



Policy 1115

Subject	
USE OF FORCE	
Date Published	Page
1 July 2016	1 of 14

By Order of the Police Commissioner

POLICY

1. **Sanctity of Human Life.** The policy of the Baltimore Police Department (BPD) is to value and preserve human life in all situations.
2. **Use of Force: Objectively Reasonable, Necessary, and Proportional.** Members shall use only the force objectively reasonable, necessary, and proportional to effectively and safely resolve an incident, while protecting the lives of the member or others. The BPD places restrictions on use of force that go beyond restrictions set forth by law.
3. **De-Escalation.** Members shall de-escalate as soon as possible and appropriate. Members may be justified in using force at one moment, but not justified in using force several seconds later due to the changing dynamics of a situation.
 - 3.1. Members shall continually assess the situation and changing circumstances, and modulate their use of force appropriately.
 - 3.2. When possible, members should “slow down” the situation and re-assess how they can achieve the most peaceful outcome.
 - 3.3. Recognizing that mental illness, post-traumatic stress disorder, alcohol and/or drug addictions, or other health issues can cause individuals to behave erratically, members must try to de-escalate situations and minimize or avoid using force altogether, when possible, to prevent injuries to the subject, the public and the member.
4. **Reporting and Review.** Members are responsible for explaining and articulating the specific facts, and reasonable inferences from those facts, which justify the member’s use of force. When members do use force, the BPD is committed to thoroughly reviewing, investigating, and documenting the actions taken to determine if the use of force was consistent with BPD policy and training.
5. **Duty to Intercede.** Members have a duty to intercede to prevent the use of excessive force by another member toward any person.
6. **Duty to Provide Medical Assistance.** After any use of force incident, members shall immediately render aid to the injured person consistent with his/her training and experience and request medical assistance.

GENERAL

Sworn members are granted the authority to use force when necessary to accomplish lawful ends. This authority is grounded in the laws of the State of Maryland, the United States Constitution, and the provisions of this policy. Where members are justified in the use of force, the utmost restraint should be exercised. When practical, members should announce that force will be utilized prior to the application of such force.

This policy reinforces the responsibility of members to take those steps possible to prevent or stop the illegal or inappropriate use of force by other members. Every member is expected and required to take appropriate action, and to report to a supervisor any situation where that member is aware that another member is using force in violation of the law or BPD policy.

The decision to use force may be irrevocable. Many times the decision to use force is made in rapidly unfolding and highly stressful situations. Sound judgment and the appropriate exercise of discretion will be the foundation of decision making in the broad range of possible use of force situations.

Every use of force by a member of the BPD must be reported to a supervisor. Any member with knowledge that another member used force must also report that use of force to a supervisor. The supervisor will conduct a thorough review of the use of force, and document this review by completing a Blue Team entry before the conclusion of the supervisor's tour of duty.

DEFINITIONS

Passive Resistance — Subject is not physically cooperating with officer's attempts to restrain him/her, but he/she is not assaulting the officer or trying to escape (e.g., going limp).

Active Resistance — Resistance exhibited by a suspect that is between Passive Resistance and Active Aggression (e.g., attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp). Verbal statements, bracing, or tensing alone do not constitute Active Resistance.

Active Aggression — A subject's attempt to attack or an actual attack on an officer or another person. Exhibiting aggressive behavior (e.g., lunging toward the officer, taking a fighting stance, striking the officer with hands, fists, kicks) are examples of Active Aggression. Neither passive nor Active Resistance, including fleeing, pulling away, bracing, or tensing, constitute Active Aggression.

Aggravated Aggression — When a subject's actions create an objectively reasonable perception on the part of the officer that the officer or another person is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Aggravated Aggression represents the least encountered but most serious threat to the safety of law enforcement personnel or another person.

Conducted Electrical Weapon (CEW) — A weapon designed primarily to discharge electrical impulses into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses.

Deadly Force/Lethal Force — Any force likely to cause death or serious physical injury. The discharge of a firearm at an individual is considered a use of deadly force. The intentional use of an impact weapon such as a baton to the subject's head, neck, sternum, spine, groin, or kidneys.

Force Transition — Force transition is the movement from the application of one force type to another consistent with the “objectively reasonable” standard (e.g., escalation/de-escalation).

In-Custody Death — An incident in which an arrestee/detainee died while in, or as an apparent result of being in, BPD custody.

Imminent Danger — Actions or outcomes that may occur during an encounter which places the member in immediate fear for his/her safety or the safety of others. Imminent danger may be present even if a subject is not actively pointing a weapon at the law enforcement officer, but is carrying a weapon and running for cover to gain a tactical advantage over the officer. The period of time which is considered imminent and/or immediate may change as the circumstances and facts evident in each situation change. It is not the same in all situations.

Less-Lethal Force — Force employed that is neither likely nor intended to cause death or serious physical injury (e.g., DS-3027 bean bag, FN-303, PepperBall rounds, CEW, etc).

Less-Lethal Launcher — An apprehension or restraint 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 are only approved for use by Mobile Field Force (MFF) and SWAT members.

Mechanical Force — The use of a device or object, other than a firearm, to overcome a subject’s resistance to the exertion of the member’s authority (e.g., use of a baton, canine, CEW or chemical agent).

Physical Force — Any physical coercion by an officer in performance of official duties.

Reasonable Force — Force that is objectively reasonable and necessary under the circumstances to effect an arrest or protect the officer or other person.

Reportable Force — A use of force by a member which requires notification to a permanent-rank supervisor, and other action consistent with this policy.

Serious Physical Injury — Bodily injury that involves a substantial risk of death, unconsciousness, disfigurement, broken bones, protracted loss or impairment of an organ or mental faculty.

Totality of Circumstances — Those circumstances that would lead an objectively reasonable officer to believe that he/she is encountering a situation that may require the use of force on a subject. Circumstances to consider may include the nature of the offense, seriousness of the offense, size and strength of the subject, number of subjects, availability of weapons, mental instability of the subject, availability of other force options, training and experience of the member and subject, environmental factors, and availability of back up and specialized units. This list is not meant to be exhaustive.

Use of Force Model — An illustration that provides guidelines for officers to consider in making critical use of force decisions. (See Appendix B).

USE OF FORCE POLICY

BPD members will use only the degree of force that is objectively reasonable, necessary under the circumstances, and proportional to the threat or resistance of a subject.

1. **Objectively reasonable:** The reasonableness of a particular use of force is based on the totality of circumstances known by the officer at the time of the use of force.
 - 1.1. Reasonableness must be judged from the perspective of a reasonable officer on the scene, rather than with the benefit of hindsight.
 - 1.2. The reasonableness standard is an objective one: whether the member's actions are objectively reasonable in light of the facts and circumstances confronting him or her, without regard to the member's underlying intent or motivation.
 - 1.3. Reasonableness is not capable of precise definition or mechanical application. The reasonableness standard must allow for the fact that members are often forced to make split-second decisions - in circumstances that are tense, uncertain, dynamic and rapidly evolving - about the amount of force that is necessary in a particular situation.
2. **Necessary:** Officers will use physical force only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.
3. **Proportional:** The level of force applied must reflect the totality of circumstances surrounding the situation, including the presence of imminent danger to officer or others. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be objectively reasonable and necessary to counter it.
 - 3.1. The use of excessive and unwarranted force or brutality will not be tolerated under any circumstances.

DE-ESCALATION

Members shall use de-escalation techniques whenever possible and appropriate, before resorting to force and to reduce the need for force. De-escalation techniques may include verbal persuasion, warnings and tactical de-escalation techniques, such as slowing down the pace of an incident, waiting out subjects, creating distance (and thus the reactionary gap) between the member and the threat, and requesting additional resources (e.g., specialized units, mental health care providers, negotiators, etc.) to resolve the incident.

1. When reasonable under the totality of circumstances, members should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.
2. Members should recognize that they may withdraw to a position that is tactically advantageous or allows them greater distance in order to de-escalate a situation or consider or deploy a greater variety of force options, including lesser force or no force at all.
3. Members shall perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

4. Members shall not use tactics designed to intentionally escalate the level of force.

USE OF DEADLY FORCE

1. A member may use deadly force when he/she reasonably believes such action is immediately necessary to protect a member or another person from imminent danger of death or serious physical injury.
2. A member may use deadly force to prevent the escape of a fleeing suspect if an objectively reasonable officer would believe that it is necessary and that there is probable cause to believe that:
 - 2.1. The suspect has committed or is in the process of committing a felony involving the infliction or threatened infliction of serious physical injury or death, and
 - 2.2. The escape of the suspect would pose an imminent danger of death or serious physical injury to the officer or another person unless the suspect is apprehended without delay, and
 - 2.3. The officer has given a verbal warning to the suspect, if time, safety, and circumstances permit.
3. When practical, a member should identify himself/herself as a law enforcement officer and state his/her intention to use deadly force before using a firearm or employing deadly force.

Restrictions on the Use of Deadly Force

1. A member shall not use deadly force to subdue persons whose actions are a threat only to property.
2. Deadly force shall not be used against persons whose conduct is a threat only to themselves.
3. Choke holds are prohibited unless deadly force is authorized and no reasonable alternative exists.
4. Members shall not fire any weapon from or at a moving vehicle, except:
 - 4.1. To counter an imminent threat of death or serious physical injury to the member or another person, by a person in the vehicle using means other than the vehicle.
 - 4.2. To counter a situation where the officer is unavoidably in the path of the vehicle and cannot move to safety. **Officers should avoid positioning themselves in the path of a moving vehicle where they have no option but to use deadly force.**
5. Warning shots are prohibited.

DUTY TO INTERCEDE

Members have a duty to intercede to prevent the use of excessive force by another member toward any person. Intervention may be verbal and/or physical. Failure to intercede may subject a member to disciplinary action. Members must immediately notify a supervisor after such an intervention, when safe to do so.

DUTY TO PROVIDE MEDICAL ASSISTANCE

1. Whenever there is an obvious injury, complaint of injury, or medical attention is requested by any individual, members shall immediately render aid consistent with his/her training and experience and notify the Communications Unit. Members shall request that a medic respond to the scene or transport the individual directly to the nearest hospital emergency room.
2. If an individual has been subjected to impact by a less-lethal impact projectile, he/she will be provided with medical treatment. If the individual refuses medical treatment or leaves the location, members must document the actions taken to identify and render aid to the individual in the Use of Force review.
3. If an individual has been subjected to the use of a CEW, the individual shall be provided with medical treatment.
4. Additional care and caution should be exercised when encountering individuals who are pregnant, suffering from pre-existing injuries, elderly, children, frail, have a low body mass, are experiencing a medical or mental health crisis, or are otherwise apparently vulnerable or in distress.

DANGEROUS ANIMALS

1. Members are permitted to use force to stop a dangerous animal in circumstances where the animal reasonably appears to pose an imminent threat to human or animal safety and alternative options are not available or would likely be ineffective.
2. Members shall conduct pre-raid surveillance prior to executing a Search and Seizure Warrant, in an effort to determine if a dangerous animal may be present at the location to be searched.
3. Members shall develop a reasonable contingency plan to control/avoid a dangerous animal prior to confronting the animal when given advance notice that a dangerous animal may be encountered (e.g., dog pole, fire extinguisher, etc.).

TRAINING REQUIREMENTS

1. The Professional Development and Training Academy (PDTA) shall conduct and document annual training for all members on the lawful and appropriate use of force and deadly force. This training shall:
 - 1.1. Reflect current Maryland Police and Correctional Training Commissions (MPCTC) training standards.

- 1.2. Include, but not be limited to, the use of force in general, de-escalation and tactical alternatives to the use of force, the use of physical and mechanical force, the use of deadly force, and the limitations that govern the use of force and deadly force.
2. Training records shall include at a minimum the name of the member who received the training, type of training conducted and date the training was completed. These records shall be maintained/retained electronically, accessible for supervisory review.

REPORTING USE OF FORCE OR CERTAIN THREATS OF FORCE

Reportable Force includes any physical force required to overcome resistance by a subject to gain control or where there is an injury or allegation of injury, and certain threats of force as explained below.

All use of force or threats of force incidents shall be documented and reviewed by a permanent-rank supervisor not involved in the incident. In an effort to provide guidance for reporting/review requirements, incidents will be categorized as Level 1, Level 2, or Level 3 Reportable Force.

Level 1 Reportable Force and/or Threat of Force:

Types of Level 1 Reportable Force include:

1. Use of physical force to gain control of an individual exhibiting Active Resistance or more aggressive behavior that does not result in actual or alleged injury (See Level 2 and Level 3 Reporting requirements for instances where actual or alleged injury occurs).
2. Pointing a firearm or CEW at an individual.
3. "Cycling" a CEW as a form of warning ("Displaying the Arc").
4. Forcible takedowns without obvious injury or complaint of injury.

Member Requirement:

Members using Level 1 Reportable Force and/or Threat of Force shall immediately notify a permanent-rank supervisor. The involved officer shall document the circumstances surrounding the use of force and/or above referenced threat of force on an Administrative Report, Form 95. The name and sequence number of the notified supervisor shall be included in the report.

First-Line Permanent-Rank Supervisor Requirement:

The first-line permanent-rank supervisor not involved in the incident shall make an entry into Blue Team documenting the use of force and whether there is a body worn camera recording before the conclusion of the supervisor's tour of duty.

A supervisor not involved in the incident shall tag and download any data available from body worn cameras in accordance with Policy 824, *Body Worn Cameras*.

Level 2 Reportable Force:

Types of Level 2 Reportable Force include:

1. Any physical contact with a suspect and/or arrestee resulting in an injury or complaint of injury.
2. Application of three or fewer CEW cycles to an individual during a single encounter or application of a CEW on an individual in drive stun mode.
3. Any use of OC spray or other chemical weapons.
4. Any discharge of a less-lethal launcher/munition.
5. Any canine inflicted injury.
6. Any strike, other than any intentional strike to the head, neck, sternum, spine, groin, or kidney area with an impact weapon (See definition of “deadly force” and Level 3 Reporting requirements in this policy).
7. Any intentional striking of a vehicle or subject with a vehicle.

Member Requirement:

Members using Level 2 Reportable Force shall immediately notify a permanent-rank supervisor. The involved officer shall document the circumstances surrounding the use of force on an Administrative Report, Form 95. The name and sequence number of the notified supervisor shall be included in the report.

First-Line Permanent-Rank Supervisor Requirement:

The first-line permanent-rank supervisor not involved in the incident shall respond to the scene and conduct a complete Use of Force review, consistent with this policy (See Appendix A). The first-line permanent-rank supervisor shall make an entry into Blue Team documenting the use of force and whether there is a body worn camera recording before the conclusion of the supervisor’s tour of duty.

A supervisor not involved in the incident shall tag and download any data available from body worn cameras in accordance with Policy 824, *Body Worn Cameras*.

Level 3 Reportable Force:

Types of Level 3 Reportable Force include:

1. Any use of deadly force or incident involving the death of a person while in police custody.
2. Any firearm discharge by a member, including unintentional discharges.
3. Any use of force causing great or substantial bodily injury, including injury resulting in hospital admission, loss of consciousness, or a broken bone.
4. A strike to the head, neck, sternum, spine, groin, or kidneys with an impact weapon.

5. Application of greater than three CEW cycles to an individual during a single encounter.
6. Any incident involving significant misconduct by an officer in the use of force.

Member Requirement:

Members using Level 3 Reportable Force shall immediately notify a permanent-rank supervisor.

First-Line Permanent-Rank Supervisor Requirement:

The first-line permanent-rank supervisor shall immediately notify the Special Investigation Response Team (SIRT) to respond to the scene. SIRT will lead all investigative activity. The SIRT supervisor shall make an entry into Blue Team documenting the use of force and whether there is a body worn camera recording before the conclusion of the SIRT supervisor's tour of duty.

A SIRT supervisor not involved in the incident shall tag and download any data available from body worn cameras in accordance with Policy 824, *Body Worn Cameras*.

NOTE: Refer to Policy 710, *Serious Use of Force and in Custody Death Response* and Policy 824, *Body Worn Cameras* when handling a Level 3 Use of Force incident.

First-Line Permanent-Rank Supervisor Responsibilities

When notified of a reportable use of force by a member under your supervision:

1. Immediately respond to the scene and attend to the well-being of any injured member and/or person.
2. Conduct a Use of Force review in accordance with Guidelines for Supervisory Use of Force Reviews. (See Appendix A and Appendix C).
3. Use of Force reviews must be personally conducted by permanent-rank Sergeants or above not involved in the use of force incident. Officers in Charge (OIC) are not authorized to perform this function.
4. Ensure injuries and/or claims of injury to members and involved persons are documented.
5. A supervisor not involved in the incident shall tag and download any data available from body worn cameras in accordance with Policy 824, *Body Worn Cameras*.
6. Notify SIRT when a Level 3 Use of Force has occurred.
7. Enter the use of force incident into Blue Team before the end of your tour of duty.
8. Ensure all supporting documentation, including statements, photographs, videos, and reports are scanned and/or uploaded to Blue Team within 72 hours of the event.
9. Investigate any incident in which a member intercedes in another member's use of force. Take appropriate action and document in Blue Team before the end of your tour of duty.

If allegations of Excessive Force arise:

1. Provide any complainant/interested party with the contact information for the Office of Professional Responsibility (OPR) and the Civilian Review Board (CRB).
2. Take appropriate investigative measures and forward all reports to your Commanding Officer.

Commanding Officer Responsibilities

1. Critically review the first-line permanent-rank supervisor's Use of Force review within 10 days of completion. Determine if the involved member's actions were consistent with BPD policies and procedures and whether the actions were within the scope of the member's authority.
2. If the member's use of force does not appear consistent with BPD policy, the matter shall be referred to the Chief, Office of Professional Responsibility (OPR), for investigation.
3. If the Use of Force review indicates the need for supplementary or remedial training, the reviewing Commanding Officer should arrange for such training. When such training occurs, the Commanding Officer will ensure that documentation of training is uploaded to Blue Team.
4. Ensure that all materials such as witness statements, photographs, videos, and Form 95s have been uploaded to the Blue Team use of force event entry.
5. Notify Executive Command Staff and the Media Relations Section (MRS) of any incident the media may consider noteworthy and whether there is a body worn camera recording of the incident.

Chief, Office of Professional Responsibility (OPR), Responsibilities

1. Ensure proper and complete entry has been made in Blue Team.
2. Maintain statistical data of uses of force for inclusion in periodic reporting and the Early Intervention System (EIS).
3. Refer and present all Level 3 force investigations to the Performance Review Board (PRB) at the conclusion of the investigation. (Refer to Policy 724, *Performance Review Board* for the full PRB policy).

Chief, Compliance Accountability and External Affairs Division (CAEAD), Responsibilities

1. Ensure Use of Force reporting and review requirements under this policy are met.
2. Review all Level 2 Reportable Force reviews for strict conformity with BPD policy and training.
3. Conduct audits of all supervisory Use of Force reviews for compliance with any operative legal agreements.

Director, Professional Development and Training Academy (PDTA), Responsibilities

1. Provide training to all members in the proper use of force and reporting guidelines.

2. Maintain electronic training records to include the name of the member who received the training, type of training conducted and date the training was completed. These records shall be accessible for supervisory review.
3. Provide supplementary or remedial training to members when referred by supervisors, commanders, or the Performance Review Board.

APPENDICES

- A. Guidelines for Supervisory Use of Force Reviews
- B. Use of Force Model
- C. Use of Force Preliminary Review Checklist for Supervisors

ASSOCIATED POLICIES

Policy 302, *Rules and Regulations*
Policy 409, *Firearms Regulations*
Policy 414, *Less-Lethal Munitions and Chemical Agents*
Policy 703, *Death and Serious Assault Investigations*
Policy 710, *Serious Use of Force and In-Custody Death Response*
Policy 719, *Conducted Electrical Weapon*
Policy 724, *Performance Review Board*
Policy 824, *Body Worn Cameras*
Policy 1112, *Field Interviews, Investigative Stops, Weapons Pat-Downs and Searches*
Policy 1114, *Persons in Police Custody*
Policy 1118, *Oleoresin Capsicum Spray*
Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*
Policy 1602, *Canine Procedures*

RESCISSION

Remove and destroy/recycle General Order K-15, Use of Force, dated 18 September 2003 and amendment dated 21 May 2007.

COMMUNICATION OF POLICY

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

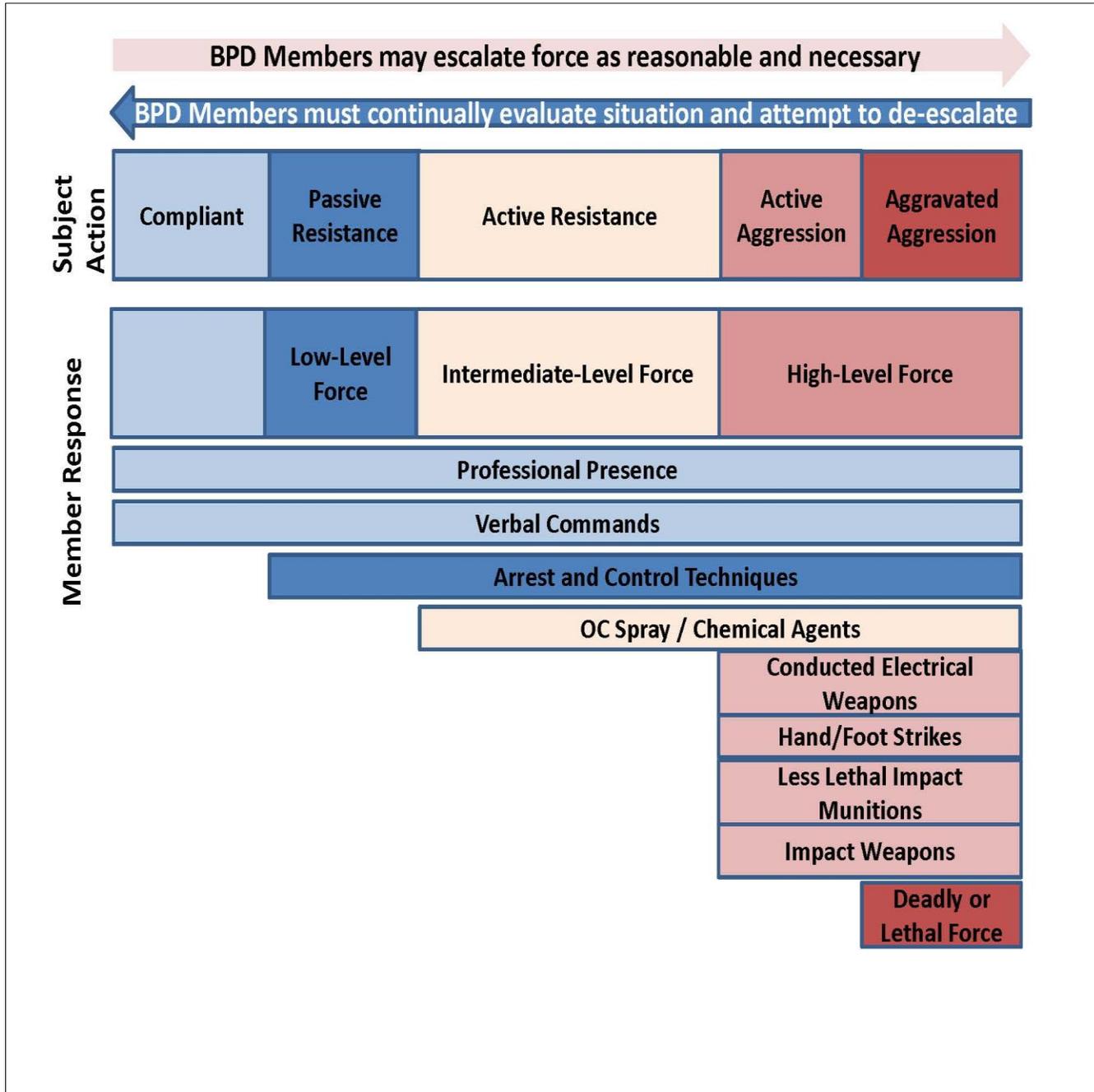
APPENDIX A

Guidelines for Supervisory Use of Force Reviews

1. Provide a fair, accurate, and impartial reporting of the facts. Assumptions, theories and editorial comments do not belong in use of force reports. The purpose of the supervisory review is to ensure compliance with policy and improve performance.
2. Do not compel involved members to submit to an interrogation about the use of force.
3. Review body worn camera (BWC) and CCTV video which may have recorded all or part of the incident. Document the content of such videos. A copy of such videos should be obtained and attached to the Blue Team use of force entry. BWC footage need not be uploaded.
4. Conduct and document a neighborhood canvass for witnesses. Attempt to locate 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 review prepared by the supervisor.
5. Include the full name, address, race, sex, date of birth and phone numbers of all subjects and witnesses.
6. Obtain written statements, Form 95s, from involved members and witness members.
7. Attempt to obtain written statements from other subjects or witnesses.
8. Document your on-scene actions and observations.
9. Photograph all injuries and/or claims of injury to anyone involved. Upload the photographs into Blue Team.
10. Provide a statement denoting the lack of injury to each participant.
11. Note any departmental or private property damaged as a result of a member's involvement.
12. Include a brief summary of the disposition of the subject after force was used, such as released, charges filed, or sent to hospital for evaluation.
13. Include drawings if they can help explain the facts in a complex incident.
14. Render an opinion as to whether or not the use of force was consistent with BPD policy and training.
15. Complete Blue Team entry prior to the conclusion of your tour of duty.
16. Each higher ranking member in the chain of command will review the reviewing supervisor's report. Concurring or non-concurring opinions must be entered into Blue Team. This duty may not be delegated. Members of the chain of command must personally conduct the review within 10 days of completion.

APPENDIX B

Use of Force Model



APPENDIX C

Use of Force Preliminary Review Checklist for Supervisors

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.			