



INDEPENDENT INVESTIGATIONS DIVISION

Operating Procedures

October 1, 2023

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I. Introduction

In the spring of 2021, as part of a large package of police reform measures, the Maryland General Assembly created the Independent Investigations Division (“IID”) within the Maryland Office of the Attorney General (“OAG”) to “investigate all alleged or potential police-involved deaths of civilians” throughout the State. 2021 Md. Laws ch. 132, § 1. The IID was granted jurisdiction over incidents occurring on or after October 1, 2021. Two years later, the General Assembly expanded the IID’s authority, mandating that the Division prosecute, when warranted, police-involved fatalities and incidents that cause serious physical injuries likely to result in the death of an individual.

At present, there are approximately 16,000 certified officers working for 157 different law enforcement agencies throughout Maryland’s 23 counties and Baltimore City. In order to maintain public confidence in its impartiality and independence, the IID exists separate and apart from any of these agencies, including the agency involved in any incident under investigation. The IID’s investigation centers on acts and/or omissions of an officer performing a law enforcement function while that officer is either on duty or off duty, and when those acts and/or omissions result in death or injuries likely to result in the death of any individual. In practice, incidents under the IID’s purview generally fall into four categories: shootings, use of force incidents, in-custody deaths, and vehicle crashes.

During the course of any investigation, if the IID determines that criminal charges are appropriate, the IID will seek to prosecute the matter in the jurisdiction where the incident occurred. If no criminal charges are appropriate, the IID will publicly release a case report, which includes a summary of factual findings and an analysis concerning the lawfulness of any subject officer’s acts and/or omissions.

The investigation and prosecution of police-involved fatal or near-fatal incidents are complex and often the subject of intense public scrutiny. The operating procedures that follow have been developed to ensure the IID’s work is thorough and efficient, impartial, and transparent for the parties directly involved in a given case and the general public.

II. Overview of the Independent Investigations Division

The IID is staffed with nearly 20 employees, including investigators, attorneys, and other professionals that support critical parts of the Division's work. The IID also partners with the Maryland State Police ("MSP") to conduct all investigations.

IID investigators have significant professional experience leading complex criminal investigations into homicide and internal affairs matters for some of Maryland's largest law enforcement agencies. IID investigators respond to scenes—typically within one to two hours of notification—throughout the State at any time of day. They are responsible for conducting in-depth investigations on behalf of the IID, both on scene and in the days and weeks that follow.

The attorneys who serve in the IID also have a wide array of experience with criminal investigations, including police excessive force cases, homicides, and violent crimes. At least one IID attorney responds with investigators to each incident scene to make any time-sensitive legal decisions that might affect the investigation. IID attorneys also work with investigators while physical evidence is collected, witnesses are interviewed, and throughout other aspects of the investigation. When necessary to advance an investigation, attorneys also utilize the grand jury. As evidence is gathered and reviewed, attorneys research criminal statutes and case law, police department policies, and officer training records to make an informed decision as to whether criminal charges are appropriate against any subject officer. If criminal charges result from the investigation, IID attorneys handle any subsequent prosecution. If criminal charges are not warranted, IID attorneys write a comprehensive case report detailing factual findings and legal analysis. The report is then released to the public.

The IID has a Public Information Officer who is responsible for communicating about IID cases with the media and general public. As discussed further in this document, the IID publicly releases information—including available video footage—throughout the investigation to ensure transparency. The IID also has a victim/witness liaison, who provides information and support to family members of the individual who died or was seriously injured by police, and an experienced paralegal, who supports the investigators and attorneys during all aspects of a case.

Finally, as noted above, the IID works closely with MSP. This includes sworn MSP personnel from the Homicide Unit and Crash Team, which handles the investigations into fatal vehicle incidents, as well as professionals in MSP's Forensic Sciences Division, who process and analyze evidence.

III. Definitions

In an effort to assist law enforcement and the general public, terms used throughout this document have the meanings provided below. Several of these terms are not defined in Maryland law, and the definitions here are based on available legislative history and case law.

“Police officer” is defined by Maryland statute at Md. Code, Pub. Safety § 3-201 and includes any individual who enforces the law of the state and is a member of an agency enumerated in the statute. There are also categories of “special police officers” whose acts and/or omissions would fall within the IID’s purview. This includes an officer who is a member of a special governmental security or police force that is charged with protecting certain property and is made up of other special police officers and has been authorized by that police force to enforce the general criminal laws of the State on that property. Examples of this include, but are not limited to, officers with the Maryland Department of Health, the Maryland Department of Rehabilitative Services, and the Prince George’s County Public Schools. The term “police officer” also includes state and local officers detailed to federal task forces. The IID does *not* investigate, however, the acts and/or omissions of private security officers, correctional officers, out-of-state officers, or federal law enforcement officers. The statutory definition of “police officer” also excludes certain senior positions within a law enforcement agency, such as a sheriff, police commissioner or deputy police commissioner, or chief of police or deputy chief of police.

“Police-involved incidents” are acts and/or omissions of a police officer while that officer is performing a law enforcement function either on duty or off duty when those acts and/or omissions result in the death of any individual or result in injuries likely to result in the death of any individual. In practice, police-involved incidents most commonly include shootings, use of force incidents, in-custody deaths, and vehicle crashes. A police-involved incident also includes any circumstance where an officer has an established legal duty to act at a given time, such as a duty to provide medical aid or a duty to intervene, and an officer’s omission could be reasonably thought to have caused or contributed to the death or injuries likely to result in death of an individual.

“Injuries likely to result in death” is neither defined in Maryland law nor subject to a concise medical definition. The legislative history of the term, however, indicates the standard is separate from, and a higher degree than, the “serious physical injury” standard, which is used in the context of First Degree Assault and is defined by statute and applied in numerous appellate cases. Serious physical injury means, “physical injury that: (1) creates a substantial risk of death; or (2) causes permanent or protracted serious: (i) disfigurement; (ii) loss of the function of any bodily member or organ; or (iii) impairment of the function of any bodily member or organ.” Md. Code, Criminal Law, § 3-201(d). Thus, any injury likely to result in death would almost always qualify as a serious physical injury under Maryland law, but every serious physical injury would not necessarily constitute an injury likely to result in death. The IID has sole authority in making the determination of when an injury rises to the level of likely to result in death.

“Subject officer” is an officer whose acts and/or omissions are being investigated by the IID. The IID’s designation of an individual as a subject officer is not an opinion on the guilt or innocence of any individual, an opinion of whether any individual may be charged with a crime,

or a comment on the civil liability or administrative sanctions that any individual may face. This designation merely reflects the IID's determination, based on an examination of the facts of the incident and relevant law, that an officer's acts and/or omissions could be reasonably thought to have caused or contributed to the death or injuries likely to result in death of an individual, or that there is other conduct discovered during the IID's investigation that could reasonably expose an officer to criminal liability.

“Witness officer” is an officer who is present for an incident or has information relevant to an incident but is not otherwise designated as a subject officer.

“Vehicle pursuit” is an attempt by an officer in a vehicle to apprehend an individual who is actively attempting to elude apprehension.

IV. Notification

Immediately upon learning of a police-involved incident, the local law enforcement agency (“LEA”) that employs the officer and/or the local LEA with primary jurisdiction over the location of the incident will notify the MSP Headquarters Duty Officer at (410) 653-4474. The notifying local LEA will provide contact information for the on-scene commander with responsibility for the initial scene response. If a local LEA is uncertain whether an incident qualifies for notification, the local LEA should contact MSP at the above number to inquire.

During the initial contact, the local LEA’s on-scene commander should provide, to the best of their ability, the following preliminary information: the date and time of the incident; the location of the incident, the location of any other scenes, and the location of any other witnesses; the type of incident that led officers to the scene; the number of possible subject and witnessing officers; whether anyone is deceased or injured; and whether the media is on-scene. It is more important that the local LEA provide notification quickly than that they wait to obtain all of these pieces of information.

The local LEA will maintain control over the scene until the arrival of MSP or IID investigators. The local LEA will maintain scene security, including traffic control, until the on-scene investigation is complete, and the scene is released. If the local LEA has detained any individual in connection with a matter the IID is investigating, that individual shall remain in the local LEA’s custody until medically treated and released and/or arrested, or the individual’s body is transferred to the Office of the Chief Medical Examiner.

V. Determining Likelihood of Death

In any police-involved incident, the determination of whether injuries sustained by an individual are likely to result in that individual's death rests solely with the Office of the Attorney General. Md. Code, State Gov't § 6-602(b)(2). This authority allows the IID, if appropriate, to begin investigating serious officer-involved incidents immediately, thereby avoiding uncertain situations in which the IID and local law enforcement agency must wait hours—or potentially days or weeks—to determine which entity will assume jurisdiction for an investigation.

This determination is separate from whether the incident is police-involved and/or whether an officer caused the individual's injuries. In this inquiry, the IID looks only at the individual's medical prognosis, guided by the factors listed below, which are non-exhaustive and may overlap:

- Mechanism of injury;
- Physical condition of the individual immediately following the act or omission that caused the individual's injuries, and the nature of the injuries to the individual that are known or apparent to first responders on scene;
- Nature of any medical aid provided to the individual on scene by law enforcement and/or emergency medical technicians and/or paramedics;
- Physical condition of the individual during medical transport, and the nature of the injuries to the individual that are known or apparent to first responders during medical transport;
- Information obtained from the individual's treating/attending physician upon admission and triage at the hospital to include diagnosis of injuries, course of treatment, and/or prognosis; and
- Information obtained through subsequent condition checks by hospital staff and/or review of medical records by IID personnel.

In any matter where the IID determines that an individual's injuries are likely to result in death and therefore assumes the investigation, but that individual has not died, the IID will continue as the primary investigative unit. In any matter where the IID determines that an individual's injuries are not likely to result in death and therefore declines to assume the investigation, but that individual then dies or their injuries later progress to create a likelihood of death, the IID will assume the investigation from that point. In any matter where a significant amount of time elapses between the police-involved incident and the individual's death, the IID will consider the circumstances of the incident and any subsequent findings, including any finding of the Maryland Office of the Chief Medical Examiner with regard to cause and manner of death, to determine if the IID will investigate.¹

¹ 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 of Maryland uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. These terms are not meant to connote criminal culpability.

VI. On-Scene Investigation

A. Initial Responsibilities

Upon their arrival, IID and MSP personnel are responsible for a number of critical investigative tasks, including:

- Assuming control of the scene from the local law enforcement agency that employs the officer(s) involved in the incident under investigation.
- Monitoring the processing and collection of physical evidence, which is performed by MSP crime scene personnel, and any photographing of and weapon recovery from subject officers.
- Collecting body-worn camera and/or dashboard camera video footage and any other available video.
- Gathering factual information to adequately brief other IID personnel, including members of the OAG Communications Unit to ensure accurate and necessary information is shared with the public.
- Identifying, locating, and interviewing law enforcement and civilian witnesses and other involved parties.

B. Collection of Physical Evidence

The following procedures are intended to govern the gathering and preservation of evidence at the scenes of qualifying incidents. For any situation not covered, law enforcement agencies (“LEAs”) should call the MSP Headquarters Duty Officer at (410) 653-4474 or the on-call IID investigator at (410) 576-7070 with any questions that arise prior to IID’s arrival on scene.

Personnel from the MSP Forensic Sciences Division (“MSP-FSD”) and Criminal Enforcement Division will oversee the scene of IID investigations and will make every effort to arrive at the scene of IID investigations within one to two hours from notification.

Physical Evidence	
Cases Where There is No Imminent Threat to Evidence	<ul style="list-style-type: none">• The evidence should be collected by personnel from the MSP-FSD.• Personnel from the LEA will not collect evidence but will locate, identify, and secure it in place until MSP-FSD personnel arrive.• If the LEA has scanning devices, they are encouraged to use them after consultation with the IID.
	<ul style="list-style-type: none">• If there is an imminent threat to any evidence and crime scene personnel from the local LEA are present, then the local crime scene personnel should

<p style="text-align: center;">Cases Where There is an Imminent Threat to Evidence</p> <p>(An imminent threat to evidence exists when evidence will be lost, damaged, or contaminated if personnel on scene do not act. Examples include, but are not limited to, weather—rain, wind, flood, heat, etc.—and potential interference from civilians, medical personnel, animals, etc.)</p>	<p>document, photograph, and collect that evidence per their own procedures prior to the arrival of MSP-FSD crime scene personnel. If the evidence must be processed to preserve it from threat, the local LEA may do so. Evidence that is not subject to an imminent threat will be left for MSP-FSD crime scene personnel to process.</p> <ul style="list-style-type: none"> • If there are no crime scene personnel (MSP-FSD or local) present, then the sworn personnel on-site should document, photograph, and collect that evidence rather than waiting for crime scene personnel to arrive. If time allows, sworn personnel from the local LEA should contact IID personnel for guidance prior to the collection of evidence. Evidence that is not subject to an imminent threat will be left for MSP-FSD crime scene personnel to process. • If personnel from the local LEA collects evidence, the name of the personnel collecting the evidence and the reason for collection should be documented and provided to the IID as soon as possible. • If personnel from the local LEA collects evidence, they should ask the IID whether to transfer the evidence to MSP-FSD or process it themselves. • The guiding principle for when there is a threat to evidence is that it is always better to collect the evidence in some manner rather than losing the evidence or having it damaged or contaminated.
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C. Determining Subject Officers

In each incident, the IID must determine which officers are the subjects of the IID investigation. This decision should be made as soon as possible after an incident. In addition to the impact such a decision has on the family of a decedent, the officers and department involved, and the community more broadly, the decision has significant implications for investigative decisions. Most notably, officers who are the subjects of an investigation have a Fifth Amendment right to refrain from making any statement. Officers who are merely witnesses, on the other hand, have no such right; investigators may compel them to provide statements. The IID aims to conduct all interviews as early as possible in any investigation and delays subsequent actions, such as the public release of video of an incident, to ensure that such interviews are untainted by extrinsic evidence. Therefore, the IID strives to determine subject officers as early

as possible in an investigation, with the necessary caveat that new information could result in a change in which officers are deemed subject officers.

This determination is inherently fact-specific, but the following principles guide the IID’s decisions in common categories of incidents, subject to the additional considerations listed below the charts.

Officer-Involved Shootings	
<i>Subject Officers</i>	<i>Witness Officers</i>
<ul style="list-style-type: none"> • All discharging officers, even if it is known they did not strike the decedent/injured. 	<ul style="list-style-type: none"> • Officers who used force other than a firearm (<i>e.g.</i>, Taser, hands, etc.), unless there is some reason to believe their use of force contributed to the death/injury.

Police Pursuits/Vehicle Crashes	
<i>Subject Officers</i>	<i>Witness Officers</i>
<ul style="list-style-type: none"> • All driving officers trying to keep pace with the fleeing vehicle, whether or not lights and sirens were activated, and driving officers in the immediate area of the crashed vehicle (<i>i.e.</i>, within or close to within sight) at the time of or immediately preceding the crash (<i>i.e.</i>, at a time when the officer’s actions could be said to have caused the driver’s actions). • All officers whose interactions with the individual or their vehicle before the pursuit that could be a contributing factor to the pursuit or crash. • All officers who used force before, during, or after the pursuit. • All officers in any car that collided with any person or property, including the fleeing individual’s vehicle while following or attempting to follow the vehicle. 	<ul style="list-style-type: none"> • Passenger officers unless they were the driver’s supervisor or took some overt action to encourage the pursuit or attempted stop. • Officers who terminated their pursuit long enough before the crash that the officer’s actions could not be said to have caused the driver’s actions at the time of the crash.²

² The IID considers a pursuit terminated when an officer takes action that indicates they are no longer seeking to follow or apprehend the pursued car or its occupants. These actions could include, but are not limited to, slowing to a speed markedly below that of the pursued car or turning so as not to follow the route of the pursued car.

In-Custody Incidents	
<i>Subject Officers</i>	<i>Witness Officers</i>
<ul style="list-style-type: none"> • All officers who were responsible for the individual’s wellbeing at the time of the death/injury, or at preceding times when symptoms or injuries were or should have been noticed. 	<ul style="list-style-type: none"> • Officers who were previously responsible for the individual (<i>e.g.</i>, arresting officers if death/injury occurs later in a holding cell), unless there is reason to believe conduct at that stage of the interaction contributed to the death/injury.

Use-of-Force Incidents	
<i>Subject Officers</i>	<i>Witness Officers</i>
<ul style="list-style-type: none"> • All officers who used physical force (<i>e.g.</i>, Taser, hands, etc., but not solely making a display of force such as drawing a weapon) at a time when such force could have reasonably contributed to the death/injury. 	<ul style="list-style-type: none"> • Officers who physically engaged with an individual where that engagement could not have reasonably contributed to the death/injury (<i>e.g.</i>, handcuffing or escorting). • Officers who merely provide medical aid (<i>e.g.</i>, CPR) that there is no reason to believe contributed to the death/injury.

The following categories are relevant to all types of incidents. Officers in these categories will be deemed subject officers if they:

- failed to intervene while having a legal obligation to do so;
- approved or gave commands to a subject officer if there is reason to believe such approval or commands were a contributing factor to the death/injury; and/or
- engaged in conduct that is later determined to have been a potential contributing factor to the death/injury.

Finally, in limited circumstances, the IID may deem an officer a subject when an investigation suggests an officer committed a criminal act related to police misconduct. Since its inception, the IID has been granted authority by statute to investigate “any other crimes related to police misconduct that are discovered during” any investigation that is otherwise within the IID’s jurisdiction. Md. Code, State Gov’t § 6-602(c)(3). This could include the improper use of force other than what caused an individual’s death/injury, failure to provide medical aid, and/or false reporting.

D. Officer and Civilian Witnesses

During the course of an investigation, the IID will interview all witness officers to an incident. The IID will also request to interview each subject officer.³ Any statement made by a subject officer is screened by IID personnel not otherwise involved in the investigation to determine if the statement could be considered compelled and violative of the officer’s Fifth Amendment protections under *Garrity v. New Jersey*.

Witnesses	
Subject Officers and Witness Officers	<ul style="list-style-type: none"> • The local LEA should identify and separate all subject and witness officers and instruct them not to communicate with each other about the incident under investigation. • When an officer is transported from the scene, he or she should, if possible, be transported in a car with an operating camera and/or with an officer wearing an operating body-worn camera. • The local LEA shall notify the IID of the location where each officer was transported and, if applicable, the location of any weapon that was used in the incident under investigation.
Civilians	<ul style="list-style-type: none"> • The local LEA should identify, separate, and maintain all possible civilian witnesses and ask them to remain on scene until the IID arrives to conduct interviews. • In cases where a civilian witness needs to be transported from a scene, the local LEA should, if possible, contact the IID prior to transport for further guidance. • If a witness is unwilling to wait on scene for the arrival of the IID, the local LEA should attempt to conduct an interview of that individual, to collect any video or other evidence they might have, and to obtain the contact information for the witness to include his/her name, date of birth, address, phone number, and vehicle registration information. • If possible, any on-scene interaction with civilian witnesses should be recorded and documented.

³ Any subject of a criminal investigation—including police officers—has a right under the Fifth Amendment to refrain from making a statement.

	These recordings and documentation should be maintained and will be collected by the IID upon arrival.
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E. Death Notification

The IID will make the next-of-kin notification to the family of the decedent. At the discretion of the IID, a representative from the local LEA may accompany IID personnel to the notification.

If extenuating circumstances prevent the IID from making a timely notification, the local LEA may make the next-of-kin notification after consulting with the IID. During that notification, the local LEA will provide the family with contact information for the IID and will also provide the IID with the contact information for the family.

After the next-of-kin notification, the IID will be the primary point of contact with the decedent's family through the investigation and, where appropriate, any subsequent prosecution.

VII. Continuing the Investigation

A. Additional Investigative Responsibilities

In the days following the initial investigative response, IID and MSP personnel will complete various follow-up tasks, including:

- Attending decedent's autopsy and/or meeting with a medical examiner.
- Canvassing residential and/or commercial areas for additional witnesses or video surveillance evidence.
- Conducting interviews with subject and witnessing officers, as well as experts, supervisors, trainers, medical personnel, and any newly discovered or otherwise relevant witnesses.
- Gathering documentary and physical evidence through information requests, subpoenas, and search warrants.
- Remaining in contact with decedent's family.

B. Submission of Evidence

All evidence collected as part of an IID investigation should be submitted to the MSP-FSD, regardless of which agency collects the evidence. If there is a dispute with a local LEA as to whether evidence is part of an IID investigation, the IID will make the final determination regarding the evidence. If potential evidence related to an IID investigation is submitted to a crime lab other than the MSP-FSD, the IID will request the evidence so that it can be transferred to and analyzed by the MSP-FSD.

C. Analysis of Evidence

The IID may request the analysis and testing of evidence collected during an investigation. Prior to the analysis of evidence, a case management meeting will be called by the MSP-FSD Director or designee for the purpose of discussing the facts of the case and the evidence that was collected and making decisions as to what evidence requires analysis. The case management meeting will include all applicable members of the IID team to include OAG investigators, OAG attorneys, MSP homicide investigators, MSP-FSD crime scene personnel, and MSP-FSD laboratory personnel.

Because of the increased burden these cases will place on the MSP-FSD, the FSD Director may request that other accredited and licensed crime labs perform the analysis. Insofar as practical, the MSP-FSD will not send any evidence related to the IID investigation to the crime lab in the same jurisdiction as the officer under investigation. The MSP-FSD will notify the IID if this transfer occurs.

If a local LEA determines that it would like evidence that has been submitted to the MSP-FSD as part of the IID investigation to be analyzed in support of a collateral investigation, it may request that the MSP-FSD conduct the analysis. The IID will determine if the analysis should be done on a case-by-case basis depending on the request and the resources available at the time of the request. If a local LEA's request for analysis is denied, the IID will make every effort to

transfer the evidence to another accredited and licensed crime lab as soon as practicable without prejudicing any IID investigation or potential prosecution.

D. Collateral Criminal Investigations

Because the IID solely investigates law-enforcement personnel, local LEAs may need to conduct criminal investigations and prosecutions of non-police criminal activity arising from the same general incident as IID investigations. The IID will collaborate with the local LEA and State's Attorney's Office ("SAO") in every case in which there is a collateral criminal investigation. All efforts will be made to find solutions that allow for the proper investigation and potential prosecution of both the IID case and the collateral criminal case without causing prejudice to either case. Where the two investigations share witnesses, the IID and local LEA or SAO will coordinate, to the extent possible, prior to conducting interviews.

Additionally, if the IID determines that the collection of certain physical evidence is not required for an IID investigation, the local LEA may collect, store, and analyze the evidence according to their normal practices or procedures. If the IID determines that the collection of certain physical evidence is necessary for an IID investigation, the evidence will be collected pursuant to the procedures above.

If a local LEA or SAO determines that it needs possession of evidence submitted to the MSP-FSD for a collateral investigation or prosecution, it may request the transfer of evidence. The IID will address evidence transfer requests on a case-by-case basis. Every effort will be made to accommodate transfer requests if they do not prejudice an IID investigation or potential prosecution. All transfers of IID evidence from the MSP-FSD to another LEA's accredited and licensed crime lab must be requested by that LEA's crime lab director and be approved by the director of the MSP-FSD and the IID.

E. Communication with State's Attorney's Office

Following a police-involved incident, and as soon as practicable, the IID will notify the local SAO by phone of the incident and the IID's response. Additionally, no later than two business days after assuming an investigation pursuant to the Division's statutory authority, the IID will transmit to the local State's Attorney a letter notifying them of its investigation. The IID recognizes that some investigations may overlap with separate cases within the jurisdiction of the local SAO. The IID will coordinate with the SAO to ensure that the appropriate sharing of information, including the transfer of evidence, when appropriate, occurs in a timely manner and pursuant to the procedures laid out above.

Whenever practical, the IID will coordinate with the local LEA and SAO prior to interviewing any witness who is in custody and/or IID personnel believes in good faith is exposed to collateral criminal liability. If no officer from the local LEA is available and/or the local LEA does not wish to participate in the interview, an IID investigator will advise the witness of *Miranda* rights at the start of the interview. They will also confirm with the witness that the witness is aware the IID is conducting an interview related to the officer-involved incident but that any statement the witness provides may be shared with other LEAs and/or may

be used in a criminal proceeding against them. These warnings will be given to ensure that any individual who is a witness in an IID matter but could also have criminal exposure is aware of their rights prior to making any statement to the IID and that any LEA will be able to make use of and admit into evidence such statements in a separate proceeding. The IID also endeavors to audio and visually record interviews whenever possible.

VIII. Media Response

A. Initial Response

A local LEA may choose, at its discretion, to defer all public response to the IID. If a local LEA decides not to make a public statement, the LEA's public information officer (“PIO”) or appropriate LEA staff will work with the IID in gathering information for IID release. A member of the OAG Communications Unit will work with a PIO from the local LEA to gather the necessary information for any release of information to the public (statement, press release, press conference).

A local LEA may also choose to make a public statement or release certain limited information in the immediate aftermath of an incident. To the extent possible, the local LEA will consult with OAG Communications Unit prior to the release of this information. The local LEA may generally include the following information in its public statement:

- The date, time, and location of the incident;
- The type of call for service that led officers to the scene;
- Information concerning injuries sustained by any surviving civilians and/or an officer, and whether any individuals were transported to the hospital;
- How many officers discharged their firearms;
- Whether a weapon was recovered or located on-scene;
- Whether officers were equipped with body-worn and/or dashboard cameras and whether those cameras were activated at the time of the incident;
- Basic information regarding the age, race, duty assignment, tenure, and current administrative status of the officer(s);
- Each local LEA will include in their remarks a statement confirming that the investigation into the officers’ conduct will be conducted by the Maryland Attorney General’s Office Independent Investigative Division, with assistance provided by the local LEA as requested;

Notification of the release of this information should be provided to the OAG Communications Unit preferably prior to, or at least simultaneously with, the public release.

B. Media Advisories and Press Releases

The IID will make every effort to inform the public upon initial notification of an incident by the local LEA. The OAG Communications Unit will post to the OAG social media accounts preliminary information about a critical incident, to include:

- Notifying the public when the IID is on scene of an incident;
- Providing the location of the incident using the hundred block address and the name of city or town;
- Providing general information about the incident (shooting, collision, etc.);
- Providing contact information for the on-duty IID PIO;
- Providing media staging area information when warranted.

The IID will endeavor to issue a media advisory or press release with preliminary information about the incident as soon as is practical.

The IID will generally release the name of the subject officers within two business days of the incident, though that period may be extended if an officer is injured, or if there is a specific reason to believe that an officer's safety is at risk. A local LEA may release the name of the officer prior to the IID doing so, after consultation with the IID.

If there is a delay in identifying involved officer(s) or decedent(s), the IID, in keeping with its commitment to transparency, may release partial information within the first two business days and provide an update as soon as any additional identifications are confirmed and proper notifications have occurred.

All media advisories and press releases will be linked on the IID's website.

C. Subsequent Media Response

If the local LEA wishes to release a written statement detailing the facts already released in the initial media response, it should consult with the OAG Communications Unit before doing so. Upon completion of the initial public/media notifications, the local LEA may continue to provide periodic updates involving any ongoing community threat, such as a continuing search for a suspect or any road or business closures.

Any further comment or release of additional information will be issued by the IID and the OAG Communications Unit.

D. Video Footage Release

The IID will generally release body-worn and/or dashboard camera footage within 20 business days after the incident. There may be situations where more than 20 business days are necessary, including, but not limited to: investigators needing more time to complete witness interviews; technical delays caused by the need to redact information that raises privacy or safety concerns; or allowing family members or subject officers to view the video before it is released to the public. There may also be situations where the IID releases video sooner than 20 days where there is a substantial public interest in doing so.

If the release of video is delayed, the IID will notify the public there's been a delay and state the reason for the delay.

At times, the IID may obtain video footage recorded by an individual or business not associated with the government, such as privately owned surveillance or cellular phone recordings. Generally, the IID will not publicly release this type of video while an investigation and/or prosecution is ongoing, unless there is a substantial public interest in doing so. A substantial public interest could exist, for example, in cases where no other video footage reasonably shows a critical part of the incident under investigation or where releasing the footage

could prevent an impending public safety issue. In the event of such a release, the IID will make every effort to consult with the individuals or entities who recorded and/or provided the footage and consider any legitimate safety or privacy concerns prior to release. The IID will also consider potential legal and ethical concerns that could impact a subsequent prosecution. Finally, if the footage was obtained through legal process, the release must comply with any applicable laws and procedures for public dissemination of such material.

All video footage released by the IID will be linked on the IID's website.

A LEA can publicly release any video footage relevant to the incident, however, it shall consult with the IID to ensure any such release does not interfere with the IID's investigation.

E. Request to Delay Video Footage Release

Federal, state, or local law enforcement agencies or the State's Attorney of the involved jurisdiction may request to delay release of the video footage only if they are conducting a collateral criminal investigation. In such instances, the IID will inform the relevant agencies of its planned release date at least two business days in advance and will consider written delay requests during that interval. Any request for delay must set forth with specificity in writing:

- The length of the delay requested (not to exceed 30 calendar days from receipt of the proposed video footage release from the IID);
- The specific item(s) sought to be temporarily withheld; and
- Reasons supporting the delay due to one or more of the following factors: interfering with a law enforcement proceeding; depriving someone of fair adjudication; unduly invading personal privacy; disclosing a confidential source; prejudicing an investigation; and/or endangering an individual's life or physical safety.

The decision to approve or deny the request rests with the Attorney General. If approved, the written request to delay release will itself be released to the public within the timeframe that the video would have otherwise been released. If denied, the written request to delay release will itself be released to the public upon the denial.

The period of delay approved by the Attorney General will not extend beyond 30 calendar days from receipt of the proposed video footage release from the IID unless it would substantially interfere with the investigation of the incident, would substantially interfere with a collateral investigation, or would be substantially likely to create witness safety concerns. At the end of the period of delay, or if no delay is approved, the video will be released as discussed above.

F. Public Release of Information at Conclusion of Investigation

At the conclusion of any investigation, if the IID determines that criminal charges are not warranted, or if a grand jury is presented with an indictment and declines, the IID will publicly release an investigative report within 30 days of the conclusion of the investigation and the end

of any collateral prosecution associated with the incident. The involved law enforcement agency is never involved in the IID's decision of whether to prosecute a case.

If the IID obtains charges against an involved officer, the IID will publicly release that information to the media as soon as permitted by law. The IID will also provide updates to the media and the public upon the completion of any criminal case, to include the disposition and, where applicable, sentencing information.

IX. Completing the Investigation

A. Charging Felony Cases

After reviewing the IID's investigation, if the Attorney General believes that sufficient admissible evidence exists to justify conviction by a reasonable and objective factfinder considering all the evidence of the potential offenses as well as the most plausible, reasonably foreseeable defenses, the IID will present the case to the grand jury for indictment. Should the IID choose to present a case for indictment, the presentation will occur in the county where the incident occurred.

If the IID presents a case for indictment, the attorney shall present sufficient evidence to the grand jury to provide the jurors with a fair and accurate representation of the relevant facts of the incident. An officer who is the subject of an IID investigation shall be invited to testify before the grand jury. At the conclusion of the presentation, the attorney will instruct the grand jury as to the legal elements of any potential offenses, as well as the elements of any relevant justification for the use of force by law enforcement.

The IID may decline to present a case to the grand jury where the Attorney General believes felony criminal charges could not be proven beyond a reasonable doubt at trial or the officer's acts and/or omissions were legally justified.

B. Charging Misdemeanor Cases

If the IID determines that only misdemeanor charges are applicable, the IID will file a criminal information in the Circuit Court in the county where the incident occurred.

C. Charging in Exceptional Circumstances

In exceptional and rare circumstances, including matters that present a serious threat to public safety, the IID, with MSP, may seek criminal charges from a District Court Commissioner based on a sworn Application for Statement of Charges. This process will only be used with the approval of the Attorney General. If charges are filed, the Application for Statement of Charges will be made public in accordance with Maryland law.

D. Notifications

If an individual is charged, the IID will notify the decedent's family, the subject officer's attorney, the subject officer's LEA, the local State's Attorney, and the public, within the bounds permitted by Maryland law.

In any instance where an investigation is not presented to a grand jury, or where the matter is presented and the grand jury declines to indict any officers, the IID will notify the decedent's family, the subject officer's attorney, the subject officer's LEA, and, where relevant, the local State's Attorney that the case will not be prosecuted. The IID will draft a report, which will include a summary of the factual findings of the matter and an analysis concerning the

lawfulness of any subject officer's acts and/or omissions. This report will be publicly released, with appropriate redactions for confidentiality, within 30 days of the completion of the investigation or the refusal of the grand jury to indict.

X. Special Considerations

A. Maryland State Police Trooper-Involved Cases

The IID partners with MSP to conduct all investigations, including any investigation into an MSP trooper-involved incident. To ensure impartiality and integrity in such cases, MSP has committed to following certain practices, which are outlined in a separate document contained in Appendix B. These practices include utilizing MSP personnel who are assigned to a different region of the State from the region where the trooper(s) involved in the fatality are assigned. Also, in each case, MSP conducts a comprehensive inquiry to ensure no MSP personnel involved in the IID investigation have actual, potential, or perceived conflicts of interest that might undermine public confidence in the impartiality and independence of the investigation.

B. Baltimore Police Department Cases

The Baltimore Police Department is presently the subject of a federal consent decree that requires the agency to undertake numerous reform measures, including reforms mandating the investigation of officer-involved fatalities and serious uses of force. Because the consent decree's requirements overlap with the IID's statutory mandate to independently investigate these cases throughout the State—including in the city of Baltimore—the OAG, MSP, and the Baltimore Police Department signed a Memorandum of Understanding to ensure both the IID and Baltimore Police Department can comply with their legal obligations. A copy of the memorandum is contained in Appendix C.

C. Case Referral

Pursuant to the IID's authorizing statute, a State's Attorney may refer to the IID for investigation a police-involved incident that results in "serious bodily injury" to an individual but does not result in that individual's death or does not rise to the level of injuries likely to result in death. "Serious bodily injury" shall have substantially the same meaning as "serious physical injury."

The IID will generally not accept for referral any case—whether or not that case resulted in death—that was previously declined by a local State's Attorney's Office prior to October 1, 2023, unless the Attorney General determines there has been a material change in circumstances and such an investigation is appropriate.

Any case referred for investigation shall include a request for prosecution and must be made in writing by the State's Attorney with jurisdiction over the incident to the Attorney General. The Attorney General, in his discretion, may accept or decline any referral.

Appendix A

Relevant Statutes

Article - State Government

§6-601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Division” means the Independent Investigations Division in the Office of the Attorney General.
- (c) “Police officer” has the meaning stated in § 3-201 of the Public Safety Article.

Article - State Government

§6-602.

(a) There is an Independent Investigations Division within the Office of the Attorney General.

(b) (1) The Division is the primary investigative unit for police-involved incidents that result in the death of individuals or injuries likely to result in death.

(2) The Office of the Attorney General shall determine whether an incident is police-involved and whether an injury is likely to result in death.

(c) (1) The Division shall investigate all police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual.

(2) (i) Subject to subparagraph (ii) of this paragraph, a State's Attorney may refer for investigation by the Division a police-involved incident resulting in serious bodily injury to an individual that is not otherwise within the jurisdiction of the Division under paragraph (1) of this subsection.

(ii) The Division may, in its discretion, decline to investigate an incident referred by a State's Attorney under subparagraph (i) of this paragraph.

(3) The Division may investigate any other crime related to police misconduct that is discovered during an investigation under paragraph (1) or (2) of this subsection.

(d) In conducting an investigation under subsection (c) of this section, the Division may act with the full powers, rights, privileges, and duties of a State's Attorney, including the use of a grand jury in any county.

(e) To investigate under this section alleged criminal offenses committed by police officers, the Division may:

(1) detail one or more police officers employed by the Department of State Police; and

(2) employ other civilian personnel as needed.

(f) On or before January 31 each year, the Division shall submit a report to the Governor and, in accordance with § 2–1257 of the State Government Article, the General Assembly on the activities of the Division in the prior calendar year, including:

(1) the number of investigations that were conducted by the Division;
and

(2) the number of prosecutions that were initiated as a result of an investigation by or a referral to the Division.

(g) (1) The Governor annually shall include funding in the State budget sufficient to provide for the full and proper operation of the Division.

(2) Funds provided in accordance with this subsection shall supplement and may not supplant any other funding provided to the Division.

Article - State Government

§6-603.

(a) (1) For the limited purpose of furthering an ongoing criminal investigation under this subtitle, the Attorney General or a Deputy Attorney General or an assistant Attorney General designated in writing by the Attorney General may issue in any court in the State a subpoena to a person to produce telephone, business, government, or corporate records or documents.

(2) A subpoena issued under this subsection may be served in the same manner as a subpoena issued by a circuit court.

(b) (1) A person may have an attorney present during any contact made under subsection (a) of this section with the Attorney General or the Attorney General's designee.

(2) The Attorney General or the Attorney General's designee shall advise a person of the right to counsel when the subpoena is served.

(c) (1) (i) If a person fails to obey a lawfully served subpoena under subsection (a) of this section, the Attorney General or the Attorney General's designee may report the failure to obey the subpoena to the circuit court with jurisdiction over the matter.

(ii) The Attorney General or the Attorney General's designee shall provide a copy of the subpoena and proof of service to the circuit court.

(2) After conducting a hearing at which the person that allegedly failed to comply with a subpoena issued under subsection (a) of this section has had an opportunity to be heard and be represented by counsel, the court may grant appropriate relief.

(d) This section does not allow the contravention, denial, or abrogation of a privilege or right recognized by law.

Article - State Government

§6-604.

(a) (1) Except as provided in subsection (b) of this section, if the Attorney General determines that an investigation conducted under § 6-602 of this subtitle provides sufficient grounds for the prosecution of a criminal offense discovered in the course of the investigation, the Attorney General shall have exclusive authority to prosecute the offense.

(2) The Attorney General, in the Attorney General's discretion, may prosecute a police-involved incident not otherwise within the investigative jurisdiction of the Division under § 6-602(c) of this subtitle if the incident is referred by a State's Attorney to the Attorney General for prosecution.

(b) A State's Attorney may prosecute a criminal offense described in subsection (a)(1) of this section only if the Attorney General requests that the State's Attorney prosecute the offense.

Article - Public Safety

§3-527.

- (a) (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” has the meaning stated in § 3-201 of this title.

(b) A law enforcement agency shall notify the Independent Investigations Division within the Office of the Attorney General of any police-involved incident that results in the death of an individual or injuries that are likely to result in the death of an individual as soon as the law enforcement agency becomes aware of the incident.

(c) (1) A law enforcement agency shall cooperate with and may not impede the Independent Investigations Division in connection with an investigation conducted under § 6-602 of the State Government Article.

(2) On request of the Attorney General or the Attorney General’s designee, a local law enforcement agency shall provide any requested evidence to the Independent Investigations Division.

(d) (1) The Attorney General or the Attorney General’s designee may seek temporary or permanent injunctive relief in a court of competent jurisdiction in order to facilitate an investigation or to prevent interference with an investigation.

(2) In a request for injunctive relief brought under this subsection, the Attorney General or the Attorney General’s designee is not required to:

- (i) post bond;
- (ii) allege or prove that an adequate remedy at law does not exist; or
- (iii) allege or prove that substantial or irreparable damage would result from any conduct alleged.

Article - Public Safety

§3–201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Commission” means the Maryland Police Training and Standards Commission.

(c) “Department” means the Department of Public Safety and Correctional Services.

(d) (1) “Law enforcement agency” means a governmental police force, sheriff’s office, or security force or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(2) “Law enforcement agency” does not include members of the Maryland National Guard who:

(i) are under the control and jurisdiction of the Military Department;

(ii) are assigned to the military property designated as the Martin State Airport; and

(iii) are charged with exercising police powers in and for the Martin State Airport.

(e) “Motorcycle profiling” means the arbitrary use of the fact that an individual rides a motorcycle or wears motorcycle-related clothing or paraphernalia as a factor in deciding to stop, question, take enforcement action, arrest, or search the individual or vehicle.

(f) (1) “Police officer” means an individual who:

(i) is authorized to enforce the general criminal laws of the State; and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;
2. the Police Department of Baltimore City;
3. the police department, bureau, or force of a county;
4. the police department, bureau, or force of a municipal corporation;
5. the Maryland Transit Administration police force;
6. the Maryland Transportation Authority Police;
7. the police forces of the University System of Maryland;
8. the police force of Morgan State University;
9. the office of the sheriff of a county;
10. the police forces of the Department of Natural Resources;
11. the police force of the Maryland Capitol Police of the Department of General Services;
12. the police force of a State, county, or municipal corporation if the special police officers are appointed under Subtitle 3 of this title;
13. the Housing Authority of Baltimore City Police Force;
14. the Baltimore City School Police Force;
15. the Crofton Police Department;
16. the Washington Suburban Sanitary Commission Police Force;
17. the Ocean Pines Police Department;
18. the police force of the Baltimore City Community College;

19. the police force of the Hagerstown Community College;

20. the Warrant Apprehension Unit of the Intelligence and Investigative Division in the Department;

21. the police force of the Anne Arundel Community College; or

22. the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article.

(2) "Police officer" includes:

(i) a member of the Field Enforcement Bureau of the Comptroller's Office;

(ii) a member of the Field Enforcement Division of the Alcohol and Tobacco Commission;

(iii) the State Fire Marshal or a deputy State fire marshal;

(iv) an investigator of the Intelligence and Investigative Division of the Department;

(v) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

(vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

(vii) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article;

(viii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article;

(ix) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article; and

(x) a Howard County fire and explosive investigator as defined in § 2–208.6 of the Criminal Procedure Article.

(3) “Police officer” does not include:

(i) an individual who serves as a police officer only because the individual occupies another office or position;

(ii) a sheriff, the Secretary of State Police, a commissioner of police, a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of police, or another individual with an equivalent title who is appointed or employed by a government to exercise equivalent supervisory authority; or

(iii) a member of the Maryland National Guard who:

1. is under the control and jurisdiction of the Military Department;

2. is assigned to the military property designated as the Martin State Airport; and

3. is charged with exercising police powers in and for the Martin State Airport.

(g) “SWAT team” means an agency–designated unit of law enforcement officers who are selected, trained, and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units.

Appendix B

Protocols for Maryland State Police Trooper-Involved Cases

Maryland State Police Protocols for Investigating MSP-Involved Cases in Conjunction with the Independent Investigations Division

The following protocols are an appendix to the operating procedures developed by the Independent Investigations Division (“IID”) and the Maryland State Police (“MSP”) in all IID investigations. They govern incidents involving an MSP trooper that result in the death of an individual or injuries that are likely to result in the death of an individual (“MSP-related qualifying incident”). The IID will be the primary investigator in such incidents.

The MSP is committed to assisting the IID in conducting objective, comprehensive, and timely investigations into all qualifying incidents. MSP is also committed to bringing the same level of comprehensiveness and impartiality to the IID’s investigations of MSP-related qualifying incidents. In an effort to assure impartiality in these investigations, MSP will engage in the following procedures in IID investigations of MSP-related qualifying incidents.

I. General Procedures for All IID Investigations

In all investigations conducted by the IID, including MSP-related incidents, MSP personnel involved in the investigation will follow all policies and procedures developed by the IID and MSP for the investigation of all police-involved fatalities.

II. Notification to the IID For MSP-Involved Qualifying Incidents

MSP will follow policies developed for notifying the IID for all possible IID investigations. When this notification is made in MSP-related incidents, MSP will specifically notify the on-call IID investigator at (410) 576-7070 and inform the investigator that the incident involves a Maryland State Trooper.

III. Geographic Separation in MSP Staffing

As soon as practicable after MSP’s initial response to the scene of an MSP-related qualifying incident, MSP will make every reasonable effort to staff the investigation with homicide detectives and other MSP personnel who are assigned to a different region of the State, separate from the region to which the Trooper(s) involved in the incident are assigned.

IV. MSP Vetting for Potential Conflicts of Interest

In every MSP-related qualifying incident, MSP will conduct a comprehensive inquiry to determine whether any MSP personnel involved in the investigation has any actual, potential, or perceived conflicts of interest that might undermine public confidence in the impartiality and independence of the investigation. MSP will conduct this inquiry on all MSP personnel regardless of their duties in the investigation and will include both sworn and civilian MSP personnel.

As part of the conflict review, MSP shall identify whether any person who will supervise or participate in the investigation has had any personal or professional interaction with or relationship to the Trooper being investigated that might reasonably call the person's impartiality into question.

MSP will conduct this conflict of interest inquiry as soon as practical. If additional MSP personnel are added to the investigation after the initial conflict of interest vetting process, MSP will conduct a new inquiry for the additional personnel.

MSP will promptly report the results of the conflict of interest inquiry to the IID. If members of the IID believe further inquiry should be done, MSP will promptly engage in those investigations.

MSP will defer to the IID on decisions regarding the results of the conflict of interest vetting procedure. If, however, MSP determines that the risk of a potential conflict of interest is present, MSP may remove MSP personnel from the investigation on its own.

If there is cause to believe police or civilian personnel for police agencies other than MSP that are involved in an IID investigations have potential conflicts of interest, MSP will conduct an inquiry into the matter. MSP may seek the assistance of the involved agency in the conflict of interest investigation. MSP will promptly report the results of the inquiry to the IID.

The IID will have final authority on all questions regarding any potential conflict of interest.

V. Roles of IID and MSP Investigators

MSP acts under the auspices of IID oversight. To ensure the independence of the investigation, all investigative steps will be conducted either by IID personnel or with prior consultation with and assent of IID personnel. IID will provide oversight of all interviews involving MSP Troopers. There may be times in the immediate aftermath of an incident when urgency makes IID participation or consultation impossible. In those circumstances, MSP will proceed in accordance with Section VI of the IID's operating procedures, which governs the collection of evidence in cases where there is an imminent threat to that evidence.

VI. Potential Tampering with the Investigation

MSP is committed to ensuring that all participants in IID investigations make the utmost efforts to protect the integrity and impartiality of the IID investigation.

If there is cause to believe that any MSP personnel has committed an act or omission, either intentionally or recklessly, that could affect the impartiality of an IID investigation, MSP will immediately notify the IID of the situation. The IID may conduct a criminal investigation into the allegations, and MSP may conduct a disciplinary investigation into the allegations. While the investigation is pending, the person being investigation will not be allowed to

participate in any IID investigations.

If it is determined that any MSP personnel did commit an act or omission, either intentionally or recklessly, that could affect the impartiality of an IID investigation, then, in addition to whatever criminal or disciplinary sanction is instituted, that person will also be banned from working on IID investigations.

If there is cause to believe that police personnel from agencies other than MSP have committed an act or omission, either intentionally or recklessly, that could affect the impartiality of an IID investigation, MSP or the IID will request that person's agency to investigate the allegation. The IID may also conduct a criminal investigation into the allegations. While the investigation is pending, the person being investigated will not be allowed to participate in IID investigations. If it is determined the person did commit the alleged act, they will be permanently banned from IID investigations.

VII. Prosecution

In order to maintain public confidence in the impartiality and independence of the IID's investigations and subsequent prosecution decisions, the involved law enforcement agency is never involved in the IID's decision of whether to prosecute a case. This policy applies equally to MSP-related qualifying incidents.

Appendix C

Memorandum of Understanding for Baltimore Police Department Cases

**MARYLAND ATTORNEY GENERAL INDEPENDENT INVESTIGATIONS
DIVISION, MARYLAND STATE POLICE, AND THE POLICE DEPARTMENT
OF BALTIMORE CITY MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (the “agreement” or “MOU”) is made this 30th day of September 2023, between the Maryland Office of the Attorney General (“OAG”), the Maryland Department of State Police (“MSP”), and the Police Department of Baltimore City (“BPD”).

I. Introduction

WHEREAS, in 2021 and 2023, the Maryland General Assembly mandated an Independent Investigations Division (“IID”) within the OAG to investigate and, where appropriate, prosecute police-involved fatalities in the State of Maryland, and whereas the Mayor and City Council of Baltimore (the “City”) and BPD are under a federal consent decree (the “Consent Decree”), which also addresses the investigation of BPD officer-involved fatalities, the parties have come to an agreement as to how the IID will conduct investigations involving officers of the BPD.

The IID exists as a joint collaborative division between the OAG and MSP for the purpose of investigating all police-involved incidents that result in the death of civilians or injuries likely to result in death and other crimes related to police misconduct that are discovered during such an investigation. It is undisputed that a BPD officer falls within the definition of “police officer” covered by the IID’s governing statute, and the parties acknowledge that under Maryland Code, State Government Article, § 6-602, the IID is required to investigate all police-involved fatalities.

The parties are aware that BPD is under a federal Consent Decree. The Consent Decree was entered on January 12, 2017, in the U.S. District Court for the District of Maryland under Civil Action No. 17-JKB-0099. The Consent Decree does not have an enumerated termination date but ends “Upon the Court’s determination that the City and BPD have achieved Full and Effective Compliance with this Agreement as defined below and have maintained such compliance for at least one year.” Any party to the Consent Decree may move to show this compliance after the Consent Decree has been in place for at least five years. Therefore, the IID, with its mandate to investigate all police-involved fatalities, and the Consent Decree will coexist for an undetermined amount of time.

The parties further acknowledge that the Consent Decree addresses the criminal investigation of BPD officer-involved deaths and therefore overlaps with the IID’s mandate. The parties have entered into this agreement in an effort to fully comply with both state law and the federal Consent Decree.

II. Definitions

1. The “**Independent Investigations Division**” or “**IID**” refers to the division created by Senate Bill 600, codified at Maryland Code, State Government Article, § 6-602, consisting of both OAG and MSP personnel.
2. The “**Consent Decree**” refers to the consent decree dated January 12, 2017, and entered as an Order on April 17, 2017, in the case of *U.S. v. Police Department of Baltimore City, et. al.*, in the U.S. District Court for the District of Maryland under Civil Action No. 17-JKB-0099.
3. “**Officer-Involved Death**” includes any act or omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of his or her law enforcement duties that results in the death of an individual or injuries likely to result in death of an individual. The following are examples of, but not limited to, Officer-Involved Deaths: shootings that are fatal or result in the likelihood of death, use of force incidents that are fatal or result in the likelihood of death, deaths occurring while an individual is in police custody, and vehicle pursuits by law enforcement that result in death or the likelihood of death. Pursuant to statute, the IID will determine whether an incident is officer-involved and whether an injury is likely to result in death.

III. Agreement

1. The parties agree that alleged or potential incidents involving the death of an individual caused by a BPD officer fall within the parameters of Maryland Code, State Government Article, § 6-602 and must be investigated by the IID.
2. The parties acknowledge that BPD has established policies to investigate the death of a person caused by a BPD officer and that some of these policies have been or will be reviewed and/or approved by the various entities and the U.S. District Court for the District of Maryland involved in implementing and overseeing the Consent Decree. The parties agree that to the extent it is consistent with state law, the IID will give deference to these BPD policies.
3. The parties agree that cases of Officer-Involved Deaths involving BPD are controlled by this MOU, and that, accordingly, those cases are not subject to the IID operating procedures concerning Notification, Media, and Evidence Collection unless the operating procedures, or a portion of the operating procedures, are adopted in this MOU. The aspects of the operating procedures that concern States Attorneys’ Offices will continue to apply to all BPD cases.

4. The parties agree that BPD will notify the IID immediately upon learning of an Officer-Involved Death in the City of Baltimore. This notification should be made to the MSP Duty Officer, at 410-653-4474. As part of notification, BPD will provide a point of contact for the incident. If BPD is uncertain whether an incident qualifies as an Officer-Involved Death, BPD will contact MSP at the above number. The IID will respond to the point of contact to inform BPD whether it will send IID personnel to the scene. If the IID cannot reach the BPD point of contact, it will call BPD Communications at 410-396-2284. BPD will conduct any other notifications it deems appropriate according to its normal procedures.
5. The parties agree that both IID and BPD personnel shall respond to the scene of an Officer-Involved Death in the City of Baltimore as soon as they deem appropriate. BPD may begin its investigation upon arrival and is not required to wait for IID or MSP personnel to arrive at the scene before taking actions. The parties will each designate an on-scene supervisor, who will work cooperatively to lead the investigation. The parties agree that the IID and BPD will make every effort to work together during the investigation. As soon as the IID and MSP arrive at the scene of an Officer-Involved Death, they will be integrated into the decision-making structure.
6. BPD and the IID will each identify a primary detective or investigator for the case, who will coordinate with each other about investigative steps, both on-scene and subsequently. The parties agree that BPD investigators will conduct the investigations pursuant to BPD's approved procedures. During these investigations, BPD will allow IID investigators to fully participate in the investigation. BPD agrees to fully cooperate with IID investigators during the investigation and to include them in all facets of the investigation. BPD further agrees that it will make every effort to follow recommendations provided by IID investigators.
7. IID and BPD investigators will cooperate and communicate with each other fully during an investigation. It is the intent of the parties that this cooperation and communication will facilitate agreement for most investigative decisions. To the extent there is a disagreement regarding how a particular issue should be handled at the scene or subsequently while both the IID and the BPD are investigating, the parties agree to make every effort to resolve the issue in the most efficient manner possible in a manner consistent with Maryland Code, State Government Article, § 6-602; Maryland Code, Public Safety, §3-527; and the Consent Decree. To this end, the primary investigators or detectives assigned by the IID and BPD for the case will confer and attempt to resolve any disagreement. If they are unable to resolve a matter, they will refer it to the IID Chief and the Deputy Commissioner Police Integrity Bureau who will confer and try to resolve

the disagreement. If a solution cannot be reached, the parties agree that the IID Chief will make the final decision as to the aspect of the investigation that is in dispute. In this regard, the IID agrees to be respectful of BPD policies and the Consent Decree and make every effort to not make any decisions that would lead to a situation in which BPD would not be in conformance with its policies or with the Consent Decree.

8. BPD agrees to include IID personnel in its notification to the family members of the person involved in the incident. If such inclusion is not possible for timeliness or public safety reasons, BPD will provide the family with the contact information of the IID and provide the IID with the contact information of the involved family.
9. BPD will be responsible for the processing of physical evidence at the scene or scenes. BPD's Forensic Science & Evidence Services Division ("BPD-ESD") will process the scene in accordance with its established standard operating procedures in collaboration in BPD's on-scene lead investigator and under the direction of the joint on-scene command team composed of BPD and IID personnel. To avoid spoliation of any evidence, BPD-ESD shall fully complete its processing of any crime scene or evidence that it begins to process or analyze at a crime scene or subsequently in BPD-ESD facilities. BPD-ESD shall deliver all crime scene evidence to BPD's Evidence Management Unit ("BPD-EMU"). The IID may submit written requests for (i) analysis of crime scene evidence by BPD, or (ii) in the extreme case described in Section 19, below, where the IID fully takes over the investigation and becomes the sole investigative agency involved in the matter, transfers of evidence to MSP's Forensic Sciences Division ("MSP-FSD"). BPD agrees to either conduct the analysis requested by the IID or transfer the evidence to MSP-FSD so that it may conduct its own analysis. Throughout the investigation, each of the IID and BPD will give orders to their respective personnel and make requests through their respective chains of command.
10. BPD may take "public safety statements" pursuant to paragraph 362 of the Consent Decree and the PIB manual. BPD and the IID may also take non-compelled statements of officers or other personnel. BPD may take compelled statements of officers or other personnel only pursuant to the procedures set forth in paragraphs 360-362 of the Consent Decree, and it will implement procedures to prevent IID personnel from exposure to those compelled statements or any evidence derived from them.
11. If BPD or the IID believes that it is appropriate to offer immunity to an officer—even limited immunity—the parties shall consult with each other, and no

immunity shall be granted without IID approval. If there is a collateral criminal case, the IID, BPD, and the SAO shall consult about immunity.

12. Each of IID and BPD may conduct media communications at the scene or thereafter if it so chooses. Each of the IID and BPD will make reasonable attempts to inform the other's personnel about the contents of all media communication prior to public release, with the understanding that the IID's mandate of independence may require confidentiality on some occasions. Each of IID and BPD will make reasonable efforts to incorporate any suggestions made by the other's personnel regarding media communications. The IID will have communications personnel respond to the scene and may make statements either at the scene or subsequently.
13. The parties agree that the IID may release the name of the involved officers within two business days (a business day is a weekday other than an official city holiday in Baltimore City, Maryland) of the incident, though that period may be extended if there is a specific reason to believe that an officer's health or safety is at risk. If BPD wishes to release the name of the officer itself prior to the IID doing so, it may, after notification to the IID.
14. In accordance with the goals of the Consent Decree and to promote transparency, the parties agree that BPD may, after consulting with the IID, release body camera footage in accordance with BPD Policy 607 that currently provides for release of body camera footage within seven (7) days of an incident. There may be situations where more than seven (7) days are necessary, including if investigators need more time to complete witness interviews, if there are technical delays caused by the need to redact the identities of civilian witnesses, or to allow family members to view the video before it is released to the public.
15. BPD will provide copies to the IID of any part of the file, or the complete file, upon request of IID personnel, and will make it a practice throughout the investigation of sharing information with the IID while the investigation is ongoing. BPD will provide copies of any video, photographic, or audio files to the IID upon request. BPD will allow IID personnel access to any non-duplicative evidence upon written request at a time and location agreeable to the parties. To the extent that case files, reports, or evidence are maintained electronically, BPD will give IID personnel access to or copies of the electronically stored reports, files, and evidence. As a general matter, the criminal investigation of cases under this MOU will proceed as joint investigations, and the IID will offer reciprocal cooperation and access to its evidence, raw data, and factual information to BPD, with the exception of files the IID believes are necessary to keep confidential in order to preserve the independence of the investigation. In those instances where the IID is

withholding files from BPD, it will inform BPD that some information has been withheld. Where the IID withholds any evidence or information from BPD, it will be responsible for disclosing such evidence or information under *Brady/Giglio*.

16. In every investigation covered by this agreement, each of BPD and the IID will conduct a conflict check to determine if any BPD or IID personnel involved in the investigation has any actual, potential, or perceived conflicts of interest that might undermine public confidence in the impartiality and independence of the investigation. Each of the IID and BPD will conduct this conflict-of-interest inquiry as soon as practical.
17. Each of the IID and BPD will promptly report the results of the conflict-of-interest inquiry to the other. BPD will defer to the IID on decisions regarding the results of the conflict of interests vetting procedure. If, however, BPD determines that the risk of a potential conflict of interest is present, BPD may remove BPD personnel from the investigation on its own.
18. The parties agree that IID personnel have the right to use grand jury proceedings during an investigation if they determine it is necessary. If the IID wishes to have a BPD officer appear before the grand jury, BPD agrees it will assist in procuring the officer's appearance at the grand jury.
19. In extreme cases in which the Attorney General, at the recommendation of IID personnel, determines that BPD's investigation in a particular case no longer maintains the level of impartiality required by Maryland Code, State Government Article, § 6-602, the IID will request that its personnel become the sole investigative agency involved in the investigation and BPD's criminal investigation of that case will cease. The IID acknowledges that this scenario is unlikely given the current level of oversight of BPD, but the IID reserves this right to comply with its statutory obligations. If the IID believes that this situation is occurring, notification will be made by the Attorney General directly to the BPD Commissioner. If BPD and the IID can develop safeguards to put in place in a particular case to the satisfaction of the IID Chief, the case may proceed with the involvement of the BPD. If the IID Chief is still not satisfied, the IID will then be the sole investigator in that particular case. If this situation occurs, BPD will be required to notify and seek input from the U.S. Department of Justice and the Consent Decree Monitoring Team. The IID will consult with and attempt to follow any recommendations provided by these entities.

The parties agree that the procedures in this MOU will govern criminal investigations involving both the IID and BPD. The parties agree that a criminal investigation will not be considered complete until both BPD and IID personnel

agree that the case has been finalized and no further investigation is necessary. At that point, all of BPD's relevant reports will be provided to the IID, so that the IID may make a charging decision. The IID will inform BPD of any charging or declination decisions as laid out in the IID's operating procedures.

IV. Termination

This agreement will remain in effect for four years, or earlier if the Consent Decree is modified or terminated or changes to state law require modification, at which point the parties will review and re-evaluate the agreement and may mutually agree to continue, terminate, or modify the agreement. The agreement may be modified at any time with the agreement of all three parties.

IN WITNESS WHEREFORE, the undersigned Representatives hereby agree on behalf of their respective agencies, to the ratification of this agreement.

For the Maryland Attorney General:



Anthony G. Brown
Maryland Attorney General

Date: 9/28/23

For the Maryland Department of State Police:



Colonel Roland Butler
Superintendent

Date: 9/28/23

For the Police Department of Baltimore City:



Richard Worley
Acting Commissioner

Date: 9/28/23