



# INDEPENDENT INVESTIGATIONS DIVISION

Interim Report Concerning the Police-Involved Death in  
Baltimore City on March 26, 2023

June 23, 2023

## **Interim Report of the Independent Investigations Division of the Maryland Office of the Attorney General Concerning the Officer-Involved Death of Linda Moss on March 26, 2023**

Pursuant to Md. Code, State Gov't § 6-602, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this interim report to Baltimore City State's Attorney Ivan Bates regarding the officer-involved death of Linda Moss on March 26, 2023, in Baltimore, Maryland.

The IID is charged with "investigat[ing] all police-involved incidents that result in the death of a civilian or injuries that are likely to result in the death of a civilian" 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 § 6-602(c)(1), (e)(1). Due to the delay in receiving an autopsy report from the Office of the Chief Medical Examiner (the "OCME") and resulting delay in receiving a final crash report from the Baltimore Police Department ("BPD"), in contrast to the finality of all other aspects of this investigation, the IID and the State's Attorney agreed that an interim report would be useful. This interim report is being provided to State's Attorney Bates on June 23, 2023. The IID will supplement this interim report when it receives the autopsy report from the OCME and final crash report from BPD.

### **I. Introduction**

Linda Moss died in the early morning of March 26, 2023, after the car in which she was a passenger crashed during a police pursuit in Baltimore City. Ms. Moss's husband, Daniel Moss, was the driver and only other occupant of the car. BPD Officer Bradley Roberson was driving the pursuing police cruiser; BPD Officer Menachem Rosenbloom was in the passenger seat of the cruiser. The pursuit began at the intersection of West North Avenue and Linden Avenue in Baltimore at approximately 11:50 p.m. on March 25. A nearby license plate reader had identified the Mosses' Chevrolet Cruze as the car connected to an attempted armed robbery in Westminster, Maryland, the night before.<sup>1</sup> When officers attempted to pull the Cruze over, it fled through Baltimore for approximately eight-and-a-half minutes and eight miles, with Officers Roberson and Rosenbloom following behind. After approximately eight minutes, a BPD supervisor told the pursuing officers to "back off, ease off" and comply with BPD pursuit policies; Officer Roberson turned off the cruiser's siren but continued following the Cruze. Less than a minute later, the Cruze crashed into a parked car and a tree in the 5000 block of Roland Avenue, in the Roland Park neighborhood of Baltimore City. Ms. Moss was pronounced dead on scene at 12:15 a.m. Mr. Moss was taken to the hospital with non-life-threatening injuries.

The IID and BPD have entered a Memorandum of Understanding ("MOU") stating that the parties will each investigate all officer-involved deaths. The MOU recognizes that BPD entered a federal consent decree on January 12, 2017, which imposes certain obligations to investigate officer-involved fatalities. In order for BPD to meet its obligations under the consent decree and the IID to meet its obligations under state law, the MOU states that the agencies'

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<sup>1</sup> A license plate reader is a camera system that automatically reads passing license plates. This license plate reader is connected to law enforcement databases and alerts BPD when a car with a wanted license plate is identified.

investigators will cooperate and communicate during the investigation. If at any point the IID determines that BPD cannot maintain the level of impartiality required to conduct a thorough investigation, the IID may take over sole investigative responsibility for the case. In the present case, the IID and BPD have collaborated throughout the investigation.

This interim report details the IID's investigative findings and includes an analysis of Maryland criminal offenses that could be relevant in an incident of this nature. The IID considered the elements of each possible criminal charge, the relevant departmental policies, and Maryland caselaw to assess whether any charge could be supported by the facts of this incident. Because the Baltimore City State's Attorney's Office—not the Attorney General's Office—retains prosecution authority in this case, this interim report does not make recommendations as to whether any individuals should or should not be charged.<sup>2</sup>

## **II. Factual Findings**

The following findings are based on an examination of the crash scene as well as a review of body-worn camera footage, police radio transmissions, police reports, and interviews with civilian and law enforcement witnesses. BPD cars are not equipped with dashboard cameras. All materials reviewed in this investigation are being provided to the Baltimore City State's Attorney's Office with this interim report and are listed in Appendix A.

The events described below occurred at nighttime during foggy weather. Based on body-worn camera, surveillance camera, and BPD CitiWatch camera videos, the roads were wet but it was not raining. Pedestrian and vehicle traffic was light on the roads traveled during the pursuit.

### **A. Attempted Robbery in Westminster**

At the time of the pursuit and crash on March 25, Officers Roberson and Rosenbloom knew only that the Chevy Cruze was wanted in connection with an attempted armed robbery. They did not know the details of that incident. Nonetheless, those details are presented here in the interests of transparency and completeness.

At approximately 11:30 p.m. on March 24, 2023, a civilian at the Westminster Crossing West Shopping Center in Westminster, Maryland, called 911 to report that two people had attempted to rob him at gunpoint. According to police reports, when officers arrived, the man told them he had just left a PNC Bank ATM and gotten into his car when a woman pulled his car door open, pointed a black handgun at him, and demanded money several times. The man said he responded that he did not have any money, and the woman ultimately left without taking anything. The man said the woman was a short and thin white woman with dark hair, and that she appeared to be in her 30s.<sup>3</sup> He said the woman fled in a smaller white car with a white male

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<sup>2</sup> On May 16, 2023, Governor Moore signed legislation that expands the IID's purview to include the sole authority, where appropriate, to prosecute police-involved incidents that result in the death of an individual or injuries that are likely to result in the death of an individual. This new authority is effective for incidents occurring on or after October 1, 2023. For incidents occurring before that date, the local State's Attorney retains sole prosecution authority.

<sup>3</sup> Later review of ATM surveillance video and cell phone location records confirmed that the woman was not Ms. Moss, as discussed further in the Response to the Crash section below.

driver, who also appeared to be in his 30s with dark hair and no facial hair; he said the car had a handicap-designated license plate that included the digits “8232.”

Westminster Police officers determined that the partial license plate could have belonged to a white Chevrolet Cruze, which was registered with the handicap plate 82323HT. This car had been involved in an unrelated police pursuit in October 2022 and was owned by Daniel and Linda Moss. After the March 24 attempted armed robbery, neither the car nor any person alleged to have been involved were found during a Westminster Police Department canvass of the area.

Officers from the Westminster Police Department contacted the Maryland Coordination and Analysis Center<sup>4</sup> and BPD to ask that the Cruze’s license plate be entered into their automatic license plate reader systems. The entry noted that the Cruze was wanted in connection with an attempted armed robbery, but it did not note that the incident had involved a handgun. The alert instructed officers to stop the car and detain its occupants if the car was found.

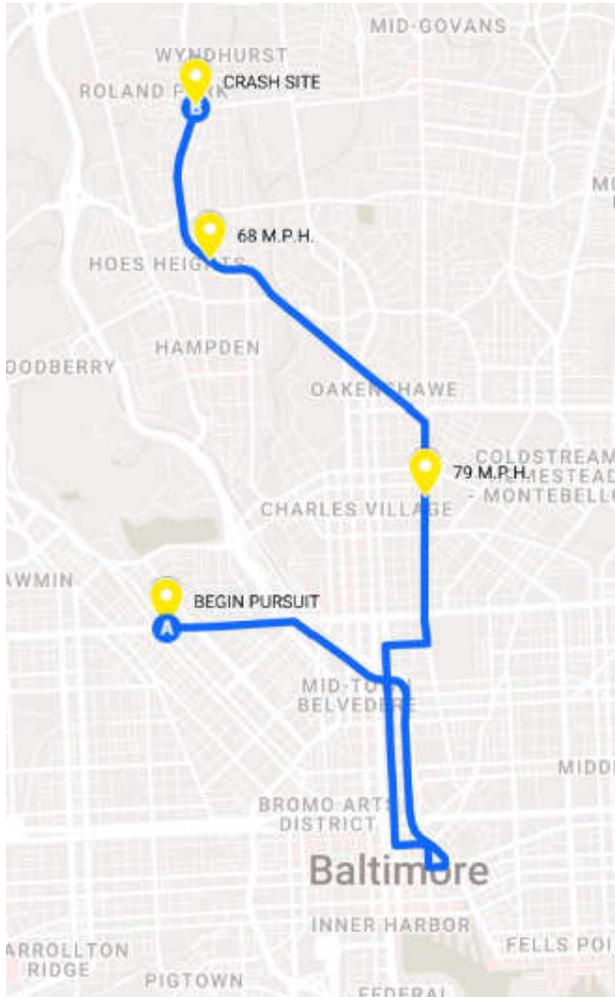
#### B. The Pursuit and Crash

At approximately 11:50 p.m. on March 25, the night following the attempted robbery, a license plate reader at the intersection of West North Avenue and McCulloh Street in Baltimore City identified the Chevrolet Cruze. Radio transmissions reflect that BPD Lieutenant Charles Smith informed patrol officers that the car was in the area and that it was connected to the attempted armed robbery. BPD Officer Megan Deaton spotted the Cruze first, near Bloom Street and Morris Street, about a block from the license plate reader. When later interviewed by investigators, she said she followed the Cruze but did not attempt a traffic stop because she did not yet have any other officers as backup.

Within two minutes of Officer Deaton spotting the Cruze, Officers Roberson and Rosenbloom saw it stopped at a red light at the intersection of West North Avenue and Linden Avenue, approximately two blocks from where Officer Deaton began following it. Officers Roberson and Rosenbloom were in a marked patrol car with Officer Roberson driving and Officer Rosenbloom in the front passenger seat. Officer Deaton was behind the Cruze at the light and can be heard on radio transmissions suggesting that Officers Roberson and Rosenbloom try to get in front of it, to block it in. CitiWatch camera video shows that when they did so, the Cruze drove around them and fled. Officers Roberson and Rosenbloom pursued the Cruze in their marked patrol car, as did Officer Deaton behind them in hers. The officers’ body-worn camera videos show that both cruisers’ emergency lights and sirens were activated at 11:51 p.m.

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<sup>4</sup> The Maryland Coordination and Analysis Center is an entity that shares law enforcement information among federal, state, and local law enforcement, public health, and emergency response agencies.



**Image 1:** Map showing the full path of the pursuit, with the approximate locations of: (A) where the pursuit began, and (B) where the crash occurred. The other marked locations are where Officer Roberson’s cruiser recorded the officers’ speed as 79 mph (2700 MD-45) and 68 mph (845 W. University Pkwy.).

When Officer Rosenbloom reported by radio that, “He’s taking off,” Lt. Smith instructed the officers to “call it out,” meaning that the officers should report their locations throughout the pursuit. When later interviewed, Lt. Smith said the officers were authorized to pursue the Cruze because it was suspected to have been involved in an armed robbery and, he speculated, there was a “good possibility” that its occupants were intending to commit another robbery at that time, which could result in someone being shot or killed. Lt. Smith said this theory was based on the Cruze’s presence in Baltimore close to midnight, in an area where individuals may have cash due to nearby ATMs and common drug transactions, and because the Cruze was “circling” the area. No other witness said the car was “circling.”

Officers Roberson and Rosenbloom pursued the Cruze for approximately eight-and-a-half minutes before it crashed at 11:59 p.m. The pursuit covered about eight miles across Baltimore, from the Druid Heights neighborhood, south towards the Inner Harbor, then north to Roland Park. The Cruze ultimately crashed in the 5000 block of Roland Avenue. Radio transmissions reflect that during the pursuit, dispatchers attempted to get the assistance of police helicopters from Baltimore City and Baltimore County, but all helicopters were grounded due to the foggy weather.

Video from BPD CitiWatch and Johns Hopkins University cameras shows that throughout the pursuit, Officers Roberson and Rosenbloom were about one to two blocks and three to six seconds behind the Cruze. This is consistent with the officers’ radio transmissions and their statements to other officers that they were “a block” or “a block and a half” behind the Cruze. Officer Deaton said she was approximately two blocks behind Officers Roberson and Rosenbloom for most of the pursuit, but she said she lost sight of the Cruze when another BPD car pulled in front of her and began traveling too slowly for her to keep up. Her body-worn camera video shows she deactivated her siren at 11:58 p.m. and radioed “I lost him” at 11:59 p.m., approximately 10 seconds before the crash.

Data from Officer Roberson and Rosenbloom's cruiser captured their speeds every minute, not continuously, so it provides the officers' speeds only at specific moments during the pursuit. This data shows the officers traveled between 31 miles per hour, as the pursuit began, and 79 miles per hour, on Greenmount Avenue five minutes into the pursuit. The speed limit at that location on Greenmount Avenue is 25 miles per hour. The data point closest to the time of the crash indicates they were traveling 68 miles per hour on West University Parkway at 11:58 p.m. The speed limit at that location on West University Parkway is 30 miles per hour. Officer Roberson and Rosenbloom's cruiser captured their speed at six other locations during the pursuit; each of these readings was between 43 and 52 miles per hour. BPD CitiWatch camera videos confirm Officer Deaton's account that she was maintaining a consistent distance, and thus similar speeds, behind Officers Roberson and Rosenbloom while she was part of the pursuit. She was no longer part of the pursuit at the points where Officers Roberson and Rosenbloom traveled 68 and 79 miles per hour.

Throughout the pursuit, Officer Roberson and Rosenbloom's body-worn camera videos show they slowed before proceeding through most, but not all, red lights. Officer Deaton's body-worn camera was angled toward the side of her cruiser, so it does not show whether lights were red or green as she proceeded through them.

At 11:58:58 p.m., almost eight minutes into the pursuit, BPD Major Jeffrey Featherstone told the officers by radio to "back off, ease off." Officer Rosenbloom responded by radio that they were "about a block behind." Major Featherstone responded: "Copy that. Be guided by the General Orders [BPD policies]. Do not push it." Officers Roberson and Rosenbloom then had the following exchange in their cruiser, which was captured by their body-worn cameras but not conveyed by radio to other officers:

Both officers:           What?!

Ofc. Rosenbloom:       It's a fucking armed robbery car!

Ofc. Roberson:         [Deactivates siren.]

Ofc. Rosenbloom:       Fuck it. No, no, no.

Ofc. Roberson:         Can I keep going?

Ofc. Rosenbloom:       Yeah, keep going. He didn't say... [trails off]

Officer Roberson did not reactivate the cruiser's siren, but he did continue following the Cruze. Body-worn camera video does not show the cruiser noticeably slowing or accelerating. At 11:59:36 p.m., about ten seconds after the above exchange, Officer Roberson yelled, "Oh, he just crashed!" The Cruze had failed to follow a slight bend in the road and crashed into a parked car and then a tree, where it came to rest. There was significant damage to the front of the car, particularly on the passenger side where the car had struck the tree.

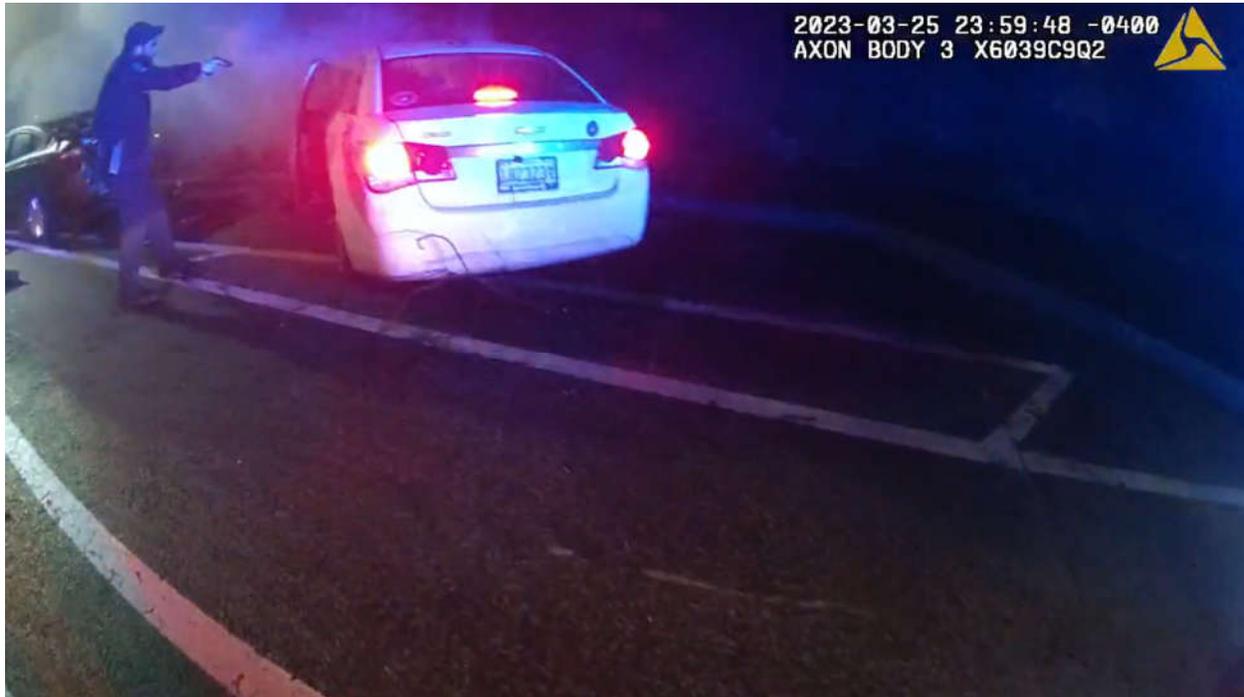


**Image 2:** Still image from Officer Roberson’s body-worn camera video showing the front of the crashed Cruze. The parked car struck by the Cruze can be seen to the right of the image.

Officer Rosenbloom reported the crash by radio, but recordings of the radio transmissions and other officers’ body-worn camera videos show that his message did not transmit clearly. Other officers could not hear that the Cruze had crashed; they heard only the location “Wyndhurst,” referring to Wyndhurst Avenue in Baltimore City. About 20 seconds after this muddled transmission, Major Featherstone radioed to dispatchers to “have that unit break it off.”

### C. Response to the Crash

Officer Roberson stopped his and Officer Rosenbloom’s cruiser at the scene of the crash within seconds. Both officers ran toward the Cruze with their service weapons drawn.



**Image 3:** Still image from Officer Roberson’s body-worn camera video showing the crashed Cruze and Officer Rosenbloom approaching the driver’s door with his service weapon drawn.

As they got to the car, the officers yelled orders at the driver, later identified as Daniel Moss. Officer Rosenbloom yelled multiple times, “Get the fuck down,” “Do not fucking move,” and, “Get out of the car.” Officer Roberson repeatedly yelled, “Put your hands up,” and, “Get the fuck out of the car.” After several seconds, Mr. Moss began slowly getting out of the car and said several times, “I’m hurt,” “Thank you,” and, “I don’t want no trouble.” The officers forced him to the ground while handcuffing him, then requested paramedics by radio. This request for paramedics came approximately two minutes after the crash.



**Image 4:** Still image from Officer Roberson’s body-worn camera video showing Officer Rosenbloom forcing Mr. Moss to the ground as Officer Roberson handcuffs him.

After Mr. Moss was handcuffed, Officer Rosenbloom asked, “Was it just you in the car?” Mr. Moss responded with slurred speech that was difficult to decipher, saying something that included, “my wife.” Officer Rosenbloom responded: “I don’t give a shit about your wife.” He then asked several more times whether someone else was in the car during the pursuit before realizing that Mr. Moss was saying that his wife was in the car when it crashed.

At 12:02 a.m., Officer Roberson used his flashlight to look in the passenger side of the Cruze. He immediately radioed, “Tell Fire to step it up. We got one trapped. We got one trapped in the passenger seat.” Thirty seconds later, he again radioed, “Tell Fire to step it up. We got one stuck in the car.” Officer Roberson called for Ms. Moss several times but got no response. He also attempted to open the passenger side door, but it was stuck shut.



**Image 5:** Still image from Officer Roberson’s body-worn camera video showing Ms. Moss trapped in the passenger seat of the crashed Cruze. Ms. Moss’s face has been blurred for privacy.

While Officer Roberson tried to open the car door, Officer Rosenbloom stood next to Mr. Moss, who was seated on the ground. After Officer Roberson first discovered Ms. Moss trapped in the car, Officer Rosenbloom called Mr. Moss a “douchebag.” He told Mr. Moss to, “shut the fuck up.” When Mr. Moss seemed to verbally acknowledge that his wife might be hurt, Officer Rosenbloom said, “Yeah, well you did that, huh? Should’ve thought about that.”

The officers walked Mr. Moss to the back seat of their patrol car and continued trying to get Ms. Moss out of the Cruze. They tried to reach her through the driver’s door and by adjusting the seats inside the car, but they were not able to move her; Ms. Moss was trapped between the front dashboard of the car and the front passenger seat. She was unresponsive at all times after the crash. Other officers arrived about four minutes after Officer Roberson discovered Ms. Moss, but these officers were similarly unable to move her from the car or get a response. Paramedics arrived at 12:08 a.m. and [REDACTED]. They ultimately pronounced Ms. Moss dead on scene at 12:15 a.m. First responders were not able to remove her from the Cruze until the car’s doors and roof were later cut off.

Mr. Moss was taken to the hospital, where he was [REDACTED] and a [REDACTED]. Mr. Moss reported to officers and paramedics that he had ingested a controlled dangerous substance before driving. His medical records [REDACTED]

While on scene after the crash, officers saw an Airsoft gun in the Cruze. The gun resembles a real handgun, but it fires small pellets rather than bullets. There is no evidence officers were aware of the Airsoft gun prior to or during the pursuit.

Westminster Police detectives' later review of ATM surveillance video and cell phone location records confirmed that the woman involved in the attempted armed robbery was not Ms. Moss. Ms. Moss also did not match the description of the female suspect, as Ms. Moss was a heavier 74-year-old white woman with reddish dyed hair. Mr. Moss similarly did not match the description of the male suspect, as he is a 58-year-old white man with short, lighter hair and a stubbly gray beard. However, ATM surveillance video appears to show that the man involved was Mr. Moss, and that the victim's description was not accurate. Clothes matching those worn by the male attempted robbery suspect were also found in the Cruze after the crash.

#### D. Civilian Witness Statements

IID investigators interviewed Mr. Moss in the hospital the day after the crash. They read him his *Miranda* rights and told him the focus of the IID's investigation was the officers' actions, not the attempted armed robbery in Westminster. Mr. Moss agreed to waive his *Miranda* rights and speak with investigators about the pursuit and crash.

Mr. Moss said he first encountered officers in Baltimore City, though he did not know where. He said he had been driving with his wife in the front passenger seat. He said he fled because he had open warrants for his arrest, and that officers pursued him for "quite a while" with their lights and sirens activated. He could not estimate his or the officers' speeds, but he said officers were "over a football field" behind him and neither he nor they stopped at stop signs or red lights. Officers' body-worn camera videos appear to show officers slowing but not stopping at most, though not all, red lights.

Mr. Moss also said that officers "beat me at the car and beat the shit out of me." He said they "broke my arm and stomped on my hand" and "busted my hand, busted my wrist." As mentioned above, Mr. Moss's medical records [REDACTED] Officers' body-worn camera videos show that they were forceful with Mr. Moss when they removed him from the car, but the videos do not appear to show either officer stomping on Mr. Moss's hand or wrist. The videos likewise do not show any sudden exclamation from Mr. Moss that would indicate officers had just injured him. To the contrary, Mr. Moss said he was hurt immediately upon officers opening his car door, before they touched him. Mr. Moss also did not report to paramedics in the ambulance that his injuries were caused by the officers.

#### E. Paramedic Statements

Paramedic Joseph Ballistreri wrote a report documenting paramedics' treatment of Mr. Moss before he was taken to the hospital. [REDACTED]

Paramedics placed Mr. Moss [REDACTED] and transported him to Johns Hopkins Hospital.

Paramedic Daniel Sloan wrote a report documenting paramedics' treatment of Ms. Moss. He wrote that the crash involved "significant intrusion on the front passenger side" from what "appear[ed] to be a high speed collision." He said Ms. Moss [REDACTED] when paramedics first encountered her. He also said Ms. Moss's legs were

trapped under the dashboard of the car. He said paramedics attempted CPR and bag mask ventilation, but resuscitation attempts were unsuccessful. Mr. Sloan pronounced Ms. Moss dead at 12:15 a.m.

#### F. Law Enforcement Officers' Statements

All subjects of criminal investigations—including police officers—have a right under the Fifth Amendment not to make any statement. That right also applies to written statements. Thus, if a statement is directly ordered, the result of threat, or otherwise compelled (*i.e.*, not voluntary), it cannot be used against an officer in a criminal investigation and should not be considered by criminal investigators. *Garrity v. State of N.J.*, 385 U.S. 493 (1967) (holding that officers' statements made under threat of termination were involuntary); *Department of Public Safety and Correctional Services v. Shockley*, 142 Md. App. 312, 325 (2002) (“the dispositive issue is whether [the supervisor] **demand**ed that the appellee answer the questions”) (emphasis in original).

BPD policy requires that officers who engaged in a pursuit “complete an Incident Report detailing the facts providing probable cause for the pursuit.” The pursuing officers must also document why the benefits of the pursuit outweighed its inherent risks.

##### 1. Involved Officers

Officers Roberson and Rosenbloom did not complete incident reports after this pursuit. BPD supervisors told IID investigators that BPD does not interpret their policy to require each officer to complete a report following a pursuit. Instead, Lt. Smith wrote a report describing the pursuit and analyzing the officers' conduct, as discussed below, and BPD's Accident Investigative Unit is responsible for writing a report analyzing the crash. Officers Roberson and Rosenbloom, therefore, were not instructed to write incident reports regarding the pursuit.

Officers Roberson and Rosenbloom both declined to be interviewed by investigators. However, while on scene, both officers made statements about what had happened that were captured by body-worn cameras. Officer Rosenbloom also made statements captured by his body-worn camera while in the ambulance transporting Mr. Moss to the hospital. These statements are described below.

Officer Roberson also made an on-scene statement to a supervisor that was determined by an IID screening team to be compelled under *Garrity* and *Shockley*. As such, the statement was not reviewed by attorneys and investigators involved in this case; it was redacted from body-worn camera video before that video was viewed by the attorneys and investigators involved in this case. Neither the statement nor any information derived from it was used in this investigation. The individuals who reviewed the statement did not contribute to the investigation or analysis of this incident. The unredacted video including this statement will be provided to the State's Attorney's Office separate from all other materials.

a. Officer Bradley Roberson

Speaking to Officer Rosenbloom eleven minutes after the crash, Officer Roberson said, “We backed off,” referring to creating more distance between themselves and the Cruze before the crash. Later, while still on scene and talking to another officer by phone, Officer Roberson said the Cruze was “wanted for armed robbery,” “matches the description that was called out [by radio],” and that Mr. Moss was “the right guy.” About two hours after the crash, he said to Officer Rosenbloom, “I didn’t even know there was a second passenger” because she was so low in the passenger seat. A few minutes later, he told another officer: “We attempted to stop the vehicle right at Linden Avenue and North Ave. I believe that’s the 900 block right there, of West North [Avenue]. Vehicle failed to stop. Continued eastbound on North Avenue.” CitiWatch camera video confirms this account. Officer Roberson then began describing the path of the pursuit, but he said he could not remember it exactly.

b. Officer Menachem Rosenbloom

As mentioned above, Officer Rosenbloom spoke to Officer Roberson about how they “backed off” prior to the crash. He then told Officer Deaton, “We were actually backed off kind of. We were backing off and slowed; we turned off our sirens [inaudible] then he crashed.” Later, in the ambulance with Mr. Moss, he told Lt. Smith by phone, “We had slowed down a little bit because the Major got on the air.” He said they were “probably a block and a half” behind the Cruze, and that he thought they had turned off their sirens but not their lights at the time of the crash. This account is generally confirmed by body-worn and CitiWatch camera videos, though the videos do not show the officers noticeably slowing or accelerating in response to Major Featherstone’s radio transmissions. He said, “I didn’t see the car when he lost control.”

2. Witness Officers

IID and BPD investigators interviewed the other officers who had originally been involved with the pursuit, approved the pursuit, or were involved with identifying the Cruze.

a. Officer Megan Deaton

Officer Deaton was interviewed by IID and BPD investigators the week after the crash. She reported that she had been leaving a different incident when officers were told by radio about the license plate reader identification of the Cruze. They were told it was a white vehicle with handicapped plates wanted for armed robbery, and they were given the plate number. Officer Deaton said she saw the car parked near the intersection of Bloom Street and Morris Street in Baltimore, and that she followed it without her lights or sirens on as it drove away. She did have her running lights—smaller solid blue and red lights on top of BPD patrol cars—activated, so her car was identifiable as a police car. When the Cruze stopped at a red light at the intersection of West North Avenue and Linden Avenue, she said Officers Roberson and Rosenbloom tried to block it in by pulling in front of it, but the Cruze went around them and fled. She said at this point, “We had permission from Lieutenant Smith to pursue the vehicle.”

Officer Deaton said she followed behind Officers Roberson and Rosenbloom for most of the pursuit. She estimated the Cruze was going 50 miles per hour and was two blocks ahead of Officers Roberson and Rosenbloom, who were about two blocks ahead of her. She said, “conditions were very poor,” so she had to drive slower to account for the “extreme fog” and “wet roads.” But she noted that Officers Roberson and Rosenbloom were in a car smaller than her SUV, so the conditions likely affected their car less given its lower center of gravity. She said she did not see them struggle to control their cruiser during the pursuit. Officer Deaton also said she felt the pursuing officers were getting conflicting information from Lt. Smith, who had authorized the pursuit, and Major Featherstone, who told them to “ease off,” leaving her confused about what to do. Ultimately, Officer Deaton said another BPD car pulled in front of her and she lost sight of the Cruze, so she stopped her pursuit.

Like Officers Roberson and Rosenbloom, Officer Deaton did not write a pursuit report following this incident because BPD supervisors told investigators that they do not interpret BPD policy to require each pursuing officer to complete a report.

b. Lieutenant Charles Smith

Lieutenant Smith was interviewed by IID and BPD investigators the week after the crash. He said the Baltimore City Intelligence Center (“BCIC”)<sup>5</sup> alerted officers to the license plate reader identification of the car, and he confirmed that the car was still wanted using the National Crime Information Center database.<sup>6</sup> He said the notice provided through BCIC said: “Occupants possibly armed. Use caution. Vehicle used in felony armed robbery.” Lt. Smith said Officer Deaton first saw the car, and he told her to wait for backup before attempting to stop it. He said Officers Roberson and Rosenbloom then arrived at the same location as Officer Deaton and the Cruze, but the Cruze refused to stop, so Officers Roberson, Rosenbloom, and Deaton pursued it.

Lt. Smith said he considered the pursuit to be authorized the entire time, from the start through the crash. He described BPD’s pursuit policy, discussed further below, and said the occupants of the Cruze posed an imminent threat, as required for a pursuit to be within policy. He said the Cruze was seen “circling” an area known for drug transactions that has two gas stations that are open 24 hours and have ATMs; however, no other witness said the Cruze was “circling” this area. Lt. Smith theorized that Mr. Moss knew he was wanted in Carroll County after the attempted robbery in Westminster, so he drove to Baltimore to commit additional robberies in a jurisdiction where he may not be noticed. Lt. Smith said there was a “good possibility” someone would be shot and killed in those potential robberies, so it was “absolutely essential” that officers arrest the Cruze’s occupants. These conclusions are similar to Lt. Smith’s opinions voiced on scene, where he repeatedly made statements such as, “He’s armed and the overwhelming likelihood is had he not been intercepted by police he would’ve committed armed robbery or murder,” and, “If he put a gun to a lot of these people [in Baltimore], more than likely they would’ve resisted and he would’ve killed them.”

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<sup>5</sup> Baltimore City Intelligence Centers are locations that receive data and intelligence, such as license plate reader alerts, that can then be shared with BPD officers in the community.

<sup>6</sup> The National Crime Information Center is a national electronic database of criminal justice information that is available to federal, state, and local law enforcement entities.

Lt. Smith summarized the justification for the pursuit by saying, “All of the variables were in favor of pursuit; there were none that were not.” He also said, “The conditions were about as favorable as you’re going to get.” He added, “Street conditions were excellent,” and, “Weather was good.” This assessment runs contrary to other officers’ statements and video that shows the weather was foggy and road was damp.

Lt. Smith also completed a written Post Pursuit Review of this incident. His written conclusion that the pursuit was justified largely mirrors his statements on scene and to investigators. In addition to the theories discussed above, he wrote, “Armed robbery is an offense which is inherently dangerous to human life,” and, “Armed robbers are almost always repeat offenders and rarely commit the offense on only one occasion.” He then noted there are often armed robberies in the area where the Cruze was first seen.

Lt. Smith’s written assessment of the pursuit conditions similarly mirrored his statements to investigators. He wrote that conditions were favorable, though he acknowledged the roads were “damp but not wet.” He also noted the lack of vehicular or pedestrian traffic. He approximated the officers’ speeds as “between 30 and 55 miles per hour,” which data shows is accurate for much of the pursuit but an underestimate for certain points. Lt. Smith wrote that Officer Roberson “displayed excellent technical skill in the operation of his patrol vehicle,” which was “ideally suited for the conditions of the pursuit due to its low center of gravity and performance capabilities.” Lt. Smith concluded that Officer Roberson and Rosenbloom’s “actions were in accordance with departmental policy.”

c. Major Jeffrey Featherstone

Major Featherstone was interviewed by IID and BPD investigators the week after the crash. He said he was the ranking commander for three districts on the night of the incident, but he focused on monitoring the pursuit once he heard it being reported on the radio. He said the pursuit was within policy—and he believed Lt. Smith had already authorized it when he heard it reported—because the Cruze had been involved in an “armed robbery around a bank” with a firearm, so it involved a “suspect that poses a danger.” He added that there was a sense of imminence because the robbery had just occurred the night prior. Major Featherstone said he was engaged in a “balancing act,” and he concluded that the pursuit was reasonable because “these guys [the officers] have a good car,” sounded calm, “weather wasn’t too bad” because it was damp but not raining, and the officers were clearly stating street names as they drove, which indicated they were going slowly enough to read street signs.

Major Featherstone said he did not call off the pursuit before the crash. He remembered saying, “Be guided by the general orders,” or, “Don’t push it.” He said those instructions were meant to convey that “we’re still good to chase this car,” but officers should shift from a “hot pursuit” to a situation where they “observe and report.” This distinction appears to be informal rather than something technical reflected in BPD policy. He said his instructions were intended to “coach” the officers, not call off the pursuit. Later, however, when officers yelled “Wyndhurst” on the radio, he said it was clear they were no longer calm, so he called off the pursuit. He did not know that the Cruze had already crashed at that point.

d. Officer Alex Haziminas

Officer Haziminas was interviewed by IID and BPD investigators the week after the crash. Officer Haziminas was working in the BCIC on the night of the pursuit. He said he confirmed that the Cruze was still wanted when the license plate reader identified the car, and then he worked with dispatchers to advise patrol officers of the Cruze's description and location. Using BPD CitiWatch cameras, he saw Officer Deaton pull behind the Cruze and Officers Roberson and Rosenbloom attempt to box it in by pulling in front of it. Officer Haziminas saw the Cruze drive around the cruiser and flee, and he followed the pursuit by camera as it continued. He said there were very few other cars on the roads, the officers were not swerving or making sharp turns, and the speed did not appear to be "crazy" as far as he could tell.

3. Training Officer

The IID interviewed Sergeant Bradley Helm, a police academy trainer responsible for teaching vehicle pursuit policies and practices. The specific focus of this interview was when and how vehicle pursuits should be terminated. Sgt. Helm said pursuits can be terminated either by a supervisor, if the supervisor determines the risks of the pursuit outweigh the benefits, or by officers themselves, if they determine conditions are no longer safe. When a supervisor is terminating a pursuit, Sgt. Helm said their instructions must be "crystal clear," he said supervisors will use "definitive phrases" and dispatchers will repeat supervisors' orders to assure that the pursuing officers understood the instructions. He said this clarity is important because officers are very focused on the pursuit itself and ambiguous orders could confuse the situation. Specifically, Sgt. Helm said "back off, ease off" could be interpreted to mean several things by officers; it is not ordinarily how a supervisor would terminate a pursuit. He said "be guided by the general orders" was probably intended to ensure the pursuing officers were continually evaluating the safety of the pursuit, which they were better positioned to do than a remote supervisor; this guidance is also not ordinarily how a supervisor would terminate a pursuit.

**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 the involved officers. To the extent it exists, any criminal history is being provided to the State's Attorney's Office with this report.

A. Daniel Moss

Mr. Moss is a 58-year-old white man who lives in Westminster, Maryland.

B. Linda Moss

Ms. Moss was a 74-year-old white woman who lived in Westminster, Maryland.

#### C. BPD Officer Bradley Roberson

Officer Roberson is a white man who was 24 years old at the time of this incident. He was hired by BPD on June 1, 2021. [REDACTED]

[REDACTED] Officer Roberson has not been the subject of any prior Internal Affairs complaints or investigations relevant to the analysis of this incident.

#### D. BPD Officer Menachem Rosenbloom

Officer Rosenbloom is a white man who was 31 years old at the time of this incident. He was hired by BPD on September 21, 2020. [REDACTED]

[REDACTED] Officer Rosenbloom has not been the subject of any prior Internal Affairs complaints or investigations relevant to the analysis of this incident.

### **IV. Applicable Policies**

This section discusses the BPD policy concerning vehicle pursuits. The complete policy is attached as Appendix B.

#### A. Policy 1503: Emergency Vehicle Operation and Pursuit Policy

This policy states that pursuits are permissible when:

- 1.1. The vehicle contains a felony suspect and failure to immediately apprehend poses an immediate threat of death or serious bodily injury to the member or others; and
- 1.2. Before the pursuit is initiated, there exists probable cause to believe the fleeing suspect committed a felony which resulted, or could have resulted, in death or serious bodily injury.

Officers deciding whether to engage in or continue a pursuit must weigh factors such as the setting and conditions, whether the identity of the suspect is known, and the “availability of other resources,” including helicopter assistance. The policy prohibits officers from initiating a pursuit when the risks outweigh the value of apprehending the driver.

This policy further states that during a pursuit, officers driving with lights and sirens activated may:

- 6.1. Exceed the speed limit, so long as members do not endanger life or property.
- 6.2. Proceed through a red light or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety.
- 6.3. Disregard regulations governing turning or movement in a specified direction.

## V. Applicable Law & Analysis

The IID analyzed Maryland criminal offenses that could be relevant in a death of this nature. This section presents the elements of each possible criminal charge, analyzes those elements, and reviews any potential defenses considering the factual findings discussed above.

### A. Manslaughter by Vehicle<sup>7</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 [the decedent].” MPJI-Cr 4:17.10 Homicide—Manslaughter by Motor Vehicle, MPJI-Cr 4:17.10 (2d ed. 2022). 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 wrongfulness of the conduct is determined by “the inherent dangerousness of the act engaged in, as judged by a reasonable person,” “combined with environmental risk factors, which, together, make the particular activity more or less likely at any moment to bring harm to another.” *Beckwitt v. State*, 249 Md. App. 333, 360 (2021), *aff’d*, 477 Md. 398 (2022) (quoting *State v. Thomas*, 464 Md. 133, 152 (2019)) (quotation marks and additional citations in *Beckwitt* omitted). 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)); *see also Duren*, 203 Md. at 584 (grossly negligent driving consists 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”).

In this case, a factfinder—a judge or jury—would assess whether Officer Roberson’s driving was grossly negligent. Officer Roberson drove with his emergency lights and siren activated throughout the pursuit, maintained control of his vehicle, and maintained one to two blocks between himself and the Cruze. The available evidence suggests pedestrian and vehicle traffic was light throughout the pursuit. Data from Officer Roberson’s cruiser shows his speed was most often between 43 and 52 miles per hour, though it reached at least 79 miles per hour in an area where the speed limit was 25 miles per hour. Body-worn camera video appears to show that Officer Roberson slowed before proceeding through most, but not all, red lights. Finally, this driving occurred in foggy weather, which could have limited visibility. In determining whether these facts could cumulatively amount to grossly negligent driving, it is helpful to compare the facts to prior similar cases. In one such case, the Court of Appeals found an officer was not grossly negligent when she struck another car while traveling 25 miles per hour over the speed

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<sup>7</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). This report will, however, analyze a potential involuntary manslaughter charge with respect to the officers’ response to the crash.

limit and passing through a red light without her siren on. *See Khawaja v. Mayor & City Council, City of Rockville*, 89 Md. App. 314, 326 (1991). Officer Roberson was at times traveling faster than the officer in *Khawaja*, but he had his lights and sirens activated and, notably, did not collide with another car.

As an alternative to arguing that Officer Roberson's driving itself was grossly negligent, the State could argue that the decision to engage in the pursuit was grossly negligent. One way to evaluate this is to examine whether the pursuit complied with BPD's vehicle 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); *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>8</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).

BPD policy allows pursuits only if, first, failure to apprehend a suspect poses an immediate threat of death or serious bodily injury to a person, and second, there is probable cause to believe the suspect committed a felony which did or could have resulted in death or serious bodily injury.

The first factor of this policy is most relevant in this analysis. It does not appear there was a specific reason to believe the Cruze's occupants posed an immediate threat on the night of the pursuit. The Maryland Supreme Court has held that immediacy "connotes simultaneity, or something close to it." *Howell v. State*, 465 Md. 548, 564 (2019) (in the context of a duress defense, which requires a "present, immediate, and impending" threat of death or serious bodily injury). The threat of harm "sometime in the future" is not sufficient. *Madrid v. State*, 474 Md. 273, 340-41 (2021) (also in the context of a duress defense). Often in police use-of-force cases, immediate threats are found where a suspect is actively threatening officers or a civilian with a gun or knife, or is doing something such as charging at officers that makes it impossible for officers to determine if the suspect is armed with a deadly weapon before needing to decide whether to use force. *See, e.g., Estate of Blair by Blair v. Austin*, 469 Md. 1, 58-59 (2020) (individual charged at officer, leaving officer no time to determine if individual was armed); *Randall v. Peaco*, 175 Md. App. 320, 336 (2007) (individual was no more than 15 feet from officers when he "rose to his knees with knife in hand"). Officers faced no such immediately threatening situation in this case.

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<sup>8</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.

Lt. Smith's theories—that Mr. Moss had come to Baltimore to commit additional robberies, which “likely” would have resulted in a shooting—are largely speculative. The evidence he cited for these theories was the Cruze's suspected involvement in the attempted armed robbery, Mr. Moss's presence in Baltimore close to midnight, his “circling” the area where Officer Deaton first saw him, and the presence of 24-hour businesses, ATMs, and drug transactions in the area. Notably, Lt. Smith was the only witness to suggest the Cruze was “circling” this area. And while an Airsoft gun was later found in the Cruze, officers had not seen any gun before or during the pursuit. Lt. Smith's theory can most generously be summarized as an attempted armed robbery suspect being present in an area where he might have the opportunity to commit additional robberies, at a time when he might not normally be expected to be there. This situation does not appear to present an “immediate” threat of death or serious bodily injury, as required by BPD policy for a pursuit to be justified.

Major Featherstone's stated justification for the pursuit—that there was a sense of immediacy because the attempted armed robbery had occurred the night before—is less speculative but similarly does not align with legal precedent. As discussed above, officers did not have specific reason to believe there was an “immediate” threat of death or serious bodily injury on the night of the pursuit. Any threat was limited to the general threat posed by someone who may have been involved in an attempted armed robbery. While such a threat may be real, there is no reason to believe it is “immediate,” as is necessary to justify a pursuit under BPD policy.

That said, as a practical matter, a reasonable factfinder may be disinclined to fault officers for pursuing an attempted armed robbery suspect. The factfinder might believe such a pursuit to be in the interest of public safety, regardless of BPD policy. They might, therefore, be less likely to consider such a pursuit to be evidence of gross negligence.

As to the second factor of the BPD pursuit policy, whether there was probable cause to believe the suspect committed a felony which did or could have resulted in death or serious bodily injury, that prong is likely satisfied by the Cruze's involvement in the attempted armed robbery, which multiple officers confirmed in law enforcement databases before the pursuit began. That said, the policy states there must be probable cause to believe the fleeing “suspect,” not the fleeing vehicle, was involved in the felony. Here, officers did not know who was driving the Cruze on the night of the pursuit and did not, for example, match the description of the attempted armed robbery suspect with their observations of the Cruze's occupants.

More importantly in this case, regardless of whether the pursuit met BPD policy, Officers Roberson and Rosenbloom had approval from their supervisors to engage in it. This fact would likely mitigate how much fault would be attributed to them, even if the pursuit were to be deemed outside of BPD policy. Major Featherstone, Lt. Smith, and Officer Deaton all told investigators the pursuit was authorized. While radio transmissions do not reflect explicit approval for the pursuit, they show that both Lt. Smith and Major Featherstone were fully aware of the pursuit and did not instruct officers to terminate it; Lt. Smith told officers to “call [their locations] out,” implying they should pursue the Cruze. While Major Featherstone ultimately told officers to “back off, ease off” and “be guided by the general orders,” these instructions stand in contrast to his subsequent clearer order for the officers to “break it off,” which came only after the crash. When interviewed after the incident, Major Featherstone said he had not

intended to end the pursuit prior to the crash. A BPD sergeant responsible for training officers on vehicle pursuits said a supervisor's order to terminate a pursuit must be "crystal clear" and use "definitive phrases" because the pursuing officers are so focused on the pursuit that definitive guidance is needed to ensure they understand the instructions. The sergeant said that "back off, ease off" could be interpreted by officers to mean multiple things; it is not definitive. He said "be guided by the general orders" likely meant that officers should ensure they are evaluating conditions on an ongoing basis to confirm it is still safe to continue the pursuit. A factfinder would likely weigh these facts heavily if the State attempted to argue that Officers Roberson and Rosenbloom were grossly negligent by initiating or continuing the pursuit.

This analysis is not materially affected by Officers Roberson and Rosenbloom's obvious frustration with Major Featherstone's guidance, such as Officer Rosenbloom saying, "Fuck it, no, no, no." Indeed, Officer Rosenbloom's subsequent uncompleted statement, "He didn't say to . . .," seems to reflect his understanding that Major Featherstone had not explicitly instructed the officers to terminate the pursuit. By deactivating their siren, which had been on the entire pursuit up to that point, the officers arguably complied with Major Featherstone's instructions by someone lessening the intensity of their actions despite continuing the pursuit.

In addition to showing gross negligence, the State would be required to prove that Officers Roberson and Rosenbloom caused Ms. Moss's death. "A causal connection between . . . gross negligence and death must exist to support a conviction . . ." *Albrecht*, 336 Md. at 499 (citation omitted); *see also Craig v. State*, 220 Md. 590, 597 (1959) (the defendant's negligence "must be the proximate cause of death"); *Duren*, 203 Md. at 593 ("Necessarily, the criminal negligence must have produced the death if the accused is to be guilty of manslaughter"); *Blackwell v. State*, 34 Md. App. 547, 557 (1977) (there must be "some reasonable connection between the act or omission and the death that ensued") (citation omitted). Even if the officers were found to have been grossly negligent, it is unclear whether pursuing a vehicle that then crashes is sufficient to establish causation under Maryland law. On one hand, the fleeing driver's own conduct may constitute an independent intervening cause that breaks the chain of causation between the officers' conduct and the crash. *See Pagotto*, 127 Md. App. at 364 (finding that a driver's attempted flight from a traffic stop constituted an intervening cause between the officer's alleged negligence in how he approached the car and the accidental discharge of his gun as the driver began to flee). On the other hand, a court could find that the death of a fleeing driver or passenger is a reasonably foreseeable outcome of the inherently dangerous decision to engage in an unjustified pursuit. *See Goldring v. State*, 103 Md. App. 728, 739 (1995) (finding a street racer criminally liable for his co-racer's death, even though it was the decedent who lost control of his car, because the conditions of the race were so inherently dangerous that death was reasonably foreseeable). It is unclear how a court would resolve this issue in this case.

## B. Criminally Negligent Manslaughter by Vehicle

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. Gross negligence requires proof that "the defendant *was conscious of the risk* to human life posed by his or her conduct." 96 Md. Op. Atty. Gen. 128, 138, Dec. 21, 2011 ([available at https://www.marylandattorneygeneral.gov/Opinions%20Documents/2011/96oag128.pdf](https://www.marylandattorneygeneral.gov/Opinions%20Documents/2011/96oag128.pdf)) (emphasis in original). Criminal negligence requires proof that "the defendant *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." *Id.* (emphasis in original; quoting Crim. Law § 2-210).

While there is little caselaw interpreting this statute, which was enacted in 2011, the few cases that have been decided attributed criminal negligence to factors such as speed, visibility, driver aggressiveness, and driver impairment. *See, e.g., Beattie v. State*, 216 Md. App. 667, 684 (2014) (upholding a conviction where the defendant "drove his 70-foot tractor trailer, in the dark, across three lanes of traffic on a highway where the speed limit was 65 miles per hour" and "[d]ue to his location near the curve of the road, he could see only a distance of a quarter mile"); *Billups v. State*, 2019 WL 4724633, at \*3 (Md. Ct. Spec. App. Sept. 26, 2019) (upholding a conviction where the defendant, while high on PCP, drove on a highway onramp while swerving and going 16 miles per hour over the speed limit); *Dobrzynski v. State*, 2015 WL 5885359, at \*7 (2015) (upholding a conviction where the defendant drove while on medication and severely overtired, and drove as fast as 78 miles per hour where the speed limit was 65 miles per hour, knowing that her child was unbuckled in the back seat).

In this case, as discussed with respect to the vehicular manslaughter charge above, a factfinder would consider several facts. One such fact would be the patrol car's data showing Officer Roberson traveled 79 miles per hour where the speed limit was 25 miles per hour. The pursuit also occurred in foggy weather, and body-worn camera video seems to show that Officer Roberson did not significantly slow before proceeding through at least some red lights. On the other hand, Officer Roberson was usually driving somewhat closer to the speed limit at between 43 and 52 miles per hour, kept control of the cruiser, had his lights and siren activated, maintained a distance of one to two blocks from the Cruze, appears to have slowed notably before proceeding through most red lights, and did not collide with any other vehicles, people, or property. And Lt. Smith and Major Featherstone had at least implicitly authorized, and had not called off, the pursuit. The supervisors also did not ask about Officer Roberson's speed, visibility, or traffic conditions by radio, which one could argue suggested to Officer Roberson that he was driving appropriately.

In evaluating the merits of this potential charge, it is helpful to compare these facts to the limited caselaw interpreting this statute. On one hand, Officer Roberson drove faster than the defendants in *Billups* and *Dobrzynski* and the foggy conditions created somewhat limited visibility, arguably comparable to the situation in *Beattie*. On the other hand, the defendants in *Billups* and *Dobrzynski* were both impaired by drugs, and the defendant in *Beattie* made the particularly egregious decision to attempt a U-turn across three lanes of an interstate highway in a tractor trailer. And unlike the defendants in these cases, Officer Roberson is a trained police officer who was driving his vehicle during an authorized pursuit. Additionally, each of these other cases involved incidents in which the vehicle driven by the defendant crashed, killing an occupant of that vehicle or another vehicle. Officer Roberson did not crash the cruiser in this case. While a crash is not necessary for driving to have created a substantial and unjustifiable risk, it can of course be an indicator that driving was unsafe. Correspondingly, the lack of a crash is not dispositive in establishing that driving was within a reasonable standard of care, but it could be evidence of reasonableness and would likely be a salient factor for a factfinder.

Furthermore, because the relevant legal standard asks whether a defendant “should have been aware” of the risks of his conduct, the presence of policies that warn an officer about the potential risks of vehicle pursuits would be relevant. BPD policies instruct officers to consider factors such as speed and visibility, and to proceed through intersections only when officers know it is safe to do so. On the other hand, officers are of course allowed, by policy and state law, to break some traffic rules under certain conditions. This allowance could be particularly relevant here, given that the pursuit was at least implicitly authorized and had not been terminated when the crash occurred. In sum, the factors examined above under the gross negligence standard are similarly applicable here but are subject to a less stringent legal standard.

Finally, in addition to showing a substantial and unjustifiable risk that was a gross deviation from a reasonable standard of care, the State would have to prove that any wrongful conduct by the officers caused Ms. Moss’s death, as discussed with respect to the manslaughter by vehicle charge above.

### C. Involuntary Manslaughter

While the charge of involuntary manslaughter is preempted by the manslaughter by vehicle statute with respect to the officers’ actions while driving, it would not be preempted with respect to officers’ actions following the crash. This section will therefore analyze officers’ actions only after the crash.

To prove involuntary manslaughter, the State must prove: “(1) that the defendant acted in a grossly negligent manner; and (2) that this grossly negligent conduct caused the death of [the decedent].” MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d ed. 2022). As discussed above, gross negligence is conduct which “amount[s] to a wanton and reckless disregard for human life.” *Duren*, 203 Md. at 588.

In this case, when the Cruze crashed, the officers arrived within seconds. They immediately got out of their cruiser and ran towards the Cruze. While Officer Rosenbloom ran towards the driver’s side, Officer Roberson went to the passenger side, looking towards the front

door with his flashlight. Because Ms. Moss had become trapped low in the front passenger seat, beneath the level of the car window, it would have been difficult for Officer Roberson to see her without being directly alongside the front door. Officer Roberson did not go that close to the car initially, instead returning to the driver's side to help secure Mr. Moss. Once Mr. Moss was secure, the officers asked if anyone else had been in the car. When Mr. Moss said his wife had been in the car, Officer Roberson went to the front passenger door and saw Ms. Moss. He immediately radioed for paramedics to "step it up" because Ms. Moss was trapped. Thirty seconds later, he again requested by radio that paramedics "step it up." Officer Roberson tried to open the passenger door of the Cruze and both officers attempted to move the car's seats to access Ms. Moss, but they were not able to do so. Ms. Moss was only able to be removed from the car after Fire Department personnel removed portions of the Cruze's side and roof. Ms. Moss was pronounced dead on scene shortly after paramedics arrived.

While Officer Rosenbloom's statement to Mr. Moss, "I don't give a shit about your wife," was inappropriate, it does not meaningfully affect the State's ability to prove this charge. Given that Mr. Moss was slurring his speech, making him difficult to understand, a reasonable factfinder could believe Officer Rosenbloom did not recognize that Mr. Moss was saying his wife was in the car. Additionally, just 30 seconds elapsed between this comment and Officer Roberson finding Ms. Moss in the passenger seat, and the officers had already called for medics. There is no evidence that Officer Rosenbloom's handling of the situation caused delay to the treatment of Ms. Moss, or that any such delay factored into Ms. Moss's death.

#### D. Duty of Driver to Render Reasonable Assistance to Persons Injured in an Accident

Transportation Article § 20-104(a) states:

The driver of each vehicle involved in an accident that results in bodily injury to or death of any person or in damage to an attended vehicle or other attended property shall render reasonable assistance to any person injured in the accident and, if the person requests medical treatment or it is apparent that medical treatment is necessary, arrange for the transportation of the person to a physician, surgeon, or hospital for medical treatment.

This offense requires proof that: (1) the defendant drove a motor vehicle; (2) the motor vehicle was involved in an accident; (3) the accident resulted in bodily injury to or death of a person or in damage to an attended vehicle or other attended property; and (4) the defendant did not render reasonable assistance to a person injured in the accident.

The analysis above regarding the potential charge of involuntary manslaughter applies equally here.

#### E. Reckless Driving & Negligent Driving

Transportation Article § 21-901.1(a) states: "A person is guilty of reckless driving if he drives a motor vehicle: (1) In wanton or willful disregard for the safety of persons or property; or (2) In a manner that indicates a wanton or willful disregard for the safety of persons or property."

Transportation Article § 21-901(b) states: “A person is guilty of negligent driving if he drives a motor vehicle in a careless or imprudent manner that endangers any property or the life or person of any individual.”

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*, 83 Md. App. at 404 (citations omitted).

The analyses above of the potential charges of manslaughter by vehicle and criminally negligent manslaughter by vehicle are similarly applicable here. A factfinder considering these charges would consider several factors. On one hand, Officer Roberson drove 79 miles per hour at least briefly where the speed limit was 25 miles per hour, conditions were foggy, and he appears not to have noticeably slowed through some red lights. On the other hand, Officer Roberson had approval for the pursuit, maintained control of his vehicle, had his lights and siren activated, stayed one to two blocks behind the Cruze, slowed before proceeding through most red lights, and did not collide with any other vehicles, people, or property. Also, Officer Roberson’s speed was most often between 43 and 52 miles per hour, which exceeded the speed limit but did so less substantially than at the points where he was at his maximum speed.

#### F. Misconduct in Office

Misconduct in office is the “corrupt behavior by a public officer in the exercise of the duties of his office or while acting under color of his office.” *Duncan v. State*, 282 Md. 385, 387 (1978) (footnote omitted). It is a misdemeanor. Acts that qualify as misconduct in office include:

[N]eglect or non-performance of any positive duty imposed by law; oppressive and wil[l]ful abuse of authority (to be distinguished from mere error of judgment); extortion; fraud or breach of trust affecting the public, such as rendering, passing or procuring false accounts . . . .

*Chester v. State*, 32 Md. App. 593, 606 (1976).

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. 2022). “[T]he conduct must be a willful abuse of authority and not merely an error in judgment.” Comment to *id.* (internal citation omitted).

The most relevant facts in the analysis of this potential charge are that the pursuit was authorized and Major Featherstone did not terminate it prior to the crash, as discussed in the manslaughter by vehicle section above. These facts could be seen as evidence that the officers did not act corruptly and did not engage in an unlawful act, despite their frustration with Major Featherstone’s orders discussed in the manslaughter by vehicle section above.

## G. Other Charges Considered<sup>9</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 any officer intended to kill or cause serious bodily harm to Ms. Moss.

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 [the decedent]” 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*, 34 Md. App. at 555-56. With respect to the response to the crash, as discussed in the involuntary manslaughter section above, there is no evidence suggesting that any officer “created a very high degree of risk of life” or “acted with extreme disregard.”

Mr. Moss also claimed that officers broke his arm and stomped on his hand, which could implicate excessive force or assault charges. Public Safety § 3-524(d)(1), Criminal Law § 3-203(a). The evidence, however, does not support Mr. Moss’s claims. All of the officers’ interactions with Mr. Moss are captured on their body-worn camera videos. The videos do not appear to show officers stomping on Mr. Moss’s hand or taking any specific actions that would have broken Mr. Moss’s arm. And at no point does Mr. Moss exclaim or otherwise show acute pain in response to officers’ actions, as one would expect if the officers broke his arm or stomped on his hand. Furthermore, Mr. Moss does not tell paramedics in the ambulance that officers broke his arm. Given that Mr. Moss was just involved in a very serious car crash and stated that he was hurt as soon officers opened his car door, before they touched him, the most logical inference is that the crash, rather than the officers, caused his injuries.

## VI. Conclusion

This interim report has presented factual findings and legal analysis relevant to the death of Linda Moss that occurred on March 26, 2023, in Baltimore, Maryland. The IID will supplement this report when it receives the autopsy report from the OCME and final crash team analysis from BPD, but please contact the IID if you would like us to supplement this report in any other way through further investigation or analysis.

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<sup>9</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).

## Appendices

### **Appendix A – Materials Reviewed**

Body-Worn Camera Video (7 recordings)  
CAD Reports (6 items)  
Civilian Witness Statements (1 recording with explanation and waiver of rights)  
Communications Audio (2 recordings)  
Departmental Policies (3 items)  
IA History and Training Records (6 items)  
Lab Reports (1 items)  
Maryland State Fire Marshals Office (1 report)  
Medical Records (6 items)  
OAG Reports (19 reports)  
Officer Witness Statements (6 recordings)  
Other Video (28 recordings)  
Photographs (173 items and 2 certifications)  
Police Reports (13 items)  
Search Warrants (2 items)  
Subpoenas (4 items)

*All materials reviewed have been shared with the Baltimore City State's Attorney's Office via a secure filesharing service.*

### **Appendix B – Relevant Baltimore City Departmental Policy**

See attached policies.

**Appendix B**  
Relevant Baltimore City Departmental Policy



# Policy 1503

Subject	
EMERGENCY VEHICLE OPERATION AND PURSUIT POLICY	
Date Published	Page
24 November 2019	1 of 12

***By Order of the Police Commissioner***

## **POLICY**

The purpose of this policy is to provide guidance on conducting safe emergency vehicle operations and pursuits. Members shall use sound judgement and discretion while upholding the sanctity of human life in all instances of emergency response and pursuit.

**While members must at all times comply with the minimum legal requirements governing the use of force, they must also comply with even stricter standards set forth by Departmental Policy.**

## **CORE PRINCIPLES**

1. **Member and Public Safety.** Members shall operate all vehicles with the utmost care and caution, and will comply with all traffic regulations. While operating in Emergency Response Mode, members shall comply with Maryland State Law governing emergency vehicle operations. Members shall weigh the risks of driving in Emergency Response Mode against the nature of the emergency.
2. **Sanctity of Human Life.** Members shall make every effort to preserve human life in all situations.
3. **Value and Worth of All Persons.** All human beings have equal value and worth and members shall respect and uphold the value and dignity of all persons at all times.
4. **Peaceful Resolutions.** Members shall avoid the Use of Force unless it is not possible to do so.
5. **De-Escalation.** Members shall use de-escalation techniques and tactics to reduce any threat or gain compliance to lawful commands without the Use of Force or with the lowest level of force possible (See Policy 1107, *De-Escalation*).
6. **Avoiding Escalation.** Members shall not do or say anything that escalates an encounter unless necessary to achieve a lawful purpose.
7. **Assessment.** Members shall continuously assess each situation and change the member's response as the circumstances change. Members may be justified in using force in one instance, but not justified in using force an instant later. This duty to assess includes the continuous assessment of circumstances before and after the member uses force.
8. **Use of Force: Reasonable, Necessary, and Proportional.** Members shall use only the force reasonable, necessary, and proportional to respond to the threat or resistance to effectively and

safely resolve an incident, and will immediately reduce the level of force as the threat or resistance diminishes.

9. **Reporting Use of Force.** Each member who uses force, or observes another member or members use force, shall immediately notify their supervisor, and will accurately and completely report the Use of Force by the end of their tour of duty (See Policy 725, *Use of Force Reporting, Review, and Assessment*).
10. **Duty to Intervene.** Members shall intervene to prevent abusive conduct or the use of excessive force by another member (See Policy 319, *Duty to Intervene*).
11. **Duty to Provide Medical Assistance.** After any Use of Force incident, members shall immediately render aid to any injured person consistent with the member's training and request medical assistance. If restrained, persons are not to be positioned facedown as it may cause positional asphyxia, and placing restrained persons on their back may lead to radial nerve damage to the wrists and forearms. Restrained persons are to be placed in a seated position or on their sides.
12. **Accountability.** Members shall be held accountable for uses of force that violate law or policy.
13. **Sound Judgement and Discretion.** The BPD recognizes it is better to allow a suspect to temporarily escape apprehension than to jeopardize anyone's safety in a Vehicle Pursuit. No member shall be criticized or disciplined for a decision not to engage in a Vehicle Pursuit or to terminate an ongoing Vehicle Pursuit based on the risk involved, even in circumstances where this policy would permit the commencement or continuation of a pursuit.
14. **Retaliatory Force.** Members are prohibited from using force against persons engaged in First Amendment protected activities or to punish persons for fleeing, resisting arrest or assaulting a member, or for any other reason (See Policy 804, *First Amendment Protected Activity*).

## **DEFINITIONS**

**Emergency Response Mode** — Driving with emergency lights and siren activated.

**Eluding** — An Eluding driver increases speed, takes evasive action, and/or refuses to stop despite a member's signaling to stop by hand, voice, emergency lights, and/or siren even after a reasonable amount of time to yield or stop has passed.

**Primary Unit** — The law enforcement vehicle driven by a member who initiates a pursuit, or any unit that assumes control of the pursuit as the lead vehicle (the first police vehicle immediately behind the eluding vehicle).

**Secondary Unit** — Any law enforcement vehicle which becomes involved as a backup to the Primary Unit and follows the Primary Unit at a safe distance.

**Street Paralleling** — Driving a law enforcement vehicle on a street parallel to a street on which a pursuit is occurring.

**Terminate** – To discontinue the pursuit of an eluding vehicle.

**Trail** – Following the path of the pursuit while obeying all traffic laws and without activating emergency lights or sirens. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

**Vehicle Pursuit** – When a member operating a law enforcement vehicle attempts to keep pace and/or to immediately apprehend one or more occupants of an eluding vehicle.

## **DIRECTIVES**

### **Emergency Response Mode**

1. Driving in Emergency Response Mode is only permitted in law enforcement vehicles equipped with emergency lights and siren.
2. Officers shall not drive in Emergency Response Mode when transporting civilians or prisoners.
3. Before operating a law enforcement vehicle in an Emergency Response Mode, members shall consider the following:
  - 3.1. The nature or seriousness of the offense or the call for service.
  - 3.2. Current road or environmental conditions.
  - 3.3. Familiarity with the route and destination.
  - 3.4. Pedestrian and vehicular density.
4. When responding to an emergency call for service, such as an in-progress incident with the potential for injury, or armed person calls, members are authorized but not required to respond in an Emergency Response Mode.
5. When responding to an assist an officer call (Signal 13) as either the primary or backup unit assigned by dispatch, members shall drive in Emergency Response Mode in such a manner as to minimize the risk of injury to members of the BPD and the public (See Policy 705, *Procedure for Assist an Officer Call*).
6. When operating in an Emergency Response Mode, in keeping with Maryland Code, Transportation Section 21-106, "Privileges for Drivers of Emergency Vehicles", members may:
  - 6.1. Exceed the speed limit, so long as members do not endanger life or property.
  - 6.2. Proceed through a red light or stop signal, a stop sign, or a yield sign, but only after slowing down as necessary for safety.
  - 6.3. Disregard regulations governing turning or movement in a specified direction.

**Vehicle Pursuit Authorization**

1. Members may pursue an eluding vehicle when:
  - 1.1. The vehicle contains a felony suspect and failure to immediately apprehend poses an immediate threat of death or serious bodily injury to the member or others; and
  - 1.2. Before the pursuit is initiated, there exists probable cause to believe the fleeing suspect committed a felony which resulted, or could have resulted, in death or serious bodily injury.
2. Factors that shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit, include, but are not limited to:
  - 2.1. The safety of the public, including: the type of area, such as a school zone; time of day and lighting; weather, road conditions, and density of vehicular and pedestrian traffic; and the speed of the pursuit relative to these factors.
  - 2.2. The pursuing members' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and dispatchers/supervisors, and the driving capabilities of the pursuing member(s) under the conditions of the pursuit.
  - 2.3. Whether or not the identity of the suspect has been verified.
  - 2.4. The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
  - 2.5. Other persons in or on the eluding vehicle, such as passengers, suspects, and hostages.
  - 2.6. The availability of other resources, such as air support assistance.
  - 2.7. The likelihood of apprehension at a later time.
3. Upon notification that a pursuit has been initiated, supervisors shall at their discretion approve or disapprove the continuation of the pursuit, and may direct additional units to join the pursuit.

**Vehicle Pursuit Prohibitions**

Members are prohibited from initiating a Vehicle Pursuit when:

1. Transporting passengers (including arrestees) other than on-duty police officers.
2. The initial violation is a crime against property (including auto theft), misdemeanor, a traffic offense without imminent danger, or is a non-violent warrant.
3. The vehicle (marked or unmarked) is not equipped with lights and siren, or the lights and siren are malfunctioning.
4. The risk of a Vehicle Pursuit outweighs the need to stop the Eluding driver, including:

- 4.1. Underlying reason for pursuit.
  - 4.2. Traffic conditions (density of pedestrians and vehicles).
  - 4.3. Weather and road conditions.
  - 4.4. Speed and capabilities of the Eluding vehicle.
  - 4.5. Geographic considerations (e.g., direction of travel, location density, terrain).
5. Member has not completed Emergency Vehicle Operations course at Education and Training (E&T).

### **Vehicle Pursuit Considerations**

1. The decision to use specific driving tactics requires the same assessment of safety factors that a member considers when determining whether to initiate and/or terminate a pursuit.
2. Members must space themselves from other involved vehicles to enable them to see and avoid hazards or react safely to unusual maneuvers by any vehicle involved in the pursuit.
3. Because intersections present a high risk of collisions, members shall exercise due caution and slow down, as necessary, when proceeding through intersections, especially controlled intersections.
4. Members shall not pursue a vehicle driving the wrong direction on a roadway. In the event the eluding vehicle drives in the wrong direction, members shall maintain visual contact with the eluding vehicle by paralleling the vehicle while driving on the correct side of the roadway.
5. Members shall not attempt to pass other pursuing vehicles unless requested to do so by the Primary Unit, and there is a clear understanding between all members involved that a member will be passing the other vehicles.

### **Primary Unit Responsibilities**

1. The Primary Unit is responsible for the conduct of the pursuit unless he/she is unable to remain reasonably close to the eluding vehicle. The highest responsibility of the Primary Unit is the preservation of life and public safety.
2. At the earliest practical time when the member anticipates that a pursuit might be required, the member should activate his or her body-worn camera in compliance with Policy 824, *Body-Worn Cameras*.
3. The Primary Unit shall notify the dispatcher that a Vehicle Pursuit has been initiated, commencing with a request for priority radio traffic, and for the Aviation Unit to respond. As soon as practicable, the Primary Unit shall provide information including, but not limited to:
  - 3.1. Location, direction of travel, and estimated speed of the eluding vehicle.

- 3.2. Description of the eluding vehicle including the license plate number, if known.
  - 3.3. Reason for the pursuit.
  - 3.4. Use of firearms, threat of force, violence, injuries, hostages, or other safety hazards.
  - 3.5. Number, identity, and description of occupants in the eluding vehicle.
  - 3.6. Weather, road, and traffic conditions.
  - 3.7. Need for any additional resources or equipment.
  - 3.8. Identity of other law enforcement agencies involved in the pursuit.
4. Until relieved by a supervisor or a Secondary Unit, the Primary Unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the Primary Unit shall relinquish the responsibility of broadcasting the progress of the pursuit to a Secondary Unit or to Air Support to minimize distractions and allow the Primary Unit to concentrate foremost on safe pursuit tactics.

#### **Secondary Unit Pursuit Responsibilities**

1. Immediately notify the dispatcher of entry into the pursuit and continue pursuit at supervisor's discretion.
2. At the earliest practical time when the member anticipates that a pursuit might be required, the member should activate his or her body-worn camera in compliance with Policy 824, *Body-Worn Cameras*.
3. Use a different siren sound (e.g., wail or yelp) than the Primary Unit.
4. Remain a safe distance behind the Primary Unit, unless directed to assume the role of Primary Unit.
5. Assume broadcast responsibilities from the Primary Unit until the Aviation Unit assumes this responsibility.
6. Serve as backup to the Primary Unit once the eluding vehicle has been stopped.

#### **Pursuit Trailing**

1. In the event that the Primary Unit relinquishes control of the pursuit to another agency, the Primary Unit and/or any Secondary Units may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect and in reporting the incident.
2. While trailing, regardless of the jurisdiction, members must continue to follow this policy.

**Pursuit Ending Tactics**

1. The use of a departmental vehicle to deliberately strike another vehicle or to act as a roadblock is strictly limited to exigent circumstances and may only be used when:
  - 1.1. The Eluding vehicle is being operated in such a manner as to pose an imminent threat of death or serious bodily injury to members or others; and
  - 1.2. Insufficient time exists to resort to other alternatives.

**NOTE:** The use of non-departmental vehicles in Pursuit Ending Tactics is strictly prohibited.

2. At no time will a roadblock be established until:
  - 2.1. Authorized by the Shift Commander; and
  - 2.2. All pursuing police vehicles are made aware of the existence of the roadblock and its location, and have acknowledged this awareness via radio communications.

**NOTE:** Members may not remain inside vehicles acting as blocking vehicles.

3. Intentional vehicle-to-vehicle contact is a use of force that members must report as directed in Policy 725, *Use of Force Reporting, Review, and Assessment*.
4. The stationary placement of a BPD vehicle to protect an accident or crime scene shall not be considered a roadblock.

**Terminating a Pursuit**

1. When a supervisor directs the pursuit to be terminated, members shall immediately terminate the pursuit and advise the Communications Section dispatcher of their location.
2. Members may terminate a pursuit when the pursuing member believes that the danger to the member(s) or the public outweighs the necessity for immediate apprehension of the Eluding driver, even if not directed to terminate the pursuit.
3. Factors that shall be considered, both individually and collectively, when deciding to terminate a pursuit, include, but are not limited to:
  - 3.1. If there is a person(s) injured during the pursuit and there are no other personnel able to render immediate medical assistance.
  - 3.2. The distance between the pursuing vehicle and the eluding vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
  - 3.3. The eluding vehicle's location is no longer definitively known.
  - 3.4. The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.

- 3.5. The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- 3.6. When the identity of the Eluding driver is known and it does not reasonably appear that the safety needs for immediate capture outweigh the risks associated with continuing the pursuit.
- 3.7. When pursuit requires that the member(s) drive in a manner which exceeds the performance capabilities of the pursuing vehicles or the member(s) involved in the pursuit.
4. When terminating a pursuit, Primary and Secondary Units will call out the location and last known direction of Eluding vehicle.
5. Primary and Secondary Units shall terminate the pursuit by:
  - 5.1. Calling out their location and mileage to dispatch,
  - 5.2. Turning off the vehicle's lights and sirens, and
  - 5.3. Immediately pulling over or taking the nearest right turn in order to safely pull over.

#### **Use of Firearms**

1. Members shall not fire any weapon from or at a moving vehicle, except:
  - 1.1. To counter an immediate threat of death or serious physical injury to the member or another person, by a person in the vehicle using means other than the vehicle.
  - 1.2. To counter a situation where the officer or another person is unavoidably in the path of the vehicle and cannot move to safety. Members shall not position themselves in the path of a moving vehicle where they have no option but to use deadly force/lethal force (See Policy 1115, *Use of Force*).

#### **Air Support Assistance**

1. Air support should be requested at the onset of the pursuit. Once the air support crew establishes visual contact with the eluding vehicle, air support should video record the pursuit and assume communication control over the pursuit.
2. The air support crew should coordinate the activities of resources on the ground, report on the progress of the pursuit, and provide members with details of upcoming traffic congestion, road hazards, or other pertinent information to assist in evaluating whether to continue the pursuit.
3. At any time, air support can recommend terminating the pursuit. If members on the ground are not within visual contact of the eluding vehicle, and the air support crew determines that it is unsafe to continue the pursuit, the air support crew shall recommend terminating the pursuit.

**Inter-Jurisdictional Considerations**

1. Due to communications limitations between local law enforcement agencies, a request for an outside agency's assistance requires the outside agency to assume responsibility for the pursuit once the pursuit enters a foreign jurisdiction.

**NOTE:** BPD will only assist outside jurisdictions with pursuits when they meet BPD pursuit criteria.

2. Members should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor, except when a single vehicle from the initiating agency is in pursuit. Under this circumstance, a member may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.
3. When a request is made to assist or take over a pursuit that has entered Baltimore City, the supervisor should consider all of the factors this policy requires for initiating a pursuit, including, but not limited to:
  - 3.1. The public's safety.
  - 3.2. The safety of members and officers from other jurisdictions.
  - 3.3. The seriousness of the offense and whether the suspect seriously injured or attempted to injure someone.
  - 3.4. The sufficiency of staffing to maintain the pursuit.
4. As soon as practicable, a supervisor or the Shift Commander should review a request for pursuit assistance from an outside agency. The Shift Commander or supervisor, after considering the above factors, may assist or decline to assist with the outside agency's pursuit.
5. In the event that the termination point of a pursuit from an outside agency is within the City, members shall provide appropriate assistance including, but not limited to, scene control, coordination and completion of supplemental reports, and any other assistance requested or needed.

**Members Not Involved In the Pursuit**

1. Members not involved in or assigned to the pursuit shall remain in their assigned areas, shall not parallel the pursuit route, and shall not become involved with the pursuit unless directed otherwise by a supervisor.
2. When authorized by a supervisor, uninvolved members may use police vehicles and emergency equipment along the pursuit path to keep intersections clear of vehicular and pedestrian traffic to protect the public. Those members shall account for the tactical positioning of their vehicle to avoid additional collisions and collateral damage from the pursuit.

**Reporting Requirements**

1. The Primary Unit who initiated the pursuit must complete an Incident Report detailing the facts providing probable cause for the pursuit.
2. All members and supervisors who participate in a pursuit shall tag and download body-worn camera data in accordance with Policy 824, *Body-Worn Cameras*. Members who did not activate their body-worn camera during the pursuit shall submit a supplemental report detailing their actions.
3. The Primary Unit must also document the facts that caused the member to believe the safety risks of the pursuit were outweighed by the risks that the Eluding driver might seriously injure someone if not immediately apprehended.

**REQUIRED ACTION****Supervisor**

1. Ensure that members under their supervision maintain a valid state issued driver's license.

**NOTE:** Members are required to immediately notify the BPD if their license is suspended or revoked.

2. Manage control over all Vehicle Pursuits involving supervised members.
3. Closely monitor the emergency response driving of BPD personnel, and, when necessary, cancel or alter the conduct of the emergency response.
4. The first-line supervisor of the Primary Unit, or if unavailable, the nearest supervisor, shall:
  - 4.1. Engage in the pursuit, when appropriate. If engaging, supervisors shall activate their body-worn cameras.
  - 4.2. Exercise management control of the pursuit, including assigning additional units to join the pursuit.
  - 4.3. Ensure that no more than three law enforcement vehicles are pursuing the Eluding vehicle (not to include Street Paralleling drivers or intersection control drivers).
  - 4.4. Direct the pursuit to be terminated at any time.
  - 4.5. When driving on a highway, request other members to monitor exits available to the eluding vehicle.
  - 4.6. Determine if the pursuit violates this policy.
  - 4.7. Determine whether the danger of injury to members or others outweighs the danger that the Eluding driver will injure or kill someone if not immediately apprehended. In making

this determination, supervisors shall weigh the factors listed in **Vehicle Pursuit Authorization** for initiating or terminating a pursuit.

- 4.8. Ensure that assistance from air support, canine, or additional resources are requested when appropriate.
- 4.9. Ensure that the Shift Commander is notified of the pursuit as soon as practicable.
- 4.10. Control and manage BPD Members when a pursuit enters another jurisdiction.
- 4.11. Prepare a post-pursuit review and ensure all incident reports and other required documentation are completed and entered into BlueTeam.

**NOTE:** Supervisors will be held strictly accountable for maintaining command and control of a pursuit and for the emergency response conduct of their subordinates.

### **Shift Commander**

1. Upon becoming aware that a pursuit has been initiated, monitor and continually assess the pursuit and ensure it is conducted within the requirements of this policy. The Shift Commander has the final responsibility for the coordination, control, and termination of a Vehicle Pursuit and shall be in overall command.
2. Approve/Disapprove requests by members or supervisors to establish a roadblock.
3. When the order to terminate a pursuit is given, notify the Primary Unit and any Secondary Units that they are prohibited from continuing to follow or remain behind the eluding vehicle.

### **Communications Section**

1. If the pursuit is confined within City limits, radio communications will be conducted on the primary channel, unless instructed otherwise by a supervisor or dispatcher. If the pursuit is approaching a different jurisdiction, or once it leaves the City's jurisdiction, involved members should respond when dispatch directs them to switch radio communications to a tactical or emergency channel most accessible to participating agencies.
2. Upon notification that a pursuit has been initiated, the dispatcher shall:
  - 2.1. Clear the radio of non-emergency communications.
  - 2.2. Notify a supervisor of the pursuit.
  - 2.3. Coordinate pursuit communications of the involved members.
  - 2.4. Broadcast pursuit updates as well as other pertinent information, as necessary.
  - 2.5. Notify and coordinate with other involved and affected agencies.
  - 2.6. Notify the Shift Commander of the pursuit.

- 2.7. Ensure all members participating in the pursuit are logged into Computer Aided Dispatch (CAD).
3. Communications shall notify the Maryland State Police and/or other law enforcement agencies if it appears that the pursuit may enter another jurisdiction.

#### **Education and Training (E&T) Section**

1. E&T shall ensure that all members have successfully completed the Emergency Vehicle Operations course.
2. When necessary, E&T shall provide a remedial Emergency Vehicle Operations course for members.

#### **ASSOCIATED POLICIES**

Policy 319, *Duty to Intervene*  
Policy 705, *Procedure for Assist an Officer Call*  
Policy 725, *Use of Force Reporting, Review, and Assessment*  
Policy 804, *First Amendment Protected Activities*  
Policy 824, *Body-Worn Cameras*  
Policy 1107, *De-Escalation*  
Policy 1115, *Use of Force*

#### **RESCISSION**

Remove and destroy/recycle Policy 1503, *Emergency Vehicle Operation and Pursuit Policy*, dated 13 September 2017.

#### **COMMUNICATION OF POLICY**

This policy is effective on the date listed herein. Each employee is responsible for complying with the contents of this policy.



# INDEPENDENT INVESTIGATIONS DIVISION

Supplemental Report Concerning the Officer-Involved Death  
of Linda Moss on March 26, 2023

August 3, 2023

**Supplemental Report of the Independent Investigations Division of the  
Maryland Office of the Attorney General Concerning the Officer-Involved  
Death of Linda Moss on March 26, 2023**

The Office of the Attorney General’s Independent Investigations Division (the “IID”) is charged with “investigat[ing] all police-involved incidents that result in the death of a civilian” 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 § 6-602(c)(1), (e)(1).

In this case, due to the delay in receiving the autopsy report and resulting delay in receiving a final crash report from the Baltimore Police Department (“BPD”), in contrast to the finality of all other aspects of the investigation, the IID and the Baltimore City State’s Attorney’s Office agreed that an interim report would be useful. The IID agreed to supplement the interim report upon receipt of the autopsy report and final crash report. On June 23, 2023, the IID transmitted its interim report to the State’s Attorney’s Office. This supplemental report is being sent to the State’s Attorney’s Office on August 3, 2023. This supplemental report concludes the IID’s investigation.

**I. Autopsy Examination**

Linda Moss’s autopsy was conducted by Dr. Edernst Noncent, Assistant Medical Examiner, on March 26, 2023. The IID received the final autopsy report on June 29, 2023. Dr. Noncent identified Ms. Moss’s cause of death as: “Multiple Injuries.” Dr. Noncent determined that Ms. Moss’s manner of death was: “Accident.”<sup>1</sup>

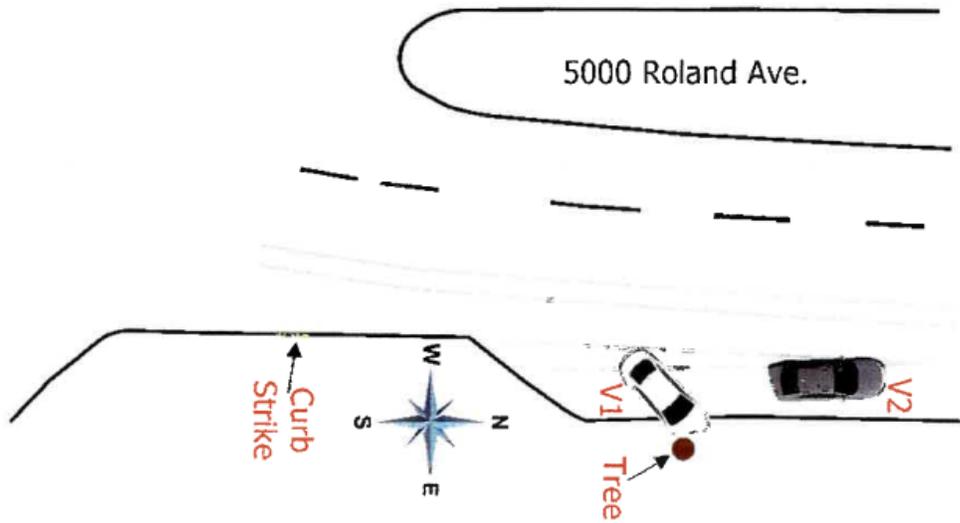
Dr. Noncent concluded that Ms. Moss died due to multiple injuries to her head, neck, torso, and extremities. Those injuries included: a fracture and dislocation of the joint between Ms. Moss’s spine and skull; fractures to the sternum and numerous ribs; lacerations of the pulmonary artery, heart, and liver; and fractures to her right arm and both legs. Ms. Moss also suffered internal bleeding associated with these injuries.

**II. Crash Report**

The BPD Accident Investigation Unit (“AIU”) prepared a detailed report analyzing this incident. The IID received this report on July 28, 2023. The AIU concluded that Mr. and Ms. Moss’s Chevrolet Cruze was traveling at between 68 and 75 miles per hour in the five seconds preceding the crash. As the Cruze drove through the intersection of Roland Avenue and Wyndhurst Avenue, it failed to navigate a curve in the road, striking a curb, crossing through a dirt and grass easement, striking a parked car, and then striking a tree, where it came to rest.

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<sup>1</sup> Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Office of the Chief Medical Examiner of Maryland 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 with public health statistics. “A Guide for Manner of Death Classification,” First Edition, National Association of Medical Examiners, February 2002.



**Image 1:** BPD AIU diagram of the crash. V1 is the Mosses's Chevrolet Cruze. V2 is the parked car that the Cruze struck before it hit the tree.

### **III. Conclusion**

This supplemental report has presented additional factual findings relevant to the investigation into the officer-involved death of Linda Moss in Baltimore, Maryland. Nothing in this supplemental report alters the legal analysis provided in the IID's interim report. This report concludes the IID's investigation into this matter. Please contact the IID if you would like us to undertake any additional investigative steps.