



Baltimore County Police

Training Bulletin

Informer

2022-02

June 2022

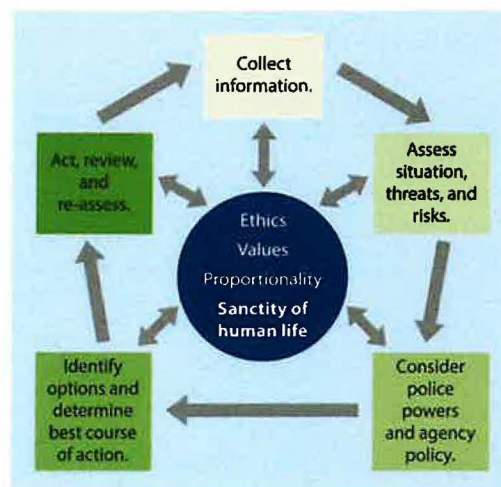
USE OF FORCE

The Maryland Use of Force Statute (Public Safety Article § 3-524) takes effect on July 1, 2022 (See Appendix A). This law established the standards for police uses of force in the state of Maryland and introduces new reporting requirements related to uses of force. While the Maryland Use of Force Statute is new, the concepts included in the statute are not.

Sworn members are reminded that they have been trained and re-trained in the use of force. The Department's use of force training curriculum has continually evolved to incorporate the best available policing practices. Key components of the curriculum are noted below. The Department's current training curriculum is consistent with the new Maryland Use of Force Statute.

Sworn members have been trained to use only the force that is necessary to accomplish their lawful duties. They have been trained to select the appropriate level of force for each situation and to use the least amount of force possible to accomplish their mission. For example, in making arrests, sworn members have been trained to consider the enormity of the crime and the character of resistance, and to use only such force as may be necessary to overcome the resistance and make the arrest.

The Department has adopted the Police Executive Research Forum (PERF) model *Integrating Communications and Tactics* (ICAT) and the Critical Decision-Making Model as a roadmap for decision-making in use of force encounters that officers face. The Critical Decision-Making Model revolves around the following core principles: Ethics, Values, Proportionality, and Sanctity of Life.



Sworn members have participated in classroom and scenario-based training that includes tactics to reduce the need to use force (e.g., increasing the time to resolve the incident, more patience when dealing with subjects, the use of de-escalation techniques, etc.).

In 2020, the Baltimore County Strengthening Modernization, Accountability, Reform and Transparency (SMART) Policing Act introduced several provisions related to police use of force into the Baltimore County Code during 2020, which are consistent with the Maryland Use of Force Statute. These provisions included:

1. Mandating annual training in de-escalation techniques and the use of physical and lethal force, including techniques for interacting with vulnerable persons;
2. Requiring the establishment of policies affirming the sanctity of life and the dignity and value of all persons;
3. Prohibiting the use of neck restraints except in defense against death or serious bodily injury;
4. Requiring a duty to intervene and report excessive uses of force; and
5. Requiring officers to render aid.

Sworn members are reminded that they have been trained in and are required to comply with these provisions.

What is force?

The Department defines force as the execution of a physical act to control a person, overcome resistance and/or defend oneself or another. Force may entail the use of body parts, issued departmental equipment, or an instrument of necessity.

EXCEPTION: The following physical acts do not constitute a use of force:

1. Escorting or touching a subject or arrestee with minimal or no resistance to:
 - a. Ensure officer safety or the safety of others; or
 - b. Accomplish a legitimate law enforcement objective (i.e., carry out the duties and responsibilities of a law enforcement officer).
2. Routine handcuffing/similar restraining (e.g., with flex cuffs, etc.) with minimal or no resistance;
3. Displays of an officer's authority/ability to use force without the physical use of force (i.e., shows of force).

When there is uncertainty as to whether an action constitutes force and requires reporting, members should consult their supervisor.

When can force be used?

Under the Maryland Use of Force Statute, a police officer may not use force against a person unless, under the totality of the circumstances, the force is **necessary and proportional** to:

1. Prevent an imminent threat of physical injury to a person; or
2. Effectuate a legitimate law enforcement objective (i.e., carry out the duties and responsibilities of a law enforcement officer).

Force must be stopped when:

1. The person on whom force is used is under the officer's control or no longer poses an imminent threat of physical injury or death to a person; or
2. The officer determines that force will no longer accomplish a legitimate law enforcement objective.

NOTE: Sworn members are reminded that in addition to the above provisions outlined in the Maryland Use of Force Statute, they are required to cease the use of force when they have determined that, under the totality of the circumstances, the force is no longer necessary and proportional to prevent an imminent threat of physical injury to a person or effectuate a legitimate law enforcement objective (i.e., carry out the duties and responsibilities of a law enforcement officer).

What is “necessary”? What is “proportional”?

The State of Maryland’s Office of the Attorney General has issued an opinion regarding the meaning of the phrase “necessary and proportional.”

According to the Office of the Attorney General, force is necessary if there is no reasonable alternative to using force that, under the totality of the circumstances, would safely and effectively achieve the same legitimate ends.

Force is proportional when it corresponds to, and is appropriate in light of the:

1. Threat or resistance confronting the officer or the objective that the officer aims to achieve.
2. Value of the interest that the member seeks to protect.

When determining whether to use force or continue to use force, officers shall take into consideration all information known regarding the subject and circumstances, including the severity of the crime, the threat posed by the individual to the safety of the officer or other people, and whether the subject is trying to flee or resist arrest. Members shall use force only when that force is **necessary and proportional** to prevent an imminent threat of physical injury to a person or to effectuate a legitimate law enforcement objective.

Reasonable alternatives to force are those that are able to achieve the same ends safely and effectively. Reasonable alternatives may include verbal persuasion and warnings, slowing down the pace of an incident, waiting out persons, using barriers, creating distance, and requesting additional resources (e.g., additional units, CIT trained officers, Mobile Crisis Team). This does not require the member to jeopardize their own safety by pursuing alternatives that are not reasonable under the totality of the circumstances (e.g., because of the amount of time the member has to make a decision, the immediacy of the threat facing the officer, etc.). It also does not require officers to be omniscient or to act at the time of the encounter as if they had the benefit of perfect hindsight.

According to the Attorney General’s opinion, the Maryland Use of Force Statute appears to expand the relevant window of time used to determine when a use of force is justified, taking into account factors such as whether the officer unnecessarily escalated the situation. As such, sworn members must ensure they are taking reasonable steps to gain compliance and de-escalate conflict without using physical force, when time, circumstances, and safety allow.

What needs to be documented?

The Maryland Use of Force Statute requires members to report all use of force incidents (i.e., uses of force requiring a Use of Force Packet and uses of force not requiring a Use of Force Packet) they observe or are involved in. This includes the member using force and members observing (e.g., seeing, hearing, etc.) force used by officers from within the Department or from other agencies. It may also include members with other pertinent information related to the review of a use of force. When there is uncertainty regarding a member’s involvement, the member should contact their supervisor for a determination as to whether documentation needs to be completed. While not required, members have the ability to document the fact that they were on the scene of or were assigned to an incident involving a use of force, but did not use force or observe force.

Except as specified in the policy, the following documents must be submitted prior to the end of the member’s tour of duty for all incidents involving a use of force:

1. The appropriate incident report;
2. Forms 253, Use of Force Report; and
3. All related narrative documents (i.e., by the members using force, the members observing (e.g., seeing, hearing, etc.) the use of force, and the members with pertinent information related to the review of a use of force).

Exceptions require completion of a pre-printed Use of Force Report Form 12L, Intra-Department Correspondence, to be submitted in place of a Form 253 for firearms discharges involving death or injury and for uses of force other than firearms discharges which results in serious physical injury or death where an entity of the Criminal Investigations Bureau or another investigating unit is conducting a criminal investigation. The pre-printed Use of Force Report Form 12L has been created to capture all information newly-mandated by law, as described in Public Safety Article § 3-514, to be reported by the member using force prior to the end of the officer's tour of duty without requiring the officer to complete a Form 253 or narrative document.

Exceptions also allow for delays in completion of the Form 253 or pre-printed Use of Force Report Form 12L when the member is injured in the course of the incident. Delays will be permitted for completion of related narrative documents when a pre-printed Use of Force Report Form 12L is submitted in place of a Form 253 pending statements being made to the Homicide/Missing Persons Unit or the investigating unit, the member wishes to speak to counsel prior to completion, or the shift/unit commander authorizes an extension for members observing or having pertinent information related to the review of a use of force, but not using force (e.g., for staffing or overtime issues, etc.).

Members should ensure their narratives clearly articulate the circumstances of an incident involving a use of force. Members using force shall fully document the following in their written narratives:

- Any attempts to de-escalate the situation and/or the reasons that de-escalation techniques were not appropriate.
- The imminent threat of physical injury the use of force was aimed at preventing and/or the legitimate law enforcement objective (i.e., duties and responsibilities of a law enforcement officer) force was used to achieve.
- The circumstances used to determine that the use of force was necessary and proportional. **NOTE:** Relevant items to document include information known regarding the subject and circumstances, including the severity of the crime, the threat posed by the individual to the safety of the officer or other people, and whether the subject is trying to flee or resist arrest.
- The reason(s) the use of force was ceased (e.g., the subject was under the member's control; the subject no longer posed an imminent threat of physical injury or death to the member or to another person; the member determined the force would no longer accomplish a legitimate law enforcement objective; the force was no longer necessary and/or proportional, etc.).

Members observing force or having pertinent information related to the review of a use of force must document their observations and involvement. However, they should not attempt to make an evaluation of another officer's thoughts or actions.

How will use of force data be used?

Forms 253 and related incident reports/narrative documents will be reviewed by supervisors and shift/unit commanders, as they were prior to July 1, 2022. Precinct/section commanders will review Forms 253 and related incident reports/narrative documents and discuss potential use of force policy violations with the Internal Affairs Section (IAS). As part of the use of force review, supervisors, shift/unit commanders, and precinct/section commanders will ensure that a sufficient portion of videos of a use of force are viewed to accurately make an assessment of whether the use of force was properly documented and if there are potential use of force policy violations. Uses of force requiring a Use of Force Packet (i.e., uses of force that required a Form 253 prior to July 1, 2022) and those with potential policy violations will be sent to the IAS for review.

Performance Enhancement Process (PEP) Notices will be generated by the IAS for members with three or more uses of force requiring a Use of Force Packet, use of force complaints, and/or misconduct allegations in a six month period. The purpose of the PEP is to identify and assist members who exhibit potential job-related performance issues, and is not disciplinary in nature.

The Form 253 is primarily used to capture data and produce aggregate statistics on the use of force by Department members.

Can I be criminally charged for a violation of the Maryland Use of Force Statute?

Currently, the IAS sends the Baltimore County State's Attorney's Office uses of force reports and related documentation. After review, if the State's Attorney's Office deems it warranted, an officer can be charged criminally for a use of force. The procedure will not change due to the new Use of Force Statute. However, the statute does include a new law stating that the intentional use of force beyond that which, under the totality of the circumstances, is necessary and proportional and that results in serious physical injury or death is a misdemeanor subject to imprisonment not exceeding 10 years.

The Maryland Use of Force Statute does not address civil liability.

Questions?

Members with questions in reference to the Maryland Use of Force Statute should speak with their supervisor and shift/unit commander. Shift/unit commanders and precinct/section commanders can contact the Legal Section at x2211.

Statutes Text

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§3-524. NOT IN EFFECT

**** TAKES EFFECT JULY 1, 2022 PER CHAPTER 60 OF 2021 ****

- (a) This section shall be known as the Maryland Use of Force Statute.
- (b) (1) In this section the following words have the meanings indicated.
 - (2) "Law enforcement agency" has the meaning stated in § 3-201 of this title.
 - (3) "Police officer" means:
 - (i) a police officer as defined in § 3-201 of this title; or
 - (ii) a special police officer as defined in § 3-301 of this title.
 - (4) "Serious physical injury" has the meaning stated in § 3-201 of the Criminal Law Article.
- (c) Each police officer shall sign an affirmative written sanctity of life pledge to respect every human life and act with compassion toward others.
- (d) (1) A police officer may not use force against a person unless, under the totality of the circumstances, the force is necessary and proportional to:
 - (i) prevent an imminent threat of physical injury to a person; or
 - (ii) effectuate a legitimate law enforcement objective.
- (2) A police officer shall cease the use of force as soon as:
 - (i) the person on whom the force is used:
 - 1. is under the police officer's control; or
 - 2. no longer poses an imminent threat of physical injury or death to the police officer or to another person; or
 - (ii) the police officer determines that force will no longer accomplish a legitimate law enforcement objective.
- (e) A police officer shall:
 - (1) when time, circumstances, and safety allow, take steps to gain compliance and de-escalate conflict without using physical force;
 - (2) intervene to prevent or terminate the use of force by another police officer beyond what is authorized under subsection (d) of this section;
 - (3) render basic first aid to a person injured as a result of police action and promptly request appropriate medical assistance; and
 - (4) fully document all use of force incidents that the officer observed or was involved in.
- (f) A police supervisor shall:

- (1) respond to the scene of any incident during which a police officer used physical force and caused serious physical injury; and
 - (2) gather and review all known video recordings of a use of force incident.
- (g) A law enforcement agency shall:
- (1) have a written de-escalation of force policy; and
 - (2) adopt a written policy requiring supervisory and command-level review of all use of force incidents.
- (h) A police officer shall:
- (1) undergo training on when a police officer may or may not draw a firearm or point a firearm at a person and enforcement options that are less likely to cause death or serious physical injury, including scenario-based training, de-escalation tactics and techniques, and reasonable alternatives to decrease physical injury; and
 - (2) sign a training completion document stating that the officer understands and shall comply with the Maryland Use of Force Statute.
- (i) (1) A police officer may not intentionally violate subsection (d) of this section, resulting in serious physical injury or death to a person.
- (2) A police officer who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 10 years.
- (3) A sentence imposed under this subsection may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing a violation of this subsection.

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