



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Death in
Montgomery County on July 12, 2026

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Declination Report Concerning the Officer-Involved Death of Elliott Powers on July 12, 2026

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 the death of an individual.”¹ If the Attorney General determines that the investigation provides sufficient grounds for prosecution, then the IID “shall have exclusive authority to prosecute the offense.”²

I. Investigation Summary

The IID investigated a police-involved fatal shooting in Montgomery County, Maryland that involved three Gaithersburg Police Department (GPD) officers, three Montgomery County Department of Police (MCPD) officers, and a man later identified as Elliott Powers.³ The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officers’ conduct. During the investigation, the IID obtained evidence, including police radio transmissions, dispatch records, police and EMS reports, police body-worn camera footage, surveillance camera footage, photographs, department policies, and interviews with civilian and law enforcement witnesses.⁴ Based on that evidence, the IID has made the following factual findings.

On July 12, 2026, at 6:47 p.m., MCPD received a 911 call reporting that a man, later identified as Elliott Powers, was loading a gun at a bus stop in the 9600 block of Lost Knife Road in Gaithersburg. The caller described Powers as a Black male between 40 and 50 years old, wearing a hat and all black clothing. The call and Powers’s description were radioed to officers roughly a minute later. Multiple officers responded to the scene, including GPD Sergeant Christopher Leach, GPD Officers Carissa Fortin and Noah Whelan, and MCPD Officers Robert Bullock, Andrew Hanko, and Michael Wengloski.⁵

Multiple officers began to arrive at the bus stop at 6:59 p.m. Sgt. Leach and a GPD witness officer were the first to arrive and they approached Powers on foot. As Sgt. Leach got closer to Powers, he asked to see Powers’s hands. Powers drew a 9mm handgun from a backpack. Sgt. Leach and the GPD witness officer immediately backed away, drew their service handguns, and loudly ordered Powers to drop the gun. Powers responded, “I ain’t dropping shit.” Powers

¹ Md. Code, State Gov’t § 6-602 (c)(1).

² Md. Code, State Gov’t § 6-604 (a)(1).

³ Powers was a Black male from Rockville, Maryland who was 46 years old at the time of the incident.

⁴ Compelled statements by subject officers may not be relied upon in criminal 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. Further, the subject officers did not make a statement to the IID in this case, which had no impact on the prosecutorial decision.

⁵ Sgt. Leach has been employed by GPD since July 2012. He is a White male who was 41 years old at the time of the incident. Ofc. Fortin has been employed by GPD since August 2018. She is a White female who was 34 years old. Ofc. Whelan has been employed by GPD since April 2021. He is a White male who was 28 years old. Ofc. Bullock has been employed by MCPD since August 2019. He is a White male who was 29 years old. Ofc. Hanko has been employed by MCPD since August 2018. He is a White male who was 35 years old. Ofc. Wengloski has been employed by MCPD since January 2014. He is a White male who was 39 years old at the time of the incident.

chambered a live round into the handgun by racking its slide.⁶ Sgt. Leach radioed dispatch to confirm that Powers had a handgun and directed the GPD witness officer to try to talk with Powers. The GPD witness officer asked Powers to “please just drop” the handgun. Powers refused and said that the police were going to have to kill him.

More officers arrived over the next several minutes. By 7:02 p.m., Officers Fortin, Whelan, Bullock, Hanko, and Wengloski were on scene. Officers Fortin, Whelan, Bullock, and Wengloski were armed with rifles, and Officer Hanko, like Sgt. Leach, was armed with a handgun. The GPD witness officer continued talking with Powers. Sgt. Leach requested a negotiator, then directed the GPD witness officer to temporarily back away in an effort to de-escalate by giving Powers space. Dispatchers radioed that a negotiator was enroute to the scene at 7:04 p.m.

Multiple officers remained positioned in a semi-circle around Powers for roughly nine minutes. During that time, subject officers expressed concerns about the presence of bystanders in a shopping center behind the bus stop, and plans were made to evacuate the shopping center while other officers cordoned off the parking lot. Officers Bullock and Wengloski discussed with other officers a plan to take Powers into custody without using deadly force. The GPD witness officer resumed efforts to verbally de-escalate the situation with Powers. Powers responded negatively to the de-escalation attempts, including daring officers to shoot him and stating, “everybody that stay around me is dead...everybody that stay around me gets a funeral.” At 7:11 p.m., the on-scene officers reconfirmed via radio that Sgt. Leach and the GPD witness officer had seen Powers holding and loading a handgun.

At 7:12 p.m., an MCPD witness officer began moving toward the shopping center parking lot to assist with evacuating bystanders. Powers responded by raising his handgun in that officer’s direction. As soon as Powers raised the handgun, the subject officers opened fire, striking Powers multiple times.⁷

Officers moved to secure the handgun and provide Powers with medical aid. EMS medics arrived and took over treatment a short time later. Medics provided Powers with medical aid for several minutes, and ultimately pronounced Powers deceased at the scene.



Image 1: A still photo from a police dashboard camera that captured the moment Powers pointed the gun, circled in red, in the direction of an MCPD witness officer.

⁶ The sight and sound of Powers racking the gun’s slide was captured on the GPD witness officer’s body-worn camera. MCPD and GPD publicly released copies of the officers’ body-worn cameras [here](#).

⁷ Under GPD Policy 600.1 and MCPD Policy FC 131, officers may use deadly force when, under the totality of the circumstances, the force is necessary and proportional to prevent an imminent threat of death or physical injury to themselves or another person.

II. Supplemental Information

A. Ballistics

Maryland State Police (“MSP”) Crime Scene technicians responded to the scene and recovered four department-issue rifles loaded with .223 Remington ammunition from Officers Bullock, Fortin, Wengloski, and Whelan, and two department-issue 9mm handguns from Officer Hanko and Sergeant Leach. Technicians found seventeen spent .223 cartridge cases and eight spent 9mm cartridge cases from the subject officers’ weapons at the scene.



Image 2: A photograph of the handgun recovered from Powers.

Additionally, technicians recovered Powers’s handgun, a Sig Sauer P320 9mm which was loaded with seven live 9mm rounds in its magazine and one live round in its chamber.

III. Legal Analysis

After a criminal investigation, the IID must determine whether to bring criminal charges against a person to hold them accountable pursuant to Maryland law. When making that determination, we have a legal and ethical duty to charge a person with a crime only when we 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. We must also determine whether the accused person could raise an affirmative defense. In those cases, the IID not only needs to prove the crime, but also must 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 us to meet those standards.

Based on the evidence, three relevant offenses were considered in this case. First is the violation of Maryland’s Use of Force Statute, which makes it a crime for officers to intentionally use excessive force.⁸ The second and third offenses are homicide-related charges based on the intentional killing of another person.⁹

There is insufficient evidence to prove that the subject officers violated the aforementioned statutes. Accordingly, the IID will not pursue criminal charges against them. This report explains in further detail why, based on the evidence, we cannot prove beyond a reasonable doubt that Sgt. Leach or Officers Fortin, Whelan, Bullock, Hanko, or Wengloski committed a crime.

⁸ See Md. Code, Public Safety § 3-524(i) (1 & 2).

⁹ MPJI-Cr 4:17; MPJI-Cr 4:17.2.

A. Maryland Use of Force Statute

Proving a violation of the Use of Force Statute requires the IID 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.¹⁰

Determining whether an officer's use of force is "necessary and proportional" to prevent an imminent threat of physical injury to someone or accomplish a legitimate law enforcement objective is a fact-specific inquiry. Generally speaking, a use of force is considered "necessary and proportional" when an officer had no reasonable alternative under the circumstances, the kind and degree of force was appropriate in light of the officer's legitimate law enforcement objective, 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, given the context in which it was used.¹¹ 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, the time and distances involved, and whether the officer unnecessarily escalated the situation or created the moment that required the use of force.¹²

Based on the totality of the circumstances presented here, there is insufficient evidence to prove beyond a reasonable doubt that the subject officers used force beyond what was necessary and proportional to address the threat that Powers posed. Officers initiated contact with Powers in response to a 911 call for an armed person matching Powers's description. When officers approached, Powers ignored commands to show his hands, then drew and loaded a handgun. Over the course of roughly twelve minutes, officers attempted to de-escalate the situation, while Powers threatened the officers. When one MCPD officer moved to evacuate bystanders from the area, Powers pointed the loaded handgun toward him, presenting a clear threat of imminent death or serious bodily injury.

In sum, given the available evidence, the IID could not prove beyond a reasonable doubt that the subject officers violated the Use of Force Statute. Accordingly, the Office of the Attorney General will not charge them with a violation of the Use of Force Statute.

¹⁰ MPJI-Cr 4:36.

¹¹ For a more detailed discussion of the "necessary and proportional" standard, see [this opinion](#) written by the Office of the Attorney General. 107 Op. Atty. Gen. Md. 33 (2022).

¹² *Id.*; see also *Barnes v. Felix*, 605 U.S. 73, 80 (2025) ("[T]he 'totality of the circumstances' inquiry into a use of force has no time limit... earlier facts and circumstances may bear on how a reasonable officer would have understood and responded to later ones.").

B. Homicide Offenses

When a person is killed, there are four homicide charges that a prosecutor may consider in the State of Maryland:

- First Degree Murder: the willful, deliberate, and premeditated killing of another.¹³
- Second Degree Murder: when the defendant intended to kill or inflict such serious injury that death would be the likely result and there was no justification or mitigating circumstances.¹⁴
- Voluntary Manslaughter: an intentional killing that is not murder because the defendant acted in partial self-defense.¹⁵
- Involuntary Manslaughter: when the defendant acted with gross negligence and that conduct caused the death of another.¹⁶

Here, evidence of legal justification for the defense of others precludes a prosecution of any homicide offense against the subject officers.¹⁷ Complete defense of others exists when the accused: (1) was not the initial aggressor (or did not raise the level of force to deadly force); (2) had the subjective belief that another person was in immediate or imminent danger of serious harm or death; (3) that belief was objectively reasonable; (4) used force that was not more than what was reasonably necessary in light of the threat or actual force; and (5) used force for the purpose of aiding the person that they were defending.¹⁸ Complete defense of others is an affirmative defense, which means that the IID must prove beyond a reasonable doubt that one of the elements of the defense is not applicable.

When an officer has sufficient probable cause to believe that a person poses a “threat of serious physical harm,” then the officer may use deadly force,¹⁹ and the reasonableness of that decision must be viewed from “the perspective of a reasonable police officer similarly situated.”²⁰ In practice, this means that a factfinder must consider that police officers often work under rapidly changing circumstances and that what constitutes a reasonable use of force may change from moment to moment.²¹

Given the evidence presented here, the IID could not disprove the elements of perfect defense of others. The subject officers were not the aggressors; instead, they responded to a call for an armed person. When officers attempted to de-escalate and negotiate, Powers refused. Instead, Powers racked his gun and verbally threatened officers. When Powers ultimately pointed a loaded handgun at a witness officer, he presented a clear threat of imminent death or serious bodily injury to the officer.

¹³ MPJI-Cr 4:17.

¹⁴ MPJI-Cr 4:17.2.

¹⁵ *Id.*

¹⁶ MPJI-Cr 4:17.8. This offense only applies to grossly negligent or reckless acts that result in death, as opposed to the intentional act of killing another, as a result, the offense of involuntary manslaughter is inapplicable in this case.

¹⁷ *See Porter v. State*, 455 Md. 220, 234-36 (2017); MPJI-Cr 4:17.2; MPJI-Cr 4:17.3.

¹⁸ *Id.*

¹⁹ *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

²⁰ *State v. Albrecht*, 336 Md. 475, 501 (1994); *State v. Pagotto*, 361 Md. 528, 555 (2000).

²¹ *Id.*

Against this backdrop, the subject officers' actions do not constitute a homicide offense. We cannot overcome the elements of complete defense of others. Accordingly, the Office of the Attorney General will not charge any of the subject officers with a homicide offense.

VI. Conclusion

This report has presented factual findings, legal analysis, and conclusions relevant to the July 12, 2026, police-involved death of Elliott Powers in Gaithersburg, Maryland. The Office of the Attorney General has declined to pursue charges in this case because, based on the evidence obtained in its investigation, there is insufficient evidence to prove beyond a reasonable doubt that the subject officers violated a criminal statute.