



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatal Incident in
Glen Burnie, Maryland on November 28, 2021

June 3, 2022

**Report of the Independent Investigations Division of the Maryland Office of the
Attorney General Concerning the Police-Involved Shooting Death of
Digno Ramon Yorro, Jr. on November 28, 2021**

Pursuant to Md. Code, State Gov't § 6-106.2, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Anne Arundel County State's Attorney Anne Colt Leitess regarding the police-involved shooting death of Digno Ramon Yorro, Jr.

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[ting] 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 June 2, 2022. This report is being provided to Anne Arundel County State's Attorney Anne Colt Leitess on June 3, 2022.

I. Introduction

On November 28, 2021, Anne Arundel County Police Department ("AACPD") officers were dispatched to a home in Glen Burnie, Maryland because a woman called 911 to report that a male family member had chased her from the house with a knife. The 911 caller also reported that a woman who lived in the house was missing.

AACPD officers responded to the scene and knocked several times on the front door of the residence with no response. Police then forcibly opened the door and saw Digno Ramon Yorro, Jr. standing inside. Mr. Yorro was armed with a knife, which officers ordered him multiple times to drop. Mr. Yorro did not drop the knife, and an officer deployed several beanbag shotgun rounds and then his taser on Mr. Yorro, neither of which caused him to put down the knife or otherwise retreat. Mr. Yorro then walked toward officers, still armed with the knife, at which time AACPD Corporal Joseph Burger shot Mr. Yorro three times. Officers and then paramedics rendered medical aid, but Mr. Yorro was pronounced dead at the scene.

This report details the IID's investigative findings based on a review of body-worn camera ("BWC") footage, officer and civilian interviews, firearm analysis, Mr. Yorro's autopsy, and personnel records for the involved officer. All materials reviewed in this investigation are being provided to the Anne Arundel County State's Attorney's Office with this report and are listed in Appendix A.

This report also includes an analysis of Maryland statutes that may be relevant in a police-involved shooting death of this nature. The IID considered the elements of each possible charge, AACPD departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Anne Arundel County 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 individual should or should not be charged.

II. Factual Findings

A. First Response to the House

On Sunday, November 28, 2021, at approximately 12:20 p.m., AACPD received a call from a private alarm company for a report of an audible alarm at [REDACTED] Braden Loop, a residence located within a townhome community in Glen Burnie, Maryland.

At 12:47 p.m., Cpl. Burger arrived at the house in response to the alarm call. Upon his arrival, he met with [REDACTED] who was standing just inside the residence. Cpl. Burger was wearing a body-worn camera, which he activated prior to speaking with Ms. [REDACTED]. According to that camera footage, Cpl. Burger explained that police received notice of an alarm call, and Ms. [REDACTED] confirmed the alarm was in fact going off. Ms. [REDACTED] then indicated that the homeowner, later identified as [REDACTED] was “upstairs, in her room.”

A man, later identified as Digno Ramon Yorro, Jr., was standing behind Ms. [REDACTED]. Cpl. Burger asked Mr. Yorro how he was doing, but Mr. Yorro did not respond. Cpl. Burger asked Mr. Yorro his name and again he did not respond. Cpl. Burger noted to Officer Jeffrey Mull, a second responding officer who was also wearing a body-worn camera, that “this dude,” referring to Mr. Yorro, “is acting real funny in here” and noted that he saw Mr. Yorro holding a knife before Officer Mull arrived on scene. The knife is not visible on Cpl. Burger’s body-worn camera footage at that time, and he does not confront Mr. Yorro or Ms. [REDACTED] about the knife. Officers asked Mr. Yorro additional questions, but he did not respond. Officers told him multiple times to stop putting his hands in his pockets. Ms. [REDACTED] then told officers Mr. Yorro [REDACTED] and “goes through . . . stages where he doesn’t speak.”

Ms. [REDACTED] advised officers that the homeowner was Mr. Yorro’s mother, [REDACTED], and officers asked Ms. [REDACTED] to try and wake her. While Ms. [REDACTED] was gone, Mr. Yorro remained downstairs in front of officers. Officers asked Mr. Yorro other questions to which he did not respond. Ms. [REDACTED] then returned and indicated that [REDACTED] was upstairs in her room and was not answering calls or texts. Officers confirmed that both Mr. Yorro and Ms. [REDACTED] had identification cards which listed the Braden Loop address as their home address. While Ms. [REDACTED] and Mr. Yorro did not live there currently, Ms. [REDACTED] told officers they lived there previously. Because it appeared the two had reason to be at the home, officers left the scene.

B. Second Response to the House

At 1:27 p.m., AACPD received a call from [REDACTED] [REDACTED]’s daughter and Mr. Yorro’s sister, who lives out of state and wanted to report her mother missing. An audio recording of the phone call indicates that [REDACTED] said she had received a notification from the alarm company that [REDACTED]’s house alarm had gone off. She contacted Ms. [REDACTED] via the Facebook Messenger application, and Ms. [REDACTED] told her that she had set off the alarm. Ms. [REDACTED] also told [REDACTED] that [REDACTED] was not in the house, but that her car, shoes, bag, and phone were all there.

Ms. [REDACTED] also reported to a neighbor, who in turned called 911 three minutes after [REDACTED] called 911, that Mr. Yorro had chased her out of the house with a knife and that she was “worried about his mom” because [REDACTED] was missing and there was blood “everywhere on the floor.”

At 1:35 p.m., Cpl. Burger returned to [REDACTED]’s home, and again met with Ms. [REDACTED] who was standing outside of the residence with her eight-year-old daughter. According to body worn camera footage, Ms. [REDACTED] reported that, in the time since officers were last present, Mr. Yorro had chased her out of the house with a knife and threatened her. She also reported that she did not know where Mr. Yorro’s mother, [REDACTED] was and that Mr. Yorro told her that he and his mother had gotten into a fist fight the night prior and that his mother had cut him. Ms. [REDACTED] noted that Mr. Yorro had marks all over his body. She also told officers there was a lot of blood under the carpet and that when she tried to open the door leading to the garage, Mr. Yorro tried to stab her with a brass knuckle knife. Cpl. Burger asked Ms. [REDACTED] if [REDACTED] was actually in her room when Ms. [REDACTED] went to check on her during the first call for service, and Ms. [REDACTED] acknowledged that she was not. She also noted to officers that [REDACTED]’s phone and purse were still in the house, and her car was parked outside.

Officers on scene, all of whom were wearing body-worn cameras, attempted to contact Mr. Yorro, who remained inside the home, by phone, but they did not receive a response. Officers then waited for a canine officer and an officer with a less lethal weapon—a beanbag shotgun—to arrive on scene. At 1:46 p.m., Officer Cross arrived with the beanbag shotgun. At 1:53 p.m., canine officers arrived. At this point, officers still did not know the location of [REDACTED] but evidence suggested that she had not left the house. During a conversation between Cpl. Burger and a canine officer, Cpl. Burger indicated that Mr. Yorro could be charged with First Degree Assault and Second Degree Assault for trying to stab Ms. [REDACTED] with a knife.

At 1:57 p.m., and for several minutes thereafter, officers on scene discussed how they should tactically approach the situation. Officers indicated they would knock and announce themselves two times. They said if that failed in getting Mr. Yorro to exit the house, they would force entry into the house with a breach kit, announcing themselves again. They indicated they would be prepared to utilize both lethal and less than lethal force and designated which officers would use such levels of force.

C. The Shooting

At 2:03 p.m., a canine unit approached the front door of the residence, knocked, and announced, “DJ, it’s county police! Come out buddy!” The officer waited approximately one minute and knocked again, calling out, “DJ, county police.” The officer waited again before knocking a third time. At 2:05 p.m., Cpl. Burger approached the front door, knocked and announced, “county police!” Cpl. Erik Lively and his canine were standing behind Cpl. Burger as were Officer Mull and Officer Brian Cross. There was no response from inside the house.

At 2:06 p.m., Cpl. Burger used a breach kit to open the front door and then stepped back. Officers remained just outside the entrance to the house. Officer Cross, who had the beanbag shotgun raised and pointed forward, yelled, “Make yourself known. Police.” Officer Mull, who

had his firearm raised and pointed forward, yelled, “County police! DJ! Come out!” According to camera footage, from their vantage point just outside the front door, officers could see Mr. Yorro standing with both arms at his side, holding a knife in his right hand. Officers told Mr. Yorro, in rapid succession, to show officers his hands and to keep his hands up. Officers told him multiple times to drop the knife. Officer Cross warned Mr. Yorro to drop the knife or he would be shot with a bean bag. Mr. Yorro did not drop the knife, and Officer Cross yelled “beanbag” repeatedly and fired the beanbag shotgun three times. All three shots appeared to strike Mr. Yorro, but he continued to stand holding the knife. Officers continued to instruct Mr. Yorro to drop the knife.



Image 1. Still frame from Officer Cross’s body-worn camera footage, which depicts Officer Cross aiming a bean-bag shotgun at Mr. Yorro who is holding a knife in his right hand. Inset: close-up depiction of Mr. Yorro.

The officers remained just outside the front door of the house, and they indicated on camera footage that they lost sight of Mr. Yorro, who remained inside of the residence. Officer Cross regained sight of Mr. Yorro and told him once again to drop the knife or he would be struck with a beanbag. Immediately after that warning, Officer Cross fired a fourth round with the beanbag shotgun, appearing to strike Mr. Yorro. Mr. Yorro did not drop the knife. Mr. Yorro began to close the front door, but Officer Mull kicked it back open, and an officer again ordered Mr. Yorro to drop the knife.



Image 2. Still frame from Officer Mull's body-worn camera footage, which depicts Officer Mull aiming his firearm at Mr. Yorro and Officer Cross deploying his taser the first time. Mr. Yorro is holding a knife in his right hand. Cpl. Burger, who fired the fatal shot approximately three seconds later, is just out of the frame to the right.

At that point, Officer Cross put down the beanbag shotgun and unholstered a taser. He entered the house with the taser drawn and pointed at Mr. Yorro. Officer Mull followed closely behind Officer Cross with his firearm drawn and pointed at Mr. Yorro. Mr. Yorro was on the far side of the kitchen island. Officer Mull was on the near side of the kitchen island and to the left. Officer Cross was on the near side of the kitchen island and to the right. Cpl. Burger was behind Officer Cross and also had his firearm drawn and pointed at Mr. Yorro. For approximately six seconds, officers told Mr. Yorro numerous times to drop the knife, but he did not. Officer Cross then said, "I'm gonna tase you" before deploying his taser on Mr. Yorro, whose back was to Officer Cross. Upon being struck with the taser prongs, Mr. Yorro turned around and began to walk toward Officer Cross while still holding the knife in his right hand. An officer said "hit him again," at which point Officer Cross deployed his taser a second time.



Image 3. Still frame from Officer Mull's body-worn camera footage, which depicts Officer Mull aiming his firearm at Mr. Yorro and Officer Cross deploying his taser. Cpl. Burger is to Officer Mull's right, firing his firearm.



Image 4. Still frame from Officer Mull's body-worn camera footage, which depicts Officer Mull aiming his firearm at Mr. Yorro, who is on the floor after being shot. The knife is located behind his body.

Almost simultaneously to the second taser deployment, Cpl. Burger fired four rounds from his firearm in quick succession, striking Mr. Yorro. Cpl. Burger was positioned just to the left of and behind Officer Cross. At the time Cpl. Burger fired, the two were separated by the

kitchen island and a few feet. Mr. Yorro immediately fell to the ground. The knife fell behind Mr. Yorro. Officer Mull walked up and kicked it away from Mr. Yorro. Cpl. Burger then approached Mr. Yorro and placed him in handcuffs.

Officers immediately requested a medical kit from other officers who were standing outside the house. Officers on scene repositioned Mr. Yorro by sitting him upright. They indicated that Mr. Yorro was beginning to lose consciousness and told Mr. Yorro to keep breathing. Officer Cross received gloves and scissors from another officer and cut open Mr., Yorro's shirt and undershirt, both of which were covered in blood. Officer Cross then began identifying the wounds on Mr. Yorro's chest, differentiating between firearm rounds, beanbag rounds, and marks from the taser. Officers applied chest pads in an attempt to staunch the blood flow. Officer Cross began chest compressions on Mr. Yorro. After a few moments, he paused the compressions to listen for Mr. Yorro's pulse, said "no," and continued compressions. Officers then placed a bag valve mask on Mr. Yorro and breathed air into his lungs and Officer Cross noted "he's coming back."

At 2:13 p.m., paramedics arrived on scene and instructed Officer Cross to continue chest compressions. They dragged Mr. Yorro away from behind the kitchen island and continued chest compressions and also utilized a bag valve mask. At 2:16 p.m., additional paramedics responded and brought a gurney into the house while others continued to render aid. At 2:21 p.m., emergency medical personnel checked Mr. Yorro's pulse and stopped providing aid. At 2:30 p.m., Mr. Yorro was wheeled into an ambulance on a gurney.

While officers were rendering aid to Mr. Yorro, Officer Mull used the breach kit to open the door leading from the kitchen into the garage. Inside the garage, police found the body of [REDACTED], Mr. Yorro's mother. She was dead. Her body was bloody and covered with a number of towels and blankets. It was later determined that she suffered from numerous lacerations and other injuries, including stab wounds around her head and neck.

III. Investigation

A. Initial Response

After the shooting, AACPD contacted the Maryland State Police ("MSP") who notified the IID of the officer-involved fatality. IID personnel responded to the scene of the shooting and assumed control of the investigation. MSP Detectives also arrived and assigned a lead detective.

B. Search Warrant

On the night of the incident, a search and seizure warrant was obtained to search the residence. MSP personnel recovered four 9mm fired cartridge casings recovered from the living room and steps leading to the second floor. Three bean bags were recovered from the doorway and steps of the living room. Three taser prongs were recovered from the living room, kitchen, and garage area of the residence.

C. Medical Examination

Mr. Yorro's body was transported to the Office of the Chief Medical Examiner on November 28, 2021. An autopsy was conducted on November 29, 2021, by Dr. Jiemin Zhou, MD.

Dr. Zhou concluded that Mr. Yorro suffered from three gunshot wounds. One gunshot to the chest caused injuries to his liver, spleen, and left kidney. The direction of the bullet was front to back, right to left and downward. One gunshot wound entered his right shoulder and reentered into his torso injuring both lungs. The direction of the bullet was front to back, left to right and downward. One gunshot entered his right forearm, causing injuries to the soft tissue. The bullet exited from the inside of the right forearm.

Dr. Zhou ruled the cause of death as multiple gunshot wounds, and he ruled the manner of death as homicide.¹

Post-mortem toxicology testing on Mr. Yorro indicated the presence of methadone.

D. Firearms Analysis

MSP recovered Cpl. Burger's service weapon, a Glock model 17 Gen5 9mm caliber pistol, at the scene of the shooting. The firearm was submitted to the MSP Forensic Science Division for analysis. The two bullets recovered from Mr. Yorro's body during autopsy were also submitted to MSP for analysis.

Whitley Mayo, a firearms examiner with MSP, compared bullets that were test fired from Cpl. Burger's firearm with the bullets that were recovered from Mr. Yorro's body at autopsy. Ms. Mayo determined that the bullets recovered at autopsy were fired from Cpl. Burger's firearm.

E. Civilian Witnesses

1. [REDACTED]

Ms. [REDACTED] was Mr. Yorro's fiancé, and they have one child. During her interview with MSP and the IID, Ms. [REDACTED] said the child lived with Mr. Yorro's mother, but Ms. [REDACTED] and Mr. Yorro do not. They were staying with [REDACTED] only for the Thanksgiving holiday weekend. Ms. [REDACTED] indicated that Mr. Yorro had [REDACTED]. The night before the shooting, Ms. [REDACTED] returned to the residence after work and noticed blood on Mr. Yorro. Mr. Yorro told Ms. [REDACTED] that he got in a fight with his mother. Ms. [REDACTED] did not have any contact with [REDACTED] that evening.

¹ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. "Homicide" is one of six categories used by the Office of the Chief Medical Examiner of Maryland and refers to a death resulting from a volitional act committed by another person to cause fear, harm, or death. The term is not used to connote criminal liability.

Ms. ██████ told investigators that on the morning of the shooting, she woke up around noon and made breakfast for the family. Ms. ██████ did not see ██████. When the alarm to the house went off the first time, police responded, but Mr. Yorro was uncooperative. Sometime after the police left, ██████'s daughter, ██████, called Ms. ██████ and asked her to check on ██████. Ms. ██████ noticed that ██████'s purse, phone, and keys to her vehicle were still in the house, however ██████ was not. When Ms. ██████ attempted to check for ██████ in the garage, Mr. Yorro threatened Ms. ██████ with a knife and prevented her from going into the garage. Ms. ██████ yelled for their child to leave the residence and the child was able to get out of the residence. Afterwards, Mr. Yorro chased Ms. ██████ out of the house with the knife. Ms. ██████ contacted a neighbor who was able to call police.

2. ██████

Ms. ██████ is a neighbor of ██████. During her interview with MSP, Ms. ██████ said she was coming home when she observed police were in the area prior to the shooting. Based on Ms. ██████'s description of events, it was clear that she was referring to the second time that police responded to the house. Ms. ██████ said she saw Ms. ██████ outside, and Ms. ██████ explained to her that Mr. Yorro was inside of the house with blood on him and that she also saw a puddle of blood on the carpet. Ms. ██████ expressed that she was concerned about ██████. Ms. ██████ asked Ms. ██████ to take Ms. ██████'s daughter to her home and Ms. ██████ agreed to do so. While at her home, Ms. ██████ heard officers yelling commands to drop the knife and began filming the event from her window. Ms. ██████'s video captures police gathered outside of the house and the use of the beanbag shotgun. Police then entered the home and gunshots can be heard. The video does not capture what happened inside the house.

F. Shooting Officer

Cpl. Burger declined to be interviewed by the IID. Cpl. Burger, like the subject of any criminal investigation, has the right under the Fifth Amendment to not make any statements.

G. Witnessing Officers

As part of its standard investigative practice, MSP and the IID interviewed witnessing officers. Those interviews are summarized below. The account provided by each officer is consistent with his body-worn camera footage.

1. Officer Jeffrey Mull

Officer Mull is a sworn police officer with AACPD. During his interview with MSP and the IID, Officer Mull said he originally responded to the residence an hour prior to the shooting for a residential alarm. He had contact with Mr. Yorro and Ms. ██████ who provided Officer Mull with identification that matched the address of the residence. Officers then left.

When Officer Mull arrived on scene the second time, he observed Ms. ██████ with her daughter outside of the residence. Ms. ██████ advised that she was unable to locate ██████, and when Ms. ██████ attempted to check the garage, Mr. Yorro tried to stab her. Officers then

made a tactical plan to enter the residence. Officer Mull stated that officers knocked several times and announced themselves, but Mr. Yorro would not leave the house.

When officers breached the door, Officer Mull was providing lethal coverage, with his firearm drawn as he entered the house. He observed Mr. Yorro at the front door with a knife in his hand. After multiple orders to drop the knife, Officer Cross deployed his beanbag shotgun which did not take effect, and Mr. Yorro attempted to close the door. Officers then kicked the door open, and Mr. Yorro went into the house and behind the kitchen island. Officer Mull followed Mr. Yorro with his gun drawn and went to the left side of the kitchen island, while Officer Cross and Cpl. Burger went to the right side. Officer Cross deployed his taser, but Mr. Yorro did not drop the knife. Mr. Yorro then moved toward Officer Cross and Cpl. Burger with the knife in his hand, coming within three to four feet of officers, at which time Cpl. Burger discharged his firearm.

Officer Mull recovered the black and silver brass-knuckle knife from Mr. Yorro and placed it in the kitchen sink. Officer Mull was unable to open the door to garage located inside the kitchen, so he retrieved equipment to breach the door. Once inside the garage, Officer Mull observed [REDACTED] laying on the ground covered in bloody towels, suffering from multiple stab wounds.

2. Officer Brian Cross

Officer Cross is a sworn police officer with AACPD. During his interview with MSP and the IID, Officer Cross said he responded to the scene with a beanbag shotgun. Once on scene, Officer Cross spoke with other officers who advised that Mr. Yorro was inside the house with a knife. Officer Cross was at the entryway of the residence and waited as officers knocked on the door and announced themselves. When the door opened, Officer Cross observed Mr. Yorro at the front door of the residence with a knife in his right hand. Officer Cross gave Mr. Yorro several commands to drop the knife. Mr. Yorro did not comply. Per the advice of counsel, Officer Cross declined to answer questions regarding his use of the beanbag shotgun, use of the taser, or the shooting.

3. Cpl. Erik Lively

Cpl. Lively is a canine officer with AACPD. During his interview with MSP and the IID, Cpl. Lively said he responded to the scene and began to gather information from Ms. [REDACTED] prior to making entry into the home. Ms. [REDACTED] advised that Mr. Yorro was inside the home with a knife, and she believed [REDACTED] was also inside, though Ms. [REDACTED] had not seen her since the night before. Ms. [REDACTED] also advised Cpl. Lively that there was a “pool of blood” inside. Cpl. Lively retrieved the canine and called for a beanbag shotgun operator. Cpl. Lively knocked on the door and announced that the police were outside two times. Another officer on scene knocked and announced the police’s presence a third time before Cpl. Lively asked Ms. [REDACTED] for a key to the house. When Ms. [REDACTED] indicated that she did not have the keys, officers decided to breach the front door. Cpl. Lively positioned himself back near sidewalk and did not observe what was happening inside the house.

IV. Involved Parties' Background

As part of its standard investigative practice, the IID obtained information regarding Mr. Yorro and Cpl. Burger's criminal histories, as well as Cpl. Burger's departmental internal affairs records and relevant training. In this case, this information did not affect the analysis of potential criminal charges.

A. Digno Ramon Yorro, Jr.

Mr. Yorro was a 32-year-old Hispanic man whose fixed address was in Glen Burnie, Maryland. Mr. Yorro was [REDACTED]. To the extent it exists, any criminal history is being provided to the Anne Arundel County State's Attorney's Office with this report.

B. Cpl. Joseph Burger

Cpl. Burger was hired by AACPD on April 30, 2015 and is currently assigned to Northern District patrol. He is a 33-year-old white man. He most recently completed in-person training on AACPD's use of force policy on September 29, 2020 and completed firearms training on March 8, 2021. Cpl. Burger has recorded two prior uses of force, both of which have been reviewed pursuant to AACPD policy and both of which were found to be "in policy." The IID also reviewed the file and did not find them relevant for the analysis of this incident. He has no relevant internal affairs complaints. To the extent it exists, any criminal history is being provided to the Anne Arundel County State's Attorney's Office with this report.

V. Applicable Policies

AACPD has the following policies relevant to Cpl. Burger's actions. The complete policy, Use of Force (Index Code 401), is attached as Appendix B.

A. Policy (Index Code 401, II.)

"It is the policy of the Anne Arundel County Police Department that police officers may use only the amount of force that is necessary to control an incident, to make an arrest, or to protect themselves or others from harm or death as may be necessary to take a prisoner into custody. If, however, the officer is resisted, he/she may overcome force with force."

"The appropriate level of force is based on the facts known to the officer or reasonably available at the time its use becomes necessary. It is recognized that officers are required to make split-second decisions about the amount of force that is necessary in a particular situation. The appropriate level of force is not dependent on alternative approaches to an incident that may have, but were not, utilized."

B. Degree of Force (Index Code 401, III, A.)

“Officers shall use only the degree of force that is objectively reasonable, necessary under the circumstances and proportional to the threat or resistance of a subject. An Officer should consider all information known regarding the subject and circumstances, including the seriousness of the crime or suspected offense, the level of threat or resistance presented by the subject and whether the subject is posing an immediate threat to officers or a danger to the community.”

“The use of force proportional to threat or resistance does not mean the Officer should use only the force that is equivalent to what they encounter. When Officers make the determination to use force, they must use only that force necessary to terminate the threat or resistance presented rapidly and with consideration of the potential of injury to the subject, the Officer, and other individuals present.”

C. Deadly Force (Index Code 401, IV., A.)

“A police officer may use deadly force when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person who is in immediate danger of serious physical injury.”

VI. Applicable Laws and Analysis

The IID analyzed Maryland statutes that could be relevant in a shooting of this nature. This section presents the elements of each possible criminal charge and analyzes these elements considering the findings discussed above.

A. Intentional Second-Degree Murder²

Criminal Law § 2-204 states: “A murder that is not in the first degree under § 2-201 of this subtitle is in the second degree.” Intentional second-degree murder differs from first-degree murder in that it is not “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Self-Defense and Perfect/Imperfect Defense of Habitation), MPJI-Cr 4:17.2 (2d Ed. 2021). It is, however, a killing conducted with “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” *Id.*

To prove intentional second-degree murder, the State must establish: “(1) that the defendant caused the death of [Mr. Yorro]; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no mitigating circumstances.” *Id.* “If a man voluntarily and wil[l]fully does an act, the natural consequences of

² This report will not separately analyze the charge of first-degree assault because that offense merges with intentional second-degree murder; the elements vary only in that the latter requires proof of the death of the victim. *Sifrit v. State*, 383 Md. 116, 137 (2004).

which is to cause another’s death, an intent to kill may be inferred from the doing of the act.” *Lindsay v. State*, 8 Md. App. 100, 105 (1969).³

Self-defense is one possible justification or mitigating circumstance. Complete self-defense exists where: “(1) the defendant was not the aggressor”; “(2) the defendant actually believed that [they were] in immediate or imminent danger of death or serious bodily harm; (3) the defendant’s belief was reasonable; and (4) the defendant used no more force than was reasonably necessary to defend [themselves] in light of the threatened or actual force.” MPJI-Cr 4:17.2; *see also Porter v. State*, 455 Md. 220, 234-36 (2017). Partial self-defense exists where the first two of these elements are present, but the defendant either unreasonably believed danger to be imminent or unreasonably believed the amount of force they used was necessary. MPJI-Cr 4:17.2. If the defendant acted in complete self-defense, no charge is appropriate. *Id.* If the defendant acted in partial self-defense, the appropriate charge is voluntary manslaughter rather than second-degree murder. *Id.*

Law-enforcement justification is another possible defense. This defense provides that an officer may use “that force necessary to discharge his official duties” and “[i]n so doing, he is not liable civilly or criminally for the assault or battery that may result, including, if necessary, the use of deadly force.” *Wilson v. State*, 87 Md. App. 512, 519-20 (1991). The rationale for this justification is that officers’ duties are “markedly different” from those of ordinary citizens, requiring that they “threaten deadly force on a regular basis.” *Koushall v. State*, 249 Md. App. 717, 728-29 (2021), *aff’d*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022). To use deadly force, an officer must have “probable cause to believe that the suspect poses a threat of serious physical harm.” *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

For either defense—self-defense or law-enforcement justification—the reasonableness of the officers’ actions “must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated.” *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider “the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham v. Connor*, 490 U.S. 386, 397 (1989)). However, “an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm.” *Estate of Blair by Blair*, 469 Md. at 24 (emphasis in original).

Violations of departmental policy are one “factor to be considered in determining the reasonableness of police conduct.” *Pagotto*, 361 Md. at 557 (citations omitted). As noted above, AACPD policy states, “A police officer may use deadly force when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person who is in immediate danger of serious physical injury.” This policy is, in essence, the same as the applicable legal standard.

³ Because there is no dispute that Cpl. Burger intended to fire his weapon at Mr. Yorro, this report will not analyze unintentional (“depraved heart”) second-degree murder.

In this case, based on the available evidence, it would be difficult for the State to prove that Cpl. Burger did not act in self-defense or pursuant to law-enforcement justification. The available evidence suggests that after Officer Cross deployed his taser the first time, striking Mr. Yorro, Mr. Yorro turned toward Officer Cross and Cpl. Burger and advanced, taking at least two steps before Cpl. Burger fired his gun. Mr. Yorro appeared to still be holding the knife in his right hand at the time he moved in the direction of officers and was in close proximity—within a few feet—to Officer Cross and Cpl. Burger. This act of advancing toward officers while holding a knife created a reason for officers to believe there was a threat of immediate serious physical injury.

Further, at the moment he fired his gun, Cpl. Burger had no lesser level of force available that would have been appropriate. Seconds before Cpl. Burger fired, Mr. Yorro failed to obey numerous verbal commands to drop his knife and two types of less than lethal force—the beanbag shotgun and taser—failed to subdue him.

In looking at the totality of the circumstances leading up to the shooting, officers knew that Mr. Yorro had told Ms. ██████ that he and his mother had gotten into a fight the night prior, and Ms. ██████ told officers that Mr. Yorro had marks on his body and that there was blood under the carpet. Police, up to this point, were not able to locate ██████, noting that her vehicle was still at the house and her phone, purse and keys were inside, all of which added to the exigency of the situation. Finally, Ms. ██████ told officers that Mr. Yorro had attempted to stab her with a knife when she tried to open the door to the garage, the location where ██████'s body was ultimately found by police. Officers had also observed Mr. Yorro in possession of a knife when they encountered him during the first call for service.

B. Voluntary Manslaughter

As discussed above, the State may pursue voluntary manslaughter charges where the defendant acted in partial, but not complete, self-defense. MPJI-Cr 4:17.2. To prove voluntary manslaughter, the State must establish that the defendant had a specific intent to kill. *Selby v. State*, 361 Md. 319, 335 (2000). Such intent may be inferred by circumstances such as “the use of a deadly weapon directed at a vital part of the human anatomy.” *Chisum v. State*, 227 Md. App. 118, 136 (2016) (distinguishing *Selby* based on the *Selby* court’s “express finding ... that the defendant did not have an intent to kill his victim”).

To prove voluntary manslaughter, the State would need to prove that the Cpl. Burger’s belief that he was in imminent danger was unreasonable or that he used an unreasonable level of force. For the reasons discussed above, the available evidence suggests that it would be difficult for the State to prove either.

C. Misconduct in Office

The crime of misconduct in office requires that 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 State could potentially pursue a charge for misconduct in office under a theory of misfeasance if it could establish that Cpl. Burger acted unreasonably or used an unreasonable amount of force. See *Riley v. State*, 227 Md. App. 249, 264 (2016). For the reasons stated above, such unreasonableness would be difficult to prove here.

D. Other Charges

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 crime of first-degree murder requires the State to prove that the killing was “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2. Said another way, the State must prove “the actual intent, the fully formed purpose to kill, with so much time for deliberation and premeditation as to convince [the jury] that this purpose is not the immediate offspring of rashness and impetuous temper and that the mind has become fully conscious of its own design.” *Ferrell v. State*, 304 Md. 679, 687 n. 2 (1985) (citations omitted). There is no evidence here that Cpl. Burger came to a considered decision to kill Mr. Yorro; the evidence suggests he was reacting to a quickly evolving situation.

Criminal Law § 4-204(b), Use of a Firearm in Commission of a Crime of Violence, states: “A person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony . . .” Second-degree murder and voluntary manslaughter are both crimes of violence. Pub. Safety § 5-101(c). Second-degree murder, voluntary manslaughter, and involuntary manslaughter are all felonies. Crim. Law §§ 2-204, 2-207. The State could pursue a charge for use of a firearm in the commission of a crime of violence if it could prove one of the predicate offenses. However, for the reasons stated above, proving such a charge would be difficult based on the available evidence.

Involuntary manslaughter is an “unintentional killing done without malice, by doing some unlawful act endangering life, or in negligently doing some act lawful in itself, or by the negligent omission to perform a legal duty.” *Cox v. State*, 311 Md. 326, 331-32 (1988) (citations omitted). The defendant’s negligence “must be gross, that is, criminally culpable.” *Cox v. State*, 69 Md. App. 396, 401 (1986).

To prove involuntary manslaughter under a theory of gross negligence, the State must establish: “(1) that the defendant acted in a grossly negligent manner; and (2) that this grossly negligent conduct caused the death of [Mr. Yorro].” MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d Ed. 2021). “‘Grossly negligent’ means that the defendant, while aware of the risk, acted in a manner that created a high degree of risk to, and showed a reckless disregard for, human life.” *Id.*

In this incident, the available evidence does not indicate officers acted in a grossly negligent manner. As discussed above, the available evidence suggests that Cpl. Burger's use of lethal force was consistent with departmental policy and otherwise reasonable under the circumstances.

Criminal Law § 3-204(a), Reckless Endangerment, states: "A person may not recklessly [] engage in conduct that creates a substantial risk of death or serious physical injury to another." To prove reckless endangerment, the State must establish: "(1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; (2) that a reasonable person would not have engaged in that conduct; and (3) that the defendant acted recklessly." MPJI-Cr 4:26B Reckless Endangerment, MJPI-Cr 4:26B (2d Ed. 2021).

As discussed above, the available evidence does not support a contention that the officers acted unreasonably or recklessly. Further, self-defense applies to the crime of reckless endangerment, *Jones v. State*, 357 Md. 408, 430 (2000), so the previous analysis of self-defense applies here as well.

VII. Conclusion

This report has presented factual findings and legal analysis relevant to the police-involved shooting death of Digno Ramon Yorro, Jr. that occurred November 28, 2021, in Glen Burnie, Maryland. Please contact the IID if you would like us to supplement this report through further investigation or analysis.

Appendices

Appendix A – Materials Reviewed

911 & Communications
Body-Worn Camera (38 videos)
Civilian Witness Interviews (3 audio files, 1 video, 4 documents)
Decedent Documents (4 documents)
Involved Officer
Lab Reports (15 documents)
Medical Records (4 documents)
MSP Reports (19 documents)
OAG Reports (3 documents)
OCME (1 document)
Officer Witness Interviews (6 videos, 6 documents)
Other Video (18 videos)
Photographs (505 photographs)
Search Warrants (3 documents)
Taser Event (1 document)

Appendix B – Relevant AACPD Policies

See attached.



USE OF FORCE

INDEX CODE: 401

EFFECTIVE DATE: 10-01-21

Contents:

- I. Purpose
- II. Policy
- III. Degree of Force
- IV. Deadly Force
- V. Firearms Regulations
- VI. Less-Lethal Force
- VII. Non-Lethal Force
- VIII. Medical Aid
- IX. Weapons & Ammunition
- X. Reporting Uses of Force
- XI. Department Response
- XII. Disclaimer
- XIII. Proponent Unit
- XIV. Cancellation

I. PURPOSE

The purpose of this policy is to provide police officers with guidelines on the use of force, including deadly, less-lethal, and non-lethal force. A reverence and respect for the dignity of all persons and the sanctity of human life shall guide all training, leadership, and procedures, as well as guide officers in the use of force. This policy adheres to all applicable Federal, State, and Local laws.

II. POLICY

It is the policy of the Anne Arundel County Police Department that police officers may use only the amount of force that is necessary to control an incident, to make an arrest, or to protect themselves or others from harm or death as may be necessary to take a prisoner into custody. If, however, the officer is resisted, he/she may overcome force with force. In making an arrest, officers should always consider the enormity of the crime and the character of resistance, and use only such force as may be necessary to overcome the resistance and make the arrest.

The appropriate level of force is based on the facts known to the officer or reasonably available at the time its use becomes necessary. It is recognized that officers are required to make split-second decisions about the amount of force that is necessary in a particular situation. The appropriate level of force is not dependent on alternative approaches to an incident that may have, but were not, utilized.

When time, circumstances and safety permit, officers should take steps to gain compliance and de-escalate conflict without using physical force. Examples include:

- A. The use of verbal advisements, warnings, and persuasion.
- B. Attempts to slow down or stabilize the situation so that more time, options and resources are available.
- C. Officers should consider whether a subject's lack of compliance is a deliberate attempt to resist or is caused by an inability to comply.

III. DEGREE OF FORCE

- A. Officers shall use only the degree of force that is objectively reasonable, necessary under the circumstances and proportional to the threat or resistance of a subject. An Officer should consider all information known regarding the subject and circumstances, including the seriousness of the crime or suspected offense, the level of threat or resistance presented by the subject and whether the subject is posing an immediate threat to officers or a danger to the community.

The use of force proportional to threat or resistance does not mean the Officer should use only the force that is equivalent to what they encounter. When Officers make the determination to use force, they must use only that force necessary to terminate the threat or resistance presented rapidly and with consideration of the potential of injury to the subject, the Officer, and other individuals present.

- B. Any officer who observes another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall intercede, when feasible, to prevent the use of such excessive force, so long as doing so does not pose a safety risk. Officers shall immediately report these observations to a supervisor, and document the observations prior to the end of shift.

IV. DEADLY FORCE

- A. A police officer may use deadly force when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person who is in immediate danger of serious physical injury.
- B. A police officer may use deadly force to prevent the escape of a suspect fleeing from a felony of violence that the officer has probable cause to believe will pose an immediate threat to human life should escape occur.
- C. A police officer may not use an intentional chokehold, neck hold, stranglehold, lateral vascular neck restraint, carotid restraint or any other use of physical force that restricts oxygen or blood flow to the head or neck except in the case of the use of deadly force in the defense of human life as authorized by this index code.
- D. The circumstances surrounding every use of deadly force will be highly examined during post-incident review.

V. FIREARMS REGULATIONS

- A. Before discharging a firearm for a law enforcement purpose, police officers shall identify themselves and state their intent to shoot, where feasible.
- B. Warning shots are prohibited.
- C. Police officers should refrain from discharging firearms at or from moving vehicles, unless a person in the vehicle is immediately threatening the officer or another person with deadly force and innocent persons would not be unduly jeopardized by the officer's action. Police officers shall, as a rule, avoid tactics that could place them in a position that a vehicle could be used against them.
- D. Officers may not carry firearms when consuming alcoholic beverages unless participating in a covert investigation as authorized by a Captain or above, or the Commanders of the Narcotics and Special Investigations Section or Organized & Economic Crimes Section.
- E. Officers may not carry firearms when under the influence of alcohol or drugs, or when under the influence of medication that may hinder judgment or motor coordination.
- F. Firearms may not be discharged when it appears likely that an innocent person may be injured.
- G. A police officer may discharge a firearm to destroy an animal that represents a threat to public safety, or as humanitarian gesture where the animal is seriously injured.
- H. A police officer may discharge a firearm during range practice and/or qualification.

VI. LESS-LETHAL FORCE

Police Officers, who are properly trained and certified, are authorized to use departmental issued less-lethal weapons (See Index Code 402.2, 404, 406, and 407). Less-lethal weapons are designed to provide officers with options during use of force incidents. Less-lethal weapons may be used to resolve incidents in a less-lethal manner, to

protect officers and other persons from harm, to protect a suspect/subject from self-inflicted injury, or to end incidents involving combative, or violent suspects. Officers shall not interpret this policy to mean that a less-lethal weapon replaces the use of deadly force when deadly force is justified. During situations where less-lethal weapons are deployed and deadly force is justifiable, lethal cover must be provided for the less-lethal weapon operator.

VII. NON-LETHAL FORCE

Police officers are authorized to use department approved non-lethal force techniques/personal weapons to protect themselves or others from physical harm, to restrain or subdue a resistant individual, and to bring an unlawful situation safely and effectively under control. This does not authorize the use of non-lethal force/personal weapons because a subject is resistant through mere non-compliance unless the subject's actions present an obvious safety threat.

Officers must assess each incident to determine which non-lethal force technique will best deescalate the situation and bring it under control in a safe manner.

VIII. MEDICAL AID

Police officers are responsible for obtaining medical aid for individuals who complain of, or show signs of injury as a result of any use of force.

Officers will request an ambulance and begin medical evaluation and care of such individuals as soon as practical. Fire Department emergency medical personnel at the scene of an incident will assess the need for further medical care beyond that provided at the scene.

IX. WEAPONS & AMMUNITION

Only weapons and ammunition meeting department specifications may be used by police officers carrying out law enforcement responsibilities, both on or off duty. A list of all such weapons and ammunition appears in Index Code 402.2.

X. REPORTING USES OF FORCE

A. Incidents Requiring a Use of Force Report

A Use of Force report entered into Blue Team is required whenever:

1. An employee discharges a firearm, except in the following circumstances:
 - a. The firearm was discharged for training purposes.
 - b. The firearm was discharged for recreational purposes.
 - c. The firearm was discharged for destroying an aggressive or seriously injured animal.
 - d. The firearm was unintentionally discharged;
2. An employee takes an action that results in (or is alleged to have resulted) any injury or death of another person;
3. An employee applies force through the use of a lethal, less-lethal, non-lethal, personal weapon (i.e., punches, elbow strikes, knee strikes, kicks), or a weapon of opportunity.
5. A department canine bites or inflicts injury to an individual.

A Use of Force report is not required in those instances where a firearm is displayed to assure officer safety or when using weaponless, hand-to-hand control techniques that have little or no chance of producing injuries when gaining control over, or subduing, non-compliant or resisting persons.

The Use of Force report does not replace the Incident Report or revoke any current reporting requirements. It is to be submitted in addition to any reports that are currently required.

B. Officers' Responsibilities

1. Officers will immediately report to their supervisor any use of force or firearm discharge. Exception: Firearm discharge during range practice or qualification.
2. Officers will complete or provide information for the completion of the following documents before the end of their tour of duty. Any delay in submission requires approval of their immediate supervisor:

- a. Incident Report. Each officer is required to complete their own original or supplemental report to document their explanation and articulation of the specific facts, and reasonable inferences from those facts, which justify their individual use of force. Exception: An officer who uses deadly force, force that causes death or serious injury, or discharges their firearm in any other incident other than destroying seriously injured or aggressive wildlife, will not complete an incident report. Another officer will complete the incident report in these cases.
 - b. Use of Force Report as outlined in Section A. The Use of Force Report will be completed as an entry in Blue Team by the officer using force. A separate Use of Force Report entry in Blue Team is required for each involved citizen. In cases involving more than one officer using force, the officer who applied the initial use of force is responsible for initiating the Use of Force Report entry in Blue Team. Each involved officer, who used force on the same citizen, will sit with the initiating officer and add themselves & their force applied diagram, to the Blue Team Entry of the initiating officer. The single Blue Team report will be routed through the initiating officer's chain of command. If any issues arise regarding same time submission, the supervisor will make arrangements to have the subsequent officer(s) complete their portion ASAP. The officer's justification will be reviewed to determine whether or not the force used was in or out of policy. (Exception: A supervisor will complete the Use of Force Report entry in Blue Team in cases involving the use of deadly force or force that results in death or serious injury.)
 - c. Charging documents, if applicable. Exception: An officer who uses deadly force or force that results in death or serious injury will not complete any charging documents. Another officer will complete charging documents in these cases, as directed by a supervisor.
3. Officers who are off-duty or working secondary employment, who are involved in a reportable use of force incident, will immediately report the event to the on-duty supervisor of the patrol district of occurrence, and are required to fulfill all the reporting requirements of this directive. The officer will submit their Use of Force Report to their own chain of command for review.
 4. Officers will ensure that photos are taken, and submitted into ARS, of any injury or alleged injury location on a suspect due to a use of force, unless the Evidence Collection Unit is already required to do so under this or another index code. Officers will also ensure that photos are taken, and submitted into ARS, of any impact location on a suspect resulting from a use of force, even if no injury is suspected or alleged. A full body photo will also be taken of the suspect. If an officer is injured or has property damaged (ie. clothing) during a use of force incident, the officer will ensure that photos are taken and submitted into ARS, of the injury and/or damaged property.
 5. Enter all pertinent reports, all relevant URL/hyperlink(s) to all Evidence.com files, and photos into Blue Team.

C. Supervisors' Responsibilities

A supervisor is responsible for the following actions:

1. Respond to the scene of any use of force incident where an injury occurs, unless exigent circumstances exist which prohibit the notified supervisor from responding directly to the scene.
2. Gather and review any known video of the use of force incident, including Body Worn Camera Video, business surveillance video, and other sources. If the video source is not immediately available, the supervisor will make arrangements to obtain a copy as soon as possible. External video footage should be forwarded through the chain of command to Staff Inspections. With the exception of digital evidence stored in Evidence.com (i.e. Body Worn Camera recordings, etc.), all video will be uploaded into Blue Team, if possible. The URL/hyperlink(s) to all Evidence.com files will be copied to the Blue Team record in the attachments section.
3. Ensure that any officer involved in a reportable use of force event fulfills the requirements of this directive. Complete or have another officer complete the required incident reports if the officer is unable or is

involved in a deadly force or a firearms discharge incident as described in Section A. The supervisor will complete the Use of Force report in these situations.

4. Ensure that all witness officers complete a written report documenting all activities/actions taken.
5. Review all reports and charging documents for accuracy and completeness. Approve completed reports in ARS. Ensure that all pertinent finalized reports have been entered into Blue Team. Render a policy determination in the "Task" section of Blue Team, approve the Blue Team Report, and forward up the chain of command within three workdays. Any delay in submission requires approval of their immediate supervisor.
6. If the use of force event occurs while an officer is off-duty or working secondary employment, a patrol supervisor in the district of occurrence is responsible for satisfying the supervisors' responsibilities and ensuring that a copy of the incident report is routed to the officer's assigned commander. The Use of Force Report, however, will be completed and/or reviewed by the initiating officer's chain of command. If an officer who subsequently uses force is not in the initial officer's chain of command, then the Blue Team report will be sent to their Captain using the cc function.
7. If the Use of Force report was initiated on an incident involving deadly force or an internal affairs investigation has commenced before the supervisory review process in Blue Team has begun, it will be routed directly to the Office of Professional Standards commander without determining if the incident was "in" or "out" of policy.
8. Notify the Internal Affairs Section, if the use of force appears to be excessive or in violation of this policy.
9. If the officer is injured, complete the First Report of Injury report, authorization for medical treatment form, and any other required workers' compensation or administrative reports.

XI. DEPARTMENT RESPONSE

A. Aggressive or Seriously Injured Wildlife Firearm Discharge

A patrol supervisor in the district of occurrence will be notified prior to discharging a firearm, where feasible.

B. Unintentional Discharge of Firearm

1. A patrol supervisor and a platoon commander in the district of occurrence will respond to the scene of any unintentional discharge of a firearm (if the platoon commander is not available from the district of occurrence, then a platoon commander from another district will respond), secure the scene, and will make contact with the District Detective Supervisor of the district of occurrence and the Evidence Collection Unit. If the incident occurs outside of the County, a patrol supervisor and platoon commander of the closest district to the location will respond to the scene.
2. A District Detective will respond to the scene to conduct the critical incident investigation. The District Detective will complete an ARS Report labeled "Police Information". If the unintentional discharge occurred during another call for service, then the discharge will be mentioned in the initial report of that incident also, if completed (The District Detective will still complete the "Police Information" report with more specifics).
3. An Evidence Collection Technician will respond and fully process the scene.
4. A member of the Firearms/Specialized Training Unit will respond to the scene to assist in the investigation.
5. Within 24 hours the Internal Affairs Section will be notified and an email titled "Unintentional Discharge of Firearm" will be sent to the Staff Inspections Unit (staff-inspections@aacounty.org), including a copy of the detailed ARS report, all relevant URL/hyperlink(s) to all Evidence.com files, and a list of all responding department units (ECU, Training, etc.) Staff Inspections will complete the Firearms Discharge Report in Blue Team.

6. The affected officer must be immediately scheduled remedial training with the Training Division by the officer's chain of command or the responding platoon commander, if the officer was not working with their platoon/section at the time of the incident. The affected officer will not return to his/her normal duty until the training is completed and their Bureau Commander approves their return to normal duty.

C. Discharge of Firearm on a Domestic Animal

1. A patrol supervisor and a platoon commander in the district of occurrence will respond to the scene of any discharge of a firearm on a domestic animal (if the platoon commander is not available from the district of occurrence, then a platoon commander from another district will respond); secure the scene, initiate a crime scene log, and will make contact with the District Detective Supervisor, the Evidence Collection Unit, the PIO, and a member of Peer Support (if requested). If the incident occurs outside of the County, a patrol supervisor and platoon commander of the closest district to the location will respond to the scene
2. A District Detective will respond to the scene to conduct the critical incident investigation.
3. An Evidence Collection Technician will respond and fully process the scene.
4. The PIO will be notified.
5. A member of Peer Support will respond to the scene if requested by the involved officer.
6. The district Executive Officer of the district of occurrence will conduct an administrative review of the incident. If the incident occurs outside of the County, the District Executive Officer of the closest district to the location will conduct the administrative review.
7. Within 24 hours the Internal Affairs Section will be notified and an email titled "Discharge of Firearm on a Domestic Animal" will be sent to the Staff Inspections Unit (staff-inspections@aacounty.org), including a copy of the detailed ARS report, all relevant URL/hyperlink(s) to all Evidence.com files, and a list of all responding department units (ECU, Training, etc.) Staff Inspections will complete the Firearms Discharge Report in Blue Team.

D. Use of Deadly Force or Force that Results in Death or Serious Injury Incidents (To include Deadly Force which does not cause injury)

1. The patrol supervisor and platoon commander in the district of occurrence will respond *and do the following*:
 - a. *Secure the scene pending arrival of investigators (if the platoon commander is not available from the district of occurrence, then a platoon commander from another district will respond).*
 - b. *Locate and isolate any witnesses for the arrival of investigators.*
 - c. *Render assistance to the affected officer.*
 - d. *Initiate a crime scene log.*
 - e. *Immediately take photo of affected officer at scene, then secure all weapons used in the incident for the follow-up investigator. Firearms will be placed, as is, in an "Officer Involved Weapon Collection Kit". Firearms will not be rendered "safe" and no magazines or rounds will be removed from the firearm.*
 - f. *Complete the Use of Deadly Force Investigation Guide (PD 401) and submit a written report of their activities.*
 - g. *Notify the District Commander (or Night Commander if applicable) on-call CID supervisor, the Training Division Commander, the Evidence Collection Unit, the PIO, FOP representative, and a member of Peer Support.*
 - h. *If no other police officer or other credible witness is available to provide the following information, the platoon commander will ensure that brief public safety information is collected individually from the involved officer(s) (who used deadly force or force that resulted in death or serious injury) on the scene, covering only information necessary to focus initial police response. This includes information on:*
 1. *type of force used;*

2. *direction and approximate number of shots fired by officers and suspects;*
 3. *location of injured persons;*
 4. *description of at-large suspects and their direction of travel;*
 5. *time elapsed since any suspects were last seen and any suspect weapons;*
 6. *any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.*
2. A Homicide Detective *and Homicide Supervisor* will respond to the scene.
 3. *In all cases involving a Use of Force resulting in death, the Homicide Supervisor will notify the Maryland State Police Headquarters Duty Officer (410-653-4200) of the incident. The Homicide Supervisor will brief the Office of the Attorney General's Independent Investigations Division (IID)/Maryland State Police Investigators of the incident upon call back. The IID/MSP investigators will determine if they will respond out to investigate the incident.*
 4. The Criminal Investigation Division Homicide Unit will conduct a criminal investigation *of any other deadly force incident not investigated by IID/MSP*. A report of the criminal investigation will be submitted to the State's Attorney's Office and the Staff Inspections Unit within 30 days. The State's Attorney will decide whether the officer's actions were lawful or unlawful, and whether to initiate criminal action against officers whose actions are deemed unlawful.
 4. An Evidence Collection Technician will respond and fully process the scene, *unless directed otherwise*.
 5. A member of the Firearms/Specialized Training Unit will respond to the scene to assist in the investigation.
 6. The PIO will respond to the scene.
 7. A member of Peer Support will respond to the scene. Mobile Crisis and/or the department chaplain, are also available if needed to respond to the scene of a traumatic incident and provide counseling to employees. The decision to request these services rests with an on-scene patrol supervisor of the rank of Police Lieutenant or above. Communications should be notified if either or both of these resources are needed at the scene. It is the responsibility of the affected employee's immediate supervisor to set a Traumatic Incident Counseling appointment for the employee with the Departmentally-contracted psychologist per Index Code 403.
 8. If the incident occurs outside of the County, a patrol supervisor and platoon commander of the closest district to the location will respond to the scene. They will render assistance to the affected officer and notify the designated representative of FOP Lodge 70 and Peer Support. They will also notify the PIO, assist the investigating agency, and submit a written report of their activities. The investigating agency will be responsible for the criminal investigation.
 9. The Staff Inspections Unit will conduct a detailed administrative investigation of every use of deadly force or force by a police officer that results in death or serious injury of a person. This report will be completed and submitted to the Chief of Police within 20 working days of the Staff Inspections Unit receipt of the criminal investigative report requiring review. The report will include the relevant facts and circumstances surrounding the incident and a conclusion as to whether the officer's actions were in violation of any policy. Actions deemed to be in violation of policy will be referred to the Internal Affairs Section for investigation. The Office of Professional Standards commander will make the final determination if the incident was "in" or "out" of policy at the conclusion of the administrative investigation.
 10. When a police officer uses deadly force against a person or uses force that causes death or serious injury to a person, the officer shall be placed on administrative leave by the Bureau Chief, after completing all on-scene investigative and reporting requirements, until they complete all "Post Incident Requirements" within 10 days of the incident:
 - a. A mental health professional recommends that the police officer is ready to return to duty. See Index Code 403 for details and procedures; and

- b. The officer must report to the Police Academy for firearm re-qualification and judgmental shooting training.
- 11. The officer may not return to line duty until an administrative review is conducted by the Senior Command Staff and the Chief of Police approves the return to line duty.
- 12. In the event that employees are involved in situations in which they, in the performance of their duties, use deadly force which seriously injures or kills another person, the department/County will provide a weapon and/or radio to the employee if either is retained by the investigating agency (unless the employee is suspended from duty).
- 13. Agency personnel responsible for conducting criminal and administrative investigations of Use of Deadly Force or any police action that results in death or serious injury will receive training for conducting and managing these investigations.
- 14. All agency personnel potentially impacted by Use of Deadly Force or any police action that results in death or serious injury will receive awareness training regarding the process of investigating and managing these incidents.

E. Less-Lethal Use of Force Incidents

Refer to Index Codes 406 and 407.

F. Uses of Force

All reported uses of force will be reviewed to determine whether:

- 1. Department rules, policies, or procedures were violated;
- 2. The relevant policy was clearly understandable and effective to cover the situation.

This initial administrative review is conducted by the affected officer's chain of command, ending at the level of Bureau Commander. Each supervisory officer in the chain will:

- 1. Thoroughly review all submitted reports, documentation and photographs.
- 2. Review all known video of the incident.
- 3. Request additional information and/or documentation if needed.
- 4. Based on the facts and information available at the time of review, make a determination if the use of force was in policy by making proper notation in Blue Team.
- 5. Sign the Use of Force form and promptly submit the entire file to the next officer in the chain of command.

If the initial administrative review determines that the use of force violated department policy, the Bureau Commander will refer the case to Internal Affairs for investigation and promptly notify the respective Deputy Chief.

The Staff Inspections Unit will prepare an annual analysis of reportable uses of force by police officers, as well as use of force policies and practices, for the Chief's review. The analysis will identify the date and time of incidents, types of encounters resulting in use of force, trends or patterns related to race, age, and gender of subjects involved, trend or patterns resulting in injury to any person including employees, and impact of findings on policies, practices, equipment, and training. The Staff Inspections Unit will also conduct an annual review of all assaults on employees to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues. The Staff Inspections Unit will coordinate with the Training Division to address any training issues.

XII. DISCLAIMER

The Anne Arundel County Police Department's policy on the use of force is for department use only and does not apply in any criminal or civil proceeding. The department's policy will not be construed as the establishment of a higher legal standard of safety or care with respect to third party claims.

XIII. PROPONENT UNIT: Training Division & Staff Inspections.

XIV. CANCELLATION: This directive cancels Index Code 401, dated *07-15-21*.