**Policy 710**

**Subject**

LEVEL 3 USE OF FORCE INVESTIGATIONS / SPECIAL INVESTIGATION RESPONSE TEAM (SIRT)

By Order of the Police Commissioner

**POLICY**

1. **Reverence for Life.** It is the policy of the Baltimore Police Department (BPD) to demonstrate a deep reverence for life. In the rare event that an interaction between a police officer and an individual results in death or serious physical injury, the BPD’s Special Investigation Response Team (SIRT) is committed to thoroughly and impartially investigating the tactics taken by the officer leading up to, during and immediately after the event, as well as the use of force applied, in order to maintain organizational transparency, improve performance and increase accountability.

2. **Separate and Concurrent Criminal and Administrative Investigations.** The initial SIRT investigation is considered a criminal investigation. The BPD shall also proceed with an administrative investigation of the officer’s actions. The administrative investigation shall be in accordance with the Law Enforcement Officer’s Bill of Rights (LEOBR) and *Garriott v. New Jersey*.

3. **Teamwork.** We work together as one organization in carrying out the mission of the department; our respective units shall not act as distinct “silos” from one another. As individual members of the department, it is of the utmost importance to be respectful of each other and work collectively to solve problems and serve the community.

4. **Command and Control.** To ensure accountability and promote completeness and thoroughness of these investigations, a lead investigative entity shall be identified for each incident. SIRT or the Homicide Unit shall assume the role of primary investigating entity as described below. Additional units may be required to assist in the investigation, however their activities shall be guided by the primary investigative entity.

**DEFINITIONS**

**Level Three Reportable Force:**

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, 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.

**Accidental Discharges** — Any unintentional discharge of a firearm.

**Force Report** — Written statement required as part of the BPD Use of Force Review. The Force Report, Form 96, is completed by an involved officer or witness officer, documenting a use of force. A Force Report is considered a compelled statement under *Garrity v. New Jersey* or analogous State law. (see Appendix A).

**Police Officer Involved Shooting (POIS)** — Any incident where an officer discharges a firearm at an individual.

**Public Safety Statement** — A time sensitive statement, usually verbal, by an involved or witnessing officer that describes the type of force used, the direction and approximate number of shots fired by the involved officer(s) and suspect(s), the location of an injured person, the description of outstanding suspect(s) and their direction of flight, the time lapsed since the suspect(s) were last seen, whether the suspect(s) are armed, and any other information that could assist in the apprehension of outstanding suspect(s) such as description(s) of any victims or witnesses, description and location of any known evidence, and any other information to ensure officer and public safety (see Appendix B).

**Special Investigation Response Team (SIRT)** — BPD unit tasked with conducting investigations of Level 3 Reportable Force, investigations specially assigned to SIRT by the Police Commissioner or designee, and any fatal motor vehicle crash in which the actions of a BPD member were a contributing cause. SIRT is a sub-unit of the Office of Professional Responsibility (OPR), Internal Affairs Section (IAS).

**Reviewable Incidents**

**SIRT Investigations**

SIRT shall be the primary investigating entity in the following situations. Often times, additional units (e.g., Homicide, Crash Team, W.A.T.F., Arson Unit, etc.) may be called upon to offer assistance and technical expertise. SIRT however, will lead/direct all investigative efforts.

1. SIRT will respond to and investigate all BPD instances of Level 3 Reportable Force.

**NOTE:** Depending on the circumstances, SIRT may refer the shooting of animals and accidental discharges to IAS for investigation.

2. SIRT will respond and investigate any fatal motor vehicle crash in which the actions of a BPD member were a contributing cause.

3. Any incident at the direction of the Police Commissioner or his/her designee.
CID Investigations

1. If a member suffers a serious physical injury or dies as the result of an assault, the Homicide Section will lead the criminal investigation. SIRT may assist the Homicide Section during the criminal investigation and will lead the administrative investigation.

2. If there is a related criminal incident or criminal investigation that occurs prior to, during, or after the use of force incident being investigated by SIRT, the appropriate unit of CID will lead the criminal investigation.

BPD Police Officer Involved Shootings (POIS)

Notification Required

1. Immediate notification of a POIS shall be made to the Communications Section by the member involved or another member on the scene.

Required Response

1. Command members from the following sections shall immediately respond to the scene:
   1.1. OPR / SIRT,
   1.2. Homicide,

2. A supervisor/representative from the following sections shall immediately respond to the scene:
   2.1. Professional Development and Training Academy (PDTA), Firearms Unit Supervisor,
   2.2. Media Relations Section (MRS) representative.
   2.3. Crime Lab Supervisor.
   2.4. Shift Commander (district of occurrence).
   2.5. Unit 41.

NOTE: The POIS command response and notification protocol may apply to other SIRT investigations as determined on a case-by-case basis by the Police Commissioner or designee.

Investigative Process

1. SIRT will respond to the scene and begin an investigation relative to the officer's actions. SIRT shall perform the role of primary investigating entity, criminally and administratively, for all POIS except when a member suffers a serious physical injury or dies as the result of an assault.
   1.1. If the member suffers a serious physical injury or dies as the result of an assault the Homicide Section shall perform the role of primary investigating entity.
2. The Homicide Section shall perform the role of primary investigating entity for the criminal charging of suspects. This applies to all charging documents, applications for search and seizure warrants, and follow-up warrants if applicable (e.g., DNA warrant).

NOTE: Involved officers or members of their command shall not charge suspects involved in POIS but will provide witness information to investigating Homicide detectives.

Interviewing Law Enforcement Officers

1. All members involved in a Level 3 Reportable Force incident shall be granted all applicable rights under the law. Members of SIRT and/or Homicide shall not solicit counsel for the member.

2. A SIRT member shall ask the member involved if he/she is willing to provide a statement.

   2.1. If the member is willing to provide a statement, administer the *Miranda* advisement immediately.

3. If an involved member exercises his/her right under the LEOBR to delay his/her statement for up to 5 business days, this must be documented. If the statement is compelled, follow the law in accordance with the LEOBR. Supply the member with a Notification of Internal Investigation, Form 98 (see Appendix C).

4. All interviews must be recorded (audio and/or video) and take place as soon as practical.

5. If the incident occurred while the involved officer(s) was on duty, ensure the officer files a Force Report, Form 96, (see Appendix A) prior to the conclusion of the officer's shift/tour of duty. The report shall be submitted to SIRT.

Reporting

1. A preliminary briefing, up to 72 hours after the incident or as soon as practicable, will be presented by SIRT and/or Homicide to the Police Commissioner and Executive Command Staff, including the Director, PDTA.

2. SIRT investigators are responsible for generating three reports.

   2.1. **24-Hour Report** - Includes the basic facts of the case as they are known at the time. Forward this report to:

      2.1.1. Police Commissioner,

      2.1.2. Deputy Police Commissioners,

      2.1.3. All Chiefs,

      2.1.4. Commanding Officer of the member(s) involved,

      2.1.5. Director, PDTA, and
2.1.6. The Office of the State’s Attorney (SAO).

2.2. Performance Review Board Presentation – Presented to the Performance Review Board (PRB) after the SAO issues its findings. This presentation is due within 90 days after the SAO's decision, unless exigent circumstance exist (see Policy 724, Performance Review Board).

2.3. Final Report – Upon receipt of the PRB’s findings approved by the Police Commissioner, OPR shall close and file the case.

3. Throughout the investigation all files and related evidence shall be stored in a secure location.

REQUIRED ACTION

Member

1. After any use of force incident, members shall immediately render aid to the injured person consistent with training and experience and request medical assistance.

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

3. Provide a Public Safety Statement to responding supervisor(s), if applicable.

4. Complete a Force Report, Form 96, prior to the conclusion of your tour of duty. The report shall be submitted to SIRT or Homicide investigators.

First-Line Permanent-Rank Supervisor Requirement

1. Respond to the scene.

2. Request medical resources for any injured person if not already done.

3. Obtain a Public Safety Statement, if needed, in order to secure the scene, identify injured parties, and pursue suspects.

4. Notify the Communications Section immediately to activate SIRT when a Level 3 Reportable Force incident has occurred.

Shift Commander, District of Occurrence

1. Respond to the scene.

2. Request medical resources for any injured person if not already done.

3. Secure and maintain the integrity of the scene and all witnesses.

4. Establish a command post to facilitate proper command and control of investigative activity.
5. If necessary, order an officer to immediately provide a Public Safety Statement in order to secure the scene, identify injured parties, and pursue suspects.

6. Ensure that a crime scene log is established.

7. Confirm with the Communications Section that SIRT and/or Homicide has been activated and Command Staff has been notified.

8. Separate all involved and witnessing officers and keep them at the scene until the SIRT or Homicide supervisor arrives.

9. Do not recover, inspect or secure any involved member’s firearm unless directed to do so by the SIRT or Homicide supervisor.

9.1. Upon direction from SIRT and/or Homicide, ensure the member(s) involved in the incident are transported, as directed, for a weapons inspection conducted by the Crime Lab Technician (CLT) and SIRT/Homicide.

9.2. A CLT shall photograph the member and his/her weapon prior to the inspection.

9.3. The permanent-rank supervisor shall unload and render the weapon safe while the CLT and SIRT/Homicide supervisor witness the procedure.

9.4. Witnessing members must also have a weapons inspection.

9.5. If the weapon is a revolver, count the total number of live cartridges remaining in the cylinder and any reloading devices (e.g., speedloader, speedstrip, etc.).

9.6. If the weapon is a semi-automatic handgun, count the total number of live cartridges remaining in both the chamber and the magazine, the number of cartridges that were ejected from the weapon’s magazine, and the number of live cartridges in any additional magazines recovered from the officer’s primary and secondary pouch (or off-duty/plainclothes pouch).

**SIRT Supervisor**

1. Lead all investigative activity. This includes locating and interviewing witnesses, securing the scene and evidence, locating video surveillance that may have captured the incident, making notifications, etc.

2. Contact the Office of The State’s Attorney.

3. Ensure interviews with law enforcement officers conform to this policy (see Interviewing Law Enforcement Officers section).

4. Make a Blue Team entry, before the conclusion of your tour of duty, documenting the use of force and whether or not there are any body worn camera recordings.
5. Tag, download and review any data available from body worn cameras in accordance with Policy 824, *Body Worn Cameras*.

**NOTE:** Refer to Policy 1115, *Use of Force* and Policy 824, *Body Worn Cameras* when handling a Level 3 Use of Force incident.

6. If the incident is a POIS, place involved members on Administrative Leave for 10 days. During the course of the 10 days leave, members shall attend an appointment with the BPD mental health services provider and complete an after-action training program conducted by PDTA. After the 10 days administrative leave, the member(s) shall be on administrative duties until authorized to return to full duty by the Police Commissioner or designee.

**NOTE:** If not a POIS, the member may be placed on administrative leave or duty if directed by the Chief, OPR.

7. Ensure all video evidence is immediately gathered and assessed. This evidence may include, but is not limited to, CCTV footage, private or public surveillance, cell phone video footage, and body worn cameras.

8. Ensure KGA and 911 recordings are gathered and reviewed.

9. Ensure all reporting is completed and submitted.

**Crime Lab Technician**

1. Process the scene according to the Crime Scene Sciences Section's technical manual and provide photos as soon as practicable to SIRT and/or Homicide investigators.

2. For involved officer(s) and witnessing officer(s), photograph the officer and his/her weapon prior to any weapons inspection and follow the procedures contained in the Crime Scene Sciences Section's technical manual related to recovering and processing an involved officer's weapon.

**PDTA Firearms Training Unit**

1. The on-call supervisor will respond to the scene, report to the on-scene commander and immediately notify the Range Commander.

2. Gather the facts related to the incident, evaluate those facts in light of training and equipment.

3. Provide SIRT and/or Homicide investigators with any subject matter expertise that may be required.

4. Compile handgun and shotgun in-service qualification information for all officers involved in shooting incidents. In addition, confirm via the Armory's Unit's inventory database that the involved member was in possession of a BPD-approved firearm.

5. Conduct an after-action training program with involved members of a POIS within 10 days of the incident.
Media Relations Section

1. Respond to the scene and collect pertinent information. Ensure the information is verified as factual through SIRT and/or Homicide investigators.

2. Identify an appropriate media staging area, ensuring it is far enough away from the scene so as not to interfere with on-going investigative efforts.

3. Work closely with SIRT and/or Homicide and the Police Commissioner to provide timely and accurate public information regarding the incident.

4. Release a statement to the media summarizing the facts of the incident after consultation with the commanding officer of SIRT and/or Homicide and once all information has been approved by the Police Commissioner or his/her designee.

5. The Chief, MRS, or his/her designee, serves as the chief spokesperson for the BPD, the Police Commissioner, and members of the Senior Command Staff. The Chief, MRS is the only employee of the BPD, other than the Police Commissioner, or his/her designee authorized to speak or release information to any media outlet concerning a Level 3 Use of Force incident.

NOTE: The identity of the officer(s) involved will only be released to the general public and media outlets after forty-eight (48) hours from the time the incident occurred. If a member is injured or killed as a result of the incident, information should only be released by the Police Commissioner or his/her designee.

6. Do not provide victim identification information until after his/her next of kin has been notified.

Communications Section

1. Contact, via telephone, SIRT supervisor for all new SIRT incidents.

2. For all POIS, notify command members (captains/majors or civilian equivalents) from the following sections: OPR/SIRT, Homicide, Crime Lab, PDTA, the Shift Commander, Unit 41, MRS, Communications Section, all Chiefs, Deputy Police Commissioners and the Police Commissioner that a POIS has occurred.

3. Immediately process and provide copies of relevant KGA and 911 call recordings to SIRT investigators. Do not wait for an official request from SIRT or Homicide to begin processing this information.

Commanding Officer, Involved Officer’s District/Unit

1. For all POIS, or if mandated by the Chief, OPR, ensure the involved member(s) is assigned to administrative leave for 10 days. During the 10 days, ensure the following occurs:

   1.1. Member(s) completion of a critical incident debriefing by a BPD-approved mental health professional.
1.2. Member(s) completion of a PDTA after-action training program relevant to the incident. This should be conducted only after completion of the critical incident debriefing by a BPD-approved mental health professional.

1.3. Assign the member(s) to administrative duties following the 10 day period of administrative leave. Do not remove the member from administrative duties unless authorized in writing by the Chief, OPR or designee.

**NOTE:** If the Public Safety Infirmary places the member on medical leave due to stress related to the critical incident, ensure the member is medically suspended in accordance with Policy 304, *Suspension Procedures*.

**Division Chief, Involved Member**

Consult with SIRT and/or Homicide commanding officer prior to the reissuance of any BPD equipment. A member may be issued a replacement firearm from the Armory unless there is reason to believe the member acted outside the scope of authority, or the BPD deems it unreasonable to do so.

**APPENDICES**

A. Force Report, Form 96.
B. Public Safety Statement, Form 97.
C. Notification of Internal Investigation, Form 98.

**ASSOCIATED POLICIES**

Policy 724, *Performance Review Board*
Policy 725, *Use Of Force Review And Assessment*
Policy 1115, *Use Of Force*

**RESCISSION**


**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

Force Report, Form 96

POLICE DEPARTMENT
BALTIMORE, MARYLAND

FORCE REPORT
Form 9010

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/or duty. Failure to complete this report, as ORDERED, could lead to disciplinary action.

Ordered by: ____________________________ Date: ____________________________ Time: ____________________________ Location: ____________________________

TO: (Commander of member using force)

FROM: (Member using force and Seq #)

SUBJET: Force Report

Date: ____________________________ Time: ____________________________ Location: ____________________________ C/C #: ____________________________

I respectfully report the following facts:

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

Member Signature: ____________________________
APPENDIX B

Public Safety Statement, Form 97

Baltimore Police Department
Public Safety Statement (Officer Involved Shooting)

C.C.#: ____________________  Date: ____________________

Directions to on-scene supervisor:

This is a compelled statement. The permanent-rank supervisor compelling this statement:

- Will not deviate from its content.
- Will disseminate public safety information immediately via radio as appropriate.

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.

"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."

Requesting Supervisor's Name ____________________________ Seq# ____________ Time ________

"At this time and to the best of your knowledge, please answer the following":

1. From where and in what direction did you fire rounds?
2. In what direction did the suspect(s) fire rounds?
3. If you know of anyone injured, what is her/his location?
4. If any suspects are outstanding, what are their descriptions?

Supervisors: If there are no outstanding suspects, proceed directly to question #5, otherwise ask questions #4 (a-d).

a. What was their direction of travel?
b. How long have they been gone?
c. With what weapons were they armed?
d. Are there any other safety risks known about the outstanding suspect(s)?

5. Does any evidence need protection?
6. Any known witnesses?
7. Where are they located?

"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."
POLICE DEPARTMENT
Baltimore, Maryland

Date: ____________

NOTIFICATION OF INTERNAL INVESTIGATION

TO: ____________________________

FROM: __________________________

SUBJECT: Pursuant to the Law Enforcement Officers Bill of Rights, Md. Code Ann., Pub. Safety § 3-101, et seq., you are hereby informed that you are the subject of an internal investigation being conducted by the Department. The nature of the investigation involves, amongst other things, the following: This investigation will encompass your actions, reporting and documentation, along with any and all reporting and documentation of you _______________________.

NOTICE OF RIGHTS

You have the right to the presence and assistance of a responsible representative or attorney of your choice during the questioning. Pursuant to the LEOBR, the questioning shall be suspended for a period of time not to exceed five (5) days until representation is obtained. Your representative may be able to provide you with valuable assistance in this matter. You are further advised that if other issues arise concerning this complaint as the investigation progresses, you will be informed as to their nature.

Investigating Detective: _________________________

Supervising Detective: _________________________

NOTICE OF RECEIPT

I hereby acknowledge receipt of a copy of this form.

__________________________  ____________  ____________
Police Officer  Seq. #  Date

__________________________  ____________  ____________
Serving Officer's Signature  Seq. #  Date