



INDEPENDENT INVESTIGATIONS DIVISION

Declination Report Concerning the Police-Involved
Death in Baltimore County on January 10, 2024

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Declination Report Concerning the Police-Involved Death of Craig Cousin on January 10, 2024

The Independent Investigations Division of the Maryland Office of the Attorney General (the “IID”) is charged with investigating “police-involved incidents that result in the death of individuals or injuries likely to result in death.” Md. Code, State Gov’t § 6-602 (c)(1). For incidents that occur after October 1, 2023, if the Attorney General determines that the investigation provides sufficient grounds for prosecution, then the IID “shall have exclusive authority to prosecute the offense.” State Gov’t § 6-604 (a)(1).

I. Introduction

On January 10, 2024, at approximately 10:57 p.m., the subject officers with the Baltimore County Police Department (“BCPD”) were dispatched to the 10200 block of Reisterstown Road, Owings Mills, Maryland, for a suspicious person. When the subject officers arrived on scene, they found a man, later identified as Craig Cousin, struggling with two individuals. Mr. Cousin broke free of their hold and made his way to the drive-thru window of a fast-food restaurant. Mr. Cousin was leaning through the window and speaking incoherently to the employees inside the restaurant. The subject officers proceeded to move Mr. Cousin from the drive-thru window and place Mr. Cousin in handcuffs. Mr. Cousin struggled with the subject officers as they attempted to restrain and move him away from the restaurant and into a nearby grassy area. After Mr. Cousin was placed on his stomach in the grassy area, handcuffs were placed on him. At approximately 11:21 p.m., medics transported Mr. Cousin to a nearby hospital, where he was pronounced dead. After completing its investigation and evaluating all the available evidence, the Office of the Attorney General has determined that none of the subject officers committed a crime under Maryland law. Accordingly, the Attorney General has declined to prosecute any of the subject officers in this case.

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officers’ conduct. By statute, the IID only has jurisdiction to investigate the actions of police officers, not those of any other individuals involved in the incident. Moreover, the IID’s analysis does not consider issues of civil liability or the department’s administrative review of an officer’s conduct. Certain information—specifically, compelled statements by subject officers -- may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been considered in the IID’s investigation. The subject officers in this case chose not to make statements to the IID, which had no impact on the prosecutorial decision.

This report is composed of a factual narrative, a supplemental information section, and a legal analysis. Every fact in the narrative is supported by the evidence obtained in this investigation, including autopsy reports, police radio transmissions, dispatch records, police

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

This investigation involved one decedent and four subject officers:

- A. Decedent Craig Cousin was 41 years old at the time of the incident. He was a Black male who lived in Baltimore County, Maryland.
- B. Officer David Folderauer has been employed by BCPD since December 2022. At the time of the incident, he was 32 years old, and is a White male.
- C. Officer Donald Cantrell has been employed by BCPD since June 2019. At the time of the incident, he was 41 years old, and is a White male.
- D. Officer Alex Eskins has been employed by BCPD since January 2012. At the time of the incident, he was 31 years old, and is a White male.
- E. Officer James Marsh has been employed by BCPD since December 2018. At the time of the incident, he was 34 years old, and is a White male.

The IID reviewed any disciplinary records and criminal histories of these involved parties and where they existed, determined none were relevant to the legal analysis.

II. Factual Summary

On January 10, 2024, at 10:57 p.m., Baltimore County 911 received a phone call reporting that two people were struggling with someone and trying to force the person into a car at a location in the 10200 block of Reisterstown Road, in Owings Mills, Maryland. A short time later, dispatchers received a second, separate call from a woman who said that her husband, later identified as Craig Cousin, had “taken something” and she was “unable to restrain him any longer.” She further stated that she “did not want him to get hurt,” and that she needed an ambulance.¹ In the background of the call, a man could be heard saying that Mr. Cousin was “not in his right mind” and was running in traffic toward a restaurant. Officers Donald Cantrell, Alex Eskins, David Folderauer, and James Marsh were dispatched to respond to the calls.

A surveillance camera captured Mr. Cousin, naked from the waist down, running across multiple lanes of traffic on Reisterstown Road toward the fully functioning drive-thru window of a fast-food restaurant, with Wife following. A few seconds after he arrived at the window, Mr. Cousin punched and broke through the window with his fist. The drive-thru window led to the

¹ In order to protect her privacy, Mr. Cousin’s wife will be referred to as “Wife” throughout the report.

restaurant's kitchen and was occupied by restaurant staff. After he broke the window, Wife attempted to pull him away from the window toward a nearby grassy area. Mr. Cousin struggled with her until a man, later identified as Mr. Cousin's stepfather,² began to assist.

Officer Folderauer was the first to arrive on scene at 11:05 p.m., approximately eight minutes after the original 911 calls. His body-worn camera footage captured Mr. Cousin and Stepfather struggling with one another at the drive-thru window. Mr. Cousin, still naked from the waist down, was standing barefoot on top of broken glass and had shoved both of his arms through the window frame.



Image 1: Still photo taken from Officer Folderauer's body-worn camera footage showing Mr. Cousin struggling with Stepfather.

Mr. Cousin's arms were bleeding in various places, cut by the jagged remnants of the glass, and he was shouting "Help!" and "one zero three zero one" at the workers inside, while Stepfather attempted to restrain him. When Officer Folderauer arrived at the window, he put one hand on Mr. Cousin's right shoulder and another on his right elbow; Mr. Cousin turned and yelled, "Pause! If you don't get from behind me like that! Pause!" before attempting to turn back to the window. In response, Officer Folderauer grabbed Mr. Cousin's right wrist, then used the wrist hold to pin Mr. Cousin's arm behind his back while he slowly pulled him away from the window.

² In order to protect his privacy, Mr. Cousin's stepfather will be referred to as "Stepfather" throughout the report.

Officer Cantrell arrived about thirty seconds later, while Officer Folderauer was pinning Mr. Cousin's arm. Wife approached Officer Cantrell and said, "I don't know... I don't know what the fuck he took. I called his father, he said he took something, and we were trying to get him under control." A few seconds later, Officer Folderauer called out to Officer Cantrell, "Hands, hands, now. Hands," and, "Get him off there, he's gonna cut himself," as the pair of officers grabbed Mr. Cousin's right arm. Stepfather grabbed Mr. Cousin's left arm and assisted the subject officers as they pulled Mr. Cousin away from the window and to a nearby grassy area.



Image 2: View of Officer Eskin's body-worn camera footage showing Officers Folderauer and Cantrell, and Stepfather with Mr. Cousin on the ground.

Once they were on the grass, Officers Folderauer and Cantrell lowered Mr. Cousin to the ground. Officer Folderauer kneeled on Mr. Cousin's legs and hips, pinning him to the ground, while Officer Cantrell worked to control Mr. Cousin's right hand. While the subject officers tried to control Mr. Cousin, they, along with Wife and Stepfather, tried to calm Mr. Cousin down by using his first name, Craig. Mr. Cousin continued to yell and struggle with the subject officers and at one point, Mr. Cousin defecated on Officer Folderauer.

While Officers Cantrell and Folderauer struggled with Mr. Cousin over the next few minutes, Officer Cantrell radioed for backup officers to bring leg restraints. In the interim, Wife told the subject officers that Mr. Cousin had taken some pills earlier, after work, then began acting erratically including uncontrollably defecating and drinking hand sanitizer. Neither she nor Stepfather told the subject officers what substance Mr. Cousin had taken. By 11:10 p.m., roughly

five minutes after the struggle began, Officers Marsh and Eskins arrived and, working together with the other officers, placed Mr. Cousin in handcuffs. Throughout the encounter, Stepfather tried to assist the subject officers in containing Mr. Cousin. Stepfather can be seen holding Mr. Cousin's head as Cousin's struggled with subject officers. Stepfather also encouraged Mr. Cousin to calm down, telling him to take deep breaths, and not to bite or fight with the subject officers. While Mr. Cousin was subdued, Officer Eskins put leg restraints on Mr. Cousin's ankles.

Once Mr. Cousin was secured and was placed on his side, the subject officers moved away from him and allowed Stepfather to sit on the ground next to Mr. Cousin's head to try to get him to calm down. Moments later, Stepfather told Officer Cantrell that Mr. Cousin was vomiting, and Wife said Mr. Cousin had passed out but was still breathing. Officer Cantrell rolled Mr. Cousin onto his back and then his side, and radioed EMS to "step it up" – which meant that medics should get to the scene as soon as possible.

Less than a minute later, Stepfather told the subject officers that Mr. Cousin's lips were turning blue. The subject officers responded immediately by checking his airways to make sure that he was not choking on vomit. The subject officers then administered Mr. Cousin a single dose of Narcan. Body-Worn Camera footage shows the subject officers noting that Mr. Cousin still had a pulse, and further indicated that the subject officers believed the Narcan helped him because Mr. Cousin's eyes were moving, and color was coming back to his skin. At 11:18 p.m., EMS medics arrived in an ambulance and administered a second dose of Narcan to Mr. Cousin. The medics and the subject officers then placed Mr. Cousin onto a stretcher, removed his handcuffs, and put him into the ambulance. The medics transported Mr. Cousin to a nearby hospital, where he was pronounced dead at 11:52 p.m.

III. Supplemental Information

A. Autopsy

An autopsy of Mr. Cousin was performed by the Office of the Chief Medical Examiner (the "OCME") on January 11, 2024.³ The autopsy report states that the cause of death was cardiac arrhythmia⁴ in the setting of cardiac conduction system abnormality during restraint and that the manner of his death was homicide.⁵ The restraint was stress inducing and led to an irregular

³ The IID received the autopsy report of Mr. Cousin on June 5, 2024.

⁴ A heart arrhythmia occurs when the electrical signals to the heart do not work properly.

⁵ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Maryland Office of the Chief Medical Examiner uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. "Homicide" applies when death results from a volitional act committed by another person to cause fear, harm, or death. These terms are not considered a legal determination; rather, they are largely used to assist in the collection of public health statistics. *A Guide for Manner of Death Classification*, First Edition, National Association of Medical Examiners, February 2002.

heartbeat that was predisposed due to his heart problem. He had an underlying heart condition that could not handle the stress of the event.

The autopsy revealed that Mr. Cousin had a purple contusion or bruise on the right side of his neck along with multiple linear abrasions or scratches on his arms. He also had a variety of contusions and abrasions on the back of his right hand, both of his legs, and the left side of his back, along with multiple lacerations on the sole of his right foot. Mr. Cousin's neck was "dissected", and it was revealed that he had bleeding in the muscles and fat of his neck, arms, legs, and back due to the restraint.

An examination of Mr. Cousin's heart showed increased fibrosis (thickening or scarring of the tissue) in the crest of ventricular septum (muscular structure in the normal right ventricle connecting the upper part of the septum to the parietal wall). The examination also revealed a conduction system abnormality, which may have predisposed Mr. Cousin to suffering a cardiac arrhythmia (irregular heartbeat) in the setting of stress-inducing restraint.

Toxicology testing included over 1200 known drugs and was negative. The OCME stated that the result does not preclude the possibility that Mr. Cousin was under the influence of an unknown drug or substance and concluded that "given that he went unresponsive while being restrained by another individual and the close temporal relationship between restraining and his death, the manner of death is best certified as Homicide."

B. Department Policies

BCPD has the following policies concerning medical treatment for civilians in custody:

1-9.4 SICK OR INJURED PERSONS

- Discovering an unconscious, seriously injured, or ill person will request an ambulance.

NOTE: Includes people suffering from the effects of alcohol or drugs.

IV. Legal Analysis

After a criminal investigation, prosecutors must determine whether to bring criminal charges against someone. When making that determination, prosecutors have a legal and ethical duty to only charge a person with a crime when they can meet the State's burden of proof; that is, when the available evidence can prove each element of that crime beyond a reasonable doubt. Prosecutors also need to determine whether the person accused of the crime could raise an affirmative defense. In those cases, prosecutors not only need to prove the crime, but they also need to determine whether the evidence could *disprove* the defense beyond a reasonable doubt.

Ultimately, the decision to bring any charges rests on whether the available evidence is sufficient for prosecutors to meet those standards.

There are two relevant offenses that were considered in this case. First is the violation of Maryland's Use of Force Statute, which makes it a crime for police officers to intentionally use excessive force.⁶ The second offense is Involuntary Manslaughter, which occurs when an accused person's grossly negligent conduct causes the death of another person.⁷

The evidence in this case shows that the subject officers did not violate either of the aforementioned statutes because: the force they used was necessary and proportional to the situation; the subject officers had a law enforcement justification for touching Mr. Cousin; and because there is no evidence that their conduct was grossly negligent or reckless under the circumstances. Accordingly, the IID will not be pursuing charges against any of the subject officers. This report explains in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that any officer committed a crime.

A. Excessive Force

Proving a violation of the Use of Force Statute requires a prosecutor to establish beyond a reasonable doubt that a subject officer:

- (1) used force that was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective;
- (2) intended to use force that was excessive, *i.e.*, not necessary and proportional under the circumstances; and
- (3) the use of excessive force resulted in serious bodily injury or death.⁸

First, prosecutors would need to establish that one or more of the subject officers used excessive force, meaning force that was not necessary and proportional under the circumstances. Second, prosecutors would need to establish that an officer's use of excessive force was intentional. Finally, prosecutors would need to establish that the force used by the subject officers—grabbing different parts of his body, putting him on the ground and pinning his hips and shoulders to the ground, putting restraints on his wrists and ankles—resulted in Mr. Cousin's death.

⁶ See Md Statutes, Public Safety §3-524(d)(1).

⁷ MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d Ed. 2022).

⁸ MPJI-Cr 4:36 Unlawful Use of Force by a Police Officer, MPJI-Cr 4:36 (2d ed. 2022).

Determining whether an officer's use of force is "necessary and proportional" to defend someone or accomplish a legitimate law enforcement objective is a fact-specific inquiry. But generally speaking, a use of force is considered "necessary and proportional" when an officer had no reasonable alternative under the circumstances, the force was appropriate given the situation at hand, and it was not likely to result in harm that was out of proportion or too severe in relation to the officer's law enforcement objective.⁹ When a factfinder—either a judge or a jury—conducts this analysis, they must consider the totality of the circumstances, including, but not limited to, the nature of the call for service, what occurred in the moments before force was used, what the subject officers knew at the time force was used, and the time and distances involved.¹⁰

In this case, there is no evidence that the subject officers intended to use force that exceeded that which was necessary and proportional to restrain and prevent Mr. Cousin from being a danger to himself or others. First, with respect to whether use of force was necessary, Mr. Cousin's behavior posed a threat to his own safety and that of others which required the subject officers to restrain him. Before the subject officers arrived, Mr. Cousin had previously run across multiple lanes of traffic and punched the glass out of a drive-thru window. When the subject officers arrived, Mr. Cousin was trying to enter the fast-food restaurant through the drive-thru window while struggling with Stepfather. Mr. Cousin cut himself during the struggle. The drive-thru was fully functional, and, prior to Mr. Cousin's attempt to break in, was occupied by restaurant staff. The window also leads into the restaurant kitchen. In short, Mr. Cousin's behavior required that the subject officers restrain him, both for his own safety and for the safety of others.

Second, with respect to whether the kind and degree of force used by the subject officers was proportional to the imminent threat of harm to Mr. Cousin and others, and to the subject officers' legitimate law enforcement objective of restraining Mr. Cousin to prevent further harm, video evidence shows that the force that Officers Folderauer and Cantrell used to take Mr. Cousin away from the window was appropriate and minimal. The subject officers did not strike Mr. Cousin, nor did they slam him into the ground. The subject officers' body-worn cameras show that the subject officers were trying to get Mr. Cousin under control as safely as possible. Officer Folderauer expressed concerns about keeping Mr. Cousin from cutting himself when the subject officers first made physical contact with him. Officer Cantrell suggested putting Mr. Cousin in a nearby grassy area, rather than trying to take him down onto the broken glass and concrete that he was initially standing on. In the grass, Officers Folderauer and Cantrell—again, in tandem with Stepfather—tried to de-escalate the situation by speaking politely to Mr. Cousin in an attempt to calm him and get him to voluntarily comply. Neither officer placed Mr. Cousin in a chokehold, and neither officer applied pressure on Mr. Cousin's chest or airway. Officer Folderauer was

⁹ For a more detailed discussion of the "necessary and proportional" standard, see [this opinion](#) written by the Office of the Attorney General.

¹⁰ *Id.*

positioned on Mr. Cousin's hips, and he placed a hand on Mr. Cousin's shoulder, while Officer Cantrell focused on controlling Mr. Cousin's hands and wrists. Officers Eskins' and Marsh's assistance in placing handcuffs and leg restraints on Mr. Cousin was minimal and brief.

Based on the evidence, a prosecutor could not prove beyond a reasonable doubt that the subject officers' use of force was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective.¹¹ Accordingly, the Office of the Attorney General will not charge the subject officers with a violation of the Use of Force Statute in this case.

B. Involuntary Manslaughter

Given the facts and circumstances involved, involuntary manslaughter is the only potential homicide related charge available pursuant to Maryland law. To prove involuntary manslaughter, a prosecutor would need to prove beyond a reasonable doubt that one or more of the subject officers acted in a grossly negligent manner, and that their gross negligence caused Mr. Cousin's death.¹² Gross negligence is conduct that demonstrates a "wanton and reckless disregard for human life."¹³ In order to determine whether the subject officers acted with gross negligence, prosecutors must examine both the decision to restrain Mr. Cousin, thus using force, and the manner in which the subject officers rendered medical aid.

Regarding the decision to restrain Mr. Cousin, the evidence does not support a charge that the subject officers acted recklessly or negligently. The subject officers used force that was reasonable under the circumstances to prevent Mr. Cousin from being a danger to himself and others. Before the subject officers arrived, Mr. Cousin had run across multiple lanes of traffic on Reisterstown Road and punched the glass out of a drive-thru window. When the subject officers arrived, Mr. Cousin was trying to enter the fast-food restaurant through the drive-thru window while struggling with Stepfather. Mr. Cousin cut himself during the struggle. The window also leads into the restaurant kitchen, which was occupied by restaurant staff. Mr. Cousin's behavior required that the subject officers restrain him, both for his own safety and for the safety of others. The actions taken by the subject officers were reasonable considering the imminent threat of harm posed by Mr. Cousin to himself and to others. Video evidence shows that the actions taken by Officers Folderauer and Cantrell in moving Mr. Cousin away from the window was appropriate and minimal. The subject officers' body-worn cameras show that the subject officers were trying

¹¹ Because there is insufficient evidence to establish that the subject officers intended to use force that was excessive, this report does not analyze whether the subject officers caused the death of Mr. Cousin.

¹² MPJI-Cr 4:17.9 Homicide—Involuntary Manslaughter (Grossly Negligent Act and Unlawful Act), MPJI-Cr 4:17.9 (2d Ed. 2021).

¹³ *Duren v. State*, 203 Md. 584, 588 (1954).

to reasonably gain control of Mr. Cousin as safely as possible. The subject officers did not strike Mr. Cousin, nor did they slam him into the ground.

With regards to obtaining medical treatment for Mr. Cousin, the evidence does not support a charge that the subject officers acted recklessly or negligently. Once Mr. Cousin was secure, he was placed on his side. The subject officers then moved away from him and allowed Stepfather to sit on the ground next to Mr. Cousin's head to try to get him to calm down. Once the subject officers were alerted that Mr. Cousin's medical condition was worsening, they immediately began rendering aid and radioed EMS to "step it up." They checked his airways to confirm that he was not choking and administered Narcan. The subject officers continued to monitor his medical condition until EMS medics arrived and began medical treatment. Given Mr. Cousin's symptoms, the subject officers' decision to administer Narcan was appropriate and not related to his death. In fact, once on scene, the medics made the same decision.¹⁴ Furthermore, the subject officers' actions were consistent with departmental policy and did not act in a manner that was reckless or grossly negligent.

Accordingly, the Office of the Attorney General will not charge the subject officers with involuntary manslaughter in this case.

V. Conclusion

This report has presented factual findings and legal analysis and conclusions relevant to the January 10, 2024, police-involved death of Craig Cousin in Baltimore County. The Office of the Attorney General has declined to seek charges in this case because, based on the evidence obtained in its investigation, the subject officers did not commit a crime.

¹⁴ This report does not analyze whether the subject officers caused the death of Mr. Cousin because there is insufficient evidence to establish that the subject officers were reckless or acted with gross negligence.