



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved
Death in Talbot County on
July 22, 2024

January 16, 2025

Public Release: January 24, 2025

Declination Report Concerning the Officer-Involved Death of Yemaya Wilson on July 22, 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 For incidents that occur after October 1, 2023, 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 July 22, 2024, just after 7:00 pm, a Talbot County Sheriff’s Office (“TCSO”) deputy in a marked police cruiser encountered a Nissan sedan driving erratically on westbound U.S. Route 50 near Dutchmans Lane in Easton, Maryland. Based on the car’s behavior, the subject officer activated her emergency lights and siren, signaling the driver to stop. The driver of the car, a juvenile male, continued to drive on Route 50. The subject officer pursued the Nissan through the town of Easton for several minutes, as the Nissan’s driver doubled back and made multiple U-turns. During the pursuit, two additional TCSO deputies and an officer from the Easton Police Department (“EPD”) assisted the initiating deputy. The pursuit ended several minutes later when the Nissan crashed into a tree in the 8300 block of Black Dog Alley. The car had four occupants—a juvenile male driver, an adult female front seat passenger, a juvenile male back seat passenger, and an adult female back seat passenger. After the crash, the subject officers rendered aid to all occupants until EMS arrived on scene and began treating the occupants’ injuries. The front seat passenger, later identified as Yemaya Wilson, was transported to a local hospital for treatment of serious injuries where she was later pronounced dead. The driver and two rear passengers were transported to an area hospital for treatment of serious injuries.

After completing its investigation and evaluating all available evidence, the Office of the Attorney General has determined that none of the subject officers committed a crime under Maryland law. Accordingly, the Attorney General has declined to prosecute any of the subject officers in this case.

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officers’ conduct. By statute, the IID only has jurisdiction to investigate the actions of police officers,³ not those of any other individuals involved in the incident. Therefore, the IID’s investigation did not specifically examine any criminal culpability of Juvenile A,⁴ the driver of the Nissan, in this incident. Moreover, the IID’s analysis does not consider issues of civil liability or the department’s administrative review of officers’ conduct. Certain information—specifically, compelled statements by subject officers—may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been

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

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

³ “Police officer” is defined in Md. Ann. Code, Public Safety § 3–201(f)(1)(ii)9 to include deputy sheriffs who are members of “the office of the sheriff of a county”.

⁴ Under CJP § 3-8A-27(a), a police record concerning a child is confidential information that may not be distributed. Accordingly, the IID will refer to the driver of the Nissan, who was under 18 years old at the time of this incident, as Juvenile A throughout this report.

considered in the IID's investigation. The subject officers chose not to make a statement in this case, which has no impact on the prosecutorial decision.

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 and EMS reports, police body-worn camera footage, photographs, and interviews with civilian and law enforcement witnesses. The legal analysis explains why the IID will not bring charges under the relevant Maryland statutes.

This investigation involved the driver of the stolen Nissan, the decedent, and four subject officers:

- A. The driver, Juvenile A, was under 18 years old at the time of the incident. He is a Black male who lives in Washington, DC.
- B. The decedent, Yemaya Wilson, was 18 years old at the time of the incident. She was a Black female who lived in Washington, DC.
- C. Deputy Brittanie DiMichele has been employed by TCSO since May 2013. She is a White female and at the time of the incident, she was 33 years old.
- D. Deputy Owen Joseph has been employed by TCSO since December 2023. He is a White male and at the time of the incident was 24 years old.
- E. Deputy William Barnett has been employed by TCSO since November 2021. He is a White male and at the time of the incident was 33 years old.
- F. Officer Nicholas Lange has been employed with EPD since December 2020. He is a White male and at the time of the incident was 38 years old.

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

II. Factual Summary

On July 22, 2024, a few minutes after 7:00 p.m., TCSO Deputy Brittanie DiMichele was on patrol in a marked cruiser on U.S. Route 50 near Easton, Maryland, when she observed a white Nissan sedan driving erratically. The Nissan had four occupants: Juvenile A, the driver; Ms. Wilson, the front passenger; Juvenile B,⁵ a backseat passenger; and Witness,⁶ another backseat passenger. According to her body-worn camera footage, Deputy DiMichele began looking up information about the Nissan's license plate as it drove westbound on U.S. Route 50 because it was following a UPS truck too closely. Deputy DiMichele had no plans to conduct a traffic stop

⁵ Under CJP § 3-8A-27(a), a police record concerning a child is confidential information that may not be distributed. Accordingly, the IID will refer to the male backseat passenger of the Nissan, who was under 18 years-old at the time of this incident, as Juvenile B throughout this report.

⁶ For privacy reasons, the adult female back seat passenger will be referred to as "Witness" throughout this report.

at that time. However, shortly afterwards, Juvenile A swerved and nearly struck the UPS truck, which prompted Deputy DiMichele to initiate a traffic stop by activating her emergency lights and siren.

According to an IID interview with Witness, Juvenile A believed that the police cruiser was following him because the police cruiser was behind the Nissan and switched lanes with it. Witness told IID investigators that Juvenile A started to “freak out a little bit,” then decided to “try to lose [the cruiser]” and “swerved” to go around the cars beside them.⁷ At that point, Deputy DiMichele activated her emergency lights and sirens and Juvenile A then began speeding and weaving through traffic to evade Deputy DiMichele’s cruiser.

At 7:04 p.m., Deputy DiMichele radioed dispatch to provide the Nissan’s license plate information and report that she was attempting to conduct a traffic stop of the Nissan on U.S. Route 50 near Dutchmans Lane. A couple of seconds later, Deputy DiMichele told dispatchers that the Nissan was driving erratically at approximately 100 m.p.h. U.S. Route 50. From that point, the pursuit covered approximately fifteen miles in ten minutes.

Between approximately 7:05 and 7:06 p.m., the Nissan and Deputy DiMichele entered the town of Easton, Maryland. They turned right onto Dutchmans Lane, then turned left onto South Aurora Street, where Deputy DiMichele briefly lost sight of the Nissan. Deputy DiMichele caught up to the Nissan when it emerged onto South Washington Street. The vehicles briefly continued along South Washington Street, then merged onto Easton Parkway. On Easton Parkway, Deputy DiMichele reported that the Nissan had nearly struck several vehicles and was briefly driving against the flow of traffic before crossing the grass median. Deputy DiMichele’s cruiser reached speeds up to 97 m.p.h. on Easton Parkway, a 55-m.p.h. zone, but she did not catch up with the Nissan. Both vehicles reached U.S. Route 50 eastbound at approximately 7:07 p.m.

Officer Nicholas Lange was at EPD headquarters on West Dover Street when the pursuit began, and he followed its progress via radio. When the Nissan and Deputy DiMichele entered Easton, Officer Lange received permission from his supervisor to assist Deputy DiMichele until additional TCSO deputies could respond. Officer Lange left EPD headquarters at approximately 7:05 p.m. and caught up to the pursuit on U.S. Route 50 eastbound at approximately 7:07 p.m.

⁷ The investigation after this incident revealed that the Nissan had been stolen, but it had not been reported at the time of the pursuit, and subject officers did not know about its stolen status during the pursuit.

The pursuit continued eastbound on U.S. Route 50 for approximately two minutes. At approximately 7:09 p.m., the Nissan made a U-turn at the Manadier Road intersection and began traveling westbound on U.S. Route 50; Deputy DiMichele and Officer Lange followed. At approximately 7:10 p.m., while riding in the same patrol cruiser, TCSO Deputies Owen Joseph and his Field Training Officer William Barnett joined the pursuit as it proceeded westbound on U.S. Route 50 past Landing Neck Road.

As they drove, Deputy Barnett began updating dispatch about the progress of the pursuit. Body-worn camera footage shows that Deputy Barnett was actively providing Deputy Joseph with instructions about driving, and that Deputy Joseph acknowledged and followed Deputy Barnett's instructions. Deputy DiMichele's body-worn camera captured her traveling at up to 106 m.p.h. during this time.

Body-worn camera and private surveillance footage shows that each subject officer drove in a relatively straight line and maintained control of their vehicles throughout the pursuit. The pursuit took place in dry weather during daylight hours with light to moderate traffic. The subject officers also adjusted their speeds and travel lanes to account for uninvolved civilian vehicles along the path of the pursuit. Deputy DiMichele, the lead officer, remained between two and eight seconds behind the Nissan throughout the pursuit. Officer Lange remained one to two seconds behind Deputy DiMichele, and Deputies Joseph and Barnett were one to two seconds behind him.

At approximately 7:12 p.m., the Nissan made a right turn onto Dover Road from U.S. Route 50 westbound by cutting through a gas station parking lot near uninvolved vehicles and pedestrians, and Deputy DiMichele followed. Officer Lange and Deputies Joseph and Barnett continued the pursuit by turning right on Dover Road. For approximately two minutes, the pursuit



Image 1: A map with a blue line representing of the path of the pursuit, and numerical points representing the approximate positions of officers during the incident and the crash. Point 1 represents where Deputy DiMichele initially attempted to stop the Nissan. Point 2 represents where Officer Lange joined the pursuit and Point 3 represents where Deputies Joseph and Barnett joined. Point 4 represents the site of the crash.

continued on Dover Road at approximately 100 m.p.h., and at 7:14 p.m. the Nissan turned left onto Black Dog Alley.

Within seconds of turning onto Black Dog Alley, Juvenile A lost control of the Nissan, left the roadway, and crashed into a tree. Officer Lange and Deputy Barnett both immediately radioed dispatch to report that an accident had occurred and to request medics. Officer Lange and Deputies DiMichele, Barnett, and Joseph all exited their cruisers and approached the Nissan, shouting commands for the driver, Juvenile A, to show his hands. Once the subject officers felt it was safe to approach, they worked to begin extracting the passengers.

Due to the condition of the car, only the rear seat passengers—Juvenile B and Witness—could be extracted by the subject officers. Juvenile A and Ms. Wilson could not be removed from the Nissan until fire department personnel arrived. The subject officers provided medical aid within their means, and they assisted the medics once they arrived. Medics and fire department personnel arrived on scene at 7:22 p.m. Due to the severity of their injuries, all the Nissan's passengers were transported to local hospitals for treatment; Ms. Wilson was pronounced dead at the hospital at 8:42 p.m.

III. Supplemental Information

A. Autopsy

The Office of the Chief Medical Examiner performed an autopsy on Ms. Wilson on July 23, 2024. The Medical Examiner determined that Ms. Wilson died from multiple injuries sustained in the crash and that the manner of death was an “accident.”⁸

B. Maryland State Police Crash Investigation Report

The Maryland State Police completed a detailed crash investigation report regarding this incident. According to that report, shortly after turning onto Black Dog Alley, one or more of the Nissan's passenger side tires left the northbound lanes of the roadway and traveled into a grassy area for approximately thirty feet. The Nissan's tires then entered a drainage ditch, scraping the Nissan's undercarriage on the asphalt, before striking a culvert. Striking the culvert caused the Nissan to go airborne and begin rotating. When the Nissan landed, it struck the drainage ditch again. Shortly thereafter, the Nissan struck a tree on the driver's side. The impact of the tree caused the Nissan to rotate around the tree approximately 110-130 degrees before it came to a complete stop. All passengers, except for Ms. Wilson, were wearing seatbelts at the time of the crash.

Electronic data recovered from the Nissan revealed that five seconds before the crash, the Nissan's brake pedal had not been pressed. The data also revealed that at the time of the impact,

⁸ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Maryland Office of Chief Medical Examiner uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. “Accident” applies when injuries caused the death in question and there is little or no evidence that the injuries occurred with the intent to harm or cause death. These terms are 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.

the Nissan was traveling at approximately 74 m.p.h. The speed limit on that section of Black Dog Alley is 30 m.p.h.

C. Department Policies

1. Talbot County Sheriff's Office Policy

Under TCSO Policy 306, a vehicle pursuit is defined as “[a]n event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a vehicle by using highspeed driving or other evasive tactics.” Deputies are authorized to initiate a pursuit “when it is reasonable to believe that a suspect, who has been given an appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.” Even so, the policy instructs deputies to consider, and continuously weigh, several factors when deciding whether to initiate or continue a pursuit, including, but not limited to the seriousness of the offense in relation to community safety, the speed of the pursuit, the safety of the public in the area of the pursuit, and any other conditions that increase the danger of the pursuit versus the risks resulting from the suspect’s escape. If the pursuit becomes too risky, or if a supervisor orders it, deputies must terminate the pursuit.

Deputies are not required to receive permission from a supervisor to engage in a pursuit under the policy and must use their emergency lights and sirens throughout the pursuit. Deputies are permitted to commit certain traffic violations while their emergency lights and sirens are activated, but the policy states they must still “drive with due regard for the safety of all persons and property.”

The policy states that generally, pursuits “should be limited to three sheriff’s office emergency vehicles (two pursuit vehicles and the supervisor vehicle).” The officer who initiated the pursuit—the primary pursuing deputy—is responsible for alerting dispatch that a pursuit has begun and providing dispatchers with a description of the suspect vehicle; the suspect vehicle’s location, direction of travel, and estimated speed; the reason for the pursuit; the weather, road, and traffic conditions; and the need for any additional resources. Primary deputies are responsible for updating this information throughout the progress of the pursuit unless relieved by a supervisor or secondary pursuing deputy.

Secondary pursuing deputies are responsible for (1) immediately notifying the dispatcher of their entry into the pursuit, (2) remaining a safe distance behind the primary pursuit vehicle unless otherwise directed, (3) broadcasting information about the progress of the pursuit that the primary pursuing deputy may be unable to provide, and (4) serving as backup to the primary pursuing deputy once the suspect has been stopped.

Under TCSO policy 416, Field Training Officers are responsible for ensuring that trainee officers are familiar and proficient with the skills, tactics, and policies employed by TCSO in a variety of situations. While a situation, like a car chase, is ongoing, Field Training Officers are responsible for providing directions and leadership to trainee officers so that they can handle the situation safely and within policy.

2. Easton Police Department Policy

EPD Policy 307 provides that officers are authorized to pursue suspects who are wanted for a felony in order to make an arrest. EPD officers are prohibited from pursuing suspects who have only committed a traffic violation, unless the “violation(s) **prior** to the pursuit are so flagrant and reckless it poses an immediate risk and danger to themselves and others on the roadway if not immediately apprehended.” The policy lists several examples of flagrantly reckless driving, including, but not limited to, “forcing other vehicles to take evasive action to avoid collision, failure to stop at controlled intersections without slowing, or driving on the wrong side of the road.”

Regarding aiding other agencies in a pursuit, Policy 307 states that “pursuits by other agencies that come into town limits will not be joined by EPD officers unless the reason for the pursuit fits [EPD] criteria for initiating a pursuit.” Generally speaking, EPD officers should not join another agency’s pursuit “unless specifically requested to do so by the pursuing agency and with approval from a supervisor.” The policy states that “notification of a pursuit in progress should not be construed as a request to join the pursuit,” and “requests to or from another agency to assume a pursuit should be specific.” However, there is an exception to this rule when there is only a single vehicle from an initiating agency involved in a pursuit. Under those circumstances, an EPD officer may, with the permission of an EPD supervisor, join the pursuit until sufficient vehicles from the initiating agency arrive to take over. But even under those circumstances, EPD officer assistance to another pursuing agency “will conclude at the Town limits, provided the pursuing agency has sufficient assistance from other sources.” Ongoing participation from EPD officers may only continue until sufficient assistance is present.

During a pursuit, EPD officers are responsible for engaging their emergency lights and sirens and driving “with due regard for the safety of all persons and property.” As the pursuit proceeds, EPD officers “must continually weigh the hazards presented by the pursuit against those created by the violator.” Secondary officers in a pursuit are responsible for immediately notifying a dispatcher of their entry into the pursuit; remaining a safe distance behind the primary pursuit vehicle; broadcasting information about the pursuit that the primary officer may be unable to provide; and serving as backup to the primary pursuing officer once the suspect has been stopped.

IV. Legal Analysis

After a criminal investigation is complete, prosecutors must determine whether to bring criminal charges against someone. 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 the alleged crime beyond a reasonable doubt. Prosecutors also need to determine whether the person accused of the crime could raise an affirmative defense. In those cases, prosecutors not only need to prove the crime, but they also need to determine whether the evidence could *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 that standard.

The relevant offense that was considered in this case is criminally negligent manslaughter by vehicle, which is applicable in most fatal police-involved pursuits. This offense requires proving that an accused person caused the death of another person by operating a vehicle in a

criminally negligent manner.⁹ It is the baseline homicide charge that a prosecutor can bring in an officer-involved pursuit case.

If a prosecutor cannot prove criminally negligent manslaughter by vehicle based on the available evidence, they cannot prove the more severe charge of manslaughter by vehicle,¹⁰ which requires a prosecutor to prove that the defendant drove with gross negligence, a level above criminal negligence. Both offenses require proof of causation—the evidence must show that the defendant’s actions were the legal cause of the death or harm at issue.

There is insufficient evidence to prove that the subject officers drove their vehicles in a criminally negligent manner. Accordingly, the IID will not pursue criminal charges against any of the subject officers. This report explains below in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that any officer committed a crime.¹¹

A. Criminally Negligent Manslaughter by Vehicle

Proving criminally negligent manslaughter by vehicle requires a prosecutor to establish three elements beyond a reasonable doubt: (1) that the accused drove a motor vehicle; (2) in a criminally negligent manner; and (3) in doing so caused Ms. Wilson’s death.¹² Criminal negligence requires proof that the accused “should have been aware, but failed to perceive that his or her conduct created a ‘substantial and unjustifiable risk’ to human life and that the failure to perceive that risk was a ‘gross deviation’ from the standard of care that a reasonable person would exercise.”¹³ In Maryland, negligence is measured on a spectrum – with simple negligence on one end, criminal negligence in the middle, and gross negligence on the other end.¹⁴ In Maryland, where alleged negligence involves a law enforcement officer, the “reasonable person” perspective is replaced with a “reasonably prudent police officer” perspective, which must also account for the fact that an officer is permitted to violate some traffic laws under certain circumstances.¹⁵

Determining whether an officer’s actions constitute criminal negligence must take into consideration the totality of the circumstances, including relevant factors such as department policies, use of warning devices, traffic conditions, speed, yielding to traffic signals, and erratic driving.¹⁶ When examining the weight given to the violation of departmental policy, the Supreme Court of Maryland has held that, “a violation of police guidelines *may* be the basis for a criminal prosecution.”¹⁷ The Court clarified that, “while a violation of police guidelines is not negligence

⁹ Md. Ann Code, Criminal Law § 2-210.

¹⁰ Md. Ann Code, Criminal Law § 2-209.

¹¹ Because there is insufficient evidence to establish that the subject officers acted with criminal negligence, this report does not analyze whether the subject officers caused the death of Ms. Wilson.

¹² MPJI-Cr 4:17.10 (3d ed. 2024)

¹³ 96 Md. Op. Atty. Gen. 128, 138, Dec. 21, 2011 (*available at* <https://www.marylandattorneygeneral.gov/Opinions%20Documents/2011/96oag128.pdf>)

¹⁴ See *Beattie v. State*, 216 Md. App. 667, 683 (2014) (explaining “a gross deviation from the standard of care” by comparing it with a similar Kansas statute that used the “material deviation” standard, stating: “a ‘material deviation’ from the standard of care require[s] ‘something more than ordinary or simple negligence yet something less than gross and wanton negligence.’”).

¹⁵ *Boyer v. State*, 323 Md. 558, 589 (1991).

¹⁶ See, e.g. *Boyer*, 323 Md. at 591; *Taylor v. State*, 83 Md. App. 399, 404 (Ct. Sp. App. Md. 1990).

¹⁷ *State v. Pagotto*, 361 Md. 528, 557 (2000) (citing *State v. Albrecht*, 336 Md. 475, 502-03 (1994)) (emphasis in original).

per se, it is a factor to be considered in determining the reasonableness of police conduct.” Maryland courts have considered officers’ policy violations as evidence of negligence, recklessness, unreasonableness, and corrupt intent.¹⁸ However, a “hyper technical” violation of policy, without more, is not sufficient to establish gross negligence.¹⁹ Applying these principles to the present matter, prosecutors must individually analyze each subject officers’ decisions to pursue the Nissan and their actions while the cruisers were in pursuit.

1. TCSO Deputies DiMichele, Joseph, and Barnett

Regarding the decision to engage in the pursuit, TCSO policy authorized Deputy DiMichele to engage in a pursuit when a suspect who has been given a signal to stop “is attempting to evade arrest or detention by fleeing in a vehicle.” Further, she could continue the pursuit so long as the pursuit was less of a risk to public safety than letting the Nissan go. According to the evidence, Juvenile A began driving the Nissan erratically to evade Deputy DiMichele because he was anxious about her cruiser’s presence behind him on U.S. 50, before she attempted a traffic stop. When the Nissan swerved toward another vehicle, Deputy DiMichele activated the emergency lights and sirens to pull the Nissan over, but Juvenile A refused to stop. From that point forward, Juvenile A’s operation of the Nissan presented an active threat to public safety throughout the course of the pursuit. Juvenile A drove over 100 m.p.h. in various speed zones, drove on the shoulder and the wrong side of the road, and weaved between vehicles. The active threat to public safety remained at the time Deputies Joseph and Barnett joined the pursuit. Further, no other TCSO deputy joined the pursuit to support Deputy DiMichele as a secondary vehicle. Accordingly, there is no evidence to suggest that any of these three subject officers acted in a manner that created a substantial and unjustifiable risk to human life by deciding to engage in and continue the pursuit. Since such a risk did not exist, the subject officers could not have failed to perceive an unjustifiable risk to human life in a manner that constituted a gross deviation from the reasonable standard of care. Therefore, the deputies’ decisions to engage in the pursuit were not criminally negligent.

As to Deputy DiMichele’s actions while in pursuit, as the primary pursuing deputy, she had several responsibilities. These responsibilities included using her emergency lights and siren; notifying dispatchers that the pursuit had begun; providing dispatchers a description of the Nissan and its speeds, location, and direction of travel as the pursuit continued; and updating dispatchers regarding the weather, road, and traffic conditions throughout the pursuit. According to the evidence, including computer dispatch records, communications audio, and her body-worn camera footage, Deputy DiMichele fulfilled all these responsibilities during the pursuit. While Deputy DiMichele did travel at high speeds during the pursuit, body-worn camera and private surveillance footage showed that she maintained control of her vehicle throughout the pursuit. She drove in a controlled manner when maneuvering around uninvolved vehicles, used her emergency lights and sirens, adjusted her speed to account for traffic present, and approached intersections with appropriate care, consistent with TCSO policy.

¹⁸ 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); *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); *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 398 (2006) (civil litigation).

¹⁹ *State v. Pagotto*, 127 Md. App. 271, 304 (1999), *aff’d*, 361 Md. 528 (2000).

Regarding Deputy Joseph's and Deputy Barnett's actions while in pursuit, as a secondary pursuing deputy and a Field Training Officer, respectively, they had two different sets of responsibilities. Deputy Joseph's responsibilities focused on using his emergency lights and siren, driving with due care, and providing backup for Deputy DiMichele once the Nissan had stopped. Deputy Barnett was responsible for operating the radio and providing Deputy Joseph with active guidance on pursuit driving in compliance with TCSO policy. Based on the available body-worn camera, dashboard camera, and private surveillance footage that captured the pursuit, Deputy Joseph used his emergency lights and sirens, followed the directions of Deputy Barnett, maintained a safe distance from Deputy DiMichele's cruiser, adjusted his speed and lane to account for uninvolved vehicles, and approached intersections with appropriate care, consistent with TCSO policy. Likewise, Deputy Barnett made the appropriate notifications to dispatch and provided Deputy Joseph with guidance on how to safely conduct the pursuit on multiple occasions; Deputy Joseph's guidance was compliant with TCSO policy.

Given the totality of the circumstances, there is no evidence to suggest that any of these three subject officers, in conducting the remainder of the pursuit, acted in a manner that created a substantial and unjustifiable risk to human life. Since such a risk did not exist, the subject officers could not have failed to perceive an unjustifiable risk to human life in a manner that constituted a gross deviation from the reasonable standard of care. Accordingly, the Office of the Attorney will not charge Deputies DiMichele, Joseph, or Barnett with criminally negligent manslaughter by motor vehicle in this case.

2. EPD Officer Lange

Regarding the decision to engage in and continue the pursuit, EPD policy authorized Officer Lange to assist another agency—in this case, TCSO—in a pursuit that entered the town limits of Easton under very specific circumstances. Specifically, Officer Lange was permitted to join the pursuit if: (1) the grounds for the pursuit met EPD standards; (2) there was only a single TCSO deputy in the pursuit; (3) Officer Lange requested and received permission to assist from an EPD supervisor; and (4) Officer Lange terminated his participation in the pursuit when it left Easton town limits *and* other TCSO deputies had arrived to support the initiating officer. EPD officers may not pursue a vehicle for a mere traffic violation unless the vehicle's behavior "prior to the pursuit are so flagrant and reckless it poses an immediate risk and danger to themselves and others on the roadway if not immediately apprehended."

At the time Officer Lange joined the pursuit, there was no evidence that any EPD officer knew or attempted to determine the initial violation(s) that led to the pursuit. In that respect, it follows that Officer Lange violated policy for not ensuring that participation would be consistent with EPD policy. However, the pursuit was a rapidly evolving situation that presented an active threat to public safety within Easton town limits at the time due to its speeds. Therefore, Officer Lange's policy violation does not meet the threshold for criminal negligence pursuant to Maryland law.²⁰

When Officer Lange initially joined the pursuit, Deputy DiMichele was the only officer participating in the pursuit, and Officer Lange requested and received permission from a supervisor

²⁰ See *Pagotto*, 127 Md. App. at 304.

to participate in the pursuit. Officer Lange left the town limits of Easton two times during the pursuit, once when the Nissan traveled down U.S. Route 50 eastbound toward Manadier Road, and the second time as the Nissan traveled down Dover Road toward Black Dog Alley. In the first instance, Officer Lange's decision to continue the pursuit was consistent with EPD policy because no other TCSO deputies had arrived to assist Deputy DiMichele at that time. In the second instance, Officer Lange's decision to continue the pursuit could be a violation of policy because Deputies Joseph and Barnett had joined the pursuit at that point. However, based on the evidence, it does not appear that Officer Lange had an opportunity to safely disengage from the pursuit as the subject officers were traveling approximately 100 mph to remain close to the Nissan. Given the evidence, Officer Lange's policy violation would not meet the threshold for criminal negligence pursuant to Maryland law.²¹ Accordingly, there is no evidence to suggest that Officer Lange acted in a manner that created a substantial and unjustifiable risk to human life by choosing to engage in and continue the pursuit. Since such a risk did not exist, Officer Lange could not have failed to perceive an unjustifiable risk to human life in a manner that constituted a gross deviation from the reasonable standard of care. Therefore, Officer Lange was not criminally negligent in this regard.

As to Officer Lange's actions while in pursuit, he engaged his emergency lights and sirens; drove "with due regard for the safety of all persons and property"; notified a dispatcher of his entry into the pursuit and providing them with updates; and served as backup to the primary pursuing officer once the suspect was stopped. Officer Lange also operated his vehicle in a controlled manner when maneuvering around uninvolved vehicles, adjusted his speed to account for traffic present, and approached intersections with appropriate care.

Given the totality of the circumstances, there is no evidence to indicate that Officer Lange acted in a manner that created a substantial and unjustifiable risk to human life while conducting the remainder of the pursuit. Since such a risk did not exist, Officer Lange could not have failed to perceive an unjustifiable risk to human life in a manner that constituted a gross deviation from the reasonable standard of care. Accordingly, the Office of the Attorney will not charge Officer Lange with criminally negligent manslaughter by motor vehicle in this case.

V. Conclusion

This report has presented factual findings, legal analysis, and conclusions relevant to the July 22, 2024, police-involved fatal vehicle pursuit in Talbot County that resulted in the death of Yemaya Wilson. 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 officers did not commit a crime.

²¹ *Id.*