



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved
Death in Montgomery County on September 21, 2024

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Declination Report Concerning the Police-Involved Death of Melvin Omar Chavez-Paz on September 21, 2024

The Independent Investigations Division of the Maryland Office of the Attorney General (the “IID”) is charged with investigating “police-involved incidents that result in the death of individuals or injuries likely to result in death.”¹ If the Attorney General determines that the investigation provides sufficient grounds for prosecution, then the IID “shall have exclusive authority to prosecute the offense.”²

I. Introduction

On September 21, 2024, at approximately 7:53 p.m., officers with the Montgomery County Police Department (“MCPD”) responded to the 3400 block of Janet Road, after receiving a 911 call for an assault in progress. Upon arrival, officers encountered a group of people shouting and pointing at a man, later identified as Melvin Omar Chavez-Paz. Mr. Chavez-Paz was observed walking from a backyard holding a silver oblong object in his right hand. The responding officer shouted commands at Mr. Chavez-Paz to “drop the knife” Mr. Chavez-Paz did not comply and instead crossed the street and walked toward the group of civilians. The subject officer discharged his service weapon and struck Mr. Chavez-Paz. Officers immediately rendered emergency medical aid and called for emergency medical services (“EMS”). Mr. Chavez-Paz was pronounced dead on scene. A grill fork was recovered near Mr. Chavez-Paz’s body.

After completing its investigation and evaluating all available evidence, the Office of the Attorney General has determined that the subject officer did not commit a crime under Maryland law. Accordingly, the Attorney General has declined to prosecute the subject officer in this case.

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officer’s conduct. By statute, the IID only has jurisdiction to investigate the actions of police officers, not that of any other individual involved in the incident. Moreover, the IID’s analysis does not consider issues of civil liability or the department’s administrative review of the subject officer’s conduct. Compelled statements by a subject officer may be considered in civil or administrative processes, but may not be considered in criminal investigations or prosecutions due to a subject officer’s Fifth Amendment rights. If any compelled statements exist in this case, the IID has not considered them in this investigation.

This report is composed of a factual narrative, followed by a legal analysis. Every fact in the narrative is supported by the evidence obtained in this investigation, including forensic and autopsy reports, police radio transmissions, dispatch records, police reports and EMS reports, body-worn camera footage, surveillance footage, photographs, department policy, and interviews with civilian and law enforcement witnesses. The subject officer in this case chose not to make statements to the IID, which had no impact on the prosecutorial decision.

The legal analysis explains why the IID will not bring charges under the relevant Maryland statutes.

¹ Md. Code Ann, State Gov’t § 6-602 (c)(1).

² Md. Code Ann, State Gov’t § 6-604 (a)(1).

This investigation involved one decedent and one subject officer:

- A. The decedent, Melvin Omar Chavez-Paz, was 31 years old at the time of the incident. He was a Hispanic male who lived in Wheaton, Maryland.
- B. Corporal Cody Hobbs has been employed by MCPD since January 2013. He is a White male, and at the time of the incident was 36 years old.

The IID reviewed all available departmental disciplinary records and criminal histories of the involved parties and where they existed, determined that none were relevant to this investigation.

II. Factual Summary

On September 21, 2024, at 7:47 p.m., the Montgomery County Emergency Communications Center (“911 Dispatch”) received a call from a woman reporting that a drunk man wanted to fight with her husband outside her house. The 911 caller initially stated that she did not see a weapon, but later informed the dispatcher that the man was carrying a weed whacker. 911 Dispatch conveyed a priority call for an assault in progress. 911 Dispatch reported that it was unclear whether the suspect had any weapons and requested a police response to a specific house in the 3400 block of Janet Road in Wheaton, Maryland.

At 7:53:43 p.m., uniformed MCPD Corporal Cody Hobbs parked his marked police cruiser on the south side of the street. Shortly after exiting his cruiser, Corporal Hobbs encountered a group of people (“civilian group”) shouting outside the house identified by dispatch in the call for service. As he approached the civilian group, Corporal Hobbs instructed them to calm down and informed them that everything was being recorded. At that point, the civilian group pointed and was shouting at the subject officer regarding someone across the street.

Uniformed MCPD Officer Emily Peacock arrived on the scene as Corporal Hobbs exited his cruiser. Officer Peacock parked her marked police cruiser behind Corporal Hobbs’ cruiser, exited, and stood behind Corporal Hobbs on his left side.³ Officer Peacock remained silent throughout the incident.

At 7:54:00 p.m., an unidentified individual is heard on Corporal Hobbs’ body-worn camera footage saying, “careful, careful, he’s got a weapon.” Corporal Hobbs then radioed into MCPD dispatch to send additional units to the scene. Across the street, Mr. Chavez-Paz exited the backyard of a home and began walking across the side yard toward a civilian who was walking his dog past the area on Janet Road. Mr. Chavez-Paz was shirtless and had visible bruises to his left

³ MCPD Officer Emily Peacock was present during the incident and while named within this report, Officer Peacock is not a subject of this investigation. Officer Peacock did not activate her body-worn camera until after the shooting. On October 8, 2024, IID investigators interviewed Officer Peacock. Specific details about her position and action on scene are based on Officer Peacock’s interview with the IID.

eye. At 7:54:06 p.m., Corporal Hobbs yelled toward Mr. Chavez-Paz, who then turned and walked toward the civilian group.



Image 1: Street view of the incident area. The approximate starting positions of Mr. Chavez-Paz, the civilian group, and Officer Hobbs are marked with a red X, white X, and blue X, respectively.

Corporal Hobbs drew his service weapon and issued multiple orders for Mr. Chavez-Paz to “drop the knife,” a reference to the silver oblong object Mr. Chavez-Paz was carrying in his right hand.



Image 2: Still image from Corporal Hobb's body-worn camera footage. The image depicts Mr. Chavez-Paz crossing the street with a weapon (circled in red) in his right hand, which Corporal Hobbs identified as a knife.

At 7:54:15 p.m., Corporal Hobbs radioed to dispatch, “I got one at gunpoint with a knife” and ordered Mr. Chavez-Paz to “drop the knife” several more times. Mr. Chavez-Paz ignored Corporal Hobbs’ orders and gestured back and forth between his face and the group of civilians. At 7:54:20 p.m., Mr. Chavez-Paz began advancing towards the civilian group, pausing briefly as Corporal Hobbs ordered him to “put the knife on the ground” three times. Mr. Chavez-Paz continued across the street as Corporal Hobbs instructed Mr. Chavez-Paz to “drop the knife” twice more. As Corporal Hobbs issued verbal commands to Mr. Chavez-Paz, he repositioned and created more distance between himself and Mr. Chavez-Paz.

Mr. Chavez-Paz continued to advance across the street without acknowledging Corporal Hobbs or following his orders. As Mr. Chavez-Paz passed Corporal Hobbs, Corporal Hobbs again yelled at him to “drop the knife” two more times. Mr. Chavez continued to look forward and walk toward the civilian group. In sum, Corporal Hobbs yelled “drop the knife” at Mr. Chavez-Paz nine times. At 7:54:32-33, Corporal Hobbs fired his weapon multiple times, striking Mr. Chavez-Paz, who fell to the ground.

Image 3: Still image from Corporal Hobb’s body-worn camera footage showing Mr. Chavez-Paz after he advanced across the street and into the driveway, toward the civilian group. The recovered grill fork (circled in red) is in his right hand.



At 7:54:33 p.m., MCPD Officer Ivan Diaz Portillo arrived on the scene. Officers Diaz and Peacock made radio notifications to dispatch that shots were fired. Corporal Hobbs, Officer Peacock, and Officer Diaz-Portillo administered medical aid until Montgomery County EMS arrived. Mr. Chavez-Paz was pronounced dead on scene.

The Maryland State Police (“MSP”) Crime Scene Section responded and processed the scene. MSP technicians recovered an object that was not a knife, as Officer Hobbs believed, but rather a grill fork. The grill fork features a black handle that measures 125 millimeters and two pointed silver metal tines, each measuring 95 millimeters in length.



Image 4 (left): Crime scene photograph of the grill fork (circled in red) between Mr. Chavez-Paz' legs.

Image 5 (right): Photograph of the grill fork after evidence collection.

III. Supplemental Information

A. Autopsy

The Office of the Chief Medical Examiner (the “OCME”) performed an autopsy on Mr. Chavez-Paz on September 22, 2024. The Medical Examiner determined that Mr. Chavez-Paz died from multiple gunshot wounds and determined that the manner of his death was homicide.⁴ Mr. Chavez-Paz suffered seven gunshot wounds throughout his body, including three gunshot wounds to his chest. There was no evidence of “close-range discharge” to any of the wounds.

The OCME toxicology testing detected Mr. Chavez-Paz’s blood alcohol content was .34 percent, based on a vitreous measurement.

B. Firearms Recovery and Ballistics Information

MSP Crime Scene technicians recovered five cartridge casings and five bullets. MSP technicians also recovered Corporal Hobbs’ service weapon, a Glock 9mm Luger caliber pistol.

An MSP Forensic Sciences Division Firearms/Toolmark Examiner conducted a firearm analysis, including a test-fire of Corporal Hobbs’ service weapon and concluded that the cartridge casings and bullets recovered from the scene exhibited similar class characteristics as those test-fired from Corporal Hobbs’ service weapon.

⁴ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The OCME uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. “Homicide” applies when death results from a volitional act committed by another person to cause fear, harm, or death. This term is not considered a legal determination; rather, they are largely used to assist in the collection of public health statistics. *A Guide for Manner of Death Classification*, First Edition, National Association of Medical Examiners, February 2002.

C. Department Policy

MCPD provides officers with written policies and procedures, as well as practical training in the use of force. MCPD policy also guides on making tactical decisions while on-duty and responding to high-risk situations. The MCPD General Orders encompass the written policies and procedures for its sworn officers, which include MCPD Function Code 131 – Use of Force.

The MCPD use of force policy states that officers may only “use force when under the totality of the circumstances, [it] is necessary and proportional to prevent an imminent threat of physical injury to a person.”

MCPD defines “necessary” as:

Force is necessary only if the officer has no other reasonable alternative(s) under the totality of the circumstances to prevent imminent physical harm or accomplish another legitimate law enforcement objective. When force is necessary, the use of force shall be used in a manner that avoids unnecessary injury or risk of injury to all persons involved.

MCPD defines “proportional” as: “The degree and amount of force that corresponds to, and is appropriate, in relation to the level of resistance or aggression facing the officer, or the objective that the officer is attempting to accomplish.”

The use of force policy goes on to require officers “when time, circumstances, and safety allow, [to] take steps to gain compliance and de-escalate conflict without using physical force.” Officers may use deadly force “as a last resort due to a lack of reasonable and safe alternatives, to defend themselves or another person from what they believe is an imminent threat of death or serious physical injury.” Circumstances that may lead an officer to believe a person is a threat include: clenched fists, displayed hostility or anger, verbal threats, aggressive stance, non-compliance with lawful commands, and furtive movements. “The more immediate the threat and the more likely the threat will result in death or serious bodily injury, the greater the level of force that may be necessary and proportional to counter it.”

According to MCPD Force Training Unit Officer Dominic Rizzo, who has been an instructor for 13 years, MCPD operates with the “one-up principle” to help an officer decide what force option is correct. When an individual is fighting just with their body, an officer may use a less-lethal instrument, such as a baton, that is one level of force up from body contact. If an individual is brandishing an edged weapon, such as a knife, an officer is permitted to use deadly force.

Officer Rizzo explained that when multiple officers respond to a threat, each officer independently responds to that threat and acts as though they are alone on the scene. This changes, however, if the officers have sufficient time to communicate and effectuate a coordinated response. When time allows and the circumstances are appropriate, one officer may attempt less lethal force while another officer maintains lethal force coverage. Part of this assessment is the effectiveness of the “protective instrument”: the more immediate the threat, the more effective the protective

instrument needs to be.⁵ Regardless of whether there is one or multiple officers on a scene, an officer should make every effort to “decompress” the threat as much as possible—back up, increase space, increase time, and decrease the immediacy of the threat to avoid using force if possible.

IV. Legal Analysis

After a criminal investigation, prosecutors must determine whether to bring criminal charges against a person. When making that determination, prosecutors have a legal and ethical duty to only charge a person with a crime when they can meet the State’s burden of proof; that is -when the available evidence can prove each element of that crime beyond a reasonable doubt. Prosecutors must also determine whether the accused person could raise an affirmative defense. In those cases, prosecutors not only need to prove the crime, but they also need to disprove the defense beyond a reasonable doubt. Ultimately, the decision to bring any charges rests on whether the available evidence is sufficient for prosecutors to meet those standards.

Based on the evidence, three relevant offenses were considered in this case. First is the violation of Maryland’s Use of Force Statute, which makes it a crime for officers to intentionally use excessive force.⁶ The second and third offenses are homicide related charges due to the intentional killing of a person.

There is insufficient evidence to prove that the subject officer violated any of the aforementioned statutes. Accordingly, the IID will not pursue criminal charges against the subject officer. This report explains in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that the subject officer committed a crime.

A. Maryland Use of Force Statute

Proving a violation of the Use of Force Statute requires a prosecutor to establish beyond a reasonable doubt that a subject officer:

- (1) used force that was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective;
- (2) intended to use force that was excessive, *i.e.* not necessary and proportional under the circumstances; and
- (3) the use of excessive force resulted in serious bodily injury or death;⁷

First, prosecutors would need to establish that one or more of the officers used force that was not necessary and proportional under the circumstances. Second, prosecutors would need to establish that the officers intended to use the force that was excessive. Finally, prosecutors would need to establish that the excessive force used by the subject officer resulted in Mr. Chavez-Paz’s

⁵ A “protective instrument” is a tool in an officer’s arsenal with which to manage a situation. A firearm, taser, and pellet gun are all examples of “protective instruments.”

⁶ See Md. Code Ann., Public Safety §3-524(d)(1).

⁷ MPJI-Cr 4:36.

death. As it is undisputed that the subject officer fired his weapon and shot Mr. Chavez-Paz, which resulted in his death, we are left with the two remaining elements pursuant to the Use of Force statute. More specifically, we must assess 1) whether the shooting of Mr. Chavez-Paz was necessary and proportional under the circumstances to prevent imminent threat to those on scene, or to accomplish a legitimate law enforcement objective, and 2) whether the subject officer intended to use the force that killed Mr. Chavez-Paz.

Determining whether an officer's use of force is "necessary and proportional" to prevent an imminent threat of physical injury to someone or accomplish a legitimate law enforcement objective is a fact-specific inquiry. Generally speaking, a use of force is considered "necessary and proportional" when an officer had no reasonable alternative available to the officer under the circumstances, the kind and degree of force was appropriate in light of the officer's legitimate law enforcement objective, and it was not likely to result in harm that was out of proportion or too severe in relation to the officer's law enforcement objective, given the context in which it was used.⁸ When a factfinder—either a judge or a jury—conducts this analysis, they must consider the totality of the circumstances, including, but not limited to, the nature of the call for service, what occurred in the moments before force was used, what the subject officers knew at the time force was used, and the time and distances involved.⁹

In this case, there is no evidence that the subject officer intended to use force that exceeded that which was necessary and proportional to prevent Mr. Chavez-Paz from being a danger to others. With respect to whether the use of force was necessary, Mr. Chavez-Paz's behavior posed a threat to the safety of the civilian group. When the subject officer arrived on the scene, he placed himself between Mr. Chavez-Paz and the civilian group, giving commands to Mr. Chavez-Paz and repositioning himself to create distance. It was only after Mr. Chavez-Paz did not heed the subject officer's orders to "drop the knife" and did not stop advancing across the street, did the subject officer fire his weapon. In short, Mr. Chavez-Paz's behavior required that the subject officer fire his service weapon for the safety of others.

With respect to whether the kind and degree of force used by the subject officer was proportional to the imminent threat of harm presented by Mr. Chavez-Paz, video evidence shows that the force the subject officer used was appropriate. Mr. Chavez-Paz displayed what the subject officer reasonably believed to be a knife, at which point the subject officer drew his service weapon and began issuing orders for Mr. Chavez-Paz to "drop the knife." The evidence shows that Mr. Chavez-Paz did not follow the subject officer's instructions, even when the subject officer reissued the instruction multiple times. While Officer Peacock was also on the scene since Mr. Chavez-Paz exited the backyard, there is no evidence that the subject officer was aware of Officer Peacock's presence. In line with his training, the subject officer responded as though he was the only individual on scene and placed himself between the threat and the civilian group. Further, the subject officer did not fire his service weapon until Mr. Chavez-Paz passed the subject officer and continued toward the civilian group, at which point there were no other viable options.

⁸ For a more detailed discussion of the "necessary and proportional" standard, see [this opinion](#) written by the Office of the Attorney General. 107 Op. Atty. Gen. Md. 33

⁹ *Id.*

Based on the evidence, a prosecutor could not prove beyond a reasonable doubt that the subject officer's use of force was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective. Accordingly, the Office of the Attorney General will not charge the subject officer with a violation of the Use of Force Statute in this case.

B. Homicide Offenses

When a person is killed, there are four homicide charges that a prosecutor may consider in the State of Maryland:

- First Degree Murder: the willful, deliberate, and premeditated killing of another.¹⁰
- Second Degree Murder: when the defendant intended to kill or inflict such serious injury that death would be the likely result, and there was no justification or mitigating circumstances.¹¹
- Voluntary Manslaughter: an intentional killing that is not murder because the defendant acted in partial self-defense.¹²
- Involuntary Manslaughter: when the defendant acted with gross negligence and that conduct caused the death of another.¹³

First Degree Murder was not considered in this case because there is no evidence to support that the shooting of Mr. Chavez-Paz was premeditated. Premeditation requires a prosecutor to prove that “the design to kill must have preceded the killing by an appreciable length of time, that is, time enough to be deliberate.”¹⁴ While this inquiry requires a fact-specific evaluation, a factfinder should consider the totality of the circumstances including whether an individual is defending themselves against deadly force.¹⁵ As the shooting of Mr. Chavez-Paz was intentional, but not premeditated, Second Degree Murder and Voluntary Manslaughter are the homicide offenses that remain for consideration.

If the evidence indicates that there is legal justification or certain mitigating circumstances involved, such as self-defense, then a prosecutor could not prove the remaining homicide offenses against the subject officers.¹⁶ A police officer's use of deadly force is legally justified if it is in complete self-defense, defense of others, or in furtherance of law enforcement related duties.¹⁷

¹⁰ MPJI-Cr. 4:17.

¹¹ MPJI-Cr. 4:17.

¹² MPJI-Cr 4:17.2.

¹³ MPJI-Cr. 4:17.8.

¹⁴ *Tichnell v. State*, 287 Md. 695, 717 (1980)

¹⁵ See *Purnell v. State*, 250 Md. App 703, 714-715 (2021).

¹⁶ If a defendant has the requisite *mens rea* to uphold a claim of complete self-defense or defense of others, that is, a subjective belief that their or another's life was in imminent danger that was objectively reasonable under the circumstances, then the claims are valid regardless of any unintended consequences. See *Malaska v. State*, 216 Md. App. 492, 517-522 (2014).

¹⁷ *Id.*; MPJI-Cr 4:17.3.

Complete self-defense, also known as perfect self-defense, exists when the accused: (1) was not the initial aggressor; (2) believed that they or others were in immediate or imminent danger of serious harm or death; (3) had a reasonable belief; and (4) used force that was not more than what was reasonably necessary in light of the threat or actual force.¹⁸ Complete self-defense is an affirmative defense, which means that a prosecutor must prove beyond a reasonable doubt that one of the elements of self-defense is not applicable.

When an officer has sufficient probable cause to believe that a person poses a “threat of serious physical harm,” then the officer may use deadly force,¹⁹ and the reasonableness of that decision must be viewed from “the perspective of a reasonable police officer similarly situated.”²⁰ In practice, this means that a factfinder must consider that police officers often work under rapidly changing circumstances and that what constitutes a reasonable use of force may change from moment to moment.²¹

The evidence shows that Mr. Chavez-Paz was the aggressor. He was armed with a grill fork that the subject officer reasonably believed to be a knife, and he advanced toward the civilian group. Those facts provide a basis for the subject officer to believe that people within the civilian group were in immediate or imminent danger of serious harm and that such a belief was reasonable. Since there was a threat of deadly force from Mr. Chavez-Paz, the subject officer’s use of deadly force was reasonably necessary as it was in defense of others.

Based on the investigation, the actions of the subject officer do not constitute the crime of Second-Degree Murder. Prosecutors are unable to overcome any of the elements of complete self-defense. Moreover, because complete self-defense also applies to Voluntary Manslaughter,²² a prosecutor would be unable to prove any homicide offense in this matter. Accordingly, the Office of the Attorney General will not charge the subject officer with a homicide offense.

VI. Conclusion

This report has presented factual findings, legal analysis, and conclusions relevant to the September 21, 2024, police-involved death of Melvin Omar Chavez-Paz in Montgomery County. The Office of the Attorney General has declined to pursue charges in this case because, based on the evidence obtained in its investigation, the subject officer did not commit a crime.

¹⁸ *Porter v. State*, 455 Md. 220, 234-36 (2017); MPJI-Cr 4:17.2.

¹⁹ *Estate of Blair*, 469 Md. at 23-24 (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

²⁰ *State v. Albrecht*, 336 Md. 475, 501 (1994); *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham*, 490 U.S. at 397).

²¹ *Id.*

²² *State v. Faulkner*, 301 Md. 482, 485 (1984).