



INDEPENDENT INVESTIGATIONS DIVISION

Operating Procedures

July 1, 2024

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I. Introduction

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

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

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

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

II. Overview of the Independent Investigations Division

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

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

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

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

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

III. Definitions

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

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

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

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

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

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

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

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

IV. Notification

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

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

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

V. Determining Likelihood of Death

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

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

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

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

¹ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Office of the Chief Medical Examiner of Maryland uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. These terms are not meant to connote criminal culpability.

VI. On-Scene Investigation

A. Initial Responsibilities

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

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

B. Collection of Physical Evidence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Officer and Civilian Witnesses

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

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

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

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

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

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

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

VII. Continuing the Investigation

A. Additional Investigative Responsibilities

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

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

B. Submission of Evidence

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

C. Analysis of Evidence

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

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

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

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

D. Collateral Criminal Investigations

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

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

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

E. Communication with State's Attorney's Office

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

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

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

VIII. Media Response

A. Initial Response

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

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

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

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

B. Media Advisories and Press Releases

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

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

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

The IID will release, without exception, the first and last names of every subject officer along with their rank, current duty assignment, and years of service within two business days of the incident. However, that two-day period may be temporarily extended if an officer is injured, or if the IID has a specific reason to believe that an officer's safety is at risk. A local LEA may release this information prior to the IID doing so, after consultation with the IID.

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

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

C. Subsequent Media Response

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

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

D. Video Footage Release

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

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

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

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

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

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

E. Request to Delay Video Footage Release

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

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

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

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

F. Public Release of Information at Conclusion of Investigation

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

release an investigative report within 30 days of the conclusion of the investigation and the end of any collateral prosecution associated with the incident. The involved law enforcement agency is never involved in the IID's decision of whether to prosecute a case.

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

IX. Completing the Investigation

A. Charging Felony Cases

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

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

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

B. Charging Misdemeanor Cases

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

C. Charging in Exceptional Circumstances

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

D. Notifications

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

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

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

X. Special Considerations

A. Maryland State Police Trooper-Involved Cases

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

B. Baltimore Police Department Cases

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

C. Case Referral

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

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

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