 items)  
Subpoenas (2 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 Departmental Policies**

See attached policies.

**Appendix B**  
Relevant Baltimore City  
Departmental Policies



# Policy 1115

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

*By Order of the Police Commissioner*

## POLICY

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

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

## CORE PRINCIPLES

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

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

## DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

lethal or less-lethal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Level 1 Use of Force** — Includes:

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

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

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

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

**Level 2 Use of Force** — Includes:

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

**Level 3 Use of Force** — Includes:

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

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

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

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

**De-Escalation**

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

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

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

### Critical Thinking

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

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

### Restrained Persons

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

### Use of Deadly Force/Lethal Force

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

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

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

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

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

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

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

## **REQUIRED ACTION**

### **Duty to Intervene**

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

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

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

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

### Children and Youth

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

### Reporting

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

**ASSOCIATED POLICIES**

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

**RECISSION**

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

**COMMUNICATION OF POLICY**

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



## Policy 725

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

*By Order of the Police Commissioner*

### POLICY

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

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

### CORE PRINCIPLES

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

### DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

**Level 1 Use of Force** — Includes:

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

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

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

execution of SWAT team or federal task force duties.

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

**Level 2 Use of Force** — Includes:

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

**Level 3 Use of Force** — Includes:

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

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

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

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

**GENERAL**

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

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

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

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

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

**Level 2 Use of Force**

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

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

### Level 3 Use of Force

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

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

## **REQUIRED ACTION**

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

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

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

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

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

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

### Level 1 Use of Force

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

### Level 2 Use of Force

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

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

#### Supervisor Responsibilities On-Scene:

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

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

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

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

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

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

### Level 3 Use of Force

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

**Lieutenant**

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

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

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

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

### Commanding Officer

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

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

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

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

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

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

**Division Chief**

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

**Use of Force Assessment Unit Member**

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

**UFAU Supervisor**

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

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

**UFAU Commander**

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

**UFAU Administrative Coordinator**

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

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

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

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

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

**APPENDICES**

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

**ASSOCIATED POLICIES**

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

**RESCISSION**

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

**COMMUNICATION OF POLICY**

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

APPENDIX A

Form 93, Weapons-Pointing Report

Form 93/19  
Weapons-Pointing Report

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

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

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

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

Please provide a brief narrative describing the incident:

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

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

**APPENDIX B**

**Force Report, Form 96**

**POLICE DEPARTMENT  
BALTIMORE, MARYLAND**

USE OF FORCE STATEMENT  
Form 96/19

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

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

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

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

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

SUBJECT: **Force Statement**

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

I respectfully report the following facts:

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

**APPENDIX C**

**Use of Force Review, Form 99**

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

APPENDIX C

Use of Force Review, Form 99

**Subject of the Use of Force:**

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_

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

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

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

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

\_\_\_\_\_

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

APPENDIX C

Use of Force Review, Form 99

Involved Member(s):

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

Race: [dropdown] Sex: [dropdown] Age: \_\_\_\_\_ Years of Service: \_\_\_\_\_ Prior Military Service: [dropdown]

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

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

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

Officer's condition: [dropdown]

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? [checkbox] Yes [checkbox] No

Explain in detail; below:

[Empty text box for explanation]

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

Explain in detail; below:

[Empty text box for explanation]

Body Worn Camera for this member:

Was this Officer issued a BWC? [checkbox] Yes [checkbox] No

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

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

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

Did the BWC capture the UOF? [checkbox] Yes [checkbox] 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? [checkbox] Yes [checkbox] No

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

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

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

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

Did the supervisor notify the BWC Unit immediately to ensure repair/replacement of the malfunctioning BWC device? [checkbox] Yes [checkbox] 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
<b>Add Officer</b>		<b>Delete Officer</b>					

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

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

**Witness Information:**

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

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

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

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

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

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

APPENDIX C

Use of Force Review, Form 99

Counseling, Training and Misconduct Referrals:

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

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

[Empty text box for counseling details]

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

If Yes, explain in detail:

[Empty text box for training details]

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):

[Empty text box for 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:

[Large empty text box for reasoning]

Signed By \_\_\_\_\_

Date:

Print Form

APPENDIX D

## Public Safety Statement, Form 97

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



**APPENDIX F**

**Use of Force Review Submission Table**

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

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

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