



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatality in
Baltimore City on June 23, 2022

March 2, 2023

**Report of the Independent Investigations Division of the Maryland
Office of the Attorney General Concerning the Officer-Involved
Death of Terry Harrell on June 23, 2022**

Pursuant to Md. Code, State Gov't § 6-106.2,¹ the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Baltimore City State's Attorney Ivan Bates regarding the officer-involved death of Terry Harrell.

The IID is charged with "investigat[ing] all alleged or potential police-involved deaths of civilians" and "[w]ithin 15 days after completing an investigation ... transmit[ing] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-106.2(c), (d). The IID completed its investigation on February 19, 2023. This report is being provided to State's Attorney Bates on March 2, 2023.

I. Introduction

Mr. Harrell died on June 23, 2022, from injuries he sustained two days earlier when he was struck by a police car driven by Baltimore Police Department ("BPD") Officer Alexis Acosta. The incident began at 12:30 p.m. on June 21, when Officer Acosta activated his lights and sirens and drove his police cruiser to assist officers at an unrelated crime scene in Baltimore. Forensic analysis and Officer Acosta's own statements indicate that he drove between 40 and 50 m.p.h. in a 25 m.p.h. zone, and that he went through several red lights, during which it did not appear based on his body-camera footage that he significantly slowed down. Meanwhile, Mr. Harrell was riding northbound on N. Milton Ave. on a gasoline-powered scooter. As he proceeded through the green light at E. Biddle St., he struck Officer Acosta's car and was thrown from his scooter. Officer Acosta was going about 40 m.p.h. against a red light at the time of impact. Mr. Harrell was taken to the hospital with internal injuries and pronounced dead two days later.

The IID and BPD have entered a Memorandum of Understanding ("MOU") stating that the parties will each investigate all officer-involved deaths. The MOU recognizes that BPD entered a federal consent decree on January 12, 2017, which imposes certain obligations to investigate officer-involved fatalities. In order for BPD to meet its obligations under the consent decree and the IID to meet its obligations under state law, the MOU states that the agencies' investigators will cooperate and communicate during the investigation. If at any point the IID determines that BPD cannot maintain the level of impartiality required to conduct a thorough investigation, the IID may take over sole investigative responsibility for the case. In the present case, the IID and BPD have collaborated throughout the investigation.

This report details the IID's investigative findings based on a review of physical evidence, crash scene analysis, autopsy reports, video and audio recordings, officers' written reports, and personnel records for the officers involved. The IID also interviewed civilian witnesses, responding officers, and a paramedic who responded to the crash. The report includes the IID's

¹ This statute was replaced by State Gov't § 6-602 on July 1, 2022. However, because this incident occurred on June 21, 2022, State Gov't § 6-106.2 was still in effect.

factual findings and an analysis of Maryland criminal laws that could be relevant in a vehicle crash of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Baltimore City State's Attorney's Office—not the Attorney General's Office—retains prosecution authority in this case, this report does not make any recommendations as to whether any individuals should or should not be charged.

II. Factual Findings

The following findings are based on review of body-worn camera and surveillance video; radio transmissions; analyses from the Baltimore Police Crash Team, the Maryland State Police ("MSP") Crash Team, and the Medical Examiner; and interviews with civilian and law enforcement witnesses. All materials reviewed in this investigation are being provided to the Baltimore City State's Attorney's Office with this report and are listed in Appendix A.

BPD officers are equipped with body-worn cameras but not in-car dashboard cameras. The weather on the date in question was dry and cloudy.

A. Initial Events

At 12:16 p.m. on June 21, 2022, a woman on the 1200 block of N. Curley St. in Baltimore called 911 to report that she had been assaulted by her boyfriend's sister. At 12:22 p.m., the call went out over police radio for a common assault at that location. At 12:31 p.m., an officer who had arrived at Curley St. requested an ambulance, stating that there were stab wounds in the woman's lower left rib area, and upgrading the call from an assault to a "cutting." At 12:33 p.m., the officer requested that additional units respond.

BPD Officer Alexis Acosta was on patrol in a marked police car when those calls went out. Officer Acosta was nearing the end of two consecutive days of double shifts. Starting the night of June 19, he worked an eight-hour assigned shift from 11 p.m. to 7 a.m., an eight-hour voluntary overtime shift from 7 a.m. to 3 p.m., had eight hours off, then worked another 11 p.m. to 7 a.m. assigned shift and another 7 a.m. to 3 p.m. voluntary overtime shift.

According to GPS records, Officer Acosta was parked at the 900 block of N. Caroline St. when the request for additional units came over the radio at 12:33 p.m. Another BPD officer, Ismael Rivera-Ocasio, was parked near him in a separate patrol car. Officer Rivera-Ocasio said in an interview that when they heard the call for additional units over the radio, they both set out, with Officer Acosta in front. The GPS shows that they left at 12:33 p.m. A map of Officer Acosta's route is below.



Image 1: Officer Acosta's route, with markings.

BPD patrol cars are not equipped with dashboard cameras, but both officers were equipped with body-worn cameras. Neither officer turned on their camera when they first began driving, but both did so immediately after the crash. The cameras save a video buffer, which depicts one prior minute of video. This video buffer does not contain audio, and thus the video prior to the crash is silent. Because of the angle of the camera, the view from it is limited to elevated objects such as traffic lights, light poles, and the tops of buildings. Officer Acosta was driving a 2014 Chevy Caprice.

During the 55 seconds of driving that are shown on camera, Officer Acosta ran two red lights prior to running the red light at N. Milton and E. Biddle St. They are marked as Red Signals (1) and (2) in the map above. Based on camera footage, his speed does not appear to change significantly when passing through the red lights. His speed will be discussed in further detail below, but it appeared to range from about 40 m.p.h. to 55 m.p.h., and to be on the lower end of that range at the time of the crash.



Image 2: Screenshot from Officer Acosta's dashboard camera 35 seconds before the crash, showing him passing through a red light.

Officer Rivera-Ocasio estimated that he was two to three car-lengths behind Officer Acosta during the drive. Officer Rivera-Ocasio's body-camera footage shows that he passed through two red lights during the same period, slowing down before each one. Officer Rivera-Ocasio said that he did not see Officer Acosta slowing down or stopping at any intersection, nor did he see his brake lights go on, including in those intersections where he had a stop sign or red light. He was not sure the speed Officer Acosta was travelling, but believed his own speed was between 30 and 40 m.p.h. He arrived at the crash scene about 10 seconds after Officer Acosta, which provides at least some indication that Officer Acosta was driving faster than Officer Rivera-Ocasio.

B. The Crash

As Officer Acosta drove eastbound on E. Biddle St., Terry Harrell was driving a 150cc Yongfu scooter north on N. Milton Ave. Mr. Harrell was a 58-year-old Black man. He was wearing a helmet and a red shirt.



Image 3: Screenshot from a surveillance video showing Mr. Harrell traveling up N. Milton Ave. about five seconds before the collision.

Surveillance footage shows Officer Acosta’s patrol car entering the intersection of N. Milton and E. Biddle just before Mr. Harrell’s scooter does. The car appears to be going significantly faster than the scooter. At the time of the collision, the traffic light facing Mr. Harrell was green and had been green for the prior 37 seconds; it remained green for another seven seconds after the crash.

Witness interviews corroborated and provided further detail. Officer Rivera-Ocasio said that he saw Officer Acosta go through the red light without slowing down, stopping, or his brake lights coming on. A civilian witness, [REDACTED] said that Officer Acosta’s car did not appear to slow down going through the intersection, and that it appeared to be traveling faster than the posted speed limit. She said that she did not see the car’s brake lights come on.²

² A third witness said that he did see brake lights on the car, but his account does not match the surveillance footage in other respects and is therefore less reliable. All witness statements are described in further detail in Section II(E) of the report, below.



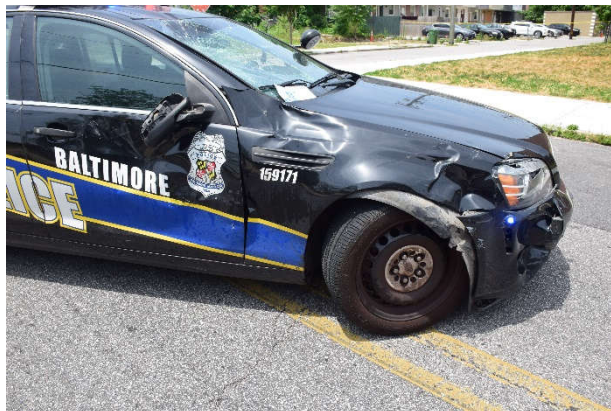
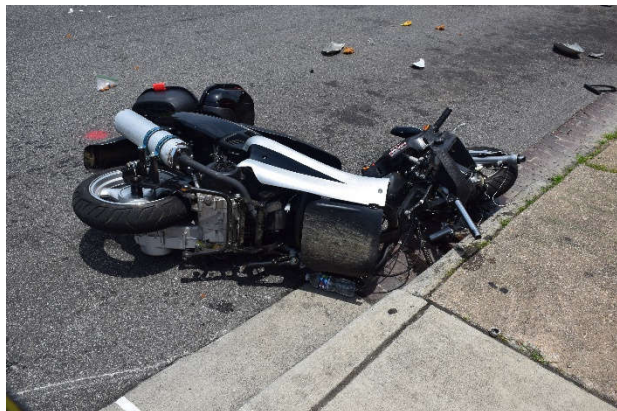
Image 4: Screenshot from a surveillance video showing the moment before the collision. Officer Acosta's car is entering the intersection from the left. Mr. Harrell can be seen in the red shirt on the scooter. The traffic light facing Mr. Harrell is green.



Image 5: This screenshot from Officer Acosta's body-worn camera footage shows the moment Mr. Harrell hit Officer Acosta's windshield.

The scooter collided with the right front quadrant of the car at 12:35:20 p.m. The location of impact can be seen in the surveillance video and is reflected in the damage to the car. The

body-camera footage does not show anything prior to Mr. Harrell hitting the windshield. Mr. Harrell was ejected from the scooter, hit the windshield of the car, and then was thrown approximately 57 feet away. His helmet flew off of his head. The front section of the scooter was heavily damaged.



Images 6 and 7: The damage sustained by the scooter and the police cruiser in the collision.

Officer Rivera-Ocasio said that he saw Officer Acosta’s brake lights go on after he struck Mr. Harrell. Officer Acosta came to a stop shortly past the intersection and flipped on his body-worn camera. At 12:35:26 p.m., Officer Acosta radioed in, “I got into an accident. . . . I got into a crash. I need an ambulance immediately.” Officer Rivera-Ocasio, trailing right behind him, also radioed for a medic.

Officer Acosta, while still in his car, can be seen on the body-worn camera footage examining what appears to be specks of windshield glass on his right arm; he was not bleeding. About one minute after the crash, he got out of his car and began walking toward Mr. Harrell, who was already surrounded by bystanders, as well as by Officer Rivera-Ocasio, who was providing medical treatment. An unknown bystander can be heard saying emphatically several times, “You ran that light.” [REDACTED] can be heard saying, “Y’all speeded through that light and hit that man.”

At around the same time, another witness, [REDACTED] called 911. He stated, “We have a police officer just hit a guy on a scooter. We’re performing CPR. Biddle and Rose. We need an ambulance immediately.” He added, [REDACTED]

BPD Sergeant Christopher Tran ordered Officer Acosta to return to sit in his car. In the car, Officer Acosta continued to examine the debris on his arm, flexed his right fist as if to test whether it was injured, and at one point softly said, “damn.” An unidentified individual came by and asked whether he was the one who “hit him.” Officer Acosta acknowledged that he was, and said, “I tried to brake the most that I can, but I didn’t see him.” The other person asked whether Officer Acosta hit his head, and he said no, just his arm. Officer Acosta asked multiple times whether the person he hit was OK. Officer Acosta said that he was so anxious that he thought he might pass out, and that he was sweating. He was given ice packs to cool down.

Mr. Harrell was transported to Johns Hopkins Hospital by ambulance. He never regained consciousness and died two days later, on June 23, 2022. The examination by the medical examiner, discussed in more detail below, revealed multiple injuries to Mr. Harrell's head, neck, and torso.

C. Speed Calculation

The Baltimore Police Department Accident Investigation Unit conducted an analysis of the incident, which it sent to the IID on November 2, 2022. To ensure independence, the IID requested that the Maryland State Police Crash Team review that report and conduct its own analysis. MSP sent its report to the IID on January 9, 2023. For the reasons discussed below, the speed calculation below relies primarily on the MSP report, which is attached as Appendix B.

The MSP report indicates that Officer Acosta was driving at speeds of up to 57 m.p.h. during the minute preceding the crash, and at about 40 m.p.h. at the moment of the crash. The speed limit was 25 m.p.h., and Officer Acosta was driving through a red light. Mr. Harrell's speed on the scooter appears to have been approximately 30 m.p.h.³ The MSP report also concluded that Mr. Harrell would have been unable to see the car or hear the sirens in time to avert the crash.

These speed figures are arrived at through several methods, which buttress each other; they are described below.

1. Officer Acosta's Statement

Officer Acosta told a nurse practitioner 90 minutes after the accident that he had been driving "about 40-50" m.p.h. when the crash occurred. That statement is reflected in the nurse's medical notes.

2. GPS Readings

Officer Acosta was driving a marked 2014 Chevy Caprice. BPD vehicles are equipped with navigation monitors that record their speed and location once per minute. Officer Acosta's vehicle made two such reports immediately prior to the crash. The first, just as he was setting out in response to the call for assistance, recorded him driving 22.4 m.p.h. The second, one minute later, recorded him as driving 55.9 m.p.h. That 55.9 m.p.h. reading was at 2041 E. Biddle St., at an intersection with a stop sign. It is four blocks, or one third of a mile, away from the site of the crash. It is the last reading before the crash; there is no monitor reading from the precise moment when the crash occurred.

3. Camera Footage Analysis

MSP used fixed markers shown in the body camera footage to calculate Officer Acosta's rate of speed leading up to the accident. They determined Officer Acosta was driving at 36.5, 51,

³ While Yongfu does not publish specifications for its scooters, similar 150cc scooters report a maximum speed of about 50 m.p.h. *See, e.g.*, <https://www.vitacci.com/scooters/ranger-150cc/>.

57, and 42 m.p.h., respectively, through the four intersections or one-block segments preceding the crash. Note that the 57 m.p.h. reading is just a few feet past the GPS reading of 55.9 m.p.h. obtained from Officer Acosta's car, at the stop-signed intersection of N. Chester and E. Biddle.

Using surveillance video footage of the intersection where the accident occurred, the MSP report calculated that, at the time of impact, Officer Acosta's car was going approximately 40 m.p.h., and the scooter was going approximately 30 m.p.h.

MSP also noted that Officer Acosta's speedometer is visible, though blurry, in part of his body-worn camera video.⁴ They compared the positioning on the speedometer to the manufacturer's image of the speedometer of a 2014 Chevy Caprice. Based on that comparison, Officer Acosta appeared to be going about 40 m.p.h. in the moments after the crash.



Image 8: Image from the dashboard of Officer Acosta's camera moments after the crash. The inset shows a closeup of his speedometer. The needle of the speedometer can be seen pointing to the left and up. When compared with the manufacturer's image, the speedometer appears to show a speed of between 30 and 40 m.p.h.

4. Mr. Harrell's Ability to See and Hear the Patrol Car

The MSP report also analyzed the line of sight between the scooter and the patrol car. Using images of the intersection, it concluded that:

There is nowhere for Mr. Harrell to even observe emergency lights approaching the intersection until he gets to approximately 20 feet from the stop line. . . . In

⁴ The speedometer is visible only when Officer Acosta turns the wheel.

this case, there would be no reason to expect that Mr. Harrell would have been able to see emergency lights with enough time to be able to yield to them.

The MSP report also noted reasons that Mr. Harrell would have been unlikely to hear the patrol car's sirens, including the wind in his ears and the deflections of sound waves in a dense urban area. It concluded that "there would be very little reason to believe that Mr. Harrell was able to hear a siren and be able to determine its origin."

5. BPD Report and Concerns

The BPD report concluded that, at the time of impact, Officer Acosta was driving between 25 and 36 m.p.h., and that Mr. Harrell's scooter was going 19 m.p.h. The MSP report found some of BPD's findings to be "not reliable" and a cause for "concern." When calculating the scooter's speed, the BPD report failed to account for the fact that the scooter struck the side of the car, not the front. MSP also noted that BPD used a formula designed for a car hitting a pedestrian, not someone riding a motorized vehicle.

The MSP report also detailed notable omissions of evidence from the BPD report, including the car's GPS readings, review of the body camera footage, review of surveillance footage, and consideration of sightlines and audio interference. The MSP report said:

One lack of analysis that I was surprised to see that was not completed was a speed analysis using the multitudes of videos that captured the crash. Absent good clear evidence to conduct any calculations from the scene evidence and a recorded event on the airbag control module, then the use of good video is a very reliable method to calculate speeds using a time distance approach.

And finally, the MSP report was concerned by one factor that the BPD report *did* emphasize: BPD's conclusion that trace amounts of intoxicants in Mr. Harrell's system may have "impacted Mr. Harrell's alertness." The MSP report noted that the autopsy itself does not conclude that drugs were a factor in the death. The MSP report stated:

In reference to the drugs in Mr. Harrell's system impacting his alertness to the approaching vehicle, there are other factors that should have been discussed prior to using these as a possible contributing factor. . . . [T]here is no mention in the report if the levels found in Mr. Harrell's system were high enough to cause a possible impairment. Just having the drugs in your blood does not constitute enough to determine impairment.

The IID—after consultation with the State's Attorney's Office, sent the MSP Crash Team report to the BPD Accident Investigation Unit for its review on January 26, 2023. The IID asked BPD to send any resulting amendments to its own report by Feb. 9, 2023. The IID did not receive any amendments from BPD.

D. Medical Examinations

1. Mr. Harrell

Mr. Harrell’s autopsy was conducted on June 25, 2022, by Dr. Peter M. Mazari of the Office of the Chief Medical Examiner. The examination revealed multiple injuries to Mr. Harrell’s head, neck, and torso, including lacerations to his scalp, lung, and spleen; multiple hemorrhages in the brain and other organs; a complex pelvic fracture; and a fracture of the 2nd cervical vertebra. The autopsy concluded that the cause of death was Multiple Injuries with Complications, and the manner of death was Accident.⁵

The post-mortem toxicology report showed that Mr. Harrell had trace amounts of alcohol, cocaine, fentanyl, and methadone in his blood stream. None of those drugs are listed in the autopsy report as a complicating factor in his death. An earlier toxicology screen performed when Mr. Harrell arrived at the hospital after the accident showed unconfirmed positive screens for amphetamines, cocaine, cannabinoids, and methadone, but with no confirmation or amounts given.

2. Officer Acosta

Officer Acosta received medical treatment at the University of Maryland Medical Center starting about an hour after the crash. He [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

E. Civilian Witness Statements

About six minutes after the crash, Sgt. Tran conducted a brief interview with a witness named [REDACTED] which was captured on his body camera. According to [REDACTED] she was walking with her juvenile son when she saw the officer responding to a call and speeding. She saw Mr. Harrell coming up the street on his scooter when the officer ran the red light and hit him. In a later interview with the IID, [REDACTED] said that the car did not appear to slow down going through the intersection, and that it appeared to be traveling faster than the posted speed limit. She said that she did not see the car’s brake lights come on.

About 10 minutes after the crash, Sgt. Tran spoke to a [REDACTED] another witness to the crash. According to [REDACTED] the officer had his lights and sirens on when he ran the red

⁵ 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. “Accident” applies when an injury or poisoning causes death and there is little or no evidence that the injury or poisoning occurred with intent to harm or cause death. These terms are not considered a legal determination; rather, they are largely used to assist with public health statistics. “A Guide for Manner of Death Classification,” First Edition, National Association of Medical Examiners, February 2002.

light. ██████ said that the scooter had the right of way. ██████ did not wish to give Sgt. Tran his contact information, and the IID's subsequent attempts to contact him for more information have been unsuccessful.

████████ a third civilian witness, conducted an interview with a BPD officer about two hours after the crash. The interview was captured on body-worn camera, and ██████ also provided a signed statement on the date of the incident. He said that he was sitting on the front steps of 2443 Biddle St. That address is on the southwest corner of the intersection where the collision occurred. ██████ said that he noticed lights and sirens, first saw one police car—not Acosta's—drive by, and then heard more sirens. He said that he saw the scooter approaching and began to flag the driver to slow down, but that the scooter "kept on coming." ██████ said that he saw Officer Acosta's car come into view and start to brake but continue through the red light, where it hit the scooter.⁶

████████ another civilian witness, was interviewed by the IID on August 3, 2022. ██████ was working with the Johns Hopkins Hospital mobile COVID vaccination team near the site of the incident. He did not hear lights or sirens prior to the crash. He was not looking at the crash when it happened, but he heard a "horrific noise" and looked over to see a patrol car coming to a stop near the intersection, and an unoccupied moped rolling away. After the crash, ██████ and employees from his team approached Mr. Harrell, who was lying on the ground, unresponsive and with severe head injuries. ██████ called 911, and members of his team performed CPR until the fire department arrived on scene after 5 to 10 minutes. ██████ also gave an ice pack to Officer Acosta.

F. Law Enforcement Officers' Statements

1. Officer Acosta

Under BPD policy, Officer Acosta was not required to write a use of force report for this incident. While BPD policy directs that all officers who use force must complete a force report prior to the end of their shift—*see* BPD Policy 710 at 5, 725 at 4-5—vehicular incidents are only considered uses of force if an officer intentionally strikes a vehicle or a person. *See* BPD Policy 908, Departmental Vehicle Crashes, at 3. Because there is no allegation that officer intended to strike Mr. Harrell, no use of force report was required.

Officer Acosta, like the subject of any investigation, has the right under the Fifth Amendment to not make any statement. He declined to be interviewed by investigators. He did make several statements that were captured on body camera, that were written down by medical personnel, and that were written by him into a report. Those statements are described below.

Officer Acosta kept his body camera running for about an hour after the crash occurred, during which he made several statements about what had occurred. Most of those statements occurred while Officer Acosta had returned to sit in his police car on the orders of a supervisor. About six minutes after the crash, a civilian approached Officer Acosta in the car and told him,

⁶ Note that this contradicts the statement of Officer Ocasio-Cortez, described below, who was driving behind Officer Acosta and did not see brake lights or other indications of braking.

“It’s going to be all right, man.” Officer Acosta responded, “I tried to brake with all the muscles that I can but uh, I tried to brake with all the muscles that I can but he, I didn’t see him.” He gave another explanation of what had occurred to an officer who approached him about 27 minutes after the accident: “Yeah, so some units needed more units, so I was going code and I was, I was clearing the intersection and then I pressed, I saw the guy coming then I pressed hard my brake and then . . .”

About 35 minutes after the accident, he said to another officer, “They, they requested more units for the cutting, so I came to support those units. I was with my lights and sirens and then every, with every intersection I was clearing up and hitting my air horn so that they can notice it more that I was coming.” At about 45 minutes after the accident, the medic in an ambulance with Officer Acosta asked him how fast he was driving. Most of Officer Acosta’s response was inaudible, but he did advise that he was not going “that fast.”

Officer Acosta also made several statements about his own medical and physical condition that can be heard on the body camera. About 10 minutes after the accident, Officer Acosta asked for candy because he felt dizzy. A couple of minutes later, he said that he felt anxious and didn’t want to pass out. He rated his pain level at a 6 out of 10 and said that his back hurt and arm hurt, but that he had not hit his head. When asked if he was tired, he said, “Yeah, ’cause I worked at night.”

Officer Acosta also made several relevant statements to medical personnel when being treated at the hospital, which are noted in the hospital records. [REDACTED]

After the incident, an unsigned “Statement of Collision” form was filled out on Officer Acosta’s behalf stating that the incident occurred when he was “Supporting units to a cutting, travelling with lights and sirens.” The report notes that he sustained injuries to his right arm and lower back, and that he was not wearing his seatbelt. It states that his body-worn camera was not activated. The form notes that Officer Acosta declined to make a statement about the incident and had counsel present.⁷

2. Officer Rivera-Ocasio

On the date of the incident, Officer Ismael Rivera-Ocasio was working together with Officer Acosta in the 900 block of N. Caroline St. when they heard a request over the radio for additional units at the scene of a cutting on Linwood St. Officer Rivera-Ocasio and Officer Acosta got into their separate cruisers and drove toward the scene, taking E. Biddle St. eastbound. Officer Rivera-Ocasio estimated that he was two to three car-lengths behind Officer Acosta. Officer Rivera-Ocasio said that he did not see Officer Acosta slowing down or stopping at any intersection, even those intersections where he had a stop sign or red light. He was not sure the speed Officer Acosta was travelling, but believed his own speed was between 30 to 40

⁷ As noted above, Officer Acosta turned on his body-worn camera immediately after the crash, which then saved a buffer of the preceding one minute.

m.p.h. At the intersection of E. Biddle St. and N. Milton Ave., where the collision occurred, he saw Officer Acosta go through the red light without slowing down, stopping, or activating his brake lights. He only saw Officer Acosta's brake lights go on after he struck Mr. Harrell. Officer Rivera-Ocasio called for a medic, stopped his car, and began performing CPR on Mr. Harrell. Officer Rivera-Ocasio did not hear Officer Acosta make any statements, other than to confirm that he was OK.

3. Sgt. Tran

Sgt. Christopher Tran was interviewed on July 5, 2022. On the date of the incident, he heard the call for the cutting while he was parked on Caroline Street. He saw Officers Acosta and Rivera-Ocasio drive by him at a "pretty decent rate of speed," though he could not estimate what that speed was. He then also headed toward the cutting, and saw Officers Acosta and Rivera-Ocasio driving ahead of him on E. Biddle St. He did not see the collision occur. When he arrived, Officers Acosta and Rivera-Ocasio were standing over Mr. Harrell. He said that Officer Acosta appeared to be shaken up and in a state of shock. Officer Tran ordered him to sit in his police vehicle while waiting for medics.

Sgt. Tran used to serve as a driving instructor for BPD. He said that departmental policy allows officers to travel only 10 m.p.h. over the posted speed limit while using their emergency lights and siren. Policy also states officers must clear all intersections, red lights, and stop signs and only proceed when safe to do so. Sgt. Tran then stated he trained officers to come to a complete stop when clearing intersections, but it is common practice for officers to come to a "rolling stop." He said that nothing he was aware of made him believe that the officers acted negligently; however, Sgt. Tran did not have access to any information about the crash other than what he described in his interview.

III. Involved Parties' Backgrounds

As part of its standard investigative practice, the IID obtained information regarding all parties' criminal histories, as well as the officer's departmental internal affairs record and relevant training. To the extent it exists, any criminal history information is being provided to the State's Attorney's Office with this report. In this case, the criminal history information did not affect the analysis of potential criminal charges.

A. Terry Harrell

Mr. Harrell was a 58-year-old Black man who lived in Baltimore.

B. BPD Officer Alexis Acosta

Officer Acosta was hired by BPD on August 25, 2020. He is a Hispanic man and was 27 years old at the time of this incident. [REDACTED]

Officer Acosta has one prior Internal Affairs complaint that is relevant to this incident. In September 2021, Officer Acosta initiated a pursuit for a car that was driving recklessly and at a

high speed. BPD found that the pursuit violated policy because pursuits are not authorized for traffic violations alone, and because Officer Acosta failed to turn on his body-worn camera at the beginning of the pursuit. He was provided with “non-punitive counseling” and was instructed to reread the pursuit policy.

IV. Applicable Policies

BPD has the following policies concerning vehicle pursuits, body-worn cameras, and overtime. The complete policies are attached as Appendix C.

A. Emergency Vehicle Operation and Pursuit Policy (Policy 1503)

The policy defines Emergency Response Mode as “Driving with emergency lights and siren activated.” *Id.* at 2.

“Before operating a law enforcement vehicle in an Emergency Response Mode, members shall consider the following:

The nature or seriousness of the offense or the call for service.

Current road or environmental conditions.

Familiarity with the route and destination.

Pedestrian and vehicular density.” *Id.* at 3.

“When responding to an emergency call for service, such as an in-progress incident with the potential for injury, or armed person calls, members are authorized but not required to respond in an Emergency Response Mode.” *Id.*

“When operating in an Emergency Response Mode, in keeping with Maryland Code, Transportation Section 21-106, ‘Privileges for Drivers of Emergency Vehicles’, members may:

Exceed the speed limit, so long as members do not endanger life or property.

Proceed through a red light or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety.

Disregard regulations governing turning or movement in a specified direction.” *Id.*

“Because intersections present a high risk of collisions, members shall exercise due caution and slow down, as necessary, when proceeding through intersections, especially controlled intersections.” *Id.* at 5.

B. Body-Worn Camera (Policy 824)

“Unless unsafe, impossible, or impractical to do so, all members (not just the primary unit) present, dispatched, or otherwise participating in any of the below listed activities must activate their BWC: . . .

When operating a vehicle in Emergency Response Mode (emergency lights and siren activated).” *Id.* at 4.

C. Rules and Regulations (Policy 302)

“Employee Safety and Wellness. The Baltimore Police Department (BPD) recognizes that the nature of police work requires members to be physically competent and mentally alert at all times. Supervisors shall ensure subordinates are afforded an adequate resting period between work assignments/shifts to prevent physical and/or mental exhaustion.

Professional Liability. Research has shown that fatigued officers use more sick leave, practice inappropriate uses of force more frequently, have more vehicle accidents, and experience more accidental injuries.” *Id.* at 1.

“Absent emergency operations or supervisory approval, members shall have 7 consecutive hours of time-off within a 24-hour period. This includes but is not limited to a combination of all regularly scheduled shifts, secondary employment, daily overtime, and special details.” *Id.*

“Any member who believes he/she cannot continue to properly perform assigned duties due to physical and/or mental exhaustion shall notify a supervisor immediately.” *Id.*

V. Applicable Law & Analysis

The IID analyzed Maryland statutes and common law that could be relevant in an incident of this nature. This section presents the elements of each possible criminal charge and analyzes these elements in light of the findings discussed above.

A. Manslaughter by Vehicle⁸

There are two primary charges applicable to deaths caused when a driver hits a pedestrian: manslaughter by vehicle, Crim. Law § 2-209, which is analyzed in this subsection, and criminally negligent manslaughter by vehicle, Crim. Law § 2-210, which is analyzed in subsection B, below. The manslaughter by vehicle statute—the more serious of the two—states: “A person may not cause the death of another as a result of the person’s driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.” Crim. Law § 2-209(b). The crime requires proof of gross negligence, meaning that “the defendant *was conscious of the risk to human life posed by his or her conduct.*” [96 Md. Op. Atty. Gen. 128](#), 138 (Dec. 21, 2011) (emphasis in original). Grossly negligent driving consists of “a lessening of the control of the vehicle to the point where such lack of effective control is likely at any moment to bring harm to

⁸ This report does not analyze the charges of common law involuntary manslaughter or depraved heart murder because those charges are preempted by the manslaughter by vehicle statute. *State v. Gibson*, 254 Md. 399, 400-01 (1969); *Blackwell v. State*, 34 Md. App. 547, 555-56 (1977).

another”). *Duren v. State*, 203 Md. 584, 584 (1954). “Reckless driving is not enough; there must be reckless disregard for human life.” *Khawaja v. Mayor & City Council, City of Rockville*, 89 Md. App. 314, 319 (1991).

To prove manslaughter by vehicle, the State must establish: “(1) that the defendant drove a motor vehicle; (2) that the defendant drove in a grossly negligent manner, and (3) that this grossly negligent driving caused the death of [the decedent].” MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Grossly negligent conduct is conduct that “amount[s] to a wanton and reckless disregard for human life.” *Duren*, 203 Md. at 588 (citing *State of Maryland v. Chapman, D.C.*, 101 F. Supp. 335, 341 (D. Md. 1951); *Hughes v. State*, 198 Md. 424, 432 (1951)).

In manslaughter by vehicle cases that do not involve police officers, Maryland courts have applied the gross negligence standard by asking what an “ordinarily careful and prudent person” or a “reasonable person” would do. *See, e.g., State v. Albrecht*, 336 Md. 475, 500 (1994); *Beckwitt v. State*, 249 Md. App. 333, 360 (2021), *aff’d*, 477 Md. 398 (2022). In cases involving police officers, the courts amend that to a “reasonable officer” standard. *See Boyer v. State*, 323 Md. 558, 589 (1991) (“the police officer’s conduct should be judged not by hindsight but should be viewed in light of how a *reasonably prudent police officer* would respond faced with the same difficult emergency situation” (emphasis added)). As exemplified by the BPD policies listed above, a reasonable officer standard differs from a reasonable person standard in the fact that an officer is permitted to violate some traffic laws under certain circumstances, though he must consider both the severity of the crime he is responding to and the magnitude of the traffic violations.

In making the “reasonable officer” determination, a factfinder may consider whether an officer has violated departmental policy. *See State v. Pagotto*, 361 Md. 528, 557 (2000). The Court has explained that, “while a violation of police guidelines is not negligence *per se*, it is a factor to be considered in determining the reasonableness of police conduct.” *Id.* (citations omitted). Maryland courts have done this policy analysis particularly consistently in vehicular manslaughter cases, examining departmental standards for pursuits, for speeding, and for other safety considerations. *See e.g. Boyer*, 323 Md. at 580; *Smallwood*, 2020 WL 4049719, at *19.

A number of cases have analyzed what level of conduct is required for an officer’s driving to rise to the level of gross negligence; the factors have included speed, the seriousness of the emergency, road conditions, and the presence of lights and sirens. In *Smallwood v. Kamberger*, 2020 WL 4049719, at *19 (Md. Ct. Spec. App. July 20, 2020)⁹, the then-Court of Special Appeals, now the Appellate Court of Maryland allowed a gross negligence claim to proceed to a jury where the allegation was that a police officer violated policy in conducting a high-speed pursuit, through three or four red lights, in response to a property crime. The pursuit averaged 90 m.p.h. in areas zoned for between 30 and 50 m.p.h., in an area the officer was unfamiliar with. In *Khawaja*, the Court of Special Appeals held that a vehicle driving through a red light at 25 m.p.h. over the speed limit without a siren did not constitute gross negligence. *Khawaja*, 89 Md. App. at 318. In *Boyer*, 323 Md. at 580, the then-Court of Appeals, now the

⁹ Pursuant to General Provisions § 1-104, unreported opinions shall not be used as either precedential or persuasive authority in any Maryland court. They are included here solely for illustrative purposes.

Supreme Court of Maryland, held that allegations that a state trooper driving at up to 100 m.p.h. on a congested highway in an attempt to apprehend a suspected intoxicated driver, in violation of policy, were unduly vague and therefore did constitute gross negligence.

In this case, while there are some factors that point toward gross negligence, there are also a number that point the other direction. Officer Acosta's failure to slow down significantly at multiple red lights and stop signs, his failure to account for the denseness of the urban environment with regard to the ability of others to see and hear him, and his driving on very little sleep all point in the direction of higher culpability. His speed of 40 m.p.h. in a 25 m.p.h. zone is likely not grossly negligent, though the fact that he was going 55 m.p.h. shortly before is a stronger but not dispositive factor. The crime to which he was heading was not as minor as the property crime in *Smallwood*, but nor was it a high-level emergency. Pointing away from gross negligence are the presence of lights and sirens, the daylight and clear conditions, and the lack of roadway congestion.

In this case, Officer Acosta was clearly in violation of departmental policy. Notably, BPD policy states that an officer may “[p]roceed through a red light or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety.” The policy also notes: “Because intersections present a high risk of collisions, members shall exercise due caution and slow down, as necessary, when proceeding through intersections, especially controlled intersections.” The footage from Officer Acosta's camera shows that he did not slow significantly, if at all, for any red light or stop sign, and that he proceeded through multiple intersections at 40 or 50 miles per hour. This is in sharp contrast with Officer Rivera-Ocasio, who can be seen slowing significantly. It is also notable that BPD policy says that an officer's response should be tailored to the seriousness of the call. In this case, while there was a request for additional units to respond to a cutting, there was no indication that a severe emergency was underway that required Officer Acosta drive in a way that heightened the risk to others.

B. Criminally Negligent Manslaughter by Vehicle

There is also a lesser level of criminal culpability to consider, namely, criminally negligent manslaughter by vehicle. Criminal Law § 2-210 states: “(b) A person may not cause the death of another as the result of the person's driving, operating, or controlling a vehicle or vessel in a criminally negligent manner. (c) For purposes of this section, a person acts in a criminally negligent manner with respect to a result or a circumstance when: (1) the person should be aware, but fails to perceive, that the person's conduct creates a substantial and unjustifiable risk that such a result will occur; and (2) the failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person. (d) It is not a violation of this section for a person to cause the death of another as the result of the person's driving, operating, or controlling a vehicle or vessel in a negligent manner.” While there have been no cases analyzing this statute with respect to police-officer conduct, the “reasonable person” language would likely be adjusted to “reasonable officer,” as it is in the other manslaughter by vehicle statute described above. *See Boyer*, 323 Md. at 589.

Criminally negligent manslaughter by vehicle differs from manslaughter by vehicle in that it requires proof of criminal negligence rather than gross negligence. MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Criminal

negligence requires proof that “the defendant *should have been aware, but failed to perceive* that his or her conduct created a ‘substantial and unjustifiable risk’ to human life and that the failure to perceive that risk was a ‘gross deviation’ from the standard of care that a reasonable person would exercise.” 96 Md. Op. Atty. Gen. at 138 (emphasis in original; quoting Crim. Law § 2-210).

While there is little case law interpreting the statute, which was created only in 2011, the cases that exist have factored in speed, visibility, driver aggressiveness, and driver impairment. The Court of Special Appeals has upheld a conviction where a defendant “drove his 70-foot tractor trailer, in the dark, across three lanes of traffic on a highway where the speed limit was 65 miles per hour. Due to his location near the curve of the road, he could see only a distance of a quarter mile.” *Beattie v. State*, 216 Md. App. 667, 684 (2014). That case shares some similarities with this one. Namely, a driver failing to account for the fact that visibility conditions were compromised—in this case, due to dense urban buildings and bad sightlines. *See also Billups v. State*, 2019 WL 4724633, at *3 (Md. Ct. Spec. App. Sept. 26, 2019) (upholding a conviction for criminally negligent homicide where the defendant, while high on PCP, drove on a highway on-ramp while swerving and going 16 m.p.h. over the speed limit); *Dobrzynski v. State*, 223 Md. App. 771 (2015) (upholding a conviction of a driver operating on medication and severely overtired, who drove above the speed limit knowing that her child was unbuckled in the back seat).

Because the legal standard asks whether an officer “should have been aware” of the risks of his conduct, the presence of policies that warn an officer about potential risks are particularly noteworthy here. BPD policies emphasize particular caution when driving through red lights, noting: “Because intersections present a high risk of collisions, members shall exercise due caution and slow down, as necessary, when proceeding through intersections, especially controlled intersections.” BPD policies similarly warn officers against working while not well rested. Officer Acosta’s prior discipline on this subject is also relevant to the “should have been aware” standard. As noted above, Officer Acosta was previously disciplined for violating the vehicle operation and pursuit policy, and he was instructed to reread that policy. On the other hand, the policies and norms that allow an officer to break some traffic rules while driving are also relevant to this analysis, and provide an officer with some additional leeway. In sum, the factors examined above under the gross negligence standard are similarly applicable here, but subject to a less stringent legal standard.

C. Reckless Driving & Negligent Driving

Transportation Article § 21-901.1(a) states: “A person is guilty of reckless driving if he drives a motor vehicle: (1) In wanton or willful disregard for the safety of persons or property; or (2) In a manner that indicates a wanton or willful disregard for the safety of persons or property.”

Transportation Article § 21-901(b) states: “A person is guilty of negligent driving if he drives a motor vehicle in a careless or imprudent manner that endangers any property or the life or person of any individual.”

Factors such as “[s]peed, erratic driving, disregard of the red light, [and] force of impact ... can be taken as evidence of wanton or reckless disregard . . .” *Taylor v. State*, 83 Md. App.

399, 404 (1990) (citing *Boyd v. State*, 22 Md. App. 539 (1974); *State v. Kramer*, 318 Md. 576, 590 (1990)).

These two statutes present a lower standard of proof than the homicide charges described above because:

the object of the disregard is different. The disregard required under [manslaughter by vehicle] must be “for human life.” The disregard required under § 21–901.1(a) may be for less than that—for the “safety of persons or property.” Moreover, § 21–901.1(a) does not require a finding that the defendant actually harbored a wanton or willful disregard but permits a conviction on a finding that his manner of driving “indicates” such a disregard.

Taylor, 83 Md. App. at 403.

While the standard here is lower than for the manslaughter charges discussed above, the factors being analyzed are similar. Namely, Officer Acosta’s speed, tiredness, and failure to slow for signals must be balanced against a police officer’s legitimate reasons not to comply with traffic laws during an emergency response. The fact that the reckless and negligent driving charges account for damage to property is not meaningful here, when whatever danger existed was to human life more significantly than to property.

D. Misconduct in Office

The common-law crime of misconduct in office requires the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). The viability of a misconduct in office charge is dependent on the analysis of the risk and seriousness level of the conduct as discussed in the charges above.

E. Other Charges Considered¹⁰

There are several other charges for which full analysis was not warranted given the facts of this incident. Those charges are addressed briefly here. The crimes of first-degree murder, intentional second-degree murder, and voluntary manslaughter each requires the State to prove the defendant had “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” MPJI-Cr 4:17 Homicide—First Degree Premeditated Murder and Second Degree Specific Intent Murder, MPJI-Cr 4:17 (2d ed. 2021); *Cox v. State*, 311 Md.

¹⁰ This report does not analyze the potential charge of reckless endangerment because the relevant subsection of that statute “does not apply to conduct involving ... the use of a motor vehicle.” Criminal Law § 3-204(c)(1)(i).

326, 331 (1988) (voluntary manslaughter is “an intentional homicide”). In this case, there are no facts suggesting that Officer Acosta intended to kill or cause serious bodily harm to Mr. Harrell.

VI. Conclusion

This report has presented factual findings and legal analysis relevant to the fatal vehicle crash that occurred on June 21, 2022, in Baltimore, Maryland. Please feel free to contact the IID if you would like us to supplement this report through any further investigation or analysis.

Appendices

Appendix A – Materials Reviewed

Body Worn Camera Video (37 items)
CAD Reports (2 items)
Civilian Witness Interview (2 audio recordings and 2 written statements)
Decedent Documents (2 image)
Departmental Policies (8 items)
IA & Training Records (9 items)
Communications Audio (1 recording)
Medical Records (2 items)
OCME (1 Report)
Officer Involved Statements (1 written statement)
Officer Witness Statements (2 audio recordings and 4 written statements)
Other Video (31 videos, 2 captures, and 1 inventory)
Photographs (52 photographs)
Police Reports (22 items)
Subpoenas (9 items)

All materials reviewed have been shared with the Baltimore City State's Attorney's Office via a secure filesharing service.

Appendix B – MSP Crash Team Report

See attached.

Appendix C – Relevant Baltimore City Policies

See attached.

Appendix B
MSP Crash Team Report

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Case:

AG-IID 22-012

Date / Time of Incident:

06/21/2022 / 1236 hours

Location of Incident:

E. Biddle Street at N. Milton Avenue
Baltimore City, Maryland.

Investigation:

Review of Baltimore City Investigation

Author: Sgt. Charles Gore #5555



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1.0. BACKGROUND:

On June 21st, 2022 at approximately 1236 hours, the Baltimore City Police Department (BPD) was involved in a motor vehicle collision at the intersection of E. Biddle Street and N. Milton Street in Baltimore City, Maryland. The collision was documented under Baltimore City Case 3220606663 and AIU #22-20.

The collision involved the following vehicles and people:

- Vehicle #1: 2014 Chevrolet Caprice (Marked Baltimore Police Cruiser)
 - Operator: Ofc. Alexis Martinez Acosta Rafael (DOB 08/14/1994)
- Vehicle #2: 2022 Yongfu Eagle (MD – AT60388)
 - Operator: Terry Harrell (DOB 01/03/1964)

The collision was investigated by the Baltimore Police Department Crash Team and the primary investigator was Det. Edgardo Mercado (H991). Mr. Harrell died from injuries sustained in the motor vehicle collision.

The Office of the Attorney General for the State of Maryland Independent Investigation Division (AG-IID) was assigned to investigate the death per law. I, Sgt. Charles Gore #5555, was asked to conduct a review of the investigation of the BPD Crash Team and data collected by the AG-IID. The following report documents my activities and findings as part of that review.

2.0. REVIEW OF AG-IID MATERIAL:

2.1. *Baltimore Police Department Crash Team Report:*

2.1.1. *Review of Synopsis Section:*

The Baltimore City Police Crash Team Report provides the following information regarding their investigation. The report noted the following sequence of events.

- A 2014 Chevrolet Caprice marked patrol unit was traveling east on E. Biddle Street with its emergency lights and siren activated. The vehicle was operated by Ofc. Alexis Rafael Acosta Martinez.
- A 2022 Yongfu Eagle scooter was traveling north on N. Milton Avenue. The vehicle was operated by Mr. Terry Harrell.
- Traffic on N. Milton Avenue had a green traffic signal. Traffic on E. Biddle Street had a red traffic signal.



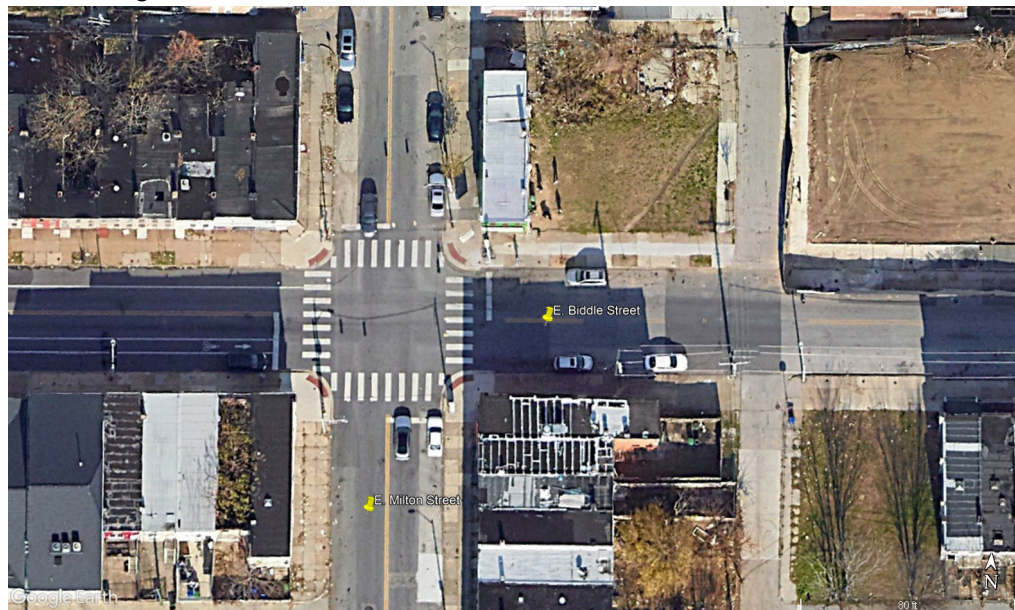
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- Mr. Harrell was transported to John Hopkins Hospital where he died on June 23rd, 2022.
- Ofc. Acosta Martinez was transported to John Hopkins Hospital with minor injuries.

2.1.2. Review of Scene Observations Section:

- The report describes the intersection layout and design and provided a Google Earth image similar to the one below.



- The report described the final rest positions of both vehicles and Mr. Harrell as noted in a diagram that was provided.
- Damage to the Chevrolet include damage to the right front panel between the front bumper and the A-pillar. The contact point was identified as the front right corner of the Chevrolet. Additional damage was noted on the windshield on the right side of the vehicle where Mr. Harrell made contact after being ejected from the scooter. There was no airbag deployment in the vehicle.
- The scooter exhibited severe damage to the front wheel and frame area from contact with the Chevrolet.

2.1.3. Evidence Collected Section:

- The report noted several cameras in which video was recovered and stored in evidence.



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- The report indicated that the Event Data Recorder from the Chevrolet did not record an event, therefore imaging was not available.

2.1.4. Follow-up Investigation Section:

- Notations of the Autopsy report indicate cocaine, methadone, fentanyl and alcohol in Mr. Harrell's blood.
- Notations found in the Officer's medical records is a mention of being very tired.

2.1.5. Speed Analysis Section:

- First speed analysis performed was a minimum speed loss of the scooter after impact. The author stated that a calculation of 19 miles per hour of speed loss/gain by the scooter after the impact. The author described that because the scooter was traveling north at the time, it had little or no speed east until it was struck by the Chevrolet. The impact accelerated the scooter east at impact and therefore gained speed prior to losing it until its final rest.
- The second analysis conducted was the use of the Searle equation. The author indicated that the area of impact was identified by a gouge mark in the roadway. The author indicated that the gouge mark was used to determine the speed loss of the scooter (as described above) and not that of Mr. Harrell. The author described the difference between the impact between the Caprice and the scooter versus the impact between the Caprice and Mr. Harrell. As such the author uses a range of +/- 10 feet east and west of the gouge mark to measure distances for use in the calculation. The author concludes a speed range of 25-36 miles per hour for a speed range of the Caprice.

2.1.6. Conclusion Section:

- The author concluded that Officer Acosta Martinez was at fault in the collision after failing to exercise the duty to drive with "due regard for the safety of all persons". The author also describes Maryland Transportation Article 21-206 where an emergency vehicle is allowed to disregard certain traffic laws as necessary for safety and the driver does not endanger life or property.
- The author indicated that the highest speed range on the part of Officer Acosta was 11 miles per hour over the speed limit of 25 miles per hour and goes on to explain that a fixed speed camera would not have detected the excessive speed of the Caprice.
- The author does mention Officer Acosta being tired as a possible contributory element to the collision.



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- The author goes to explain that though there are no actions on the part of Mr. Harrell that caused the crash, his helmet did not remain on his head after the impact with the windshield which added to his injuries when he struck the ground. The author continues to explain that the “traces” of alcohol, cocaine, methadone, and fentanyl in Mr. Harrell’s system would have impacted his alertness to an approaching vehicle with lights and sirens activated and may have added complications to the cause of his death.

2.2. Baltimore City Police Department Crash Team Speed Calculations Report:

2.2.1. Speed Loss of Scooter:

- The author used a distance of 37.24 feet for the scooter
- Used a friction value of 0.35.
- Speed calculation of 19.77 miles per hour.
- The author indicated that the scooter gained speed from the momentum of the patrol vehicle and lost that speed until its final rest.
- The author noted that the scooter did strike the curb as it came to final rest and that there was energy that was not accounted for.

2.2.2. Speed calculations using Searle:

- The Author indicated that the Searle equation will calculate the minimum and maximum speeds / speed loss formula which focus on the amount of speed transferred to an object by an automobile during a collision. This is dependent upon drag factor 0.66 and trajectory (throw) distance. A level surface is required.
- The author measured a distance of 57.09 feet as a throw distance. The author then used a +/- 10 feet for the throw distance calculations.
- Using the 47.09 distance, the author obtained a speed range of 25.46 to 30.51 miles per hour.
- Using the 67.09 distance, the author obtained a speed range of 30.40 to 36.42 miles per hour.
- The author indicated that the impact with the windshield may have been before or after the AOI mark was created on the roadway and that is why the range was created.

2.2.3. Investigator’s Notes:

- A note was filed that indicated that on June 21st, 2022, Det. John Kosko attempted to image the Chevrolet’s Event Data recorder but no event was recorded.



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2.3. Vehicle Activity Reports:

2.3.1. Activity Report for vehicle 159171:

- This report provides location based data such as GPS and a closest address. The report provided a location every 1 minute. Some of the data points provided speed data. According to Teletrac Navman system, the speed data is pulled directly from the vehicle's telematics system and is not calculated.
- A data point recorded at 1234 hours displayed a speed of 55.9 miles per hour at the GPS location of 39.30455, -76.58826.
- A check of this GPS location put the vehicle at the intersection of E. Biddle Street and N. Chester Street. This intersection was about 1,500 feet from the crash site.
- The next entry in the list at 1235 hours, places the vehicle at its stopping point after the collision and the vehicle was stopped.

2.4. Review of Body Camera Footage of Ofc. Acosta:

- 2.4.1. I reviewed the body camera video from Ofc. Acosta which was 57 minutes and 1 second in length.
- 2.4.2. The video started with the vehicle in motion but unable to see any dash information. Using landmarks observed in the video, Ofc. Acosta was on E. Biddle Street between N. Bond Street and N. Broadway.
- 2.4.3. 20 seconds into the video, it showed him traveling through a red signal. The intersection was later identified as E. Biddle Street and N. Wolfe Avenue.
- 2.4.4. 25 seconds into the video, the vehicle passed under a bridge.
- 2.4.5. 31 seconds into the video, the vehicle goes through an intersection with a red stop sign. The intersection was identified as E. Biddle Street and N. Chester Street.
- 2.4.6. 32 seconds into the video, the camera observes another intersection with a red signal. This intersection appeared to be E. Biddle Street and N. Patterson Park Avenue.
- 2.4.7. 54 seconds into the video, the vehicle has entered the intersection of E. Biddle Street and N. Milton Street and the collision occurs. The video showed the traffic signal was red.
- 2.4.8. At 13.01.17, Ofc. Acosta indicated during a conversation that he was tired.
- 2.4.9. At 13.02.54, Ofc. Acosta stated to a female that some units needed more units and that he was traveling code and he was clearing the intersection. He indicated that he saw the guy coming and pressed his brakes hard.
- 2.4.10. At 13.11.07, Ofc. Acosta was being questioned by a male subject when Ofc. Acosta responded "They, they requested more units for the cutting, so I came to support



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those units. I was with my lights and sirens and then every, with every intersection I was clearing up and hitting my air horn so that they can notice it more that I was coming.”

2.5. Review of Ofc. Acosta’s Medical Records from University of Maryland:

- 2.5.1. The records indicated that Ofc. Acosta entered the hospital system at 1333 hours on 06/21/2022.
 - 2.5.2. On page 9 of the provided .pdf file there (page 3 of the medical report) is a notation of statements made by Ofc. Acosta to the medical staff of the hospital. In the notation indicated that he provided a speed range of 40-50 miles per hour when he accidentally hit a scooter. He indicated that he did not lose conscious or hit his head and that there was no airbag deployment.
 - 2.5.3. On page 12 (page 6 of the medical report) is an entry by Jessica Starr (RN) which stated that Ofc. Acosta indicated that he was very tired prior to the mvc because he has not slept in a long time. These notes were entered on 06/21/2022 at 1352 hours.
-

3.0. CONCERNS AND ADDITIONAL ANALYSIS:

3.1. Speed Analysis:

3.1.1. Speed Analysis approach using the Scooter.

- The investigator measured a travel distance of 37.24 feet from the AOI to the final rest position of the scooter. The investigator was correct in his math using a friction value of 0.35. The use of 0.35 was defined by a source that the investigator listed. Based on studies, that value is a low-end value and that studies have ranges between 0.35 to 0.65 depending on the design of the scooter/motorcycle. The higher friction value would equal a higher post-impact speed loss.
- The concern with this approach is two-fold. The first being that this method only calculates the minimum post-impact speed loss of the scooter after it has separated from the Caprice. The investigator does note that the energy lost when the scooter struck the curb was not quantified into the equation and with this type of collision, there would not be a reliable way to quantify the energy loss.



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- The second issue is how the investigator explained the speed loss in the reports. The investigator indicates that because the scooter was traveling north, it was traveling at 0 miles per hour east. Therefore, at impact, the scooter gained speed from the momentum of the patrol vehicle and lost that speed at final rest. Had the scooter been struck by the front of the Caprice, this would be “partially” correct, however, the scooter struck the right front corner and right side of the Chevrolet and was redirected from it. The scooter has a gross weight of 340 pounds and a maximum occupant weight of 250 pounds for a max total of 590 pounds. In comparison, a 2014 Chevrolet Caprice has a curb weight of around 4,100 pounds depending on the engine model and this does not account for equipment or occupants. When the scooter struck the side of the Caprice, the forward momentum of the scooter was then redirected as the scooter bounced off the car. The scooter would have only assumed a portion of the energy from the Caprice due to the center mass of each vehicle did not pass through the other. The exchange of energy between the two vehicles would have been brief. During a momentum exchange between two objects, the energy cannot be deleted and must be transferred somewhere and accounted for, therefore, in this case the forward momentum of the scooter at the time of impact cannot just be ignored unless the forward speed was very low which in this case it is not as discussed further in this report.
- In the end result, calculating the post-impact speed loss of the scooter without additional examination does not provide a reliable result.

3.1.2. Speed Analysis Approach using Searle:

- The use of the Searle throw formula is one of the most common formulas used in today’s reconstruction field. The formula is easy to use and an investigator should normally be able to gather the basic information needed to complete the formula. The formula was designed to provide a minimum speed range versus an exact speed. However, when conducting pedestrian collision investigations, it is important to attempt to use multiple formulas to determine an accuracy range.
- Most formulas that were designed for the use in calculating speeds using pedestrian throw distances were designed and tested with the vehicle striking the pedestrian, normally on the front bumper, while the pedestrian was standing, walking or running. In this case the pedestrian was riding a scooter and struck the corner of the vehicle and not on the front.
- The issue with the investigator’s approach on this case is that the pedestrian was not walking / running and was not struck by the car’s momentum but actually struck the corner/side of the car. The “pedestrian” was the operator of the scooter and had its own forward momentum which was higher than the normal actions of a person. The speed of the scooter will be discussed in more detail



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later in this report. In this case when the scooter made contact with the right front side of the Caprice, the operator was then thrown from the scooter which was expected based on Newton's First Law of Motion. Newton's First Law of Motion states that an object moving in a straight line will continue to move in the same line and speed until enacted by an external force. In this case, if the scooter was traveling at 30 miles per hour, when the scooter struck the vehicle and was suddenly reduced in speed, its operator would have continued traveling in a straight line at 30 miles per hour. Now the operator would have struck the handlebars of the scooter, which would have reduced his speed slightly. As the operator was being thrown "forward", the Caprice's windshield then struck the operator. The operator then would have assumed a portion of the Caprice's momentum in addition to the momentum that he still had after being thrown from the scooter.

- The use of the Searle formula in this case would have been more accurate if the operator had been thrown from the scooter and had not made contact with the Caprice. However, this would have then assisted in obtaining the speed of the scooter. Had the Caprice struck the scooter along the Caprice's front bumper, then this formula may have provided a more reliable answer as the pedestrian would have interacted with the Caprice for a longer time in order to assume more speed of the Caprice.
- In this particular case, it can be agreed that the use of the Searle formula provided a result however, this result can be easily argued that it is a minimum speed and did not take into account other factors.
- The investigator's approach to using a +/- 10 feet range of distance for the throw formula is an unusual approach being that an average interaction between two objects in a collision is completed within 200 milliseconds. In this case, the investigator indicated that the reason for the use of the range was that the gouge mark was marked for the area of impact of the scooter and the Caprice and not the operator striking the windshield. The gouging on the asphalt surface being used as the AOI for the scooter would then be used as the maximum distance for the throw as it has already been explained that the operator would have been ejected after the scooter struck the Caprice so adding the distance would have had no reliable calculation.

3.1.3. Video Analysis:

- One lack of analysis that I was surprised to see that was not completed was a speed analysis using the multiple videos that captured the crash. Absent good clear evidence to conduct any calculations from the scene evidence and a recorded event on the airbag control module, then the use of good video is a very reliable method to calculate speeds using a time distance approach.



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- Upon review the types of videos available, the more reliable camera was the CityWatch camera located at N. Milton and E. Chase Streets. This video provided a good perpendicular view of the crash scene.
- The Camera recorded at a rate of 10 frames per second. The video recording that was provided started at 12:29:51pm and was 11 minutes and 8 seconds in length.
- By using this video, I was able to get a speed of the scooter and of the Caprice near the time of the crash in addition to a timing cycle of the traffic signal.
- A review of the video provided the following events:
 - 00:19 – Signal for E. Milton Street turns red. It was calculated that the yellow signal was timed for 3.5 seconds between the green signal and the red signal.
 - 00:52 – Signal for E. Milton Street turns green.
 - 01:36 – Signal for E. Milton Street turns yellow
 - 01:39 – Signal for E. Milton Street turns red
 - 02:12 – Signal for E. Milton Street turns green
 - 02:56 – Signal for E. Milton Street turns yellow
 - 02:59 – Signal for E. Milton Street turns red
 - 03:32 – Signal for E. Milton Street turns green
 - 04:16 – Signal for E. Milton Street turns yellow
 - 04:19 – Signal for E. Milton Street turns red
 - 04:52 – Signal for E. Milton Street turns green
 - 05:22 – Scooter enters the video traveling north (from bottom of the screen). The scooter's signal is green.
 - 05:28 – +5 Frames, Scooter crosses stop line.
 - 05:28 – +6 frames, Caprice enters camera view.
 - 05:28 – +9 frames, Caprice enters intersection. Scooter appeared to pass the crosswalk.
 - 05:29 – +3 frames, Collision occurred.
 - 05:29 – +6 frames, Caprice exits the intersection.
 - 05:30 – 0 frames, Caprice began to exit the video screen.
 - 05:30 – +3 frames, Caprice fully out of view.
 - 05:30 – +5 frames, Mr. Harrell out of view.
 - 05:37 – +8 frames, second patrol vehicle entered the video.
 - 05:36 – Signal for E. Milton Street turns yellow
 - 05:39 – Signal for E. Milton Street turns red
 - No further review of the video was conducted
- Based on the video it would appear that the green signal for E. Milton Avenue lasted for an average of 44 seconds, the was yellow for 3-4 seconds. The light was the red for 33 seconds. This indicates that the total time for green and



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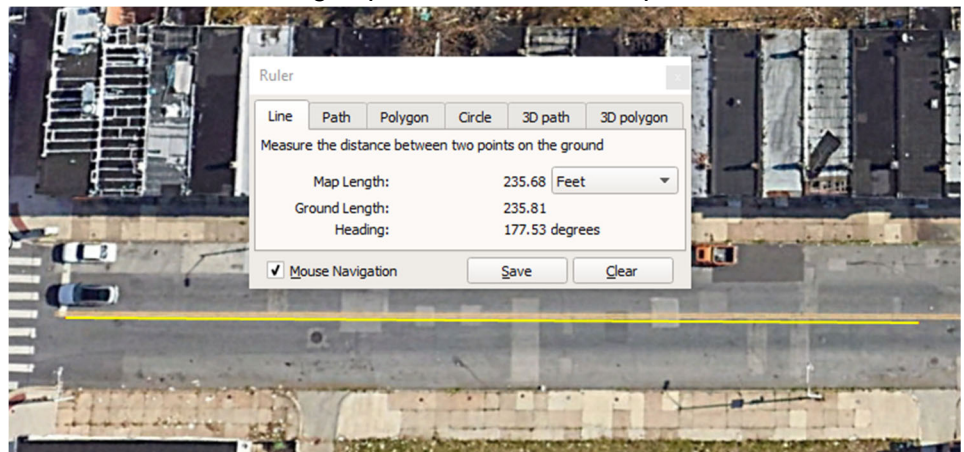
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yellow signals for E. Biddle Street was about 33 seconds. This analysis did not include any time where the signal was in an all-red status.

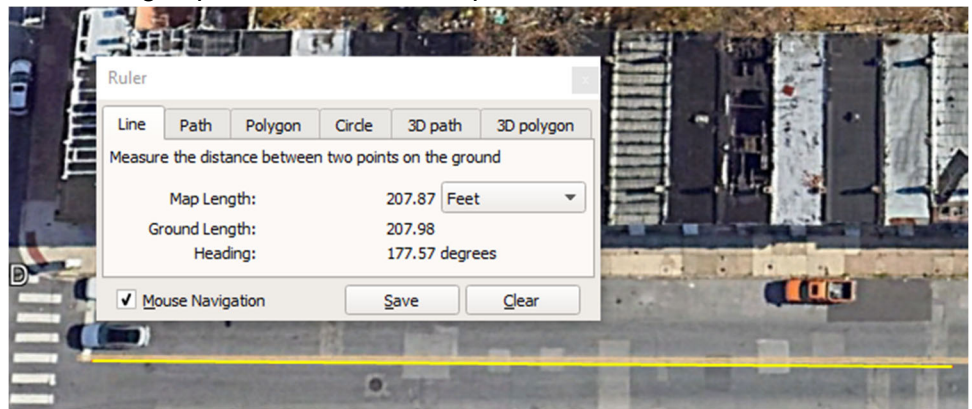
- Using this data, it would appear that the signal for E. Biddle Avenue would have been red for at least 36 seconds prior to the impact.

3.1.4. Speed Analysis from a Video Source:

- Using a time / distance relationship, the speed of the Scooter can be established with the use of the video.
- A time / distance relationship calculates an average speed between two known points.
- For the scooter, I took three different measurements along his course of travel.
 - First measurement – curb in lower screen to white stop line for a distance of 235 feet. The average speed was 27.3 miles per hour.



- Second measurement – light pole to stop line for a distance of 208 feet. The average speed was 31.5 miles per hour.

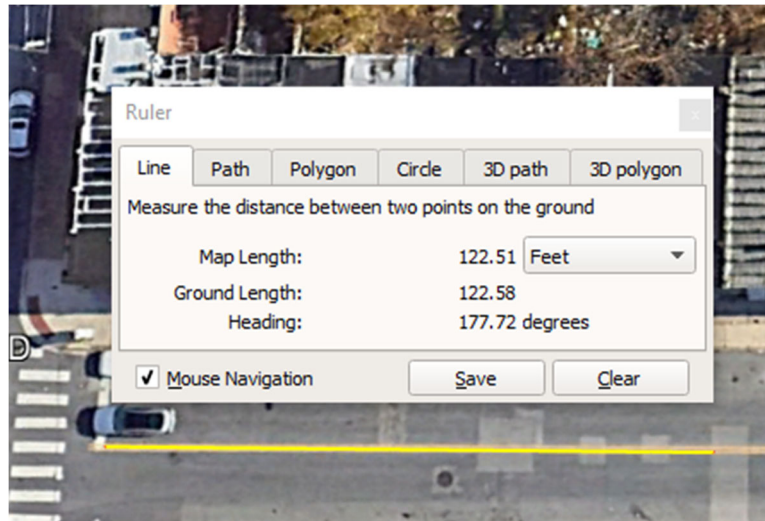


- Third measurement – Asphalt patch to white stop line for a distance of 122 feet. The average speed was 32 miles per hour.

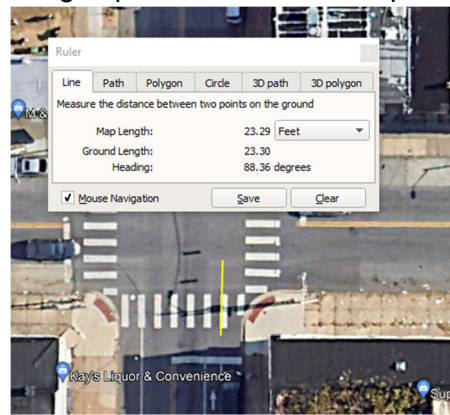


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- The only issue with the measurements is that the scooter was not traveling in a perfect straight line leading up to the collision. Also this does not take into account for any emergency braking by the operator just prior to impact as the camera is too far away from the impact itself to get an accurate measurement.
- If all three measurements are used, it resulted in an average speed of 30 miles per hour. The last two measurements, being closer to the scene, would be more accurate as the scooter may have accelerated from exiting the previous intersection.
- For the Caprice, the measurements become slightly more difficult due to the short distances before the crash and the distance the camera is from the intersection.
 - First Measurement – Edge of building to line on crosswalk for a distance of 23.3 feet. The average speed was 39.7 miles per hour.

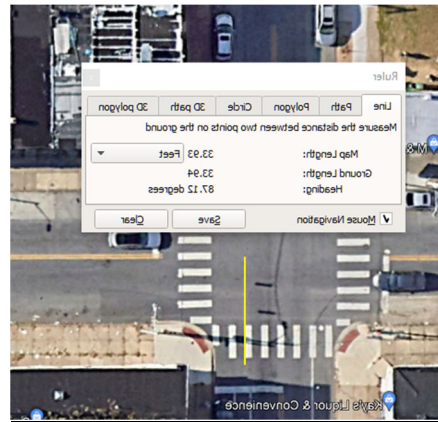


- Second Measurement – Edge of building to center yellow line for a distance of 34 feet. The average speed was 38.6 miles per hour.

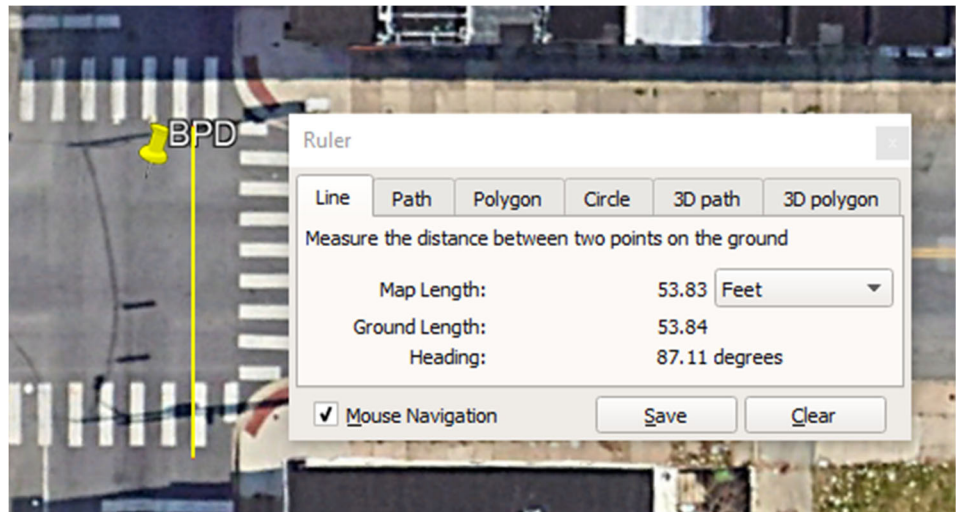


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- Third Measurement – Edge of building to the opposite edge of the intersection for a distance of 54 feet. The average speed was 40.9 miles per hour.



- Again to reiterate some of the issues with the distance measurements are due to the low frame rate of the video in addition to the distance of the camera to the crash scene. Using the 3 measurements above, the first two measurements are the more reliable of the three due to not having a clear view of the east side of the intersection. Even using all three measurements, the average speed of the Caprice was 39.7 miles per hour.

3.1.5. Speed Analysis from body camera video:

- Using the data obtained from Ofc. Rafael's body camera, average speeds can be calculated between two known points and the time it took to travel the distance.
- The Axon body cameras record video at a rate of 30 frames per second.



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- I took a measurement of when Ofc. Acosta traversed the intersection of N. Wolfe Street. I used two signal poles for reference points and obtained a distance of 41 feet and it took about 23 frames of video to traverse the distance. The calculation resulted in an average speed of 36.5 miles per hour when crossing through the intersection.
- The distance between N. Wolfe Avenue and the bridge was approximately 310 feet and it took 124 frames to cover the distance. The average speed was calculated at 51 miles per hour.
- At the intersection of N. Chester Street, I measured the distance between two stop signs for a distance of 59 feet which took 21 frames to cover the distance. The average speed while traversing the intersection was 57 miles per hour.
- At the intersection of N. Patterson Park Avenue, two points were identified for a distance of 65 feet which was traveled in 32 frames. The average speed over the distance was 42 miles per hour.

3.1.6. Visible Speedometer on dash of police cruiser:

- The AG-IID provided an image from Ofc. Acosta's body camera during his response to the scene. The image was taken as a screenshot from the video file and was enhanced to assist in being able to view the dashboard.



- With the enhancement, you are able to barely see the needle for the speedometer.
- I was also provided an exemplar image of what the Chevrolet dashboard should look like to assist in the reference.



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- The difficulty with the image is that I am unable to clearly read the group of numbers to determine where the needle was pointing on the gauge.
- Basing on the angle of the needle with the best reference that I can locate in both images, it would appear that the needle is pointing near the 40 mph mark.

3.2. Concerns of Conclusion of BPD Report:

3.2.1. Alertness of Scooter Operator:

- In the conclusion, the BPD report documents that Mr. Harrell had “traces of alcohol (0.02), cocaine, methadone, and fentanyl in his system”. The report states that “these may have impacted Mr. Harrell’s alertness to an approaching emergency vehicle with lights and sirens activated and may have added complications to the cause of death”.
- In reference to complications of cause of death, there was no mention in any report of how they came to that possible conclusion. In the autopsy, the cause of death was listed as multiple injuries with complications but not mention of what those complications were. It does appear after review of the autopsy report that they did review medical records for some of the injury classifications but again does not mention what the complications were. For BPD to conclude that as a possibility without further evidence or investigation may be premature.
- In reference to the drugs in Mr. Harrell’s system impacting his alertness to the approaching vehicle, there are other factors that should have been discussed prior to using these as a possible contributing factor. However, there is no



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mention in the report if the levels found in Mr. Harrell's system were high enough to cause a possible impairment. Just having the drugs in your blood does not constitute enough to determine impairment.

- However, two additional factors as to why Mr. Harrell may not have been able to be alert to the approaching vehicle were never mentioned in the BPD report and are discussed below in 3.2.3. and 3.2.4.

3.2.2. Helmet Discussion:

- The BPD report notes in the conclusion that Mr. Harrell's helmet did not stay on his head after colliding with the windshield. At no point in the report was I able to find where the helmet was discussed as to the damage sustained to the helmet or a reason why the helmet stayed on, such as the helmet not secured or did the strap break. After reviewing the provided images, I was not able to conclude whether the straps to the helmet were intact or had received damage as a result of the collision.

3.2.3. Line of Sight Issues:

- The BPD report does not discuss line of sight issues between the two vehicles which in this case play a large factor in the operation of both vehicles.
- For example, the Scooter was traveling north on N. Milton Avenue. As he approached the intersection of E. Biddle Street, there are buildings on all four corners up to the edges of the sidewalks. On E. Biddle Street between N. Montford Avenue and N. Milton Avenue, there is a row of buildings except for a small section where N. Port Street traverses. There is nowhere for Mr. Harrell to even observe emergency lights approaching the intersection until he gets to approximately 20 feet from the stop line and at that point he would possibly be able to see another vehicle at the stop line on E. Biddle Street. As Mr. Harrell approached closer to the intersection, he would then in theory be able to see farther down E. Biddle Street, if he was looking. A review of the camera showed Mr. Harrell crossing over the crosswalk area when the view of the Caprice showed on the camera passing the crosswalk area on E. Biddle Street.
- The same sight issue also applied discussed for Mr. Harrell, also applies for the operator of the Caprice which would be even more reason to reduce speed or almost stop to clear the intersection on a red signal prior to entering the intersection.
- In this case, there would be no reason to expect that Mr. Harrell would have been able to see emergency lights with enough time to be able to yield to them.



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- The image below is a view taken from Google Earth to show the buildings on E. Biddle Street as the Caprice approached the intersection. The imagery was taken in 2019.



- The image below is a view taken from Google Earth to show the buildings on N. Milton Street as the scooter approached the intersection. The imagery was taken in 2020.





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3.2.4. Audible Issues:

- The issue with not being able to re-act to the lights was discussed above. The BPD report does not also address the audible issue with this case.
 - Mr. Harrell was operating a motor scooter traveling at around 30 miles per hour. Assuming the helmet did not cover his ears, he would have the wind in his ears in addition to the noise of the motor affecting his hearing. In addition, the siren of the patrol vehicle does not provide a direction. The siren sends out a noise from the speaker, presumably mounted in the front grill of the patrol car. It is designed to project the siren sound forward. As the sound waves are pushed forward, they are affected by the terrain, buildings, other noises etc.
 - In this case, the crash occurred in an urban area where there are multiple buildings. These buildings can deflect sounds waves in various manners which then inhibit other people from being able to identify where they are coming from. The deflections also reduce the range the sirens can be heard at distance.
 - With all of these factors in mind, there would be very little reason to believe that Mr. Harrell was able to hear a siren and be able to determine its origin.
-

4.0. SUMMARY OF INVESTIGATION:

On June 21st, 2022, a motor vehicle collision occurred between a marked Baltimore City Police Cruiser (2014 Chevrolet Caprice) and a 2022 Yongfu Eagle Scooter. As a result of the collision, the operator of the scooter, Mr. Terry Harrell, died from injuries sustained in the collision. The Attorney General's Independent Investigations Division requested the MSP Crash Team to review the investigation conducted by the Baltimore Police Department. The preceding report documented my findings as a result of the review. This report was provided to the AG-IID for their review. The opinions stated in this report are subject to change with new evidence.

Author:

A handwritten signature in black ink, appearing to read "Sgt Charles Gore".

Sergeant Charles Gore
MSP Crash Team – Easton Office
7053 Ocean Gateway
Easton, MD 21601
410-819-4747 ext. 4753
Charles.gore@maryland

Appendix C
Relevant Baltimore City Policies



Policy 1503

Subject	
EMERGENCY VEHICLE OPERATION AND PURSUIT POLICY	
Date Published	Page
24 November 2019	1 of 12

By Order of the Police Commissioner

POLICY

The purpose of this policy is to provide guidance on conducting safe emergency vehicle operations and pursuits. Members shall use sound judgement and discretion while upholding the sanctity of human life in all instances of emergency response and pursuit.

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

CORE PRINCIPLES

1. **Member and Public Safety.** Members shall operate all vehicles with the utmost care and caution, and will comply with all traffic regulations. While operating in Emergency Response Mode, members shall comply with Maryland State Law governing emergency vehicle operations. Members shall weigh the risks of driving in Emergency Response Mode against the nature of the emergency.
2. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
3. **Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.
4. **Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.
5. **De-Escalation.** Members shall use de-escalation techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).
6. **Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.
7. **Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.
8. **Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force reasonable, necessary, and proportional to respond to the threat or resistance to effectively and

safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.

9. **Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).
10. **Duty to Intervene.** Members shall intervene to prevent abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).
11. **Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.
12. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.
13. **Sound Judgement and Discretion.** The BPD recognizes it is better to allow a suspect to temporarily escape apprehension than to jeopardize anyone's safety in a Vehicle Pursuit. No member shall be criticized or disciplined for a decision not to engage in a Vehicle Pursuit or to terminate an ongoing Vehicle Pursuit based on the risk involved, even in circumstances where this policy would permit the commencement or continuation of a pursuit.
14. **Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason (See Policy 804, *First Amendment Protected Activity*).

DEFINITIONS

Emergency Response Mode — Driving with emergency lights and siren activated.

Eluding — An Eluding driver increases speed, takes evasive action, and/or refuses to stop despite a member's signaling to stop by hand, voice, emergency lights, and/or siren even after a reasonable amount of time to yield or stop has passed.

Primary Unit — The law enforcement vehicle driven by a member who initiates a pursuit, or any unit that assumes control of the pursuit as the lead vehicle (the first police vehicle immediately behind the eluding vehicle).

Secondary Unit — Any law enforcement vehicle which becomes involved as a backup to the Primary Unit and follows the Primary Unit at a safe distance.

Street Paralleling — Driving a law enforcement vehicle on a street parallel to a street on which a pursuit is occurring.

Terminate – To discontinue the pursuit of an eluding vehicle.

Trail – Following the path of the pursuit while obeying all traffic laws and without activating emergency lights or sirens. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

Vehicle Pursuit – When a member operating a law enforcement vehicle attempts to keep pace and/or to immediately apprehend one or more occupants of an eluding vehicle.

DIRECTIVES

Emergency Response Mode

1. Driving in Emergency Response Mode is only permitted in law enforcement vehicles equipped with emergency lights and siren.
2. Officers shall not drive in Emergency Response Mode when transporting civilians or prisoners.
3. Before operating a law enforcement vehicle in an Emergency Response Mode, members shall consider the following:
 - 3.1. The nature or seriousness of the offense or the call for service.
 - 3.2. Current road or environmental conditions.
 - 3.3. Familiarity with the route and destination.
 - 3.4. Pedestrian and vehicular density.
4. When responding to an emergency call for service, such as an in-progress incident with the potential for injury, or armed person calls, members are authorized but not required to respond in an Emergency Response Mode.
5. When responding to an assist an officer call (Signal 13) as either the primary or backup unit assigned by dispatch, members shall drive in Emergency Response Mode in such a manner as to minimize the risk of injury to members of the BPD and the public (See Policy 705, *Procedure for Assist an Officer Call*).
6. When operating in an Emergency Response Mode, in keeping with Maryland Code, Transportation Section 21-106, "Privileges for Drivers of Emergency Vehicles", members may:
 - 6.1. Exceed the speed limit, so long as members do not endanger life or property.
 - 6.2. Proceed through a red light or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety.
 - 6.3. Disregard regulations governing turning or movement in a specified direction.

Vehicle Pursuit Authorization

1. Members may pursue an eluding vehicle when:
 - 1.1. The vehicle contains a felony suspect and failure to immediately apprehend poses an immediate threat of death or serious bodily injury to the member or others; and
 - 1.2. Before the pursuit is initiated, there exists probable cause to believe the fleeing suspect committed a felony which resulted, or could have resulted, in death or serious bodily injury.
2. Factors that shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit, include, but are not limited to:
 - 2.1. The safety of the public, including: the type of area, such as a school zone; time of day and lighting; weather, road conditions, and density of vehicular and pedestrian traffic; and the speed of the pursuit relative to these factors.
 - 2.2. The pursuing members' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and dispatchers/supervisors, and the driving capabilities of the pursuing member(s) under the conditions of the pursuit.
 - 2.3. Whether or not the identity of the suspect has been verified.
 - 2.4. The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
 - 2.5. Other persons in or on the eluding vehicle, such as passengers, suspects, and hostages.
 - 2.6. The availability of other resources, such as air support assistance.
 - 2.7. The likelihood of apprehension at a later time.
3. Upon notification that a pursuit has been initiated, supervisors shall at their discretion approve or disapprove the continuation of the pursuit, and may direct additional units to join the pursuit.

Vehicle Pursuit Prohibitions

Members are prohibited from initiating a Vehicle Pursuit when:

1. Transporting passengers (including arrestees) other than on-duty police officers.
2. The initial violation is a crime against property (including auto theft), misdemeanor, a traffic offense without imminent danger, or is a non-violent warrant.
3. The vehicle (marked or unmarked) is not equipped with lights and siren, or the lights and siren are malfunctioning.
4. The risk of a Vehicle Pursuit outweighs the need to stop the Eluding driver, including:

- 4.1. Underlying reason for pursuit.
 - 4.2. Traffic conditions (density of pedestrians and vehicles).
 - 4.3. Weather and road conditions.
 - 4.4. Speed and capabilities of the Eluding vehicle.
 - 4.5. Geographic considerations (e.g., direction of travel, location density, terrain).
5. Member has not completed Emergency Vehicle Operations course at Education and Training (E&T).

Vehicle Pursuit Considerations

1. The decision to use specific driving tactics requires the same assessment of safety factors that a member considers when determining whether to initiate and/or terminate a pursuit.
2. Members must space themselves from other involved vehicles to enable them to see and avoid hazards or react safely to unusual maneuvers by any vehicle involved in the pursuit.
3. Because intersections present a high risk of collisions, members shall exercise due caution and slow down, as necessary, when proceeding through intersections, especially controlled intersections.
4. Members shall not pursue a vehicle driving the wrong direction on a roadway. In the event the eluding vehicle drives in the wrong direction, members shall maintain visual contact with the eluding vehicle by paralleling the vehicle while driving on the correct side of the roadway.
5. Members shall not attempt to pass other pursuing vehicles unless requested to do so by the Primary Unit, and there is a clear understanding between all members involved that a member will be passing the other vehicles.

Primary Unit Responsibilities

1. The Primary Unit is responsible for the conduct of the pursuit unless he/she is unable to remain reasonably close to the eluding vehicle. The highest responsibility of the Primary Unit is the preservation of life and public safety.
2. At the earliest practical time when the member anticipates that a pursuit might be required, the member should activate his or her body-worn camera in compliance with Policy 824, *Body-Worn Cameras*.
3. The Primary Unit shall notify the dispatcher that a Vehicle Pursuit has been initiated, commencing with a request for priority radio traffic, and for the Aviation Unit to respond. As soon as practicable, the Primary Unit shall provide information including, but not limited to:
 - 3.1. Location, direction of travel, and estimated speed of the eluding vehicle.

- 3.2. Description of the eluding vehicle including the license plate number, if known.
 - 3.3. Reason for the pursuit.
 - 3.4. Use of firearms, threat of force, violence, injuries, hostages, or other safety hazards.
 - 3.5. Number, identity, and description of occupants in the eluding vehicle.
 - 3.6. Weather, road, and traffic conditions.
 - 3.7. Need for any additional resources or equipment.
 - 3.8. Identity of other law enforcement agencies involved in the pursuit.
4. Until relieved by a supervisor or a Secondary Unit, the Primary Unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the Primary Unit shall relinquish the responsibility of broadcasting the progress of the pursuit to a Secondary Unit or to Air Support to minimize distractions and allow the Primary Unit to concentrate foremost on safe pursuit tactics.

Secondary Unit Pursuit Responsibilities

1. Immediately notify the dispatcher of entry into the pursuit and continue pursuit at supervisor's discretion.
2. At the earliest practical time when the member anticipates that a pursuit might be required, the member should activate his or her body-worn camera in compliance with Policy 824, *Body-Worn Cameras*.
3. Use a different siren sound (e.g., wail or yelp) than the Primary Unit.
4. Remain a safe distance behind the Primary Unit, unless directed to assume the role of Primary Unit.
5. Assume broadcast responsibilities from the Primary Unit until the Aviation Unit assumes this responsibility.
6. Serve as backup to the Primary Unit once the eluding vehicle has been stopped.

Pursuit Trailing

1. In the event that the Primary Unit relinquishes control of the pursuit to another agency, the Primary Unit and/or any Secondary Units may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect and in reporting the incident.
2. While trailing, regardless of the jurisdiction, members must continue to follow this policy.

Pursuit Ending Tactics

1. The use of a departmental vehicle to deliberately strike another vehicle or to act as a roadblock is strictly limited to exigent circumstances and may only be used when:
 - 1.1. The Eluding vehicle is being operated in such a manner as to pose an imminent threat of death or serious bodily injury to members or others; and
 - 1.2. Insufficient time exists to resort to other alternatives.

NOTE: The use of non-departmental vehicles in Pursuit Ending Tactics is strictly prohibited.

2. At no time will a roadblock be established until:
 - 2.1. Authorized by the Shift Commander; and
 - 2.2. All pursuing police vehicles are made aware of the existence of the roadblock and its location, and have acknowledged this awareness via radio communications.

NOTE: Members may not remain inside vehicles acting as blocking vehicles.

3. Intentional vehicle-to-vehicle contact is a use of force that members must report as directed in Policy 725, *Use of Force Reporting, Review, and Assessment*.
4. The stationary placement of a BPD vehicle to protect an accident or crime scene shall not be considered a roadblock.

Terminating a Pursuit

1. When a supervisor directs the pursuit to be terminated, members shall immediately terminate the pursuit and advise the Communications Section dispatcher of their location.
2. Members may terminate a pursuit when the pursuing member believes that the danger to the member(s) or the public outweighs the necessity for immediate apprehension of the Eluding driver, even if not directed to terminate the pursuit.
3. Factors that shall be considered, both individually and collectively, when deciding to terminate a pursuit, include, but are not limited to:
 - 3.1. If there is a person(s) injured during the pursuit and there are no other personnel able to render immediate medical assistance.
 - 3.2. The distance between the pursuing vehicle and the eluding vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
 - 3.3. The eluding vehicle's location is no longer definitively known.
 - 3.4. The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

- 3.5. The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- 3.6. When the identity of the Eluding driver is known and it does not reasonably appear that the safety needs for immediate capture outweigh the risks associated with continuing the pursuit.
- 3.7. When pursuit requires that the member(s) drive in a manner which exceeds the performance capabilities of the pursuing vehicles or the member(s) involved in the pursuit.
4. When terminating a pursuit, Primary and Secondary Units will call out the location and last known direction of Eluding vehicle.
5. Primary and Secondary Units shall terminate the pursuit by:
 - 5.1. Calling out their location and mileage to dispatch,
 - 5.2. Turning off the vehicle's lights and sirens, and
 - 5.3. Immediately pulling over or taking the nearest right turn in order to safely pull over.

Use of Firearms

1. Members shall not fire any weapon from or at a moving vehicle, except:
 - 1.1. To counter an immediate threat of death or serious physical injury to the member or another person, by a person in the vehicle using means other than the vehicle.
 - 1.2. To counter a situation where the officer or another person is unavoidably in the path of the vehicle and cannot move to safety. Members shall not position themselves in the path of a moving vehicle where they have no option but to use deadly force/lethal force (See Policy 1115, *Use of Force*).

Air Support Assistance

1. Air support should be requested at the onset of the pursuit. Once the air support crew establishes visual contact with the eluding vehicle, air support should video record the pursuit and assume communication control over the pursuit.
2. The air support crew should coordinate the activities of resources on the ground, report on the progress of the pursuit, and provide members with details of upcoming traffic congestion, road hazards, or other pertinent information to assist in evaluating whether to continue the pursuit.
3. At any time, air support can recommend terminating the pursuit. If members on the ground are not within visual contact of the eluding vehicle, and the air support crew determines that it is unsafe to continue the pursuit, the air support crew shall recommend terminating the pursuit.

Inter-Jurisdictional Considerations

1. Due to communications limitations between local law enforcement agencies, a request for an outside agency's assistance requires the outside agency to assume responsibility for the pursuit once the pursuit enters a foreign jurisdiction.

NOTE: BPD will only assist outside jurisdictions with pursuits when they meet BPD pursuit criteria.

2. Members should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor, except when a single vehicle from the initiating agency is in pursuit. Under this circumstance, a member may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.
3. When a request is made to assist or take over a pursuit that has entered Baltimore City, the supervisor should consider all of the factors this policy requires for initiating a pursuit, including, but not limited to:
 - 3.1. The public's safety.
 - 3.2. The safety of members and officers from other jurisdictions.
 - 3.3. The seriousness of the offense and whether the suspect seriously injured or attempted to injure someone.
 - 3.4. The sufficiency of staffing to maintain the pursuit.
4. As soon as practicable, a supervisor or the Shift Commander should review a request for pursuit assistance from an outside agency. The Shift Commander or supervisor, after considering the above factors, may assist or decline to assist with the outside agency's pursuit.
5. In the event that the termination point of a pursuit from an outside agency is within the City, members shall provide appropriate assistance including, but not limited to, scene control, coordination and completion of supplemental reports, and any other assistance requested or needed.

Members Not Involved In the Pursuit

1. Members not involved in or assigned to the pursuit shall remain in their assigned areas, shall not parallel the pursuit route, and shall not become involved with the pursuit unless directed otherwise by a supervisor.
2. When authorized by a supervisor, uninvolved members may use police vehicles and emergency equipment along the pursuit path to keep intersections clear of vehicular and pedestrian traffic to protect the public. Those members shall account for the tactical positioning of their vehicle to avoid additional collisions and collateral damage from the pursuit.

Reporting Requirements

1. The Primary Unit who initiated the pursuit must complete an Incident Report detailing the facts providing probable cause for the pursuit.
2. All members and supervisors who participate in a pursuit shall tag and download body-worn camera data in accordance with Policy 824, *Body-Worn Cameras*. Members who did not activate their body-worn camera during the pursuit shall submit a supplemental report detailing their actions.
3. The Primary Unit must also document the facts that caused the member to believe the safety risks of the pursuit were outweighed by the risks that the Eluding driver might seriously injure someone if not immediately apprehended.

REQUIRED ACTION**Supervisor**

1. Ensure that members under their supervision maintain a valid state issued driver's license.

NOTE: Members are required to immediately notify the BPD if their license is suspended or revoked.

2. Manage control over all Vehicle Pursuits involving supervised members.
3. Closely monitor the emergency response driving of BPD personnel, and, when necessary, cancel or alter the conduct of the emergency response.
4. The first-line supervisor of the Primary Unit, or if unavailable, the nearest supervisor, shall:
 - 4.1. Engage in the pursuit, when appropriate. If engaging, supervisors shall activate their body-worn cameras.
 - 4.2. Exercise management control of the pursuit, including assigning additional units to join the pursuit.
 - 4.3. Ensure that no more than three law enforcement vehicles are pursuing the Eluding vehicle (not to include Street Paralleling drivers or intersection control drivers).
 - 4.4. Direct the pursuit to be terminated at any time.
 - 4.5. When driving on a highway, request other members to monitor exits available to the eluding vehicle.
 - 4.6. Determine if the pursuit violates this policy.
 - 4.7. Determine whether the danger of injury to members or others outweighs the danger that the Eluding driver will injure or kill someone if not immediately apprehended. In making

this determination, supervisors shall weigh the factors listed in **Vehicle Pursuit Authorization** for initiating or terminating a pursuit.

- 4.8. Ensure that assistance from air support, canine, or additional resources are requested when appropriate.
- 4.9. Ensure that the Shift Commander is notified of the pursuit as soon as practicable.
- 4.10. Control and manage BPD Members when a pursuit enters another jurisdiction.
- 4.11. Prepare a post-pursuit review and ensure all incident reports and other required documentation are completed and entered into BlueTeam.

NOTE: Supervisors will be held strictly accountable for maintaining command and control of a pursuit and for the emergency response conduct of their subordinates.

Shift Commander

1. Upon becoming aware that a pursuit has been initiated, monitor and continually assess the pursuit and ensure it is conducted within the requirements of this policy. The Shift Commander has the final responsibility for the coordination, control, and termination of a Vehicle Pursuit and shall be in overall command.
2. Approve/Disapprove requests by members or supervisors to establish a roadblock.
3. When the order to terminate a pursuit is given, notify the Primary Unit and any Secondary Units that they are prohibited from continuing to follow or remain behind the eluding vehicle.

Communications Section

1. If the pursuit is confined within City limits, radio communications will be conducted on the primary channel, unless instructed otherwise by a supervisor or dispatcher. If the pursuit is approaching a different jurisdiction, or once it leaves the City's jurisdiction, involved members should respond when dispatch directs them to switch radio communications to a tactical or emergency channel most accessible to participating agencies.
2. Upon notification that a pursuit has been initiated, the dispatcher shall:
 - 2.1. Clear the radio of non-emergency communications.
 - 2.2. Notify a supervisor of the pursuit.
 - 2.3. Coordinate pursuit communications of the involved members.
 - 2.4. Broadcast pursuit updates as well as other pertinent information, as necessary.
 - 2.5. Notify and coordinate with other involved and affected agencies.
 - 2.6. Notify the Shift Commander of the pursuit.

- 2.7. Ensure all members participating in the pursuit are logged into Computer Aided Dispatch (CAD).
3. Communications shall notify the Maryland State Police and/or other law enforcement agencies if it appears that the pursuit may enter another jurisdiction.

Education and Training (E&T) Section

1. E&T shall ensure that all members have successfully completed the Emergency Vehicle Operations course.
2. When necessary, E&T shall provide a remedial Emergency Vehicle Operations course for members.

ASSOCIATED POLICIES

Policy 319, *Duty to Intervene*
Policy 705, *Procedure for Assist an Officer Call*
Policy 725, *Use of Force Reporting, Review, and Assessment*
Policy 804, *First Amendment Protected Activities*
Policy 824, *Body-Worn Cameras*
Policy 1107, *De-Escalation*
Policy 1115, *Use of Force*

RESCISSION

Remove and destroy/recycle Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*, dated 13 September 2017.

COMMUNICATION OF POLICY

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



Policy 824

Subject	
BODY-WORN CAMERA	
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By Order of the Police Commissioner

POLICY

The purpose of this policy is to provide guidance on the proper use of Body-Worn Cameras (BWCs) in order to promote safety, professionalism, transparency, and accountability. Members who are issued a BWC shall use it in accordance with the provisions of this policy, and all local, state, and federal laws. Violation of this policy is cause for disciplinary action.

This policy establishes a standardized system for creating, retaining, and viewing audio/video recordings made with BWCs during investigative or law enforcement activities and contact with members of the public.

CORE PRINCIPLES

Professionalism, Transparency, and Accountability. The proper and consistent use of BWCs to document a member's enforcement and investigative activities and contacts with the public promotes member professionalism, enhances member safety, results in greater transparency, and assists in the accurate disposition of use of force and misconduct investigations.

Evidence Collection. BWCs are useful tools for recording and preserving evidence, which promotes effective investigations and prosecutions.

Integrity of BWC Recordings. Once BWC footage is captured, a member may not alter it in any way or view it unless specifically authorized under this policy.

Privacy Protection. BWCs might record extremely sensitive and private data. A breach in BWC data security, careless handling of BWC data and/or intentional release of BWC data to non-authorized individuals could jeopardize relationships with victims, witnesses, and the general public, as well as subject those people to invasions of privacy, endanger their safety, and/or jeopardize prosecutions. Accordingly, members shall take the utmost care and caution to ensure that BWC data is not mishandled or misused. Private residences are not subject to any special privacy interests, and as such, members should record interactions within those residences as directed in this policy.

Balancing of Interests. The BPD must balance privacy and investigative concerns against the need for transparency while complying with relevant public disclosure laws. When not otherwise prohibited by this policy, members are permitted to use their BWC to record in circumstances when they determine that doing so would be beneficial to the public interest. When in doubt, record.

DEFINITIONS

Activation — Pressing the “event” button twice to begin recording audio and video with the BWC.

Administrative Investigative Functions — Investigations taking place where no citizen/police interaction is occurring, or likely to occur (e.g., observing Citiwatch cameras, querying computer databases, reviewing reports, conducting covert surveillance, etc.).

Body-Worn Camera (BWC) — Audio and/or video recording equipment that is affixed to an officer’s uniform or equipment with the capability of capturing, recording, and storing information for later viewing.

Buffering Mode — When Powered On, but not Activated, the BWC captures video but not audio. The video is not stored into permanent memory until BWC Activation. Once activated, the BWC will permanently store video captured prior to BWC Activation, and all audio and video captured until Deactivation.

Deactivation — Pressing and holding the “event” button for approximately four seconds to cease audio and video recording. Upon Deactivation, the BWC will enter Buffering Mode.

Livestream – When a member’s camera is Activated and recording, an authorized user may view that BWC footage in real-time via Evidence.com. Members whose BWC footage is being Livestreamed will be notified immediately on the BWC LCD display and through a vibration notification (unless Stealth Mode is enabled). Cameras that are not Activated are unable to have their footage Livestreamed.

Powered Off — Turning the BWC off. When Powered Off, the BWC cannot record audio or video, and the BWC is not in Buffering Mode.

Powered On — Turning the BWC on. The BWC will operate in Buffering Mode until Activation or Powering Off.

Routine Administrative Activities — Activity such as report writing, roll call, remote arrest processing, etc., not likely to result in citizen/police interaction or enforcement related activity.

Stealth Mode – Pressing and holding the volume down button for approximately three seconds to cease LED light, display screen backlight, sounds, and vibration notifications on a member’s BWC.

GENERAL

1. All members shall be trained on proper utilization of BWCs.
2. BWC data is subject to the rules of discovery, meaning BWC data may be disclosed and obtained as evidence in a trial. In addition, state law permits individuals to request copies of BWC data.
3. All images and sounds recorded by the BWC are the property of the BPD.
4. Members may only utilize issued BWC devices while on-duty.

- 4.1. The use of the BWC while off-duty is prohibited unless working approved BPD secondary employment that is conditioned on the actual or potential use of law enforcement powers by the member while in BPD uniform (See Policy 1702, *Secondary Employment*).
- 4.2. The use of a non-issued BWC device or any other non-issued recording device on-duty is prohibited.

DIRECTIVES

Issuance and Utilization

Patrol, Enforcement, and Support Units

5. Members shall be issued a BWC and a companion mobile application on their issued departmental mobile phones upon completion of BWC training.
6. Members assigned to units whose primary duties involve interactions with citizens and/or enforcement related activities (e.g., Patrol, SWAT, K-9, WATF, RATT, DAT, etc.) shall wear the BWC at all times while on-duty.

NOTE: Members performing tasks in which wearing the BWC would be impractical (Dive Team, Physical Fitness Training, Aviation Unit, Facilities Maintenance, etc.) or unsafe (Bomb Techs, HAZMAT responders, etc.) shall not wear the BWC while performing those tasks.

Administrative/Investigative Units

Members assigned to units whose primary duties are administrative (e.g., Communications, ECU, Quartermaster, RMS) or investigative (e.g., DDU, Homicide, Pawn Shop, Sex Offense, Child Abuse, etc.) are not required to wear the BWC during the normal course of their duties, unless:

7. The member anticipates participating in enforcement activity (e.g., serving an arrest warrant, executing a search warrant etc.), or
8. The member is detailed to work a uniformed assignment where citizen/police interaction is occurring, or is likely to occur (e.g., patrol, parade, baseball game, Artscape, Inner Harbor Detail, uniformed secondary employment, etc.), or
9. The member is directed to wear the BWC by a permanent-rank supervisor.

Federal Task Force Officers, Undercover Detectives, and Vice Detectives

10. Members deputized as federal task force officers (TFOs) (e.g., ATF, FBI, DEA, etc.) are exempt from wearing a BWC while conducting task force operations and investigations.
11. Members assigned to support federal agents who are on-scene assisting an operation involving agents from the ATF, FBI, DEA, etc. are exempt from Activating the BWC while fulfilling those obligations.

12. Members will obtain permission from a supervisor and memorialize their assignment and reason for not utilizing the BWC into the BWC prior to assisting a federal law enforcement agency in these circumstances.
13. Members assigned to Undercover Squad and/or Vice Units are exempt from wearing a BWC while operating in an undercover capacity. Arrest team members assigned to Undercover and/or Vice Units shall wear their BWC in accordance with this policy.

Mandatory Recording

Unless unsafe, impossible, or impractical to do so, all members (not just the primary unit) present, dispatched, or otherwise participating in any of the below listed activities must activate their BWC:

14. At the initiation of a call for service or other activity or encounter that is investigative or enforcement-related in nature.
 - 14.1. The BWC must be activated immediately upon receipt of or in response to any in-progress call, or activity likely to require immediate enforcement action (e.g., in progress or just occurred armed robbery, armed person, aggravated assault, narcotics, gambling, etc.).
 - 14.2. The BWC shall be activated immediately before arrival and prior to exiting the vehicle for routine, non-emergency calls for service (e.g., larceny from auto report, destruction of property report, Signal 30, etc.).
15. In the event a voluntary encounter becomes a field interview or an investigative stop, members shall activate their BWC as soon as the member begins the field interview or develops reasonable suspicion for a stop.
16. During any encounter with the public that becomes confrontational.
17. When operating a vehicle in Emergency Response Mode (emergency lights and siren activated) as defined in Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*.
18. When attempting to conduct a stop (e.g., traffic stop, bicycle stop, or person), the BWC shall be activated immediately upon obtaining reasonable suspicion for the attempted stop, or responding to provide back-up for another officer.
19. When present on the scene with prisoners, arrestees, suspects or any other individuals who are stopped by police, whether primary unit or not.
20. When transporting a detainee, regardless of whether the transport vehicle is equipped with a Transport Vehicle Camera (TVC) System.
21. When following a medic, tow truck, or other vehicle as part of a continuation for an investigation or call for service.
22. When a search for evidence or inventory of a vehicle is being conducted. This applies to both the member(s) searching, and those on scene. (See **Strip Searches/Body Cavity Searches** on pg. 7).
23. All members must call "10-61" when activating the BWC (see Policy 701, *Departmental Radio*

Communications).

NOTE: If exigent circumstances prevent a member or supervisor from activating the BWC prior to responding to a call for service or an encounter with the public, the member shall activate the BWC as soon as the exigency subsides.

Exceptions to Recording

24. A member is not required to activate the BWC during contacts with a confidential informant or undercover officer unless another member of the public is present.
25. When victims, witnesses, or other individuals wish to make a statement or share information during a voluntary interaction with police, but refuse to do so while being recorded, members may deactivate the BWC in order to obtain the statement or information. If the encounter begins when the BWC is not actively recording, the member may, but is not required to, temporarily activate the BWC for the sole purpose of documenting the person's request they not be recorded.
26. A member is not required to activate the BWC when performing Administrative Investigative Functions or Routine Administrative Activities as defined in this policy unless directed by a supervisor, or to memorialize required tasks (e.g., training exercise, vehicle inspections).
27. A member who does not activate the BWC as directed by this policy shall document the reason that the BWC was not activated in an Administrative Report, Form 95, as soon as possible after the incident concludes, and submit the report to the member's first-line supervisor by the end of the member's tour of duty. Upon review, the first-line supervisor shall scan/email the Administrative Report, Form 95 to: BWC@Baltimorepolice.org.
28. A member who interrupts or terminates a BWC recording in progress shall document the reason that the BWC was interrupted or terminated in an Administrative Report, Form 95, as soon as possible after the incident concludes, and submit the report to the member's first-line supervisor by the end of the member's tour of duty. Upon review, the first-line supervisor shall scan and email the Administrative Report, Form 95 to: BWC@Baltimorepolice.org.

Health Care Facilities: Patient Privacy

29. Inside a medical facility, members shall not Activate the BWC until just prior to meeting with the complainant/victim on a call for service or when encountering an on-view incident which would require BWC Activation under this policy.
 - 29.1. Members shall be aware of patients' rights to privacy when in hospital settings. Members shall not record patients during medical or psychological evaluations or treatments. When recording in hospitals and other medical facilities, members shall avoid recording persons other than the person of interest, or recording medical documents.
 - 29.2. However, as in any setting, if confronting a violent or assaultive suspect, or in an anticipated use of force instance, the member shall activate the BWC in advance of the encounter or as soon as reasonably practicable.

Central Booking & Intake Facility (CBIF) and Detention Facilities

30. Members are prohibited from wearing the BWC inside CBIF or any detention facility.

Court Proceedings

31. Members shall not activate the BWC to record any court proceedings unless confronting a violent or assaultive suspect, in an anticipated use of force instance, or when directed to take enforcement action by an agent of the court.

Bomb Threats

32. Members may Power Off their BWC when investigating bomb threats or suspicious packages under the same circumstances where utilization of the BPD radio is prohibited due to concerns that radio transmissions or BWC Bluetooth transmissions could potentially cause a detonation (See Policy 707, *Bomb Threat or Suspicious Package - Call for Service*).
33. Members must immediately Power On the BWC when safe to do so.

Prohibited Recording

A member shall not Activate the BWC to record:

34. BPD personnel during Routine Administrative Activities; or
35. Non-work related personal activity.

REQUIRED ACTION**BWC Maintenance and Battery Life**

36. Members shall perform a function and battery test of the BWC to ensure the BWC is in working order and the battery is fully charged in accordance with training prior to beginning each shift.
37. Members shall routinely monitor the battery level and status of the BWC through the LCD display on the top of the camera during their tour of duty (See Appendix C, AB3 Display Icon Legend). The battery level can also be viewed via the paired mobile device.
- 37.1. If the status bar indicates that a battery is below 33%, members should charge the BWC immediately.
- 37.2. If the battery status bar is critically low, charge the BWC immediately, or respond to the Evidence Control Unit (ECU) to be issued a replacement.

NOTE: Members issued a BWC shall not perform enforcement related functions if their BWC is not functioning due to a critically low battery or any other malfunction. The member must respond immediately to ECU to obtain a replacement unit, or shall perform non-enforcement related activity until their BWC is sufficiently charged to be functional for the remainder of the member's shift.

38. During extended periods where BWC Activation is not anticipated (e.g., arrest processing, report writing, etc.), members may charge their BWC.

Lost, Stolen, or Malfunctioning BWC

39. When a member learns that his or her BWC is lost, stolen or malfunctioning, the member shall:
- 39.1. Immediately report the lost, stolen, or malfunctioning BWC to a supervisor in writing, via an Administrative Report, Form 95, and
 - 39.2. Respond to ECU to be issued a replacement BWC.
 - 39.3. Members shall not dismantle, tamper with, or attempt to repair any hardware/software component of the BWC.
40. Supervisors shall immediately scan/email the Administrative Report, Form 95 to: BWC@Baltimorepolice.org.

Wearing the BWC

41. The BWC is designed to be worn on the member's outermost garment, at chest level, which is the best position to maximize the BWC field of view and facilitate ease of BWC operation based on the clothing/equipment worn by the member.

EXCEPTION: Members using a helmet-mounted BWC (e.g. SWAT, mounted) may position the BWC on the front of the helmet.

42. Members shall not intentionally obscure the view of their BWC.
43. The BWC shall be Powered On at all times while worn.
44. Members shall pair their BWC with the Axon mobile application downloaded on their departmental phone.
45. The BWC shall not be utilized off-body as a surveillance tool.
46. Members issued a BWC are not exempt from wearing a tie when wearing a long sleeve uniform shirt. The BWC shall not be mounted in such a way that the tie will obstruct the BWC's field of view.
47. Members issued a BWC are not required to wear the BWC when in Class "A" uniform.

Notice of BWC Recording

Except as otherwise exempted by law, members shall notify, as soon as practicable, the recorded individual that they are being recorded, unless it is unsafe, impractical, or impossible to do so, by stating: "**Hello, I am Officer _____ of the Baltimore Police Department. I am advising you that our interaction is being recorded.**"

Strip Searches/Body Cavity Searches

48. Prior to conducting a strip search or body cavity search, members issued a BWC shall advise the person being searched while the BWC is activated that the BWC is recording. The member shall then ask the individual to be searched if he/she wants the search to be recorded on the BWC, or if the individual wishes the BWC to be deactivated during the search to respect privacy.
49. Comply with the wishes of the person.
 - 49.1. If the person asks for the BWC to be deactivated, memorialize this request on the BWC, deactivate the BWC, and then conduct the search.
 - 49.2. Once the strip search/body cavity search is complete and the person has dressed, activate the BWC immediately to record the rest of the encounter.
50. If the person wishes that the BWC remain activated during the search, or if the person does not respond, maintain BWC Activation during the search.

Axon Aware+ Capabilities

Livestream

51. A member's BWC may Livestream a recording via Evidence.com in order to be viewed by assigned personnel in real-time. Only authorized users designated by the BWC Unit shall utilize the Livestream feature. The BWC Unit shall assign Livestream permissions to supervisory personnel.
52. Supervisors may Livestream BWC footage in order to assist a member, to deploy additional resources, or to check for compliance. Instances where a supervisor may Livestream a BWC include, but are not limited to:
 - 52.1. An ongoing critical incident (e.g., firearms discharge, CEW deployment, Signal 13, or hot pursuit),
 - 52.2. Active shooter situations where command requires multiple viewpoints to coordinate a safe response,
 - 52.3. A hostage/barricade situation,
 - 52.4. At a member's request, or
 - 52.5. During community interactions such as business checks.

NOTE: While the Livestream feature is a tool for supervisors to assist members, its use shall not preclude the responsibilities of supervisors and the Communications Section to respond to an incident and/or notify additional resources as required in BPD policy.

53. The details of all access to the Livestream feature are automatically recorded in the Audit Log of any corresponding BWC recording(s).
54. Supervisors shall not Livestream the BWC of another member for purposes not related to operational necessity or compliance reviews.

GPS Functionality

55. A member's BWC includes GPS functionality, which is only available upon BWC Activation.
56. A member's location will be visible on a map and available for authorized users when the BWC is Activated.
57. Supervisors may review the GPS data in real-time from a subordinate's BWC.

Automatic Activation: Signal Sidearm & Gunshot Detection

58. BWCs are paired with a Signal Sidearm wireless device that is housed on the member's firearm and CEW holsters. When the member's firearm or CEW are drawn from their holster, the Signal Sidearm will automatically Activate the member's BWC.
59. Members shall ensure that their Signal Sidearm device is affixed to their firearms or CEW holster and paired to their BWC prior to each tour of duty.
60. The Signal Sidearm device may be deactivated prior to a member un-holstering their firearm and CEW for administrative purposes (See Policy 409, *Firearms Regulations*). Members shall reactivate the Signal Sidearm device if the administrative un-holstering occurs while the camera is still Powered On.
61. BWC Activations triggered by the Signal Sidearm will be audited in Evidence.com. Members will Deactivate their BWC manually following an automatic Activation as directed in **Ending a Recording**.
62. Accidental Activations (e.g., administrative un-holstering without deactivating the Signal Sidearm) shall be memorialized verbally in the member's BWC and associated footage shall be titled as an accidental Activation. Members may seek deletion of that footage following the procedures found in the section **Deletion of Accidental or Mistaken Recordings** of this policy.
63. BWCs are also equipped with gunshot detection. A member's BWC will automatically Activate when the camera detects a firearms discharge within 3 feet of the member.

Ending a Recording

64. Once recording with a BWC has been initiated (including instances of automatic Activation), members shall not end the recording unless:
 - 64.1. The event or encounter has fully concluded meaning that no more investigative or enforcement action is anticipated;
 - 64.2. The member leaves the scene and anticipates no further involvement in the event; or
 - 64.3. The member is expressly authorized under this policy to deactivate or Power Off the BWC.
65. Prior to Deactivating the BWC, the member shall state orally into the BWC the reason for deactivation.

66. When in doubt, members shall continue to record the interaction if it is reasonable to do so.
67. All members must call "10-62" when deactivating their BWC.

Uploading, Categorizing, and Titling BWC Data

Titling and categorizing BWC data facilitates the retrieval of data at a later date.

68. The member is responsible for uploading all BWC data by the conclusion of the member's tour of duty.
69. Prior to the end of the member's tour of duty, the member shall ensure the data is categorized and titled with the following information:
 - 69.1. The title of the video shall contain any related location CC#, citation, warrant, contact receipt or other report numbers (e.g., 123 Main St., CC#_____);
 - 69.2. The category of the video shall indicate the type of incident (e.g., Accidental, Arrest/Must Appear, Call for Service, Car Stop, Crime Lab, Self-Initiated, Training, Restricted, etc.);
70. A supervisor not involved in the incident shall take possession of the member's BWC and be responsible for uploading and titling the data under the following circumstances:
 - 70.1. Any time the Special Investigations Response Team (SIRT) responds to investigate an incident;
 - 70.2. When completing a use of force review for all members present during an incident of a Level 2 use of force (See Policy 725, *Use of Force Reporting, Review, and Assessment*); and
 - 70.3. Any other time at the discretion of a supervisor not involved in the incident.

Reporting Requirements

71. Members must state if BWC data exists at the beginning of the narrative of any charging document, investigative report, or supplement. (i.e., Incident Captured on BWC, C.C.#_____).
72. Members must document in writing any non-recorded event that should have been recorded under BPD policy, as well as any interruptions or terminations of recordings.

Review of Recordings

73. The following persons can receive recorded BWC data upon request and approval from the BWC Coordinator:
 - 73.1. Any member, provided it is for law enforcement purposes or other legitimate use, with the approval of the BWC Coordinator;
 - 73.2. Education and Training Section (E&T), for training purposes;

- 73.3. Members of the Office of the State's Attorney, United States' Attorney's Office, Attorney General's Office, or other prosecuting authority, for purposes of investigation leading to possible prosecution;
- 73.4. Legal Affairs; and
- 73.5. Members of the public, after approval of a properly submitted Maryland Public Information Act (MPIA) request.
74. Where not otherwise prohibited by this policy, members may view BWC data from their own assigned BWC, or the BWC of another involved member, to assist in complete and accurate report writing for routine matters. A member must document in their written reports whether they reviewed BWC data of the incident from their own BWC or the BWC of another member and the date and time that they reviewed each.
75. Members who are involved in a Level 3 use of force (See Policy 710, *Level 3 Use of Force Investigations / Special Investigation Response Team*) incident, including in-custody death may not view any BWC recordings related to the incident prior to completing and submitting any required reports and/or being interviewed by the appropriate investigative unit unless:
- 75.1. The member is in receipt of a declination letter from the prosecuting authority, or the member has been compelled to make a statement and the appropriate *Garrity* warning has been issued; and
- 75.2. The recording is viewed at PIB or at a location approved by a PIB official while the member is in the presence of the assigned investigator or designee.
76. Members who are involved in an incident that triggers a duty to (a) receive or assist in the taking of a public complaint against a member or (b) notify their supervisor or PIB of actual or alleged member misconduct may not review any BWC recordings related to the incident prior to completing any required reports about such allegations and/or being interviewed by the appropriate investigative unit unless:
- 76.1. The member is in receipt of written notice from PIB that the member will not be required to submit a statement with respect to the incident recorded on the BWC footage; or
- 76.2. The recording is viewed at PIB or at a location approved by a PIB official in the presence of the assigned investigator or designee.
- NOTE:** Examples includes circumstances in which (a) the member is under a duty to report potential member misconduct (including their own) in connection with activity recorded on the BWC, (b) the member forwarded a completed complaint form to the member's chain of command or PIB, or (c) the member's supervisor responded to the scene and either took a public complaint or made a complaint of their own.
77. In addition to the above, members who are officially notified that they are under investigation and have received a Notice to the Accused may not subsequently view any BWC footage of the incident under investigation. This access restriction shall remain in place throughout the investigation. Members will be given the opportunity to view the video under the supervision and coordination of a PIB official prior to giving a compelled statement.

NOTE: In reviews under **75**, **76**, and **77** of this subsection, members may only review data from their assigned BWC. The cross-review of additional members' BWC data is prohibited even if said members are involved in the same incident.

78. Supervisors may review and/or copy BWC data capturing the performance of a member under their command for the purpose of:
 - 78.1. Conducting an investigation (e.g., misconduct, supervisor complaint, vehicle accident, etc.);
 - 78.2. Monitoring a subordinate's professional conduct/performance;
 - 78.3. Training; and
 - 78.4. When advancing the best interest of the public, the BPD, or the member.
79. A supervisor must review the BWC data of a member(s) under their supervision when:
 - 79.1. The member or another member is injured or killed during the performance of their duties;
 - 79.2. There is a reportable use of force by the recording member or another member;
 - 79.3. The member is involved in an incident that results in an injury requiring hospitalization or a fatality including, but not limited to, in-custody deaths, crashes, and/or vehicular pursuits; or
 - 79.4. The member has informed the supervisor they believe that the event may result in a complaint.
80. Members of the Public Integrity Bureau (PIB) may review and/or copy BWC data from any member's BWC.
81. Members of the Criminal Investigation Division (CID) may review and/or copy any BWC data which might be relevant to a criminal investigation they are conducting.
82. BWC recordings of constitutionally protected activity may not be used to identify persons present at the activity who are not otherwise suspected of being engaged in illegal activity.
83. BWC data shall not:
 - 83.1. Be used to create a database or pool of mug shots;
 - 83.2. Be used as fillers in photo arrays; or
 - 83.3. Be searched using facial or voice recognition software.

NOTE: This subsection does not prohibit the BPD from using facial recognition software to analyze the recording of a specific incident when a supervisory member has reason to believe that a specific suspect, witness, or person in need of assistance was recorded.

Security, Retention, and Disclosure of BWC Data

84. Members are prohibited from sharing any BWC log-in credentials with any other person.
85. Accessing, copying, or releasing BWC data for non-law enforcement purposes is prohibited, unless directed by the Police Commissioner, or designee.
86. Accessing, copying, releasing, or sharing BWC data on any computer or device not controlled or provided by the BPD is strictly prohibited.
87. The BPD shall retain an unedited original version of BWC data for a minimum period of four years, and shall log any time data is viewed, for what length of time and by whom, and shall log any copying or editing of BWC data. BPD personnel are strictly prohibited from tampering with or editing this original version.
88. If the BWC incident results in a notice of claim, civil litigation, PIB investigation, or monitor investigation, the footage should be retained for at least one year following the conclusion of the matter, including appeals.
89. Access to BWC data shall be controlled securely through Evidence.com.
90. Access to BWC data shall not be shared with any member of the media unless authorized by the Police Commissioner or his/her designee.

Audits and Inspections

91. The BWC Unit shall conduct periodic, random reviews and audits of BWC video to assess whether the member's activity was conducted consistent with law and BPD policy.
 - 91.1. BWC Unit selects 3 members from a shift within 3 districts at random who were working 3 consecutive days.
 - 91.2. BWC video from those members are then matched with CAD and In Pursuit data to confirm whether the members responded to those calls.
 - 91.3. If there is no video from that member, the BWC Unit will investigate other videos associated with the incident to view the member's actions.
 - 91.4. Any violations (e.g., not activating camera, not titling video, late activation, etc.) will be sent to PIB for review.
92. The BWC Unit will perform about 30 audits per month.
93. Violations of BPD policy, violations of law, and any activity which may bring discredit to the member or the BPD shall be reported to the Chief, PIB and Chief, Media Relations Section (MRS).
94. Audits shall also be used to assess:
 - 94.1. Member performance,

- 94.2. Training and equipment needs, and
- 94.3. Consistency between written reports and recording.

Deletion of Accidental or Mistaken Recordings

- 95. In the event of an accidental or mistaken Activation of the BWC where the resulting recording has no investigative or evidentiary value, members may submit a Body Worn Camera Recording Deletion Request, Form 372, to their immediate supervisor for approval/disapproval.
- 96. Approved requests shall be forwarded to the BWC Coordinator. Upon receipt of an approved deletion request, the BWC Coordinator shall review the recording and determine whether or not the recording had an official purpose or evidentiary value.

NOTE: Deleting footage exposes the BPD to accusations of tampering. Therefore, requests for deletion of BWC footage shall only be made in instances of unintentional Activation of the BWC during non-enforcement or non-investigative activities (e.g., in the restroom or locker room). Footage that raises privacy concerns (e.g., undercover officer, or filming in a private home or in a hospital) shall be retained, tagged, and obscured should it need to be viewed.

- 97. Deletion requests of footage that depicts policy violations or misconduct shall not be approved.
- 98. If the BWC Coordinator concurs that the recording has no evidentiary value, the BWC Coordinator shall forward the Recording Deletion Request to the Deputy Commissioner, PIB for review.
- 99. If the Deputy Commissioner, PIB concurs that the recording has no evidentiary value, the Deputy Commissioner, PIB shall approve the request and forward it to the Director, Information Technology Section to delete the recording.
- 100. A copy of the Body Worn Camera Recording Deletion Request, Form 372, shall be maintained by the BWC Coordinator.

MPIA Requests

- 101. Members of the public may request to obtain BWC footage by completing a Baltimore Police Department MPIA Request Form and emailing same to: DCU@baltimorepolice.org.
- 102. Requests for BWC footage shall be granted or denied by the DCU based upon the Maryland Code, General Provisions § 4-351 (a)(b) (See Policy 603, *Document Compliance Unit*).

BWC Coordinator

The BWC Coordinator is responsible for:

- 103. Granting member access to Evidence.com,
- 104. Arranging for equipment repairs,
- 105. Assisting with the development of training materials and providing technical support,

106. Providing copies of recordings when properly authorized,
107. Providing copies of recordings to outside agencies/individuals when authorized (e.g., MPIO requests, ASA requests, other jurisdictions),
108. Proactively grouping daily arrest videos together for electronic case files,
109. Conducting BWC audits,
110. Providing copies of BWC audits when properly authorized, and
111. Daily review of BWC footage for violations (e.g., failure to record or late activations), and forward to the member's Supervisor and PIB.
112. Authorize the appropriate personnel for Livestream and GPS access.

APPENDICES

- A. Video Retrieval Request, Form 375
- B. Body Worn Camera Recording Deletion Request, Form 372
- C. AB3 Display Icon Legend

ASSOCIATED POLICIES

- Policy 310, *Disciplinary/Failure to Appear and Traffic Matrix*
Policy 409, *Firearms Regulations*
Policy 603, *Document Compliance Unit*
Policy 701, *Departmental Radio Communications*
Policy 707, *Bomb Threat or Suspicious Package – Call for Service*
Policy 825, *Transport Vehicle Camera (TVC) System*
Policy 1115, *Use of Force*
Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*
Policy 1702, *Secondary Employment*

RESCISSION

Remove and destroy/recycle Policy 824, *Body Worn Camera* dated 1 January 2018.

COMMUNICATION OF POLICY

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

APPENDIX A

Video Retrieval Request, Form 375



BALTIMORE POLICE DEPARTMENT BODY WORN CAMERA FOOTAGE REQUEST FORM

DATE

FORM 375

Requestor:	
Address:	
Phone #:	Email Address:
Case Name or Client Name (if applicable):	
Subject:	
Police Report Number (CC#) or CAD#:	
Location of Incident:	Date & Time Frame:
Officer Name:	Officer's Seq#:
Detailed Description of the Incident:	

PLEASE NOTE:

Based on the information provided, the Body Worn Camera (BWC) Administrator will search for the video that is responsive to your described incident.

The BWC Administrator makes independent determinations on a case-by-case basis as to the release of any footage requested. The Maryland Public Information Act (MPIA), Annotated Code of Maryland, General Provisions Article ("GP"), § 4-101, et seq. governs this request for BWC footage.

Your request for records is an agreement to pay the reasonable costs of producing the records. The reproduction cost associated with producing any one (1) BWC Video File is \$50.00 (i.e., if the incident requested entails two (2) responsive BWC video files, the cost of reproduction is \$100.00).

*Please return the completed form either by email to DCU@baltimorepolice.org or by mail to **Baltimore Police Department/Office of Legal Affairs, c/o Document Compliance Unit, 100 N. Holliday Street, Suite 101, Baltimore MD 21202.***

Revised 6/17

APPENDIX B

Body Worn Camera Recording Deletion Request, Form 372

Body Worn Camera
Recording Deletion
Request Form 372

Baltimore Police Department
Baltimore, Maryland

**BODY WORN CAMERA
RECORDING DELETION REQUEST**

Requesting Member (Print Last, First Name)		Rank	Sequence#
Assignment	Today's Date	Time	Signature

INCIDENT

Involved Member	Sequence #	Date
Time (approximate)	Location	Video Tag:

Please describe the footage and articulate your reason for the Deletion Request:

Member's Immediate Supervisor (Print Last, First Name)		Rank	Sequence#
Date	Time	Approved <input type="checkbox"/> Disapproved <input type="checkbox"/>	Signature

Body Worn Camera Coordinator's Determination

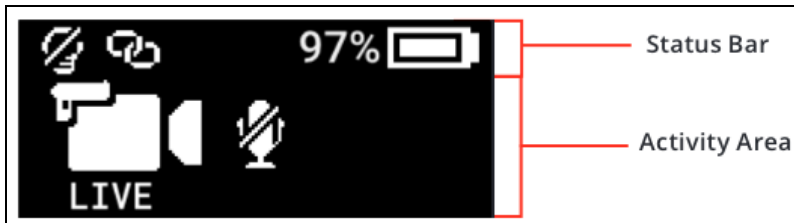
I, _____ (Print Last, First Name), after reviewing the above mentioned Body Worn Camera footage, deem the footage to be of: **Evidentiary Value** / **No Value** (circle one). Based on my finding, said video footage will be **Retained** / **Deleted** (circle one).

Additional Remarks:

Signature/Sequence #/Date/Time

APPENDIX C

AB3 Display Icon Legend



Activity Area Icon	Description
READY	Ready (buffering) mode
	Recording
	Recording started by Axon Signal
	Axon Aware Live Streaming
	Recording started by gunshot detection
	Microphone off

Status Bar Icons in the field	Description
58%	Battery capacity
	Camera paired
	Lights off
S	Stealth mode on
!	Battery low warning (appears at the right of battery capacity)



Policy 302

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By Order of the Police Commissioner

POLICY

1. **Establish Rules.** Consistent with state, local and federal laws, it is the policy of the Baltimore Police Department (BPD) to establish rules and regulations for the good of the BPD, its members, and the community.
2. **Follow the Law.** BPD employees are responsible for adhering to federal, state, and local laws, BPD policies, BPD trainings, and any applicable collective bargaining agreements and relevant labor laws.
3. **Regulate Conduct.** Rules and Regulations are necessary for the achievement of BPD's goals. Primary among these goals is a requirement that all members adopt a general standard of conduct both on and off-duty consistent with the professional standards of the law enforcement community.
4. **Exercise Good Judgement.** All members, both sworn and civilian, shall be thoroughly familiar with the rules in this policy and other BPD policies and adhere to their requirements. Although these rules cannot and do not cover every specific act of conduct or specific situation which a member may face, their fundamental aim is to ensure optimum professionalism and safety, and shall be the prevailing guideline for all behavior. Members are required to exercise good judgment and their common sense, which, together with the highest degree of cooperation by those entrusted with law enforcement, is essential to effective police work.
5. **Disciplined and Efficient.** The development of a well-disciplined and efficient police department, which has the confidence and respect of the public, can only be accomplished when each member realizes that every action, whether it is a part of one's official duty or private life, is closely observed by the public. Acts of misconduct, unprofessional behavior, or poor police tactics not only reflect on the member as an individual, but on the Department as a whole.
6. **Penalties.** Violations of this and other BPD policies may subject a member to discipline. Infractions of BPD rules and regulations resulting in discipline shall be recorded as provided in established BPD procedures.

POLICE COMMISSIONER'S AUTHORITY AND RESPONSIBILITY

1. The Omnibus Bill of 1966, known as Subtitle 16, Police Department, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland, provides the Police Commissioner with all the powers, rights and privileges attending the responsibility of management of the Baltimore Police Department.
2. The Omnibus Bill grants the Police Commissioner the specific authority which includes, but is not limited to, the following:

- 2.1. Regulate attendance, conduct, training, discipline and procedure for all members of the Department and to make all other rules, regulations and orders as may be necessary for the good of the Department and of its members.
- 2.2. Suspend, amend, rescind, abrogate or cancel any rule, regulation, order or other Department policy adopted by the Police Commissioner (PC), or by any former PC, and to adopt all such other reasonable rules, regulations and orders as the PC may deem necessary to enable the Department to effectively discharge the duties imposed upon it by this subtitle.
3. The Police Commissioner has the power, consistent with law, to impose punishment as deemed appropriate under the circumstances for violations of the rules and regulations of the Department. Such punishment may include, but is not limited to suspension from duty, fine or forfeiture of pay, reduction in rank, transfer, or dismissal from the Department.
4. The Police Commissioner may place charges against a member of the Department consistent with established procedures for any violation, either by omission or commission, of the Departmental rules, regulations or procedures, or for any conduct or omission detrimental to the good order, efficiency, or discipline of the Department. This rule shall apply in every case, even though such offense may not be specifically defined or set out in the rules, regulations, or procedures of the Department.
5. The Police Commissioner reserves the right to alter, amend or repeal any of these rules and regulations or to make additions thereto as circumstances may require.
 - 5.1. If the occasion demands, the PC may issue verbal or written orders which shall have the same force and effect as these rules and regulations.

RULES AND REGULATIONS

RULE 1: CONDUCT

Any breach of the peace, neglect of duty, misconduct or any conduct or omission on the part of any member of the Department, either within or outside the City of Baltimore, and whether on or off duty, which tends to undermine the good order, efficiency or discipline of the Department, or which reflects discredit upon the Department or any member thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or laid down, shall be considered conduct unbecoming a member of the BPD, and subject to disciplinary action by the Police Commissioner, unless such conduct is protected by the Constitution of the United States, the Maryland Declaration of Rights, or any other federal, state or local law.

1. Members shall be professional, civil and orderly at all times, and shall refrain from coarse, profane, or insolent language.
2. No member shall engage in any conduct, whether verbal, written, by gesture, or any other means, relating to a person's race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability, or social status. (See Policy 317, *Fair and Impartial Policing* for further guidance)
 - 2.1. No member shall discriminate against any person based on race, sex, age, color, creed, national origin, marital status, sexual orientation, gender identity, disability or social status.

- 2.2. Commanding officers who receive a complaint or hear a concern made about potential discrimination or harassment, or who observe or learn of information about potential discrimination or harassment in some other manner, must report that information to the Equal Opportunity and Diversity Section (EODS).
- 2.3. It is the duty of employees who have observed or are aware of others who have engaged in bias-based policing to specifically report such incidents to a supervisor, providing all information known to them, before the end of the shift during which they make the observation or become aware of the incident.
- 2.4. No member shall retaliate against any person or other member who exercises their right to complain of acts of discrimination.
3. Members will meet the public with courtesy and consideration. Questions must be answered civilly and courteously. Members will not use facetious expressions while talking to the public.
4. Members have a duty to promote good public relations by giving assistance when it is required; by the impartial administration of the law; and by clean, sober, and orderly habits.
5. Sworn members will carry their badge of authority at all times while on-duty and will furnish their name and badge number to any person, upon request.
6. Members will refrain from making personal contacts with persons of questionable character, or visiting places where known violations of the law are occurring, unless necessary to do so in the performance of their duty.
7. Members are prohibited from using unnecessary force.
 - 7.1. Members shall consult Policy 1115, *Use of Force* for the full Use of Force policy.
8. Members, while riding for free on any type of public transportation, are not permitted to be seated while other passengers are standing.
9. Members will fulfill their personal financial obligations.
10. Members shall not attempt to influence the Police Commissioner for the purpose of securing promotion or transfer, or to avoid the penalties for reprehensible action or conduct.
 - 10.1. Members who know or have reason to believe that such movement is to take place, must give information thereof to their commanding officer without delay. Commanding officers are required to report that information up the chain of command.
11. Members will familiarize themselves with, and comply with the policies that concern a member's communications to the public, whether on or off-duty. All members shall comply with:
 - 11.1. Policy 601, *Member Confidentiality Obligations and Media Releases*,
 - 11.2. Policy 602, *Public Speech*, and
 - 11.3. Policy 604, *Social Media*.
12. Members will not, at any time, be insubordinate or disrespectful to a superior.

13. Members will not disobey any lawful command or order, either verbal or written, of any superior or other member designated to command.
14. Members will not threaten, strike, or assault any other member. Members who aid, abet, or incite any altercation between members shall be held responsible along with those actually involved.
15. Members will not make, orally or in writing, any false statement, or misrepresentation of any material fact, or make any material omission of fact, including but not limited to statements or omissions made with the intent to mislead any person or tribunal.
16. Members will be held strictly responsible for the proper performance of their duties.
 - 16.1. Members will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department.
 - 16.2. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the member's rank, grade and/or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; absence without leave; or unnecessary absence from the assigned patrol during a tour of duty.
 - 16.3. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance:
 - 16.3.1. Repeated less than satisfactory evaluations or a written record of infractions of the rules, regulations, directives or orders;
 - 16.3.2. Repeated inability to perform the duties of a police officer in a satisfactory manner;
 - 16.3.3. The abuse of alcohol or prescription drugs, the use of illegal drugs, or long-term necessary use of legal medications that impair a member's ability to safely and satisfactorily perform his or her law enforcement duties;
 - 16.3.4. The inability to make a forcible arrest, drive a vehicle under emergency conditions, and/or qualify with a weapon, for any reason;
 - 16.3.5. The inability to perform the essential functions required of a police officer as described herein in a safe and satisfactory manner;
 - 16.3.6. The demonstration of poor judgment that puts the officer's safety, the safety of his or her colleagues, or the safety of any citizen at unreasonable or unnecessary risk;
 - 16.3.7. Providing untruthful or false information, or making any material omission of fact, including in connection with any internal investigation, court proceeding, affidavit or other legal proceeding.

17. Members shall not frequent station houses or Headquarters, except as duty requires or upon order.
18. Members must be punctual in attendance to all calls, requirements of duty, medical/psychological appointments, court appointments, and other circumstances where a time is specified.
19. Members will not feign illness, avoid responsibility, or attempt to shirk their duties.
20. Members are sworn in as peace officers of Baltimore City and, as such, are considered to be on-duty or ready for duty at all times. Failure to stop and perform the necessary police duties while off-duty or on leave shall be considered neglect of duty, unless a verified excuse is accepted by a supervisor.
 - 20.1. Necessary police duties, while off-duty may include, but are not necessarily limited to:
 - 20.1.1. Immediately notifying the responsible law enforcement agency,
 - 20.1.2. Causing such notification, or
 - 20.1.3. Taking direct police action.
 - 20.2. Off-duty members, both inside and outside of the City limits, are to first consider whether the appropriate action can be effected by the on-duty members of the responsible law enforcement agency.
 - 20.2.1. Members should become directly involved only after due consideration of the gravity of the situation, their present physical and mental ability to act in an on-duty capacity and of their possible liability, along with that of the Department and the City of Baltimore.
 - 20.2.2. Members have no powers of arrest outside the City of Baltimore or properties owned by the City of Baltimore, other than those of common citizens.
 - 20.2.3. Whenever members assume their official role and take direct police action, they are governed by all policies, rules and regulations applicable to on-duty members.
 - 20.3. The BPD acknowledges that circumstances and events may exist when it is in the best interest of the member, Department, and community, for sworn members to refrain from personally taking official police action while off-duty.
 - 20.3.1. Consistent with this, the BPD cautions off-duty sworn members to use discretion when invoking police powers, particularly involving the use of a firearm. This in no way, however, relieves sworn members from their obligation to notify appropriate on-duty authorities and provide assistance when necessary.
21. Members in uniform on patrol duty, or at any public gathering, shall not smoke or chew tobacco. Smoking or chewing tobacco is permitted at other times when done in an authorized location.
22. Members, while on-duty or when off-duty in uniform, shall not enter bars, taverns, or liquor establishments, except in the proper performance of their duties.

23. Members are prohibited from indulgence in intoxicating liquors while on-duty, or while off-duty in uniform. Only in cases requiring such action to carry out a duty assignment shall authority be granted to violate this rule. This authority must be given to the officer concerned by that officer's immediate superior.
 - 23.1. Habitual overindulgence is forbidden. Members, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in obnoxious or offensive behavior which would discredit them or the BPD, or to such extent that at the time of the member's next regular tour of duty they are impaired or intoxicated and thereby unfit for duty.
24. Members will not bring any intoxicating liquor into any BPD building, boat, or vehicle, nor shall they permit same to be brought therein, except as required in the performance of police duty.
25. Members are strictly prohibited from playing cards, dice or engaging in any gambling or wagering activities on BPD property, in a BPD vehicle, while in BPD uniform or while on-duty, except as required in the performance of police duty. Members are also strictly prohibited from using BPD smart phones, laptops and other electronic devices for gambling or wagering purposes, whether on or off-duty.
26. Members are not permitted to take any employment, either full or part time, outside of BPD without special permission of the Police Commissioner, or consistent with the guidelines contained in Policy 1702, *Secondary Employment*.
27. Members will not accept any compensation, reward, gift, or other consideration without special written permission of the Police Commissioner.
 - 27.1. Members are directed to Subtitle 16, Police Department, Section 22, Monies in Special Fund, Subsection 3, of the Code of Public Local Laws of Baltimore City, being Article 4 of the Code of Public Local Laws of Maryland; and the Criminal Law Article of Maryland entitled, "Offering bribe to or receiving bribe by public officer; witnesses in prosecution."
 - 27.2. No member shall accept any monetary reward for the apprehension or surrender of any military personnel absent without leave (AWOL).
28. Members will not circulate, distribute, sell, or solicit the sale of tickets, handbills, posters, literature, or any other matter, or permit their names to be used by any person or organization for the purpose of selling tickets or promoting any contest, gift, or enterprise, without special written permission of the Police Commissioner.
29. Members, in their private business transactions with persons residing or doing business on their posts or elsewhere, will not place themselves in a position which would interfere with the proper discharge of their police duties.
30. Uniformed members, when encountering the Police Commissioner and other superior officers, except those assigned to plainclothes or detective duty, and superior officers in uniform when encountering each other, will salute in the prescribed manner. All uniformed members will also salute the Governor of Maryland and Mayor of Baltimore in the prescribed manner.
31. Members will refrain from making personal cellular telephone calls while on-duty, either in uniform or in plain-clothes capacity. When the infrequent occasion requires making a personal cellular telephone call that communication shall be brief in duration and conducted out of public

view.

Personal earpieces for entertainment devices are prohibited from use while on-duty, either in uniform or in plain-clothes capacity. The prohibited devices include, but are not limited to, speakers and microphones, both wired and wireless.

RULE 2: RECOVERED PROPERTY

Members who recover or come into the possession, custody, or control of any lost, stolen, seized, or abandoned property, including money, shall secure and handle such property or money in strict conformity with the law and the established procedure of the Department. See Policy 1401, *Control of Property and Evidence* and Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*.

RULE 3: FIREARMS

1. Members of the Department who are authorized by law to carry firearms shall exercise the utmost care and caution in the preservation and use of such weapons. Police Officer Trainees, when off-duty, shall not wear, carry or transport a firearm until the successful completion of all Entrance Level Training, unless authorized by the Director, Professional Development and Training Academy, to meet training or other manpower and deployment needs.
2. Members shall refer to Policy 409, *Firearms Regulations* for further guidance.
3. Members must comply with Policy 710, *Serious Use of Force and In-Custody Death Response*, and Policy 1115, *Use of Force*, whenever a firearm is discharged, regardless of duty status, by any member of the Department, except when it is used on the range or at a departmentally sanctioned activity.
4. Use of force is governed by Policy 1115, *Use of Force*.

RULE 4: UNIFORMS AND EQUIPMENT

1. Members of the Department shall wear such uniforms, badges, insignia of rank, and equipment as prescribed in departmental Policy 1504, *Departmental Uniforms and Equipment*. Uniforms and service equipment as covered under that Policy are applicable to members having police powers only, and the wearing of any portion of the uniform or the use of police service equipment by civilian employees is a violation of departmental policy, unless covered by orders specifically applicable to the individual or group. No uniform or equipment shall be worn or used by members of this Department unless they conform to the prescribed specifications.
2. Members shall refer to Policy 1504, *Departmental Uniforms and Equipment* for further guidance.

RULE 5: LEAVE, SICKNESS, AND INJURY

Members shall, except when on authorized or medical leave, perform their prescribed tour of duty.

1. Members of the Department shall not be absent from duty without proper authority.
2. All applications from members for leave of absence shall be made on a form provided by the Human Resources Section. See Policy 1727, *Leave of Absence without Pay*, and Policy 1726, *Family Medical Leave*.

NOTE: Employees are not required to give their Commanding Officer Family Medical Leave paperwork. Said paperwork goes directly to the Human Resources Section.

3. While off-duty, members on an authorized leave of absence are subject to recall in the event of any emergency. Prior to taking a leave of absence, members will notify their Commanding Officers as to how they may be contacted while on leave.
4. Members who are unable to report for duty for any reason shall promptly notify their Commanding Officer, stating the reason for such failure to report. Members must personally provide that notification unless his or her medical condition makes it strictly impossible to do so. Members must provide notification of their absence as soon as they anticipate the absence and no later than the start of a member's scheduled shift.
5. Members on medical leave, or on authorized leave of absence due to a contagious disease of anyone in their home, are under the control and command of the Medical Unit and shall obey Medical Unit orders and instructions.
6. Members on medical leave of three (3) days or more will furnish their Commanding Officer with a medical certification consistent with the terms of the Memorandum Of Understanding. Members who are on medical leave for an extended period of time may be required to be recertified for medical leave on a periodic basis.
7. While on medical leave or on light duty, members shall not engage in any secondary employment.
8. Members who sustain an injury in the line of duty shall promptly notify or cause to be notified their Commanding Officer.
9. Any Commanding Officer who believes it might be appropriate to refer a member of his or her staff for a fitness for duty review must schedule the review through Human Resources.

RULE 6: REPORTS AND COMMUNICATIONS

In the transaction of departmental business, all reports and communications shall be prepared and handled in accordance with the procedures of the Department.

1. Members are strictly prohibited from releasing information about the Department and its law enforcement activities subject to the terms provided in Policy 601, *Member Confidentiality Obligations and Media Releases*.
2. No member of the Department shall sign any petition as a member, except on authority of the Police Commissioner.
3. Departmental telephone service and data plans are intended for official business only and shall not be used for personal calls, text messages, and emails. Members shall refer to Policy 604, *Social Media* for further guidance on use of departmental devices to access a social media site.
4. Members of the Department are required to report through official channels any change in their address, telephone number, or marital status within 24 hours.
5. Reports, as may be required to properly administer the affairs of the Department, or to furnish information, shall be submitted in accordance with departmental procedure.

RULE 7: DEPARTMENTAL RECORDS

All members of the Department whose duties require them to maintain departmental records shall do so in accordance with provisions of the law and the established procedures of the Department.

1. No member or other person or persons, shall have access to, copy, excerpt or make a transcript from departmental records (whether printed or stored in electronic format), except where permitted by departmental procedure, or unless so directed by the Police Commissioner.
2. No member shall remove, alter or destroy any official book, document, file or electronic record or document belonging to the Department, whether contained at Headquarters, a station house, or any division of the Department, without written authority of the Police Commissioner or under due process of law.
3. No member shall access, or caused to be accessed, any criminal history records or files except in the performance of their official duties.
4. No member shall disseminate or otherwise release, or cause to be disseminated or released, to any person or entity, any criminal history information or criminal records to any person or entity except in the performance of their official duties and as provided by law.

RULE 8: MISCELLANEOUS

1. Members shall not associate themselves into a team, club, or organization within the Police Department, unless such association has the approval of the Police Commissioner.
2. Members are prohibited from affiliating with any organization or body, the provisions of whose constitution or charter would in any way exact prior consideration, and prevent them from performing their duty as members of the Department.
3. Members are prohibited from residing in any building where intoxicating liquors are sold.
4. Members are required to notify in writing, the Director of Human Resources, via official channels, when joining, re-enlisting in, or transferring to a new branch of any federal or state military organization.
 - 4.1. When notifying the Director of Human Resources, members are required to include the following information:
 - 4.1.1. Branch of military service;
 - 4.1.2. Effective date;
 - 4.1.3. Unit's name;
 - 4.1.4. Unit's location;
 - 4.1.5. Your military rank; and,
 - 4.1.6. End of enlistment date.
5. Any member summonsed by the State's Attorney of Baltimore City or any other prosecutor, or

before any court concerning any matter in which that member or any other may become a defendant, must immediately report the facts in writing to the Police Commissioner through official channels.

- 5.1. Any member summonsed to testify for the defense and who has not already been summoned by the State or has received a subpoena duces tecum from the defense for any material or documentation whatsoever and has not already delivered the same material to the State, or who is appearing voluntarily as a witness for the defense, in any criminal proceeding, must immediately notify the Deputy State's Attorney for Operations.
 - 5.1.1. Written notification of the member's Summons to Appear must be forwarded to the Chief of Legal Affairs.
 - 5.1.2. The above notifications shall be made at the earliest possible time and prior to the date of appearance. When a member's appearance at a criminal proceeding is not resulting from their official duties in the case, the member may not wear his or her uniform.
- 5.2. Members must not involve themselves without departmental permission, either officially or unofficially, in any civil matter such as those pertaining to indebtedness and domestic affairs, except where the member has been summoned by regular court procedure or where it becomes necessary to prevent a breach of the peace.
6. Members shall not, directly or indirectly, refer, recommend or suggest the name of any person, firm, or corporation to any individual assisted or encountered by the member during the course of his or her law enforcement duties, except that members may refer individuals in need and victims to nonprofit social welfare programs, as appropriate.
 - 6.1. This prohibition includes, but is not limited to, any referral of attorneys, bondsmen, tow truck operators, and health care providers.
 - 6.2. Members shall not be directly or indirectly involved with making any arrangements, agreements, settlements or compromises between (i) a person who is being questioned, investigated or charged with a criminal offense and (ii) the victim/complainant and/or any other party/person thereto.
 - 6.3. Members shall not, directly or indirectly, take or omit to take any action, or become involved in any matter, for the purpose of allowing the criminal to escape the punishment provided by law.
7. Members shall not, without proper authority, release any prisoner in their charge or through neglect or design, allow any prisoners in their charge to escape. See Policy 1114, *Persons in Police Custody*.
8. No member of the Department shall file a claim, bring suit, or accept settlement for the recovery of damages sustained from any injury or loss in or out of duty without prior written notification through official channels to the Police Commissioner. Such notification will be officially acknowledged by publication of a Personnel Order.
 - 8.1. Personnel injured, either in the line of duty or not, by the negligence of a third party, shall be required to reimburse BPD for expenses it advanced provided that such reimbursement shall be made out of the proceeds of settlement with the tortfeasor or

his/her insurer.

- 8.2. Expenses for which the BPD must be reimbursed shall consist of wages, hospital costs, doctors' fees, and any other medical expenses advanced by the Department.
- 8.3. Reimbursement to the BPD shall be made by the claimant or his/her counsel for monies payable to the Mayor and City Council, through the Director, Fiscal Services.
9. Members shall not compound any offense committed against their person or property, or withdraw any complaint in relation thereto, without the consent of the Police Commissioner.
10. Members shall not accept a witness fee or reimbursement for expenses incurred in connection with their official duties without reporting it, through official channels, to the Police Commissioner, and obtaining the Police Commissioner's authorization.

RULE 9: INTERNAL INVESTIGATION AND REPORTING OF MISCONDUCT

Members are required to adhere to all rules, regulations, directives, procedures, policies, guidelines, orders, or any other form of directive regarding internal investigations.

1. Members are required to provide full and honest cooperation with the Office of Professional Responsibility (OPR), the Equal Opportunity and Diversity Section (EODS), Compliance, Accountability and External Affairs Division (CAEAD) or any other person or entity conducting any authorized investigation within the Department.
2. Members are required to report any acts of misconduct by a member including, but not limited to, discrimination, harassment, criminal conduct, misuse of or excessive force, corruption or misappropriation of property, dishonesty, or any other misconduct or activity detrimental to the operation of the Department, in accordance with established procedures.
 - 2.1. At a minimum, reports of potential serious misconduct or illegal behavior by a member shall be made to the reporting member's Commanding Officer and the Chief, OPR. Commanding Officers who receive complaints about potential misconduct, or who come into possession of information about potential misconduct, are required to report that potential misconduct up the chain of command.
3. No member shall be dishonest with, interfere with, obstruct or hinder, nor advise any other person to be dishonest with, interfere with, obstruct or hinder, in any manner, any OPR investigation, integrity test, EODS investigation or any other form of internal investigation.
4. Any member who is arrested or charged with a criminal offense or a serious traffic violation as described in section 26-202 of the Maryland Transportation Code, or learns that he or she is the subject of a criminal investigation must immediately notify OPR.
5. A misdemeanor or felony conviction, guilty plea, finding of guilty, probation before judgment, or equivalent disposition (e.g., pre-trial diversion or ADR) shall be assumed to be an admission of the violation charged.

ASSOCIATED POLICIES

Policy 304, *Suspension Procedures*
Policy 409, *Firearms Regulations*
Policy 601, *Member Confidentiality Obligations and Media Releases*
Policy 602, *Public Speech*
Policy 604, *Social Media*
Policy 710, *Level 3 Use of Force Investigations/Special Investigation Response Team (SIRT)*
Policy 1114, *Persons in Police Custody*
Policy 1115, *Use of Force*
Policy 1401, *Control of Property and Evidence*
Policy 1402, *Management of Evidentiary Controlled Dangerous Substances*
Policy 1504, *Departmental Uniforms and Equipment*
Policy 1726, *Family Medical Leave*
Policy 1727, *Leave of Absence without Pay*

RESCISSION

Remove and destroy/recycle Policy 302, *Rules and Regulations*, dated 16 July 2016.

COMMUNICATION OF POLICY

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