



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatal Incident in
Montgomery County on February 26, 2022

September 14, 2022

**Report of the Independent Investigations Division of the Maryland Office of the
Attorney General Concerning the Police-Involved Death of
Noraly Paz Chavez on February 26, 2022**

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 Howard County State's Attorney Rich H. Gibson, Jr. regarding the police-involved death of Noraly Paz Chavez.¹

The IID is charged with "investigat[ing] all alleged or potential police-involved deaths of civilians" and "[w]ithin 15 days after completing an investigation ... transmit[ing] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-106.2(c), (d). The IID completed its investigation on September 13, 2022. This report is being provided to Howard County State's Attorney Rich H. Gibson, Jr. on September 14, 2022.

I. Introduction

On February 26, 2022, at approximately 1:30 a.m., Montgomery County Police Department ("MCPD") Officer Antonio Copeland observed a silver Honda Accord commit multiple traffic violations including speeding in the area of Rockville Pike and Nicholson Lane in North Bethesda. Officer Copeland conducted a traffic stop on the car, and while he was standing next to the Honda, the driver drove away. Officer Copeland returned to his car and pursued the Honda. During the pursuit, the driver of the Honda crashed in the 3600 block of Randolph Road in Wheaton. The driver, Noraly Paz Chavez, was pronounced dead on the scene. The passenger, [REDACTED], was taken to a local hospital with minor injuries and was treated and released. No other vehicles were involved in the crash.

This report details the IID's investigative findings based on a review of body-worn camera ("BWC") and dash camera footage, police radio transmissions, crash scene analysis, autopsy report, civilian interview, and personnel records for the officer involved, among other items. All materials reviewed in this investigation are being provided to the Howard 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 could be relevant in a vehicle pursuit of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Howard 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 individuals should or should not be charged.

¹ This report is provided to the Howard County State's Attorney pursuant to an agreement between the Montgomery County State's Attorney and the Howard County State's Attorney wherein they review officer-involved civilian fatalities in each other's jurisdictions.

II. Factual Findings

On Saturday, February 26, 2022, at 1:29 a.m., MCPD Officer Copeland was on duty and working as part of a driving under the influence enforcement unit. He was driving southbound on Maryland Route 355 (Rockville Pike) in an unmarked Dodge Charger that was equipped with emergency lights and a siren. Officer Copeland was wearing his departmentally issued BWC, and his patrol car was equipped with a departmentally issued dash camera. According to a review of that camera footage, at 1:29:12 a.m., a silver Honda Accord driving northbound on Route 355 made a U-turn at Bou Avenue and Route 355. The Honda then entered the farthest lane of traffic to the right, proceeding southbound on Route 355 with Officer Copeland following directly behind the Honda; his lights and sirens were not on at the time.

At 1:29:18 a.m., the Honda's driver-side tires momentarily crossed over the dotted white line separating the middle lane of traffic from the farthest right lane of traffic. The Honda returned to the farthest right lane momentarily before moving to the middle lane. On the dash camera footage, Officer Copeland is seen travelling several car lengths behind the Honda. At 1:29:47 a.m., Officer Copeland began narrating the Honda's speed, noting "61" and then, a few seconds later, "65." The speed limit on that portion of Route 355 is 40 miles per hour.

At 1:30:02 a.m., the Honda moved to the farthest left lane in front of a Jeep Wrangler without using a turn signal. Ofc. Copeland was in the center lane of traffic and pulled alongside and slightly in front of the Honda, which was to his immediate left and stopped at a red light at Route 355 and Nicholson Lane. He activated his emergency lights at 1:30:31 a.m. Four seconds later, at 1:30:35 a.m., the traffic light turned green. The Honda remained stopped, and Officer Copeland exited his car and approached the driver side door of the Honda. An individual later identified as Ms. Paz Chavez was operating the Honda. The driver side window was lowered about half-way down. It is not possible to determine from the camera footage whether anyone besides Ms. Paz Chavez is in the vehicle. At 1:30:39 a.m., Officer Copeland said to Ms. Paz Chavez, "I need you to pull over right here." There was a turn-lane to their immediately left. Ms. Paz Chavez nodded her head in the affirmative and replied, "OK." Officer Copeland said, "Thank you."



Image 1. Still frame from Officer Copeland's BWC as he approached the stopped Honda operated by Ms. Paz Chavez.

As Officer Copeland turned to go back to his patrol car, Ms. Paz Chavez accelerated the Honda, turning left onto Nicholson Lane. Officer Copeland got into his car and proceeded to make the left onto Nicholson Lane, following the Honda. He accelerated his car to keep pace with the Honda. His emergency lights remained on, and at 1:31:11 a.m., he turned on his siren.

Officer Copeland pursued the Honda, which crossed over lane divider lines several times. He was several car lengths behind the Honda, but the Honda continued to pull farther ahead. At 1:31:28 a.m., 17 seconds after he turned on his emergency lights, Officer Copeland began to notify dispatch, "Yeah, I've got a possible 28-12 [MCPD code for driving under the influence of alcohol]. Not stopping." He provided the Honda's license plate and vehicle description. At this time, Ms. Paz Chaves appeared to lose control of the vehicle as she negotiated a curve in the road. She corrected and then continued to accelerate. Officer Copeland advised dispatch of the current location of travel, indicating they were on Parklawn Drive headed toward Randolph Road. According to the radio transmission recording, after Officer Copeland provided the information above, the radio dispatcher asked him if he was "in pursuit," and he indicated that he was. An alert tone is then audible on the radio, which is used to get the attention of officers and indicate a priority call.

The Honda continued to cross over lane divider lines, and at 1:31:57 a.m., ran a steady red traffic signal at Loehmann's Plaza on Randolph Road. Officer Copeland provided this information to dispatch. Immediately after this, Sgt. Omar Guerrero, the sector sergeant, is heard on the radio acknowledging that he is "direct" on the pursuit and that he is sending additional police units to respond.

Over the next minute, the Honda crossed over lane divider lines several times, and at 1:33:02 a.m., ran a steady red traffic signal without slowing down at the intersection of Viers Mills Road and Randolph Road. Officer Copeland again provided this information to dispatch. At this intersection, Officer Copeland slowed his speed when crossing the intersection. At 1:33:07 a.m., once through the intersection, Officer Copeland accelerated as the Honda was moving farther ahead of him. At 1:33:25 a.m., the Honda ran another steady red traffic signal at Connecticut Avenue and Randolph Road, nearly missing a car driving southbound through the intersection on Connecticut Avenue.

At 1:33:28 a.m., the video footage shows sparks around the Honda, and one second later, just as Officer Copeland approached the red light at Connecticut Avenue and Randolph Road, he radioed to dispatch “Alright, nine-whiskey-twelve [referring to 9W12, Officer Copeland’s patrol car number], they just wrecked on Connecticut Avenue.” Officer Copeland slowed his speed and drove through the intersection, moving closer to the collision scene. At 1:33:41 a.m., he told dispatch, “Start fire and rescue” and stepped out of his patrol car.

The collision was in front of a residence at 3610 Randolph Road. The total distance traveled, from Officer Copeland’s first observation of the Honda, through the traffic stop and subsequent pursuit, to the site of the collision, was approximately four miles, and the total time was approximately four minutes and 16 seconds.

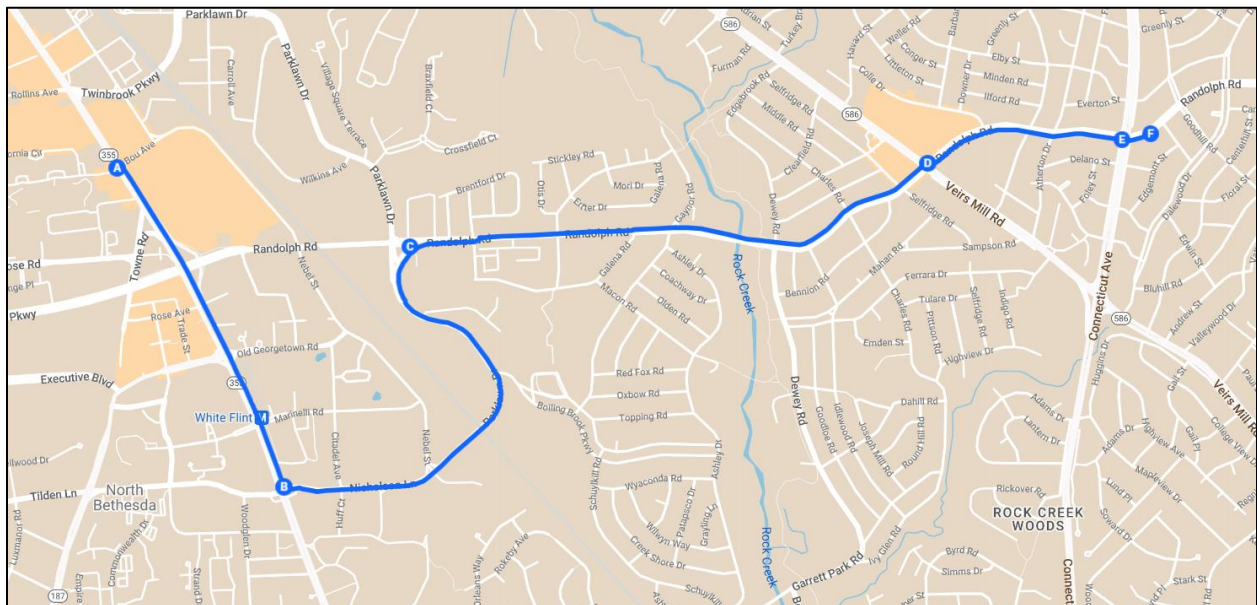


Image 2. Map of the area, including approximate locations of: (A) Route 355 and Bou Avenue, where Ms. Paz Chavez made a U-turn onto southbound Route 355 and Officer Copeland first observed the Honda; (B) Route 355 and Nicholson Lane, the location of the traffic stop; (C) Parklawn Road and Randolph Road; (D) Viers Mills Road and Randolph Road, where Ms. Paz Chavez ran a red light; (E) Connecticut Avenue and Randolph Road, where Ms. Paz Chavez ran a red light; and (F) 3610 Randolph Road, the location of the collision.

The Honda was disabled in the right lane of traffic, with debris scattered around the roadway. There was damage to a fence and tree at 3610 Randolph Road, which was a few feet from the disabled Honda. At 1:33:44 a.m., as Officer Copeland approached the Honda, he yelled repeatedly to an individual who could not be seen on the video footage, “just lay down.” That

individual was later identified as [REDACTED] the passenger in the Honda.

Officer Copeland approached the Honda, which was unoccupied, and at 1:33:57 a.m., he saw that Ms. Paz Chavez had been ejected from the car and was lying partway in the driveway of 3610 Randolph Road. He again notified dispatch to “get fire and rescue coming.” As he approached Ms. Paz Chavez, she can be seen on BWC on her back motionless with her legs on the grass and her back on the cement driveway. Her arms were stretched out and a pool of blood was underneath her head. Pieces of body matter were located on the driveway. Officer Copeland radioed to dispatch, “we’re definitely gonna need a supervisor here.”



Image 3. Photograph by MSP showing the Honda disabled in the right lane of Randolph Road and damage to a fence and tree at 3610 Randolph Road.

At 1:34:24 a.m., Officer Copeland turned and walked toward Mr. [REDACTED], who was pacing around the collision scene. Mr. [REDACTED] said to Officer Copeland, “what the fuck are you doing?” Officer Copeland told Mr. [REDACTED] many times to sit down and assured him an ambulance was coming to the scene, but Mr. [REDACTED] remained standing. He had lacerations to his head and blood was present on his face and hands. At 1:34:41 a.m., Officer Copeland confirmed to dispatch that “the driver was ejected, so 5300 [MCPD code for fatal traffic collision].”

Mr. [REDACTED] continued to pace around the scene, refusing to sit down. Officer Copeland pleaded with Mr. [REDACTED] to sit down as he retrieved medical supplies from his patrol car. He returned to Mr. [REDACTED] and wiped the blood off his face and handed him a gauze pad to hold

over the cut on his head. At 1:38:34 a.m. Officer Copeland asked Mr. [REDACTED] “what was your girl’s issue, man? I told you to pull over.” Mr. [REDACTED] is difficult to understand on the BWC, but he seemingly replies, “she was drunk.” Officer Copeland then said “I know that, that’s why I told her to pull over. I couldn’t have you guys both sitting there.” Office Copeland gave Mr. [REDACTED] another gauze pad and finally got him to sit down on the curb. Officer Copeland then walked closer to Ms. Paz Chavez and, although it is difficult to understand on the BWC, seemingly says, “She’s done man, it’s no good.” Mr. [REDACTED] says, “she’s dead,” and Officer Copeland replies, “I know, man, I know.”

At approximately 1:40 a.m., additional police units and fire and rescue arrived. Officer Copeland told another officer the driver is “10-7” [MCPD code for out of service]. Officer Copeland then approached Mr. [REDACTED] again and asked him if Ms. Paz Chavez said anything when she initially stopped, and Mr. [REDACTED] said “no, she just kept driving.”

At 1:40:45 a.m., a MCPD sergeant said to Officer Copeland, “we’re gonna take you out of this” and asked him to sit on the side of the scene. The sergeant told Officer Copeland to turn off his BWC, which Officer Copeland did.

[REDACTED]
[REDACTED]
[REDACTED] Mr. [REDACTED] was taken to a local hospital [REDACTED]
[REDACTED] Recovered by MCPD from Mr. [REDACTED] clothing was suspected marijuana weighing approximately 21.5 grams.

III. Investigation

The IID began its investigation immediately after the crash. This section summarizes the initial response, the MSP Crash Team’s analysis, Medical Examiner’s report, and witness statements.

A. Initial Response

As noted above, additional MCPD officers responded within minutes of the collision and secured the crash scene. Pursuant to Md. Code, State Gov’t § 6-106.2 and IID protocols, MCPD notified MSP that there had been an officer-involved fatality. The MSP Crash Team and IID personnel then responded to the scene and assumed control of the investigation.

While photographing the scene, MSP recovered a Sig Sauer 380 handgun from a grassy area between the driveway of 3610 Randolph Road and the front yard of 3608 Randolph Road. The gun had six rounds in the magazine and one round in the chamber. MSP determined the gun was unregistered and reported as stolen from Arlington, Virginia.

B. Crash Investigation

Based on an examination of the scene, vehicle damage, BWC and dash camera footage, and witness statements, the MSP Crash Team concluded the following:

The Honda was traveling east on Randolph Road in lane two, west of Connecticut Avenue. The Honda proceeded through the intersection against a steady red traffic signal. The Honda crossed into lane three and began to rotate counter clock-wise as it attempted to negotiate the left curve. The Honda struck a concrete curb and left the roadway surface. As the Honda proceeded off the roadway it continued its rotation and struck a Speed Limit sign. Next, the Honda struck a wooden fence on the passenger side. After traveling through the fence, the passenger-side struck a guide wire to a utility pole. The impact with the guide wire caused the Honda to be re-directed into a clock-wise rotation and traveled across the sidewalk and back onto the roadway surface. During the clock-wise rotation, both occupants of the Honda were ejected. The Honda came to rest in lane three [the furthest right-hand lane] facing northeast.

MSP also used the dash camera footage to approximate how fast the Honda was driving at various times during the pursuit. The analysis showed the Honda was operating at speeds as high as 88 miles per hour, specifically as the Honda approached the intersection at Connecticut Avenue and Randolph Road just prior to the collision. The posted speed limit on Randolph Road where the collision occurred is 35 miles per hour.

C. Medical Examination

Ms. Paz Chavez's autopsy was performed by Assistant Medical Examiner Donna Vincenti. Dr. Vincenti concluded Ms. Paz Chavez's cause of death was head and neck injuries, and she concluded the manner of death was an accident.²

Dr. Vincenti found the following head and neck injuries: "gaping lacerations of the right frontal scalp and right forehead," "laceration of the left frontal scalp and bridge of the nose," "abrasions" about the face, "fractures of the nasal bones, orbital bones" and jaw, "multiple skull fractures with traumatic expulsion of the fragmented brain," and soft tissue hemorrhage between the cervical vertebrae. Dr. Vincenti also found additional injuries such as abrasions about the body as well as liver lacerations.

Post-mortem toxicology testing on Ms. Paz Chavez revealed she had a blood alcohol concentration ("BAC") level of 0.15%.³ Post-mortem toxicology testing for drugs was negative.

D. Civilian Witness Statement

Mr. ██████ was released from the hospital while IID personnel were still at the collision scene. He was transported to a local MCPD precinct, and at 7:16 a.m., IID personnel interviewed him. During the interview, Mr. ██████ said that he was in the Honda with a

² Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. "Accident" is one of six categories used by the Office of the Chief Medical Examiner of Maryland and applies when injuries cause the death in question and there is little or no evidence that the injuries occurred with the intent to harm or cause death. The term is not a legal determination.

³ Under Maryland law, a person who has a BAC level of 0.08% or greater is presumed to be under the influence of alcohol or "under the influence per se." Md. Code, Courts and Judicial Proceedings § 10-307(g).

woman whom he referred to as “Janae,” and that he believed her last name was “Chavez.” Mr. ██████ said he has only known Janae for two or three months. On the night of the incident, Mr. ██████ said that Janae picked him up in her car at his home at approximately 8:30 p.m. The two then drove to a bar. Mr. ██████ could not remember the name of the bar, but he said it was located in either Rockville or Bethesda. While at the bar, Mr. ██████ said that Janae met up with her female cousins. Mr. ██████ did not know the cousins’ names or contact information.

Mr. ██████ further stated that he and Janae were at the bar for a couple hours. While at the bar, Mr. ██████ said that he and Janae drank alcoholic beverages. He said Janae was drinking beer and some type of white alcoholic drink. Mr. ██████ said that Janae’s cousins were buying her drinks. When they left the bar, Janae was driving the car, and Mr. ██████ clarified in a follow-up interview with the IID that he was sitting in the front passenger seat of the Honda. Mr. ██████ said he believed Janae was drunk and that he did not drive the Honda because Janae was very protective of her car and would not let anyone else drive it.

Mr. ██████ said that while he was having difficulty remembering what happened next, he believed they had only been driving for approximately two or three minutes before a police officer attempted to pull them over. Mr. ██████ recalled the police officer came up to the car on foot and said something to Janae. Mr. ██████ said that Janae kept driving and was nervous. He said that as Janae was pulling off, she said her tags were bad, and she was worried about being drunk. Mr. ██████ said that when the officer was behind them, Janae asked, “what should I do, what should I do?” Mr. ██████ said that he told her to either stop or keep going.

Mr. ██████ said he and Janae were both ejected from the car during the crash. He said he could not remember if he was wearing a seatbelt, but Janae was not.

Mr. ██████ denied knowing anything about the gun that was recovered from the scene. He did acknowledge that the marijuana recovered was his.

E. Officer Statement

Officer Copeland, like the subject of any investigation, has the right under the Fifth Amendment to not make any statement. He declined to be interviewed by investigators.

IV. Involved Parties’ Background

As part of its standard investigative practice, the IID obtained information regarding both parties’ criminal histories, as well as Officer Copeland’s departmental internal affairs records and relevant training. To the extent it exists, any criminal history information is being provided to the State’s Attorney’s Office with this report.

In this case, this information did not affect the analysis of potential criminal charges.

Noraly Paz Chavez: Ms. Paz Chavez was a 26-year-old Hispanic woman who lived with family in Riverdale, Maryland.

Officer Antonio Copeland: Officer Copeland was hired by MCPD in 2005 and is currently assigned to the Alcohol Enforcement Unit. He is a 43-year-old Black man. [REDACTED]

V. Applicable Policy

MCPD has the following relevant policy concerning vehicle pursuits. The complete policy, Vehicular Pursuits (FC 135), is attached to this report as Appendix B.

The policy defines a “vehicular pursuit” as “[a]n active attempt by an officer in a vehicle to apprehend an occupant of a moving motor vehicle who exhibits a clear intention to avoid apprehension by: (1) [m]aintaining elevated speed. (2) [i]ncreasing speed. (3) using evasive tactics.” It adds that “officers should be reasonably certain that the fleeing driver knows of their presence.” (FC 135, II., A.).

Under the policy, a pursuit is authorized when “the suspect is being pursued” for “driving under the influence of alcohol (misdemeanor)” (FC 135, III.). The only other offenses for which a pursuit is authorized is a “felony or the officer has reason to believe a felony has occurred or is occurring” or a “hit-and-run, personal injury collision when the officer has reasonable cause to believe serious physical injury has occurred.” (FC 135, III.).

For a DUI-related pursuit, “the officer must receive immediate approval from a sworn supervisor to continue the pursuit based on the following information: (1) the reason for the pursuit; (2) the seriousness of the crime; and (3) safety concerns, to include: (a) location of the pursuit; (b) time of day; (c) amount of vehicular and pedestrian traffic in the area; (d) weather conditions; (e) condition of the road surface; and (f) speed of the pursuit, etc.” (FC 135, V.).

The policy also permits certain unmarked vehicles to initiate pursuits. “An operator of an unmarked police vehicle with emergency equipment (a minimum of department authorized and - installed four corner strobes, a dash light, and a siren) may initiate a pursuit for the same criteria as marked police vehicles.” (FC 135, VII., H.). Lieutenant Jonathan Heiderich, the MCPD Fleet Director, confirmed that the unmarked vehicle Officer Copeland was operating the night of the incident met the standards required by this policy.

The policy also requires that, “For each pursuit involving officers from the department, a supervisor (not to be delegated) from the district where the pursuit initiated will complete in full an MCP 610, ‘Motor Vehicle Pursuit Report’” (FC 135, XIV., A.). In this case, the MCP 610 report was submitted by Sgt. Alfred Dzenkowski who found the pursuit to be “within departmental policy.” A lieutenant and captain then accepted the MCP 610 report, and also found the pursuit was within policy, before forwarding the report to the assistant chief of police. The IID also performed its own analysis of whether the pursuit complied with MCPD policy, as detailed below in Section VI(A).

VI. Applicable Law and Analysis

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

A. Manslaughter by Vehicle or Vessel⁴

Criminal Law § 2-209(b) states: “A person may not cause the death of another as a result of the person’s driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.”

To prove manslaughter by vehicle, the State must establish: “(1) that the defendant drove a motor vehicle; (2) that the defendant drove in a grossly negligent manner, and (3) that this grossly negligent driving caused the death of [Ms. Paz Chavez].” MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Grossly negligent conduct is that which “amount[s] to a wanton and reckless disregard for human life.” *Duren v. State*, 203 Md. 584, 588 (1954) (citing *State of Maryland v. Chapman, D.C.*, 101 F. Supp. 335, 341 (D. Md. 1951); *Hughes v. State*, 198 Md. 424, 432 (1951)).

The available evidence does not indicate that Officer Copeland’s driving was itself wanton or reckless. *See Duren*, 203 Md. at 584 (holding grossly negligent driving to consist of “a lessening of the control of the vehicle to the point where such lack of effective control is likely at any moment to bring harm to another”). Specifically, Officer Copeland activated his car’s lights and sirens, stayed several car-lengths behind Ms. Paz Chavez, and maintained control of his vehicle at all times throughout the pursuit. There were also no pedestrians on the roads or side of the roads during the pursuit and relatively few vehicles on the road overall. As noted above, when Officer Copeland did approach multi-lane intersections where other vehicles were present, he slowed his speed while entering and crossing the intersection such that he did not endanger these other vehicles.

Because the available evidence does not indicate that Officer Copeland drove recklessly, the State would need to show that the decision to engage in the pursuit was itself grossly negligent. One way to determine this is to examine whether the pursuit complied with MCPD’s vehicular pursuit policy. The Court of Appeals has held that, “a violation of police guidelines may be the basis for a criminal prosecution.” *State v. Pagotto*, 361 Md. 528, 557 (2000) (citing *State v. Albrecht*, 336 Md. 475, 502-03 (1994)) (emphasis in original). The Court clarified that, “while a violation of police guidelines is not negligence *per se*, it is a factor to be considered in determining the reasonableness of police conduct.” *Id.* (citations omitted). Maryland courts have considered officers’ policy violations as evidence of negligence, recklessness, unreasonableness, and corrupt intent. *See, e.g., Albrecht*, 336 Md. at 503; *Pagotto*, 361 Md. at 550-53; *Koushall v. State*, 249 Md. App. 717, 729-30 (2021), *aff’d*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022);

⁴ This report does not analyze the charge of common law involuntary manslaughter with respect to the pursuit itself because that charge is preempted by the manslaughter by vehicle statute. *State v. Gibson*, 254 Md. 399, 400-01 (1969).

Kern v. State, No. 2443, Sept. Term 2013, 2016 WL 3670027, at *5 (Md. Ct. Spec. App. Jul. 11, 2016) (unreported); *Merkel v. State*, No. 690 Sept. Term 2018, 2019 WL 2060952, at *8 (Md. Ct. Spec. App. May 9, 2019) (unreported)⁵; *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 398 (2006) (civil litigation). However, a “hypertechnical” violation of policy, without more, is not sufficient to establish gross negligence. *State v. Pagotto*, 127 Md. App. 271, 304 (1999), *aff’d*, 361 Md. 528 (2000).

The available evidence indicates that Officer Copeland complied with MCPD’s vehicular pursuit policy. The evidence shows that Ms. Paz Chavez exhibited “clear intention to avoid apprehension” as she was significantly “increasing speed,” and she certainly knew of Officer Copeland’s presence because she acknowledged him during the brief traffic stop at Route 355 and Nicholson Lane and indicated that she was going to pull over into the turn-lane. Further, Officer Copeland’s unmarked patrol car met the equipment standards set forth in the policy, and he activated the patrol car’s lights and sirens during the pursuit. Officer Copeland also indicated he was pursuing the Honda for a “possible” DUI, which was reasonable based on the Honda’s operation and the conduct of Ms. Paz Chavez herself. After giving this initial information, the radio dispatcher asked Officer Copeland if he was “in pursuit,” and he indicated that he was. Then, a sergeant acknowledged the pursuit on the radio and indicated that he was sending additional police units in that direction, which, under the circumstances of this particular pursuit, could fairly be interpreted as supervisor approval required by the policy. Officer Copeland then continued to provide updates on his location and the traffic violations committed by Ms. Paz Chavez up until the moment of the crash. Therefore, based on the available evidence, there is no indication that Officer Copeland’s decision to engage in the pursuit was itself grossly negligent.

Additionally, the available evidence would not support a conclusion that Officer Copeland in any way caused Ms. Paz Chavez’s death, as required to satisfy the third element of a manslaughter by vehicle charge. *Craig v. State*, 220 Md. 590, 597 (1959).

B. Criminally Negligent Manslaughter by Vehicle or Vessel

Criminal Law § 2-210 states: “(b) A person may not cause the death of another as the result of the person’s driving, operating, or controlling a vehicle or vessel in a criminally negligent manner. (c) For purposes of this section, a person acts in a criminally negligent manner with respect to a result or a circumstance when: (1) the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that such a result will occur; and (2) the failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person. (d) It is not a violation of this section for a person to cause the death of another as the result of the person’s driving, operating, or controlling a vehicle or vessel in a negligent manner.”

Criminally negligent manslaughter by vehicle differs from manslaughter by vehicle only in that it requires proof of criminal negligence rather than gross negligence. MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2021). Gross negligence requires proof that “the defendant *was conscious of the risk* to human life posed by his or her

⁵ Pursuant to General Provisions § 1-104, unreported opinions shall not be used as either precedential or persuasive authority in any Maryland court. They are included here solely for illustrative purposes.

Factors such as “[s]peed, erratic driving, disregard of the red light, [and] force of impact ... can be taken as evidence of wanton or reckless disregard of human life.” *Taylor v. State*, 83 Md. App. 399, 404 (1990) (citing *Boyd v. State*, 22 Md. App. 539 (1974); *State v. Kramer*, 318 Md. 576, 590 (1990)).

During the pursuit, Officer Copeland maintained a distance of several car-lengths from Ms. Paz Chavez, maintained control of his vehicle at all times, used his lights and sirens, and traveled at reasonable speeds given road and traffic conditions. The available evidence does not, therefore, indicate that he drove recklessly or negligently.

E. Other Charges Considered⁶

There are several other charges for which full analysis was not warranted given the facts of this incident. Those charges are addressed briefly here.

The crimes of first-degree murder, intentional second-degree murder, and voluntary manslaughter each requires the State to prove the defendant had “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” MPJI-Cr 4:17 Homicide—First Degree Premeditated Murder and Second Degree Specific Intent Murder, MPJI-Cr 4:17 (2d ed. 2021); *Cox v. State*, 311 Md. 326, 331 (1988) (voluntary manslaughter is “an intentional homicide”). In this case, there are no facts suggesting that Officer Copeland intended to kill or cause serious bodily harm to Ms. Paz Chavez.

The crime of second-degree depraved heart murder requires the State to prove the defendant “created a very high degree of risk to the life of [Ms. Paz Chavez]” and “acted with extreme disregard of the life endangering consequences” of such risk. MPJI-Cr 4:17.8 Homicide—Second Degree Depraved Heart Murder and Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.8 (2d ed. 2021). With respect to the pursuit, this charge is preempted by the manslaughter by vehicle statute. *Blackwell v. State*, 34 Md. App. 547, 555-56 (1977).

The crime of misconduct in office requires the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). While the State need not show direct evidence of intent when alleging malfeasance, the available evidence here does not indicate that Officer Copeland engaged in an unlawful act. See *Pinheiro v. State*, 244 Md. App. 703, 722 n. 8 (2020). Regarding misfeasance and nonfeasance, there is no evidence that Officer Copeland acted with a corrupt intent, defined as “depravity, perversion, or taint.” *Id.*

⁶ This report does not analyze the potential charge of reckless endangerment because the relevant subsection of that statute “does not apply to conduct involving ... the use of a motor vehicle.” Criminal Law § 3-204(c)(1)(i).

VII. Conclusion

This report has presented factual findings and legal analysis relevant to the fatal vehicle pursuit that occurred on February 26, 2022, in Montgomery County, Maryland. Please feel free to contact the IID if you would like us to supplement this report through any further investigation or analysis.

Appendices

Appendix A – Materials Reviewed

Body Worn Camera Video (18 videos, Audit Logs, Table of Contents)
CAD Reports (5 items)
Civilian Witness Interview (1 interview)
Dash Cam Video (9 videos, Audit Logs, Table of Contents)
Departmental Policies (2 items)
KGA Communications (1 recording and 1 certification)
Medical Records (8 items)
OCME (1 report)
Other Video (32 videos)
Photographs (301 items)
Police Reports (5 items)

Appendix B – Relevant Montgomery County Policies

See attached.

Appendix B

Relevant Montgomery County Policies



VEHICULAR PURSUITS

FC No.: 135

DATE: 05-22-09

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61)

Contents:

- I. Policy
- II. Definitions
- III. Authorized Reasons to Pursue
- IV. Safety
- V. Approval to Continue
- VI. Terminating
- VII. Driving Procedures
- VIII. Use of Roadblocks
- IX. Use of Tire-Deflating Devices
- X. Pursuits from Montgomery County into Other Jurisdictions
- XI. Pursuits Discontinued at the County Line
- XII. Joining Pursuits Initiated by Other Agencies/Jurisdictions
- XIII. Officer Discretion
- XIV. Reporting Procedures
- XV. CALEA Standards
- XVI. Proponent Unit
- XVII. Cancellation

I. Policy

This policy is designed to protect officers of this department and the public from the hazards of high-speed pursuits and to provide legal and departmental guidelines for the benefit of officers. Maryland law does not relieve the operator of an emergency vehicle from driving with due regard for the safety of all people. The operator may be held liable for negligence. *Sworn* supervisors and duty commanders will take immediate control of pursuits in progress to ensure adherence to state law/departamental regulations. All sworn officers and ECC personnel will receive periodic training on the policies and guidelines in this directive.

II. Definitions

- A. Vehicular Pursuit - An active attempt by an officer in a vehicle to apprehend an occupant of a moving motor vehicle who exhibits a clear intention to avoid apprehension by:

- 1. Maintaining elevated speed.
- 2. Increasing speed.
- 3. Using evasive tactics.

This does not include a driver who is maintaining a safe and legal speed and following all rules of the road but fails to stop at police direction. Additionally, officers should be reasonably certain that the fleeing driver knows of their presence.

- B. PMARS - Police Mutual Aid Radio System; a radio system providing direct agency-to-agency communications.

- C. Felony of a Violent Type - A felony that involves the infliction or threatened infliction of serious physical injury or death.
- D. Serious Physical Injury - **Physical** injury that:
 - 1. Creates a substantial risk of death, or
 - 2. Causes permanent or protracted serious:
 - a. Disfigurement;
 - b. Loss of the function of any bodily member or organ; or
 - c. ***Impairment of the function of any bodily member or organ.***

III. Authorized Reasons to Pursue

Pursuit of a vehicle is authorized only when the offense for which the suspect is being pursued is one of the following:

- 1. **Criminal:** Felony or the officer has reason to believe a felony has occurred or is occurring.
Note: In order for 2nd Degree Assault on a police officer to be a felony, “physical injury means any impairment of physical condition, excluding minor injuries”, and “a person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer’s official duties.”
- 2. **Traffic:**
 - a. Driving under the influence of alcohol or narcotics (misdemeanor).
 - b. Hit-and-run, personal injury collision when the officer has reasonable cause to believe serious physical injury has occurred (felony)

IV. Safety

Deciding to pursue is a process of weighing the hazards of the pursuit against the hazards created by the violator; good judgment in weighing these risks is essential. The seriousness of the offense involved does not lessen the officer’s liability and/or duty to all people, including ***the officer*** and fellow officers, to drive with due regard for the safety of all. Senior officers who are passengers in pursuing vehicles will be held responsible as well as the operators of the vehicles.

V. Approval to Continue

- A. Except for pursuits for felonies of a violent type, the officer must receive immediate approval from a ***sworn*** supervisor to continue the pursuit, based on the following information:
 - 1. The reason for the pursuit;
 - 2. The seriousness of the crime; and
 - 3. Safety concerns, to include:
 - a. Location of the pursuit
 - b. Time of day
 - c. Amount of vehicular and pedestrian traffic in the area
 - d. Weather conditions
 - e. Condition of the road surface
 - f. Speed of the pursuit, etc.
- B. When notified of a pursuit, ECC will:
 - 1. Attempt to notify a ***sworn*** supervisor from the district the pursuit is occurring in.
 - a. The ***sworn*** supervisor will either approve or call off the pursuit based on the criteria above.
 - b. If ECC is unable to raise a ***sworn*** supervisor, they will advise the officer that a ***sworn*** supervisor could not be contacted.

- c. The officer must acknowledge this message and terminate the pursuit (except for a felony of a violent type).
2. Notify *the appropriate district executive officer or the Duty Commander* of the pursuit.

VI. Terminating

A. Danger to Officer and Public

Pursuits will be terminated when the officer believes that the dangers to officers and the public outweigh the advisability of continuing.

B. Supervisor Responsibility

When, in the *sworn* supervisor's judgment, the dangers outweigh the advisability of continuing, the supervisor shall direct the discontinuance of the pursuit (refer to section V.A.).

C. Outside Factors in a Pursuit

Pursuits will be terminated regardless of the seriousness of the crime when weather, traffic, road conditions, or locale make further pursuit unreasonably hazardous, or when the distance from the pursued vehicle is too great to justify continuing the pursuit.

D. Operator Identity is Known

Pursuits will be terminated when the identity of the operator is known and the offense is an authorized misdemeanor.

VII. Driving Procedures

A. Speed

Officers will not, under any circumstances, pursue at a speed so great as to render their vehicles uncontrollable.

B. Radio Communication

1. When a vehicle attempts to elude an officer or drives in a manner endangering others, the pursuing officer shall start and maintain communication with the dispatcher, including identifying the unit, location, direction of travel, license number and description of the vehicle, and the charges against the violator.
2. *To ensure that all personnel are receiving the most accurate and up to date information, pursuits will be conducted only on the district talkgroup originating the pursuit. If applicable, any controlled units from other districts will advise their respective dispatcher they are assisting and switching to that talkgroup.*
3. *Officers making transmissions relating to the pursuit on the improper talkgroup will be advised by the dispatcher to switch to the appropriate talkgroup.*

C. ECC Responsibility

1. ECC dispatchers will ensure that the *pursuing talkgroup* remains open by putting a *restricted air* in effect.
2. *When geographically appropriate, ECC dispatchers on the non-pursuing talkgroup may announce the specifics of the pursuit but will not continue to broadcast updates.*
3. *ECC supervisors will ensure the pursuit is coordinated on the primary district talkgroup only.*

D. Helicopter Assistance

At the request of a supervisor, ECC will request helicopter assistance, if available.

E. Emergency Equipment

Emergency equipment will be used throughout a pursuit.

F. Other Units Involved

1. Once an officer announces a pursuit is in progress, units in the area should position themselves at locations thought to be helpful in the apprehension and shall notify the dispatcher of their locations.
2. Only two police vehicles will be actively engaged in the pursuit unless a *sworn* supervisor, based on the following, authorizes more units:
 - a. Seriousness of the charge
 - b. Number of suspects in the pursued vehicle
 - c. Known weapons in suspect's possession
 - d. Increased hazards caused by numerous pursuit vehiclesK-9 units are not included in the two car limit.
3. Police supervisors will not permit distant units to "strip" a beat of coverage or converge on the scene once the stop is made. Vehicles committed to the pursuit, either actively or in a support role, should be of a sufficient number to provide protection for officers in the event that the offender(s) should stop or attempt escape on foot.

G. Units with Non-Police Passengers

Units that have people other than law enforcement officers in the vehicle will not become engaged in pursuit situations.

H. Unmarked Police Vehicles

An operator of an unmarked police vehicle with emergency equipment (a minimum of department-authorized and -installed four corner strobes, a dash light, and a siren) may initiate a pursuit for the same criteria as marked police vehicles. Due to the increased danger created by the less visible unmarked units, officers operating unmarked cruisers during a pursuit will withdraw at the earliest possible time. Whenever two or more marked police vehicles become engaged in the pursuit, the unmarked vehicle will withdraw from active pursuit and serve in a support role unless authorized by a *sworn* supervisor to continue in the pursuit.

NOTE: Unmarked vehicles that are equipped with only emergency lights (no four corner strobes) and siren can initiate a pursuit only in the instance of a violent felony. Withdrawal from the pursuit will be based on the guidelines above.

I. Driving on One-Way Streets

Officers are discouraged from driving their vehicles the wrong way on a one-way street or highway, unless absolutely necessary.

VIII. Use of Roadblocks

A. Rolling Roadblocks

The use of rolling roadblocks is prohibited. A rolling roadblock is designed to stop a violator's vehicle by surrounding it with pursuit vehicles and intentionally slowing all vehicles to a stop.

B. Stationary Roadblock

A stationary roadblock is the use of department vehicles strategically placed or situated to stop or slow down a pursued vehicle in the safest possible manner. The hazards to the public, other officers, and the suspect must be considered. Only department vehicles are to be used. At least one of the vehicles used will be a marked police vehicle.

1. Use roadblocks only when the officer has probable cause to believe the crime committed was a felony of a violent type. The offense of DWI/DUI is *not* a valid reason to use a roadblock.

2. Before a roadblock is used, a **sworn** supervisor must grant permission. The effectiveness and dangers (e.g., highly populated areas, heavily traveled roadways, etc.) will be weighed when considering authorization.
3. No officer will remain in the vehicle after it is stationed as part of a roadblock.
4. All officers involved in a roadblock will take reasonable steps to ensure the safety of all bystanders and fellow officers.

C. Ramming

Ramming, the intentional striking of a suspect's vehicle, is prohibited.

IX. Use of Tire-Deflating Devices

- A. The department currently has two approved tire-deflating devices. The Stop Stick is used to stop a pursuit. The Piranha is used to prevent a pursuit from occurring.
- B. Only those volunteer officers successfully trained in the use of the tire-deflating devices will be issued or authorized to deploy the approved devices.
- C. Stop Sticks will only be utilized in authorized pursuit situations.
- D. The deploying officer, after considering the safety risks present at the time, will receive permission from a **sworn** supervisor prior to deploying a tire-deflating device. The decision will be based on, but not limited to, the information in section V.A. in addition to the following:
 1. Tactical considerations.
 2. Any information provided by the pursuing officer(s).
- E. Tire-deflating devices will only be deployed on four-wheeled vehicles. Its use is prohibited on two-wheeled vehicles (i.e., motorcycle, bicycle, moped) or on any ATV, three- or four-wheeled.
- F. Action should be taken when possible to divert other traffic from the area where a tire-deflating device is to be used to prevent damage to other vehicles.
- G. The exact location of the deployed Stop Stick, to include the direction and lane, will be communicated to ECC and all pursuing vehicles.
- H. When a Stop Stick has been placed in the roadway, the deploying officer's police vehicle may be used to block a portion of the roadway prior to the Stop Stick; however the entire roadway will not be blocked with the police vehicle. The deploying officer and the vehicle should be positioned in such a manner that it will afford the officer protection from the vehicle being pursued. The police vehicle will not be occupied. The deploying officer shall immediately remove the Stop Stick from the roadway after it is struck or the pursued vehicle passes by.
- I. The tire-deflating device is not intended to be used as a hand weapon.
- J. Once the Stop Stick has been struck, it shall be returned to the Central Supply, along with a copy of the MCP 610. Supply will send it back to the manufacturer for repair/replacement.
- K. The Stop Sticks that are issued are maintenance-free and will be kept in marked patrol vehicles. They will be stored in vehicle trunk lid trays that may only be installed by **Fleet Management Services**. Officers will ensure that items loaded in the trunk will not damage the Stop Sticks.

- L. The Piranha will be stored in covert police vehicles where they will not be damaged but will be readily available for deployment.

X. Pursuits from Montgomery County into Other Jurisdictions

- A. Hazards
When engaged in pursuit of a fleeing suspect across jurisdictional lines (county or state), officers face the hazards of unfamiliarity with the area and decreased communications capability.
- B. Authorized Reasons for a Pursuit
Officers may pursue into a neighboring jurisdiction only when an officer has probable cause to believe the crime committed was a felony of a violent type.
- C. Arrests Outside of Montgomery County
Officers may arrest an individual after a legal pursuit out of the county.
 1. If the arrest occurs within Maryland, officers will retain custody of the individual unless the jurisdiction entered places charges of its own.
 2. If the arrest occurs outside of Maryland, officers will relinquish the individual to the law enforcement agency of the entered jurisdiction. In this situation, custody of the individual should be processed through extradition procedures.
- D. Misdemeanors
Pursuits **based on** misdemeanor **offenses** will not be allowed, under any circumstances, **to continue** into another county, state, or the District of Columbia.
- E. Vehicle Use in Foreign Jurisdictions
All emergency equipment will be activated while pursuing outside of the county. No more than two vehicles will cross into a foreign jurisdiction unless authorized by a **sworn** supervisor. As soon as practicable, relinquish the pursuit to the entered jurisdiction with the units from the initiating jurisdiction continuing in response. Vehicles will be operated with due regard for road conditions and public safety. The pursuit will be abandoned if elements such as weather, road, and traffic conditions make further pursuit unduly hazardous.
- F. Communications
ECC personnel will initiate a PMARS link with the entered jurisdiction to coordinate the response. **The jurisdictions will be advised which Montgomery County talkgroup the pursuit is being conducted on and will be asked for the entered jurisdiction talkgroup so it may be forwarded to responding units. Talkgroup patches allowing** communications between pursuing units and units from the entered jurisdiction **may** be established if requested by the pursuit units and time allows.

XI. Pursuits Discontinued at the County Line

- A. “Surveillance Mode” Prohibited
If a pursuit is discontinued at the county line, further use of a police vehicle in a “surveillance mode” outside of the county is prohibited. This does not prohibit unmarked vehicles from conducting authorized surveillances in foreign jurisdictions during non-pursuit situations.
- B. Notification to Other Jurisdiction
When the fleeing vehicle is engaged in a continuing crime (e.g., DWI, continuing felony theft), officers will transmit a description of the suspect/vehicle, the charge(s), and direction of travel to ECC personnel. ECC will relay the information to the jurisdiction entered.

XII. Joining Pursuits Initiated by Other Agencies/Jurisdictions

When there is a pursuit in the county that was initiated by another agency, including pursuits that enter the county from another jurisdiction, ECC will advise the patrol supervisor of the pursuit ***and the name of the talkgroup the other agency is using***. The supervisor will determine if MCP officers are to join the pursuit based on the following:

1. The pursuing agency notifies MCP of the offense for which the suspect is wanted, and
2. The offense meets the criteria for pursuits within the boundaries of Montgomery County (see section III).

If the above criteria are NOT met, MCP officers will NOT join in the pursuit. ECC will monitor the pursuit and inform MCP officers of the location of the other agency's unit(s). MCP officers should position themselves to ensure sufficient backup to the pursuing unit(s) should the suspect(s) bail out, wreck, attack the pursuing officer(s), etc., while in the county.

XIII. Officer Discretion

In certain circumstances which threaten life and when there is no time for an officer to comply with a departmental directive, the officer will assess to the best of the officer's ability the safety factors involved and then take whatever action the officer believes necessary.

XIV. Reporting Procedures

A. Supervisor Responsibility

For each pursuit involving officers from the department, a supervisor (not to be delegated) from the district where the pursuit initiated will ***complete in full*** an MCP 610, "Motor Vehicle Pursuit Report," and forward ***along with the incident report (if completed)***, through the chain of command, to the respective assistant chief. This will be completed prior to the end of the supervisor's tour of duty.

NOTE: If the supervisor participated in the pursuit, the supervisor's lieutenant will complete the "Supervisor's Supplementary Narrative" section of the MCP 610.

B. Reporting the Use of Stop Sticks

Use of the Stop Stick, including whether it was successful or not, will be indicated on the MCP 610. If the Stop Stick is run over, the serial number of the stick must be noted. If damage is caused to a vehicle tire on other than the pursued vehicle, it will be documented to include the exact make and size of the tire in an ***incident*** report.

C. Assistant Chief Responsibility

The Assistant Chief will review the MCP 610 to ensure compliance with state law and departmental regulations and then forward it to the ***Policy and Planning Division (PPD)***

D. Collisions

If a collision occurs as a result of the pursuit, a copy of the MCP 610 will be included in each collision report package that is prepared ***and forwarded to the respective district traffic sergeant***.

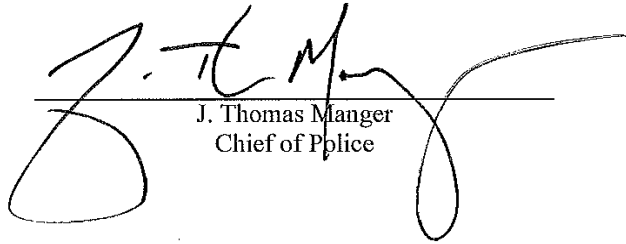
XV. CALEA Standards: 41.2.2., 41.2.3.

XVI. Proponent Unit: FSB Administration

FC No.: 135
Date: 05-22-09

XVII. Cancellation

This directive cancels FC 135, dated 06-11-03.



J. Thomas Manger
Chief of Police