



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved
Death in Montgomery County on April 27, 2024

August 7, 2024

Public Release: August 20, 2024

Declination Report Concerning the Police-Involved Death of Jasmin Gimon on April 27, 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 April 27, 2024, at approximately 2:25 a.m., two on-duty Montgomery County Sheriff’s Office (“MCSO”) Deputies (“the subject officers”) were riding together in a marked police cruiser southbound on Rockville Pike near Flanders Avenue. They observed a Dodge sedan traveling north on Rockville Pike at a high rate of speed. The subject officers made a U-turn to follow the Dodge, and approximately thirty-five seconds later, activated their emergency lights and sirens, and attempted a traffic stop. The subject officers kept their emergency lights and sirens active for approximately thirty seconds as they approached the Dodge, but ultimately were unable to catch up. A short time later, the subject officers came upon a two-car collision involving the Dodge and an uninvolved Honda sedan near the intersection of Rockville Pike and Twinbrook Parkway. The driver of the Honda, Jasmin Gimon, was pronounced dead on the scene. There were two people in the Dodge. The passenger was taken to an area hospital for treatment and the driver, Timothy Pack, fled the collision on foot and was apprehended by police a short time later.

After completing its investigation and evaluating all the available evidence, the Office of the Attorney General has determined that the subject officers did not commit 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. Therefore, the IID’s investigation did not specifically examine any criminal culpability of Timothy Pack, the driver of the Dodge, in this incident. Moreover, the IID’s analysis does not consider issues of civil liability or the department’s administrative review of the officers’ conduct. Certain information—specifically, compelled statements by subject officers—may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been considered in the IID’s investigation. The subject officers in this case chose not to make statements to the IID, which has no impact on the prosecutorial decision.

This report is composed of a factual narrative followed by a legal analysis. Every fact in the narrative is supported by the evidence obtained in this investigation, including police radio transmissions, dispatch records, police and EMS reports, police body-worn camera footage,

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

This investigation involved the driver of the Dodge, one decedent, and two subject officers:

- A. Timothy Wayne Pack, the driver of the Dodge, was 21 years old at the time of the collision. He is a White male who lived in McLean, Virginia.
- B. The decedent, Jasmin Gimon, was 25 years old at the time of the collision. She was a Hispanic female who lived in Adelphi, Maryland.
- C. Deputy Connor Clifford has been employed by MCSO since January 2018. He is a White male, and at the time of the incident was 27 years old.
- D. Deputy Paul Nelson has been employed by MCSO since August 2022. He is a White male, and at the time of the incident was 22 years old.

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

II. Factual Summary

On April 27, 2024, at approximately 2:20 a.m., a man later identified as Timothy Pack was driving a black Dodge sedan eastbound on Tuckerman Lane in North Bethesda, Maryland with a woman (“Citizen A”) in the passenger’s seat.¹ They were returning home after consuming alcohol and attending a concert in Reston, Virginia. A few moments later, Mr. Pack turned left, and began driving northbound on Rockville Pike at a high rate of speed.^{2,3}

At around the same time, two officers with the MCSO Domestic Violence Division—Deputies Connor Clifford, the driver, and Paul Nelson, the passenger—were in a patrol cruiser traveling southbound on Rockville Pike in North Bethesda to serve a protective order.⁴ At 2:26 a.m., around the 11100 block of Rockville Pike near its intersection with Flanders

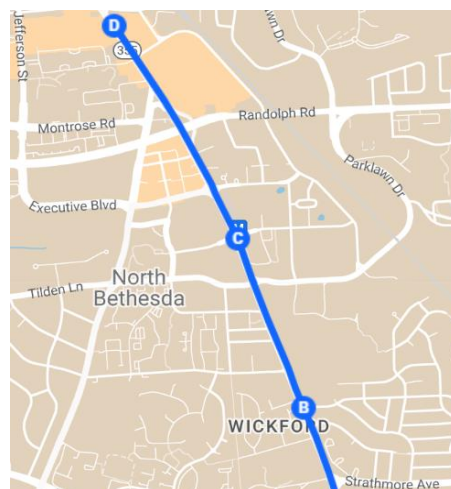


Image 1: A map depicting the path of the incident. (A) Mr. Pack drives from Tuckerman Ln. onto Rockville Pk. (B) Mr. Pack speeds past the deputies, who begin following him. (C) The deputies turn on their lights and sirens. (D) Mr. Pack, about 1000 feet ahead of the deputies, collides with Ms. Gimon’s vehicle. Point B and Point D are approximately 1.5 miles apart.

¹ For privacy reasons, Mr. Pack’s passenger will be referred to as “Citizen A” throughout the report.

² The speed limit on Rockville Pike is 40 m.p.h. The roadway has three lanes traveling northbound and three lanes traveling southbound, divided by a median, and has traffic lights at several intersections.

³ In IID interviews following the crash, Citizen A and nearby federal law enforcement witnesses reported that Mr. Pack was driving over 100 m.p.h. before ever seeing the deputies’ cruiser.

⁴ Deputy Clifford maintained sole control of the patrol cruiser throughout this incident.

Avenue, Mr. Pack's Dodge sped past the subject officers in the opposite direction. Deputy Clifford made a U-turn at Flanders Avenue and began following Mr. Pack. From that point until the collision, events unfolded in less than a minute.

Inside the Dodge, Citizen A saw the subject officers' U-turn and told Mr. Pack to slow down, but Mr. Pack continued driving at a high rate of speed.⁵ Beginning at 2:26:44 a.m., Deputy Clifford began accelerating the cruiser, increasing its speed to 100 m.p.h. over the course of approximately thirty seconds (a little over a half mile). The weather that night was clear, and surveillance camera footage along the route shows that traffic along Rockville Pike was minimal. At 2:27:16 a.m., when Deputy Clifford reached the 11500 block of Rockville Pike, he activated his emergency lights and sirens and drove the cruiser faster, briefly traveling between 110 and 114 m.p.h. Once the emergency lights and sirens were active, Deputy Clifford drove in a straight line without weaving around other cars on the road. And even at the cruiser's highest speeds, surveillance camera footage showed that the cruiser was still approximately eight seconds—more than 1000 feet—behind Mr. Pack's Dodge, which continued northbound on Rockville Pike at a high rate of speed.

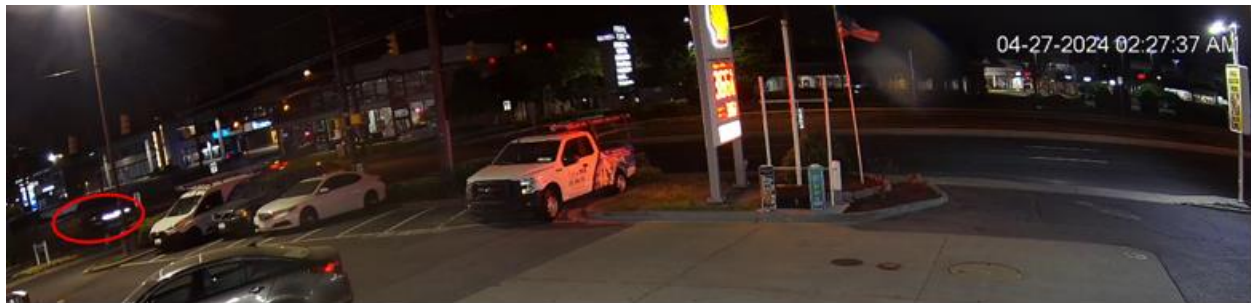


Images 2 & 3: Two still photographs from surveillance video footage on the 11500 block of Rockville Pike. In the top photo, at 2:27:09 a.m., Mr. Pack's Dodge, circled in red, is shown driving at a high rate of speed. In the bottom photo, the subject officers' cruiser, circled in blue, is shown arriving at roughly the same location eight seconds later.

At 2:27:31 a.m., a woman driving a grey Honda sedan, later identified as Jasmin Gimon, drove away from a gas station and briefly paused at a flashing traffic light so that she could make

⁵ Mr. Pack told investigators that he did not see any police vehicles or lights in the lead up to the crash.

a left turn into the southbound lanes of the 12200 block of Rockville Pike. When Ms. Gimon began her turn at 2:27:37 a.m., Mr. Pack, driving northbound on Rockville Pike at over 110 m.p.h., collided with the driver's side of Ms. Gimon's Honda. The Honda spun several times and crossed the median, coming to rest facing north in the southbound lanes of Rockville Pike. While the Honda was spinning, Mr. Pack's Dodge flipped over several times and traveled diagonally and forward before coming to rest on its roof in a nearby shopping center parking lot. Mr. Pack left the scene on foot after the Dodge stopped moving, while Ms. Gimon and Citizen A remained trapped in their respective cars.



Images 4 & 5: Two still photographs from surveillance video footage on the 12200 block of Rockville Pike. In the top photo, Mr. Pack's Dodge, circled in red, is shown driving at a high rate of speed less than a second before the crash. In the bottom photo, the subject officers' cruiser, circled in blue, is shown arriving at the scene of the crash eleven seconds later.

The subject officers arrived at the scene roughly eleven seconds after the crash. Deputy Clifford immediately radioed for assistance from medics and other officers, exited the patrol cruiser, then approached the Dodge and began speaking with nearby witnesses and trying to provide aid to Citizen A. During the same time, Deputy Nelson retrieved a medical bag from the cruiser's trunk and approached Ms. Gimon's Honda to attempt to render aid but could not get into the car until medics arrived due to damage from the crash.

Montgomery County Fire Department medics arrived on scene at approximately 2:33 a.m.; Citizen A was transported to a local hospital with injuries, and Ms. Gimon was pronounced dead on the scene at 2:48 a.m. Mr. Pack was caught by police at a convenience store several blocks away.

Electronic data that MSP troopers recovered from the Dodge following the crash revealed that Mr. Pack was traveling at 118 m.p.h. roughly one second before the crash and never pressed the brakes. Data about his steering inputs indicated that he saw Ms. Gimon's car as it made its left turn.

III. Supplemental Information

MCSO Policy 3.09 states that traffic enforcement is primarily the responsibility of other Montgomery County law enforcement agencies. However, deputies “are authorized to make traffic stops for serious violations and any violation that creates a significant hazard to persons or property within Montgomery County.” Some of the violations considered by the policy include “speed violations” and “hazard violations”—behaviors that pose a direct hazard to the safe and efficient flow of traffic. The policy notes that both violations significantly contribute to traffic accidents.

Additionally, MCSO policy forbids deputies from engaging in pursuits. It states that “[i]f an attempted vehicle stop evolves into a pursuit, deputies must: (1) Terminate their immediate effort to stop the vehicle; and (2) Notify PSCC of the vehicle’s description, direction of travel, and of the charges.” Deputies may provide limited assistance to other law enforcement agencies that are engaged in pursuits, so long as that assistance does not involve any pursuit driving. However, the policy does not define “pursuit.”

IV. Legal Analysis

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

The relevant offense that was considered in this case is criminally negligent manslaughter by vehicle, which is applicable in most police-involved vehicle collisions.⁶ This offense requires proving that an accused person caused the death of another person by operating a vehicle in a criminally negligent manner. It is the baseline homicide charge that a prosecutor can bring in an officer-involved pursuit case.

If a prosecutor cannot prove criminally negligent manslaughter by vehicle based on the available evidence, they cannot prove the more severe charge of manslaughter by vehicle,⁷ which requires a prosecutor to prove that the defendant drove with gross negligence, a level above criminal negligence. Both offenses require proof of causation—the evidence must show that the defendant’s actions were the legal cause of the death or harm at issue.

The evidence in this case shows that the subject officers did not violate the aforementioned statute because there is insufficient evidence to prove that they drove their vehicle in a criminally negligent manner. Accordingly, the IID will not pursue criminal charges against them. This report

⁶ Criminal Law § 2-210.

⁷ Md. Code, Criminal Law § 2-209.

explains in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that either officer committed a crime.⁸

A. Criminally Negligent Manslaughter by Vehicle

Proving criminally negligent manslaughter by vehicle requires a prosecutor to establish three elements beyond a reasonable doubt: (1) that the accused drove a motor vehicle; (2) in a criminally negligent manner; and 3) in doing so caused Ms. Gimon's death.⁹ Criminal negligence requires proof that the accused "should have been aware, but failed to perceive that his or her conduct created a 'substantial and unjustifiable risk' to human life and that the failure to perceive that risk was a 'gross deviation' from the standard of care that a reasonable person would exercise."¹⁰ In Maryland, negligence is measured on a spectrum – with simple negligence on one end, criminal negligence in the middle, and gross negligence on the other end.¹¹ Further, where the alleged negligence involves a law enforcement officer, the "reasonable person" perspective is replaced with a "reasonably prudent police officer" perspective, which must also account for the fact that an officer is permitted to violate some traffic laws under certain circumstances.¹²

Determining whether an officer's actions constitute criminal negligence must take into consideration the totality of the circumstances, including relevant factors such as department policies, use of warning devices, traffic conditions, speed, yielding to traffic signals, and erratic driving.¹³ When examining the weight given to the violation of departmental policy, the Supreme Court of Maryland has held that, "a violation of police guidelines *may* be the basis for a criminal prosecution."¹⁴ 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." Maryland courts have considered an officer's policy violations as evidence of negligence, recklessness, unreasonableness, and corrupt intent.¹⁵ However, a "hyper technical" violation of policy, without more, is not sufficient to establish gross negligence.¹⁶ Applying these principles to the present matter, prosecutors must individually analyze Deputy Clifford's and Deputy Nelson's decisions to try to stop the Dodge and their actions while the cruiser was in motion.

⁸ Because there is insufficient evidence to establish that the subject officers acted with criminal negligence, this report does not analyze whether the subject officers caused the death of Ms. Gimon.

⁹ MPJI-Cr 4:17.10 (3d ed. 2024)

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

¹¹ *See Beattie v. State*, 216 Md. App. 667, 683 (2014) (explaining "a gross deviation from the standard of care" by comparing it with a similar Kansas statute that used the "material deviation" standard, stating: "a 'material deviation' from the standard of care require[s] 'something more than ordinary or simple negligence yet something less than gross and wanton negligence.'").

¹² *Boyer v. State*, 323 Md. 558, 589 (1991).

¹³ *See, e.g., Boyer*, 323 Md. at 591; *Taylor v. State*, 83 Md. App. 399, 404 (Ct. Sp. App. Md. 1990).

¹⁴ *State v. Pagotto*, 361 Md. 528, 557 (2000) (citing *State v. Albrecht*, 336 Md. 475, 502-03 (1994)) (emphasis in original).

¹⁵ *See, e.g., Albrecht*, 336 Md. at 503; *Pagotto*, 361 Md. at 550-53; *Koushall v. State*, 249 Md. App. 717, 729-30 (2021), *aff'd*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022); *Kern v. State*, No. 2443, Sept. Term 2013, 2016 WL 3670027, at *5 (Md. Ct. Spec. App. Jul. 11, 2016) (unreported); *Merkel v. State*, No. 690 Sept. Term 2018, 2019 WL 2060952, at *8 (Md. Ct. Spec. App. May 9, 2019) (unreported); *Mayor and City Council of Baltimore v. Hart*, 395 Md. 394, 398 (2006) (civil litigation).

¹⁶ *State v. Pagotto*, 127 Md. App. 271, 304 (1999), *aff'd*, 361 Md. 528 (2000).

1. Deputy Clifford

Regarding the decision to take enforcement action against the Dodge, Deputy Clifford was operating a cruiser equipped with emergency lights and sirens during this incident and observed Mr. Pack drive the Dodge past the cruiser at a high rate of speed, more than the posted 40-m.p.h. speed limit. Deputy Clifford then made a U-turn and accelerated in the direction of the Dodge. Since a showing of criminal negligence requires showing a “gross deviation” from the standard of care that a reasonable officer would use, whether Deputy Clifford’s decision to attempt to stop the Dodge was negligent depends, at least in part, on his training and MCSO policy. As a certified police officer in Maryland, Deputy Clifford has been trained in emergency vehicle operations and the traffic enforcement techniques that would be relevant under these circumstances. Further, though not his primary duty, MCSO policy 3.09 authorizes him to “make traffic stops for serious violations and any violation that creates a significant hazard to persons or property within Montgomery County,” including “speed violations.” Though the traffic on Rockville Pike was minimal and the weather was clear at the time of the incident, it would still be reasonable to conclude that a car traveling 60 m.p.h. over the posted speed limit in a dense urban area presented “a significant hazard to persons or property,” as contemplated by MCSO policy 3.09. Accordingly, Deputy Clifford’s decision to engage in the pursuit did not create an unjustifiable risk that was a gross deviation from the reasonable standard of care and, therefore, was not criminally negligent.

As to Deputy Clifford’s actions while the cruiser was in motion, his decision to accelerate up to 100 m.p.h. for about 30 seconds before activating his emergency lights and sirens could be deemed negligent, if it was the sole factor to be considered. Indeed, traveling at those speeds without activating the cruiser’s emergency lights and sirens could have put others on the road at risk. However, Deputy Clifford ultimately activated his emergency lights and sirens less than a minute after he began accelerating, maintained control of the cruiser throughout the incident, and drove in a straight line without weaving in and out of traffic. Given the totality of the circumstances, Deputy Clifford’s actions during the attempted traffic stop did not create an unjustifiable risk that was a gross deviation from the reasonable standard of care. Accordingly, the Office of the Attorney will not charge Deputy Clifford with criminally negligent manslaughter by motor vehicle in this case.

2. Deputy Nelson

As Deputy Nelson was the passenger of Deputy Clifford during this incident, the analysis is limited. Due to the buffering period on the body-worn cameras, there is no audio for the first thirty seconds or so of the subject officers’ encounter with the Dodge. Therefore, there is no conclusive evidence regarding what, if any, role or input Deputy Nelson had in the decision to act. Based on the available body-worn camera footage, there is no evidence to suggest that Deputy Nelson attempted to control the cruiser, nor is there evidence that Deputy Nelson did anything to distract Deputy Clifford while he drove.

In brief, there is no evidence to suggest that Deputy Nelson was negligent in the decision to initiate or engage in a traffic enforcement action against the Dodge, and there is no evidence to suggest that Deputy Nelson was negligent in the operation of the cruiser. Accordingly, the Office

of the Attorney General will not charge him with criminally negligent manslaughter by motor vehicle in this case.

VI. Conclusion

This report has presented factual findings and legal analysis and conclusions relevant to the April 27, 2024, police-involved fatal vehicle accident in Rockville that resulted in the death of Jasmin Gimon. The Office of the Attorney General has declined to pursue charges in this case because, based on the evidence obtained in its investigation, neither Deputy Clifford nor Deputy Nelson committed a crime.