

## **REPORT**

In the matter of the February 26, 2022 police-involved fatal incident in Rockville, Maryland

Pursuant to Md. Code, State Gov't § 6-106.2(c), (d), the Office of the Attorney General Independent Investigations Division conducted an investigation relating to the February 26, 2022 police-involved fatal incident. The attached report was written by the Office of the Attorney General Independent Investigations Division and any redactions were made by the Office of the Attorney General in preparation for public release. Pursuant to an agreement between the Montgomery County State's Attorney's Office and the Howard County State's Attorney's Office, based upon a thorough review of the report it is the opinion of the Howard County State's Attorney's Office that the actions of the officer involved in the February 26, 2022 incident were reasonable under the circumstances. Accordingly, the Office of the State's Attorney for Howard County declines to file charges against the involved officer.



# 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.<sup>1</sup>

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.

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<sup>1</sup> 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.

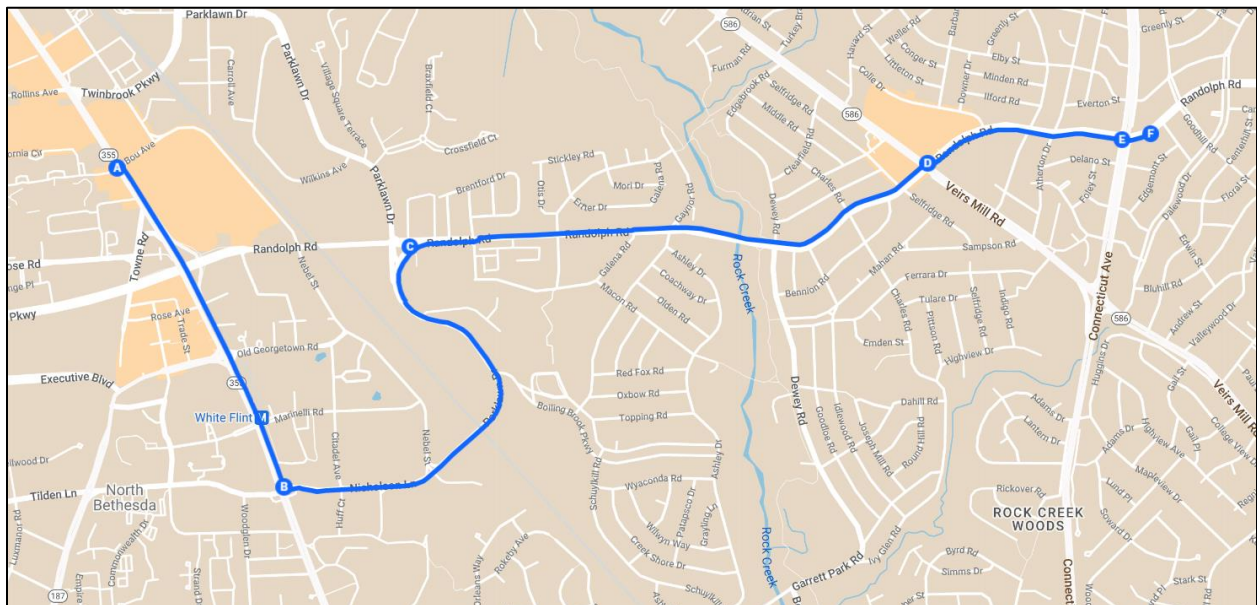


Image 2. Map of the area, including approximate locations of: (A) Route 355 and Bou Avenue, where Ms. Paz Chavez made a U-turn onto southbound Route 355 and Officer Copeland first observed the Honda; (B) Route 355 and Nicholson Lane, the location of the traffic stop; (C) Parklawn Road and Randolph Road; (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.<sup>2</sup>

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%.<sup>3</sup> 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

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<sup>2</sup> 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.

<sup>3</sup> 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 Riverside, 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 Vessel<sup>4</sup>

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);

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<sup>4</sup> 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)<sup>5</sup>; *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

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<sup>5</sup> 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 Considered<sup>6</sup>

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.*

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<sup>6</sup> 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**