



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Fatal Incident in
Baltimore County, Maryland, on May 4, 2022

August 30, 2022

**Report of the Independent Investigations Division of the Maryland Office
of the Attorney General Concerning the Officer-Involved Death of
Ralph Joseph Picarello III on May 4, 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 Baltimore County State's Attorney Scott D. Shellenberger regarding the officer-involved death of Ralph Joseph Picarello III.

The IID is charged with "investigat[ing] all alleged or potential police-involved deaths of civilians" and "[w]ithin 15 days after completing an investigation ... transmit[ting] a report containing detailed investigative findings to the State's Attorney of the county that has jurisdiction to prosecute the matter." Md. Code, State Gov't § 6-106.2(c), (d). The IID completed its investigation on August 23, 2022. This report is being provided to State's Attorney Shellenberger on August 30, 2022.

I. Introduction

Ralph Joseph Picarello III died after being shot by Baltimore County Police Department ("BCPD") Officers Derrick Manning and Eric Pellegrino on May 4, 2022. At 3:54 p.m., four BCPD officers responded to Mr. Picarello's home for a report of a physical domestic disturbance in which someone was throwing unspecified items at a family member. Upon arrival, the officers identified Mr. Picarello as the person who had been throwing things. The officers were also told by a family member that Mr. Picarello had held knives to his own throat and to the throat of a family member in the house that afternoon. Officers spoke to Mr. Picarello for approximately six minutes, then told him he would need to come with them to the hospital. Mr. Picarello refused and picked up a knife and carving fork from the kitchen floor. Officers instructed Mr. Picarello to drop the knife and fork, but he did not comply. Instead, he started moving quickly across the kitchen towards the officers. Officers Manning and Pellegrino fired their service weapons, hitting Mr. Picarello four times in the hand, arm, chest, and stomach. Officers provided medical aid until paramedics arrived on scene; the paramedics declared Mr. Picarello dead at 4:40 p.m.

This report details the IID's investigative findings based on review of physical evidence, forensic analysis of the shooting scene, ballistic analysis, the report of the Office of the Chief Medical Examiner, video and audio recordings, and written reports. The IID and the Maryland State Police also interviewed civilian witnesses and officers. All materials reviewed in this investigation are being provided to the Baltimore 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 shooting of this nature. The IID considered the legal elements of possible criminal charges, the relevant departmental policies, and Maryland case law to assess whether any charge could be supported by the facts of this incident. Because the Baltimore County State's Attorney's Office—not the Attorney General's Office—retains prosecution authority in this case, this report does not make recommendations as to whether any individuals should or should not be charged.

II. Factual Findings

The following findings are based on a forensic examination of the shooting scene as well as review of body-worn camera video, radio transmissions, analysis from the Office of the Chief Medical Examiner, ballistic analysis, and interviews with civilian and law enforcement witnesses.

A. The Shooting

All four officers present at the time of the shooting had active body-worn cameras. Unless otherwise noted, the following events are shown on officers' body-worn camera videos.

At 3:54 p.m., Mr. Picarello's niece called 911 to report that he was throwing things at her mother and demanding money for drugs. Four BCPD officers—Officers Manning, Pellegrino, Jordan Smith, and Conner McMachan—responded to the family's home on Boundbrook Way in Essex, Maryland. Officers Manning and Pellegrino arrived first and spoke to Mr. Picarello's niece and her mother, Mr. Picarello's sister. They then went up the split-level home's half-flight of stairs to the kitchen, where Mr. Picarello stood against the counter. Mr. Picarello's mother was also in the kitchen. Officers Manning and Pellegrino stood in the doorway to the kitchen across the room from Mr. Picarello. Officer McMachan stopped at the kitchen briefly, then went to a nearby bedroom and spoke with Mr. Picarello's sister. When Officer Smith arrived a couple minutes later, he stood at the base of the stairs that led to the kitchen.



Image 1: View from Officer Manning's body-worn camera while he spoke to Mr. Picarello soon after arriving at the home. The face of Mr. Picarello's mother has been blurred for privacy.

Officers Manning and Pellegrino spoke to Mr. Picarello for approximately six minutes. Throughout that time, he was consistently agitated. He made comments such as, “They [his family] called the ambulance on me last night for some stupid shit,” which “made me miss my program this morning.” He said he was “in complete withdrawal,” and was “trying to go get a bottle of methadone so I can be well.”¹ Mr. Picarello also told officers, “Don’t come near me,” and, “If anybody touches me, I will go into defense mode.”

While Officers Manning and Pellegrino spoke to Mr. Picarello, Officer McMachan spoke to Mr. Picarello’s sister, [REDACTED] in a nearby bedroom. She and Mr. Picarello both lived in the home, along with their parents and [REDACTED] her 17-year-old daughter and 11-year-old son. When officers first entered the house, [REDACTED] she told them that Mr. Picarello was “very dangerous,” “took a knife to my father,” and that the family “need[ed] protection.” Once in the side bedroom, she reported to Officer McMachan that Mr. Picarello threatened to kill himself with the “biggest knife he could find.” [REDACTED] She also said that Mr. Picarello had overdosed that morning, was just discharged from the hospital, and was “withdrawing badly.” She added that he was blaming the family for creating his withdrawal by giving him Narcan. After hearing these accounts, officers determined that a Petition for Emergency Evaluation (“emergency petition”) was appropriate.²

Officer Manning initially asked if Mr. Picarello would go to the hospital with officers voluntarily. When Mr. Picarello refused, Officer Manning told him he would have to go. The following exchange occurred as Mr. Picarello leaned against the kitchen counter and Officer Manning stood across the kitchen in the doorway:

Officer Manning: So, would you be willing to let us transport you?

Mr. Picarello: To where? I’m not going nowhere, [inaudible] with her [Mr. Picarello’s mother]. I’m not going with you guys.

Officer Manning: Why not?

Mr. Picarello: Where are we going?

Officer Manning: Franklin Square [Medical Center].

Mr. Picarello: No, we’re not.

Officer Manning: Well, unfortunately, we’re going to have to go there.

¹ While the full details of that morning’s incident were not known to officers at the scene, police, paramedic, and hospital records indicate that officers were dispatched to Mr. Picarello’s home that morning at 6:15 a.m. for reports of a possible overdose. [REDACTED - Confidential medical information.]

² An emergency petition is a process by which an individual who “[p]resents a danger to the life or safety of the individual or of others” is taken into custody in order to receive psychological evaluation and treatment at a hospital. *See* Md. Code Health-Gen. § 10-622.

Mr. Picarello: No, we're not. No, we're not. I'm telling you right now.

Mr. Picarello then picked up two knives and a carving fork from the kitchen floor.³ Officers Manning and Pellegrino drew their service weapons; Officer Smith drew his taser. The officers yelled nine times for Mr. Picarello to “put the knife down” or “drop the knife.” They also told his mother to get out of the kitchen. She stood up from a chair at the kitchen table, on the side of the room, but did not immediately leave. Mr. Picarello threw one knife aside, keeping a large carving knife—with approximately an eight-inch blade—in his left hand and a large carving fork in his right.



Image 2: View from Officer Manning’s body-worn camera immediately after Mr. Picarello picked up two knives and a carving fork from the kitchen floor. He soon threw aside the knife that is in his right hand in this image. He continued to hold the knife and carving fork that are in his left hand. Mr. Picarello’s mother is offscreen to the left.

Mr. Picarello initially moved behind the dining room table, diagonally across the kitchen from officers. After seven seconds, however, he came around the table and moved quickly towards officers, still holding the knife and carving fork.

³ Family members said that before officers arrived, Mr. Picarello had thrown kitchen drawers onto the floor. As a result, there were numerous knives on the floor while officers spoke to Mr. Picarello.



Image 3: View from Officer Manning's body-worn camera as Mr. Picarello began moving towards officers. The face of Mr. Picarello's mother has been blurred for privacy.

As Mr. Picarello got approximately halfway across the kitchen, Officers Manning and Pellegrino fired their service weapons, and Officer Smith deployed his taser. Officer Manning fired three shots. Officer Pellegrino fired one. All four shots and the taser struck Mr. Picarello, who fell to the kitchen floor. Two shots struck Mr. Picarello in the chest, a third struck him in his right hand, and the fourth struck him in the right forearm. The shots to his hand and arm both passed through his body and exited, and one of those bullets proceeded to strike Mr. Picarello in the stomach.

Officer McMachan radioed, "shots fired," and, "start us a medic," immediately after the shooting. Officers Manning, Pellegrino, and Smith got Mr. Picarello's mother out of the kitchen, his sister out of the nearby bedroom, and put on gloves. The four officers approached Mr. Picarello approximately one minute after the shooting. They handcuffed him, identified his wounds, and began applying chest seals to minimize bleeding as other officers arrived. Several officers then took turns performing CPR until paramedics arrived approximately eight minutes after the shooting. After continuing CPR, paramedics pronounced Mr. Picarello dead at the scene at 4:40 p.m.

B. Additional Investigation

This section provides information gathered during the investigation that is not discussed above.

i. Medical Examination

Mr. Picarello's autopsy was conducted by Assistant Medical Examiner Melissa Brassell, M.D., on May 5, 2022. Dr. Brassell identified Mr. Picarello's cause of death as: "Multiple Gunshot Wounds." She deemed the manner of death to be: "Homicide."⁴

Dr. Brassell observed that Mr. Picarello had gunshot wounds to the chest, abdomen, right forearm, and right hand. None of the wounds showed evidence of soot or gunpowder stippling, and thus no indication that the shots occurred from close range. One wound was to the middle of Mr. Picarello's upper chest; the round struck his ribs, sternum, lung, and aorta, causing bleeding within his chest. A second wound was to Mr. Picarello's left chest; the round struck his rib, lung, heart, spleen, and stomach, causing bleeding within his chest and abdomen. A third wound was to Mr. Picarello's right abdomen; the round struck his colon and bowel, causing bleeding within the abdomen. A fourth wound was to Mr. Picarello's right forearm, where a bullet entered and exited the arm, damaging tissue. A fifth wound was to Mr. Picarello's right hand, where a bullet entered and exited the hand, damaging bone and tissue. Dr. Brassell concluded "it is likely that a gunshot entry wound of the abdomen represents a continued wound path of a through and through gunshot wound of the right forearm or hand." This is consistent with video and ballistic evidence that shows officers fired four shots.

All of the shots to Mr. Picarello's chest and abdomen travelled from his front towards his back. The shot to his arm traveled back to front from the perspective of an arm laying by his side; video indicates, however, that Mr. Picarello's arm was raised at the time he was shot, so the back of his forearm was facing officers. The wound to Mr. Picarello's hand did not provide evidence of the directionality of the shot.

Dr. Brassell also observed a puncture wound associated with a taser prong to Mr. Picarello's right leg.

ii. Ballistic Analysis

The MSP Forensic Sciences Division conducted a forensic examination of Officer Manning and Officer Pellegrino's service weapons, three bullets recovered from Mr. Picarello's body during the autopsy, one bullet recovered from the scene, and four casings recovered from the scene. They determined that three bullets and three casings had come from Officer Manning's service weapon, and one bullet and one casing had come from Officer Pellegrino's service weapon. The rounds that struck Mr. Picarello's chest were fired by Officer Manning. The round that struck Mr. Picarello's abdomen was fired by Officer Pellegrino. It is not possible to determine which of the through-and-through injuries—to Mr. Picarello's hand and forearm—were caused by which officer.

⁴ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. "Homicide" is one of six categories used by the Office of the Chief Medical Examiner of Maryland and refers to a death resulting from a volitional act committed by another person to cause fear, harm, or death. The term is not used to connote criminal liability.

iii. Civilian Witness Statements

IID and MSP investigators spoke to several members of Mr. Picarello's family who were home at the time of the shooting. Investigators also spoke to several neighbors, but none of the neighbors had seen the shooting or the events immediately preceding it.

Mr. Picarello's mother, [REDACTED] was interviewed by IID Investigator David Davis and MSP Sergeant Roger Schwarb approximately three hours after the incident. [REDACTED] was the only family member who saw the shooting. She also described the events earlier that day that led to police being called. [REDACTED] said that around 6:00 a.m. that morning, Mr. Picarello had been "a little on the high side," did not make sense when he spoke, and began having chest pains. Her phone confirmed that she called 911 at 6:14 a.m. She said that an ambulance came and took Mr. Picarello to the hospital. She said that later that afternoon, approximately 30 minutes before the shooting, Mr. Picarello came home, having walked from the hospital, which is approximately three miles away. [REDACTED] said that he became "even more hyper because he was really sick." She said that Mr. Picarello pulled kitchen drawers out and threw either a drawer or the garbage can at the ceiling light, shattering glass onto the floor. [REDACTED] also described Mr. Picarello asking for \$20 and a ride to get methadone, but she said she did not have \$20 to give him. [REDACTED] then described the shooting itself, saying that the officer mentioned an emergency petition, but "Ralph said he ain't going nowhere with nobody." She said she saw Mr. Picarello pick up a carving knife and carving fork, and that officers then shot him.

Mr. Picarello's 17-year-old niece, [REDACTED] was interviewed by IID Investigator Eric Geddis, MSP Corporal Nate Wilson, and BCPD Corporal Kim Montgomery approximately three hours after the shooting. [REDACTED] was accompanied by her aunt during the interview. [REDACTED] was the person who called 911 prior to the shooting. [REDACTED] provided a similar account as her grandmother. She said that Mr. Picarello had returned from the hospital "very aggressive." She said he threw a cup of milk into her and her mother's faces and that he was getting increasingly angry, so she left the room and went to the basement. She then heard her mother say, "Don't you dare, get away from him," and believed Mr. Picarello was doing something to her grandfather, Mr. Picarello's father, who was in the living room. [REDACTED] said she then called 911. When officers arrived, [REDACTED] said she saw Mr. Picarello refusing to listen to officers' orders as he stood in the kitchen with knives on the floor. [REDACTED] said she got her younger brother and went to a friend's house directly across the street. From the doorway to that house, she said that she saw officers and Mr. Picarello talking; she then heard gunshots. She said that Mr. Picarello often became aggressive when using drugs, but that he had never been "that bad."

Mr. Picarello's sister, [REDACTED] was interviewed by Investigator Davis and Sgt. Schwarb approximately four hours after the incident. She was home when Mr. Picarello came back from the hospital; she was also in a nearby bedroom at the time of the shooting. She said that between 6:00 a.m. and 6:30 a.m., Mr. Picarello overdosed, saying, "What did you give me? What did you put in that?" She said he seemed to be asking the questions to his girlfriend, who was not in the house. [REDACTED] reported that her brother was a heroin and crack cocaine user. She said he was taken to the hospital and returned that afternoon very red and sweaty. [REDACTED]

██████████ said he was slamming doors and threw a cup of milk across the room. She also said he was demanding \$20 for methadone, then picked up a trash can and threw it at the kitchen light, breaking the light. ██████████ reported that at one point, she had to separate Mr. Picarello from their mother, and that at another, he held a knife to himself and yelled, “you want me to kill myself,” and, “I’ll kill myself right here, right now,” to their father. She further reported that, when officers arrived, she told them there should be an emergency petition. ██████████ said she did not know who had called 911 and had not seen the shooting itself but had heard three shots fired.

Mr. Picarello’s father, ██████████ was interviewed by Investigator Geddis, MSP Sergeant Steven Muehl, and Cpl. Montgomery approximately two-and-a-half hours after the incident. ██████████ was in the living room next to the kitchen at the time of the shooting. ██████████ reported that earlier that morning his son, Mr. Picarello III, was high on crack cocaine and was hallucinating, so paramedics brought him to Franklin Square Medical Center. Like other family members, ██████████ said that Mr. Picarello III came home that afternoon “all bothered,” and was upset because he had missed a meeting where he could have received methadone, and because his mother would not give him money or a ride to get methadone. ██████████ reported that his son held two knives to ██████████ his ██████████ neck at one point, and that he threw a kitchen drawer across the kitchen floor. He also said that Mr. Picarello III had held a knife to ██████████ his sister’s ██████████ throat two days earlier. The family called police during this earlier incident, but Mr. Picarello III calmed down and was not arrested. ██████████ could not see his son’s interaction with officers at the time of the shooting, but he said Mr. Picarello III said nobody was going to touch him, and officers tried to calm him down. He said Mr. Picarello III “must have charged at the officers,” because he heard footsteps in the kitchen and then heard the gunshots.

iv. Paramedic and EMT Statements

Paramedic Ryan Everson wrote a report documenting paramedics’ response to the shooting. His report states that Mr. Picarello was unresponsive when paramedics arrived at 4:18 p.m. Police officers were already performing CPR while Mr. Picarello laid on the kitchen floor. Mr. Everson noted that Mr. Picarello’s injuries included three visible gunshot wounds and a taser prong. His report indicates that paramedics provided aid for more than twenty minutes, including performing CPR and attempting to relieve pressure in Mr. Picarello’s chest, before pronouncing Mr. Picarello dead on scene at 4:40 p.m.

v. Law Enforcement Officers’ Statements

Officers Manning and Pellegrino, the shooting officers, conducted voluntary interviews with IID investigators on June 16, 2022. Officers McMachan and Smith, who were present for the shooting but did not fire their service weapons, also provided interviews on May 24 and June 16, respectively. Each officer stated that he reviewed his own body-worn camera video but not that of any other officers. The officers also reported that they had discussed the incident with each other shortly after it happened, but that they had not communicated in preparation for their interviews. All four officers’ statements were consistent with what can be seen on body-worn camera videos.

Officer Pellegrino was the first officer on scene after Mr. Picarello's niece called 911. He said he heard screaming from inside the house and radioed for backup to come more quickly. Officer Pellegrino said Mr. Picarello was upstairs, and that the "kitchen was trashed" with "knives all over the floor." He said that he and Officer Manning were trying to talk to Mr. Picarello from about ten feet away, across the kitchen, trying to understand what had happened. This estimate is consistent with measurements later taken by investigators; the distance between the kitchen doorway, where Officers Pellegrino and Manning stood, and the opposite countertop, where Mr. Picarello stood, is ten feet. Officer Pellegrino said that while officers spoke to Mr. Picarello, Mr. Picarello was asking for \$20 and a ride from his mother. Officer Pellegrino said that Officer McMachan was talking to a family member in another room, who reported that Mr. Picarello put a knife to his own throat to "coerce his parents to give him the money that he needed." Officer Pellegrino said that when they told Mr. Picarello they would need to take him to Franklin Square, Mr. Picarello said he was not going anywhere and that he would go into "defense mode." Officer Pellegrino said he tried to create some distance when Mr. Picarello picked up the knives, but there were officers directly in front of and behind him, and Mr. Picarello's parents were in the living room and kitchen, so they were at risk too. Officer Pellegrino said that officers told Mr. Picarello to "drop the knife, drop the knife," but that Mr. Picarello "came at us." Officer Pellegrino reported that officers had not drawn their firearms before Mr. Picarello picked up the knives because "he didn't have weapons in his hand" up to that point. Officer Pellegrino said he felt "threatened" when Mr. Picarello picked up the knives, so he drew his firearm. He said he fired because "my life was in danger. And Officer Manning's. He was even closer."

Officer Manning arrived on the scene shortly after Officer Pellegrino. His factual account of the incident is very similar to Officer Pellegrino's. Officer Manning said that when he arrived, Mr. Picarello's sister and niece were "frantic," talking to Officer Pellegrino at the doorstep. He said that he and Officer Pellegrino went up several stairs in the split-level home and saw Mr. Picarello arguing with his mother. Mr. Picarello told the officers, "Don't come in here," referring to the kitchen. Officers Manning and Pellegrino stayed outside the kitchen; Officer Manning estimated that they were approximately ten feet from Mr. Picarello. Officer Manning reported that once officers decided they would need to take Mr. Picarello to the hospital, he tried first to get Mr. Picarello to come voluntarily. Officer Manning said that when he mentioned Franklin Square Medical Center specifically, Mr. Picarello picked up two knives and a carving fork. He said officers tried to get Mr. Picarello's mother out of the kitchen, and that he was in "fear of our safety because of how close it was." He said that he was not able to create distance between himself and Mr. Picarello because there was a staircase railing directly behind him, a wall to his side, no time to retreat down the stairs, and threats to Mr. Picarello's parents in the kitchen and living room. He said that officers drew their firearms when Mr. Picarello picked up the knives, and that Mr. Picarello then "lunged at us, pretty much full sprint." The video confirms that Mr. Picarello did move quickly across the kitchen towards them while holding the knife and carving fork. Officer Manning said he fired at that point because he feared for his safety, Mr. Picarello's mother's safety, and the other officers' safety.

Officer McMachan reported that he arrived on scene when Officers Manning and Pellegrino were already there. He described their approach as "just trying to engage in

conversation” with Mr. Picarello, so they could figure out what was happening. Officer McMachan said that he spoke to ██████████ in a back bedroom while other officers spoke to Mr. Picarello at the kitchen. ██████████ told Officer McMachan that, before officers arrived, Mr. Picarello had held a knife to his throat and yelled, “Do you want me to kill myself?” to their father. Officer McMachan conveyed this to Officer Pellegrino and then Officer Manning, and they decided to seek an emergency petition. Officer McMachan said that when Officer Manning informed Mr. Picarello that they would need to go to the hospital, Mr. Picarello picked up the knives and moved towards a back door from the kitchen. Officer McMachan then ran out the front door to try to intercept Mr. Picarello if he fled. As he ran outside, Officer McMachan heard gunshots, so he turned around and called for paramedics by radio. He said he then went inside and helped provide medical aid to Mr. Picarello.

Officer Smith reported that he was the last of the four officers to arrive. He said that when he arrived, Mr. Picarello was leaning against the kitchen counter while Officer Pellegrino stood in the kitchen doorway and Officers Manning and McMachan talked to ██████████. Officer Smith said the situation escalated when Officer Manning told Mr. Picarello they would need to take him to the hospital; he “didn’t like that” and said something like, “I’m not going to the fucking hospital.” He then grabbed a knife and a “grilling accessory that still has sharp prongs on the end,” which caused Officers Manning and Pellegrino to draw their service weapons and Officer Smith to draw his taser. Officer Smith reported that he did not try to increase distance from Mr. Picarello because Mr. Picarello’s mother was in the kitchen with him and his father was in the living room. He said that no officer had drawn a weapon before Mr. Picarello picked up the knives because there had been no immediate threat at that point. Officer Smith said the three officers discharged their respective weapons when Mr. Picarello ran towards them. He said he did not use his firearm, “Because they [Officers Manning and Pellegrino] were both in front of me, and I didn’t want to shoot them in the back. Because it’s so tight space and I didn’t want them to collapse in if they were to try to retreat back from the top of the steps.”

III. Involved Parties’ Backgrounds

As part of its standard investigative practice, the IID obtained information regarding all involved parties’ criminal histories, and the departmental internal affairs records and relevant training of each involved officer. To the extent it exists, any criminal history 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.

Ralph Joseph Picarello III: Mr. Picarello was a 39-year-old white man who lived in Essex, Maryland.

BCPD Officer Derrick Manning: Officer Manning is a white man who was 21 years old at the time of the shooting. He was hired as a cadet by BCPD on October 1, 2018.⁵ He began at the police academy on January 4, 2021, and graduated on September 2, 2021. Officer Manning was

⁵ BCPD cadets are employed by the department but may not perform the functions of sworn police officers. Individuals often serve as cadets until they are old enough to attend the police academy; the minimum age for a sworn police officer is 21.

the subject of one prior Internal Affairs complaint, which was found to be unsubstantiated. The IID reviewed this complaint and concluded that it had no bearing on this investigation. Officer Manning has not been involved in any shootings prior to this incident.

BCPD Officer Eric Pellegrino: Officer Pellegrino is a white man who was 25 years old at the time of the shooting. He was hired by BCPD on June 21, 2021. He completed his police academy training on February 24, 2022. Officer Pellegrino has had no Internal Affairs complaints or investigations. He has not been involved in any shootings prior to this incident.

IV. Applicable Policies

BCPD has the following policy concerning officers' use of force.

Field Manual, General Order 2021-01, Article 12: Use of Force/Weapon Systems

This policy states: “deadly force will only be used when reasonable and necessary to protect the safety and lives of others, and/or the members themselves.” It instructs that the “determining factor[s]” in evaluating whether deadly force is appropriate are “the level of force being used” and “the immediate potential for death or serious bodily injury to the officer or innocent bystanders/victims.”

V. Applicable Law & Analysis

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

A. Intentional Second-Degree Murder^{6,7}

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

To prove intentional second-degree murder, the State must establish: “(1) that the defendant caused the death of [Mr. Picarello]; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no

⁶ This report will not separately analyze the charge of first-degree assault because that offense merges with intentional second-degree murder; the elements vary only in that the latter requires proof of the death of the victim. *Sifrit v. State*, 383 Md. 116, 137 (2004).

⁷ Because there is no dispute that officers intended to fire their weapons at Mr. Picarello, this report will not analyze unintentional (“depraved heart”) second-degree murder.

mitigating circumstances.” *Id.* “If a man voluntarily and wil[l]fully does an act, the natural consequences of which is to cause another’s death, an intent to kill may be inferred from the doing of the act.” *Lindsay v. State*, 8 Md. App. 100, 105 (1969).

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

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

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

Violations of departmental policy are one “factor to be considered in determining the reasonableness of police conduct.” *Pagotto*, 361 Md. at 557 (citations omitted). BCPD policy states that lethal force may be used “when reasonable and necessary” to protect officers or civilians from serious bodily injury.

In this case, the available evidence does not indicate that either Officer Manning or Officer Pellegrino acted unreasonably when they shot Mr. Picarello. It is highly unlikely the State could prove that either officer did not act in self-defense or pursuant to law-enforcement justification. When officers fired, Mr. Picarello was moving quickly towards them, armed with

an approximately eight-inch knife and metal carving fork. Mr. Picarello's mother was in the kitchen with him. Officers had been told by Mr. Picarello's family members that he was dangerous and had threatened both himself and family members with knives earlier that day and in the preceding days. Mr. Picarello had also made comments such as "Don't come near me," "I'm not going nowhere," and "If anybody touches me, I will go into defense mode," indicating that he would not peacefully cooperate with officers. Before resorting to force, officers attempted for approximately six minutes to resolve the situation, talking calmly to Mr. Picarello and asking him to go voluntarily to the hospital. They stayed across the kitchen from Mr. Picarello, giving him space, and did not draw their weapons until he picked up the knives and fork. These facts suggest that the officers only used deadly force when Mr. Picarello created a situation in which the officers had reason to believe they and others faced an immediate threat of serious physical injury.

While less-than-lethal force, such as a Taser, may be used in some situations to stop someone who presents a deadly threat, it is highly unlikely the State could prove Officers Manning and Pellegrino acted unreasonably by not relying on such an option here. First, even if a Taser could have effectively mitigated the threat posed by Mr. Picarello, firearms may have also been a reasonable option given the threat presented. The legal standard applicable at the time of this incident did not require officers to employ the least amount of force necessary; it required only that officers' actions be consistent with those of a reasonable officer. A reasonable officer may use deadly force when threatened with serious bodily harm. *Estate of Blair by Blair*, 469 Md. at 24. Second, Tasers are not always effective and are not the recommended response when officers are faced with an immediate deadly threat. A BCPD training presentation, quoting a similar presentation by the Taser manufacturer, warned officers that a "CEW [conducted energy weapon] may have limited or no effect" and "may not fire or be effective." Specifically concerning individuals armed with knives, the training continued: "CEW operators should have deadly force backup standing next to them prior to confronting an individual who has or is known to have an edged weapon." Then, in red, bold letters, the training stated: "Under no circumstances will a CEW operator attempt to confront and or use a CEW on a subject with a firearm. If the probes missed the intended target the subject could cause great bodily harm or death to an officer(s)." These cautions are applicable to the incident involving Mr. Picarello. At the time Officers Manning and Pellegrino fired, Mr. Picarello was moving quickly towards them, holding a knife and carving fork. Officers were not able to increase their distance from Mr. Picarello because of the staircase and narrow hallway immediately outside the kitchen, and because Mr. Picarello posed a threat to his mother in the kitchen. Had a Taser not been effective in these circumstances, Mr. Picarello could have seriously injured the officers or his parents. It is highly unlikely, therefore, that the State could prove Officers Manning and Pellegrino were unreasonable in relying on their firearms rather than Tasers.

B. Voluntary Manslaughter

As discussed above, the State may pursue voluntary manslaughter charges where the defendant acted in partial, but not complete, self-defense. MPJI-Cr 4:17.2. To prove voluntary manslaughter, the State must establish that the defendant had a specific intent to kill. *Selby v. State*, 361 Md. 319, 335 (2000). Such intent may be inferred by circumstances such as "the use of a deadly weapon directed at a vital part of the human anatomy." *Chisum v. State*, 227 Md.

App. 118, 136 (2016) (distinguishing *Selby* based on the *Selby* court’s “express finding ... that the defendant did not have an intent to kill his victim”).

In this case, the State would need to prove that officers’ belief that they were in imminent danger was unreasonable or that they used an unreasonable level of force. For the reasons discussed above, the available evidence does not support either argument.

C. Other Charges⁸

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

The crime of first-degree murder requires the State to prove that the killing was “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2. Said another way, the State must prove “the actual intent, the fully formed purpose to kill, with so much time for deliberation and premeditation as to convince [the jury] that this purpose is not the immediate offspring of rashness and impetuous temper and that the mind has become fully conscious of its own design.” *Ferrell v. State*, 304 Md. 679, 687 n. 2 (1985) (citations omitted). Here, there is no evidence that any officer came to a considered decision to kill Mr. Picarello; the evidence suggests they attempted to resolve the situation peacefully but ultimately had to react to Mr. Picarello moving quickly towards them with a knife and carving fork.

The crime of involuntary manslaughter requires the State to prove: “(1) that the defendant acted in a grossly negligent manner; and (2) that this grossly negligent conduct caused the death of [Mr. Picarello].” MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d ed. 2021). A defendant acts with gross negligence when they demonstrate “a disregard of the consequences which might ensue and indifference to the rights of others.” *State v. Thomas*, 464 Md. 133, 153 (2019) (citations omitted). There is no evidence here that any officer acted with gross negligence. The available evidence indicates that officers tried to resolve the situation calmly, maintained a reasonable distance from Mr. Picarello, and only resorted to deadly force when Mr. Picarello moved quickly towards them with the knife and fork.

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

⁸ Reckless endangerment is not discussed as a separate charge because, with respect to officers’ endangerment of Mr. Picarello by shooting at him, this offense would merge with the more serious charges discussed in this report, *Williams v. State*, 100 Md. App. 468, 490-91 (1994), and there is no evidence indicating that any officer endangered any person other than Mr. Picarello.

The crime of misconduct in office requires that the State prove: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)). It is unlikely the State could pursue a charge for misconduct in office unless it could establish that an officer acted unreasonably or used an unreasonable amount of force. *See Riley v. State*, 227 Md. App. 249, 264 (2016) (finding that corrupt intent may be inferred from the doing of a wrongful act). For the reasons stated above, such unreasonableness would be difficult to prove here.

VI. Conclusion

This report has presented factual findings and legal analysis relevant to the fatal shooting that occurred on May 4, 2022, in Baltimore County, Maryland. Please feel free to contact the IID if you would like us to supplement this report through any further investigation or analysis.

Appendix

Appendix A – Materials Reviewed

911 Call (1 audio recording)
BCPD Reports & Records (7 documents)
Body-Worn Camera Video (49 videos; 5 documents)
Computer-Aided Dispatch Reports (6 documents)
Civilian Witness Statements (4 videos; 3 audio recordings)
Decedent Medical Records (1 document)
EMS Reports (2 documents)
Firearms Analysis (1 document)
IID Investigative Reports (8 documents)
Involved Parties' Criminal Histories (4 documents)
Medical Examiner's Report (1 document)
Motor Vehicle Administration Records (2 documents)
MSP Evidence Records (1 document)
MSP Reports (13 documents)
Officer Involved Statements (2 audio recordings)
Officer Training & Internal Affairs Records (8 documents)
Officer Witness Statements (2 audio recordings)
Photographs (215 photographs)
Radio Transmissions (1 audio recording)