



# INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved Shooting Death in  
Harford County on April 23, 2022

November 23, 2022

**Report of the Independent Investigations Division of the  
Maryland Office of the Attorney General Concerning the  
Police-Involved Death of John Raymond Fauver on April 23, 2022**

Pursuant to Md. Code, State Gov't § 6-106.2, the Office of the Attorney General's Independent Investigations Division (the "IID") provides this report to Harford County State's Attorney Albert Peisinger regarding the police-involved shooting death of John Raymond Fauver.

The IID is charged with "investigat[ing] all alleged or potential police-involved deaths of civilians" and "[w]ithin 15 days after completing an investigation ... transmit[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 § 6-106.2(c), (d). The IID completed its investigation on November 21, 2022, after receiving the autopsy report from the Office of the Chief Medical Examiner on the same day. This report is now being provided to Harford County State's Attorney Peisinger on November 23, 2022.

**I. Introduction**

On April 23, 2022, deputies with the Harford County Sheriff's Office ("HCSO") responded to a report of a suicidal person with access to firearms. At approximately 4:00 p.m., deputies located the individual who was the subject of the call, John Fauver, in a truck driving in a parking lot in the 1500 block of Rock Spring Road in Forest Hill, Maryland. HCSO Sergeant Bradford Sives exited his patrol car and ordered Mr. Fauver out of his truck at gunpoint. Mr. Fauver began to drive away, at which point Sgt. Sives fired his gun multiple times at the truck's tires. Mr. Fauver continued to drive and stopped in an adjacent area in the parking lot. After several minutes, Mr. Fauver exited his truck and began to communicate with deputies on scene. During this period of time, Mr. Fauver retrieved an item from his truck, later determined to be a medical walking cane, and pointed it at deputies. HCSO Corporal Christopher Maddox, who was approximately 55 yards away from Mr. Fauver, and Sgt. Sives, who was positioned much closer, both discharged their firearms. Only the shots from Sgt. Sives' shotgun struck Mr. Fauver, who immediately fell to the ground. A cane was recovered near him. Deputies rendered aid to Mr. Fauver until paramedics arrived. Mr. Fauver was taken to an area hospital where he was pronounced dead.

This report details the IID's investigative findings based on an examination of the shooting scene; 63 hours and 13 minutes of body-worn camera footage; 42 hours and 20 minutes of dashboard camera footage; various cellular phone videos provided by civilians; computer-aided dispatch records; police radio transmissions, recordings, and reports; interviews with numerous civilian and law enforcement witnesses; firearms analysis; and autopsy report. All materials reviewed in this investigation are being provided to the Harford County State's Attorney's Office with this report and are listed in Appendix A.

This report also includes an analysis of Maryland statutes that could be relevant in a fatal police-involved shooting of this nature. The IID considered the elements of each possible criminal charge, the relevant HCSO departmental policies, and Maryland case law to assess

whether any charge could be supported by the facts of this incident. Because the Harford County State's Attorney's Office—not the Attorney General's Office—retains prosecution authority in this case, this report does not make any recommendations as to whether any individuals should be charged.

## **II. Factual Findings**

### **A. 911 Call**

On Saturday, April 23, 2022, at 2:44 p.m., Harford County Department of Emergency Services received a 911 call from Jennifer Bridges, Mr. Fauver's wife, who said she was calling from the couple's home at 1415 Old Pylesville Road in Whiteford, Maryland. At the beginning of the nearly six-minute recorded call, Ms. Bridges reported, "My husband is experiencing some mental health issues." She indicated to the 911 operator that she and Mr. Fauver's sister, Sharon Fauver, were trying to talk to Mr. Fauver when he "purposefully" backed his truck into Sharon's car, causing minor damage to the grill on the front of her car. Ms. Bridges continued that Mr. Fauver "needs...some mental help because he's suicidal."

At this point in the call, Ms. Bridges held up her phone to Sharon's phone who was already speaking with her brother. On the 911 call recording, Mr. Fauver can be heard saying, "my blood is on your hands" and that he is going to "put a bullet in my head in about ten minutes." The operator asked Ms. Bridges if any weapons were involved in the present situation, and Ms. Bridges indicated no. She did, however, tell the operator that Mr. Fauver had two "rifles," and while she did not know where they were, she believed they were in his truck. She said that Mr. Fauver "took off" in this truck, which he drove north on Route 136, which is Whiteford Road. She said she did not know where he was headed.

Ms. Bridges described Mr. Fauver as a 53-year-old, 6-foot 4-inch, 190-pound white man who was "very physically ill" and "walks with a cane." She added that her husband "can be violent" towards himself but not others, and she repeated that he said he would put a bullet in his head. She again said Mr. Fauver is "very mentally ill; very, very distressed." At the end of the call, the operator told Ms. Bridges to remain at her home to meet with the deputies that were being dispatched.

### **B. 1415 Old Pylesville Road**

At approximately 3:02 p.m., HCSO Senior Deputy Donald Licato was the first officer to arrive at 1415 Old Pylesville Road and meet with Ms. Bridges and Sharon Fauver. Sr. Deputy Licato, like all HCSO officers who responded to this incident throughout the day, was wearing a departmentally issued body-worn camera, which he activated as he was driving to the residence.

Upon his arrival, he confirmed with Ms. Bridges the information she had shared with the 911 operator, including Mr. Fauver's vehicle information, his physical description, and that she believed he may have two rifles with him. Ms. Bridges also reiterated to the deputy that Mr. Fauver was mentally ill, "not acting rationally," and threatened suicide. Ms. Bridges added that Mr. Fauver is "scared to death" about going to jail.

At around 3:07 p.m., Sr. Deputy Licato broadcast the vehicle description over the radio to other HCSO officers and said that Mr. Fauver may have two rifles. At 3:14 p.m., the deputy requested that Mr. Fauver be entered into a national law enforcement database as a missing and suicidal person. According to Sr. Deputy Licato's body camera footage and the computer-aided dispatch records, HCSO personnel were also "pinging" Mr. Fauver's cell phone in an attempt to geo-locate it. This provided deputies with several locations south of Mr. Fauver's home to check, which they did, but they were unable to find Mr. Fauver. Sr. Deputy Licato then received permission from Ms. Bridges to search the house to look for Mr. Fauver's rifles. He completed a search but did not locate any firearms.

Deputy Samuel Mitchell responded to the house about 10 minutes after Sr. Deputy Licato and also spoke with Ms. Bridges, who provided additional information about Mr. Fauver and his erratic behavior over the previous two days. Deputy Mitchell asked Ms. Bridges to call Mr. Fauver so deputies could speak with him. Ms. Bridges complied, and Deputy Mitchell spoke with Mr. Fauver on speaker for about two minutes. Mr. Fauver's voice was angry, and he rambled when he spoke. He did indicate he would go to the hospital "probably later today," and at 3:25 p.m., he disconnected the call.

A minute later, Deputy Francis Sullivan, the third deputy to arrive at the house, called Mr. Fauver back and was able to speak with him. During this longer conversation between the two, Deputy Sullivan listened to Mr. Fauver talk and established a rapport with Mr. Fauver. Mr. Fauver said he was going to get something to eat and then go to the hospital. He talked about his wife and his struggle with addiction and physical disability. At 3:32 p.m., Mr. Fauver switched to video chat, and the two continued their conversation. At this point, Deputy Sullivan was able to see certain physical locations in the background of the video, which he relayed to other deputies. Mr. Fauver disconnected the call, but he called back and agreed to meet with Deputy Sullivan for lunch. He said he would find a place to eat and then call back Deputy Sullivan with the location.

At 3:59:30 p.m., while waiting for the call back, Deputy Sullivan heard on the HCSO radio that other deputies located Mr. Fauver outside of Chopstix restaurant at 1523 Rock Spring Road in Forest Hill, Maryland, about 13 miles south of his house. Twenty seconds later, Mr. Fauver called Ms. Bridges' phone, which she put on speaker and handed to Deputy Sullivan. Mr. Fauver said, "call them off," referring to the police that were in front of him.

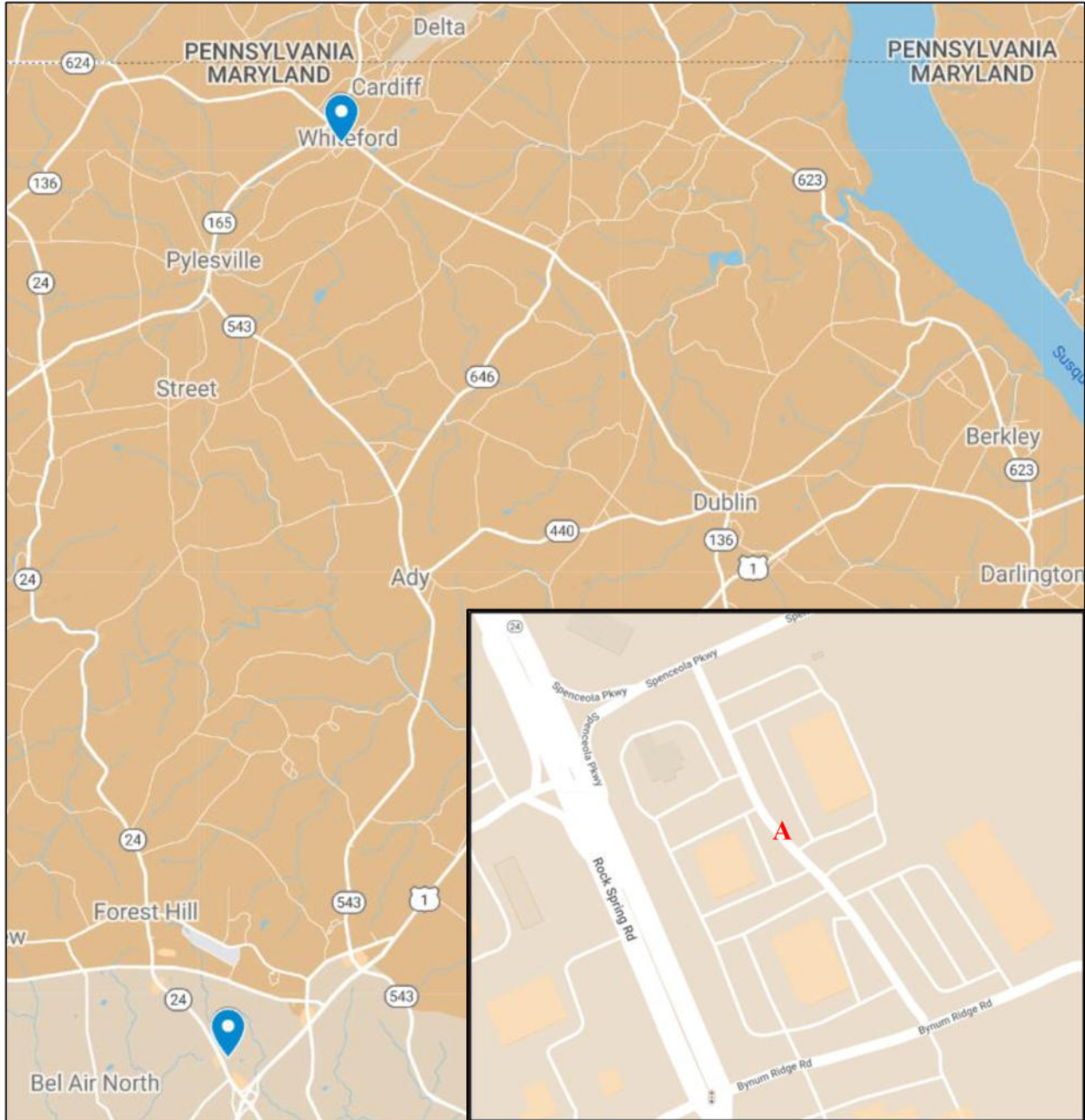


Image 1. Map of northern Harford County, with the top blue marker indicating 1415 Old Pylesville Road, the residence of Mr. Fauver and Ms. Bridges, and the bottom blue marker indicating the 1500 block of Rock Spring Road, where Mr. Fauver was located by HCSO and ultimately shot. The two locations are about 13 miles apart. *Inset*: close-up depiction of the shopping center at the 1500 block of Rock Spring Road with (A) indicating the approximate location where deputies found Mr. Fauver in his truck.

#### D. Initial Encounter with Mr. Fauver

At the same time, Sgt. Sives was driving on Rock Spring Road near Chopstix restaurant. He saw Mr. Fauver’s truck in a lane separating the shopping center parking lot in half. According to his body camera and dashboard camera footage, Sgt. Sives drove his patrol car into the shopping center parking lot and onto this lane and began using his car horn. He stopped his car

right by Mr. Fauver's truck, with the front of Sgt. Sives' patrol car directly facing the front of Mr. Fauver's truck, separated by a few feet. At 4:00:16 p.m., Sgt. Sives stepped out of his car with his handgun drawn and pointed at the front of the truck. Sgt. Sives yelled, "hands up, hands up" several times as he walked closer to the driver's side of the truck, still with his gun drawn, and now pointed at Mr. Fauver.

Mr. Fauver, who was sitting in the driver's seat of the truck, lowered the driver's side window all the way down. He was holding a cell phone in his hands. Body camera footage revealed that Mr. Fauver turned the front of his phone towards Sgt. Sives and said, "look at that," seemingly trying to show Deputy Sullivan, whom he was still talking to via video chat. Mr. Fauver's phone was connected to Deputy Sullivan's phone via video chat on and off the next 20 minutes.

At the same time Sgt. Sives arrived at the shopping center parking lot, a second HCSO officer, Deputy Garrett Rach, also arrived. Deputy Rach pulled his patrol car directly behind Mr. Fauver's truck and stepped out. He approached the truck from the rear with his handgun drawn but pointed towards the ground.



Image 2. Still frame from Sgt. Sives' body camera footage depicting Sgt. Sives with his gun drawn, Mr. Fauver seated in his truck with the window down and on his cell phone with Deputy Sullivan, and Deputy Rach approaching the truck from the rear.

At 4:00:30 p.m., while standing outside the truck, Sgt. Sives told Deputy Rach, "Come up here and pull the door open," referring to the front driver's side door. Sgt. Sives continued to yell "hands up" to Mr. Fauver. Deputy Rach reached out with his left hand and opened the driver's door and then stepped back. Sgt. Sives again yelled "hands up" with his handgun still pointed at Mr. Fauver, who replied, "fuck you." Mr. Fauver then grabbed the driver's door and began to shut it. Deputy Rach stepped back from the truck as Mr. Fauver drove the truck in reverse. Sgt. Sives said, "he's driving away, he's driving away," and at the same time, Mr. Fauver backed his

truck into the front of Deputy Rach's unoccupied patrol car, which was parked directly behind the truck, pushing the patrol car backwards and causing minor body damage to the front of the car.

Over the next three seconds, Sgt. Sives fired eight rounds in quick succession at the truck from his departmentally issued handgun. During the first, second, and third rounds, Sgt. Sives was standing on the driver's side of the truck at a forty-five degree angle to the front bumper as the truck faced him. He appeared to aim his gun toward the driver's side front fender, wheel, and tire area. As Sgt. Sives fired a fourth round, the truck started to pull forward. Sgt. Sives remained in the same position and continued to aim his handgun in the same direction. When Sgt. Sives fired the fifth round, the truck continued to move forward, and Sgt. Sives was next to the truck's front bumper. As Sgt. Sives fired his sixth round, the truck continued to move forward and began to pass Sgt. Sives, who was still next to the truck's driver's side front wheel and only one to two feet away from the truck. It again appeared Sgt. Sives fired at the truck's driver's side front wheel and tire area. When Sgt. Sives fired the seventh round, the truck began to turn towards the left and pass Sgt. Sives, who was standing close to the driver's side front wheel and appeared to be firing at the front wheel and tire area. When Sgt. Sives fired the eighth and final round, the truck almost sideswiped him. From Sgt. Sives' body camera footage, it appeared he touched the truck's driver's side door as the truck passed him. After Sgt. Sives fired the eighth round, his gun was aimed at Mr. Fauver through the driver's side door window, and it appeared from the body camera footage that his handgun's slide was locked to the rear as a result of some malfunction. Sgt. Sives then fell to the ground as the truck drove over a median, began to accelerate, and turned left.

None of the eight rounds Sgt. Sives fired hit Mr. Fauver. A visual examination conducted by an IID investigator on scene revealed the truck itself was struck at least three times. This included one round to the front driver's side bumper, which appeared to penetrate the bumper, striking the front driver's side tire and deflating it, and two rounds that appeared to strike the driver's side of the truck to the rear of the passenger compartment and to the left of the gas cap. Also, as discussed below in Sections III., B., and F., HCSO technicians located and recovered eight .40 caliber cartridge casings in front of Deputy Rach's car and along the curb where Sgt. Sives was standing when he fired his gun. Those casings were later tested by the Maryland State Police ("MSP") lab and were concluded to have been fired from Sgt. Sives' .40 caliber Glock semiautomatic pistol.



Image 3. Still frame from Deputy Wobbleton's dashboard camera footage, depicting Mr. Fauver driving his truck over the median after Sgt. Sives fired his handgun eight times. In this image, Deputy Rach's patrol car is to the left of and behind the truck, and Sgt. Sives is on the driver's side of the truck, with only his leg visible.

Sgt. Sives got up and began to run after the truck. At 4:00:46 p.m., Sgt. Sives radioed "shots fired, shots fired, he just tried to run me over." On body camera footage, he appeared to clear the malfunction in his handgun, remove the magazine, get in his patrol car, and holster the gun.

As Sgt. Sives ran after the truck, Deputy Jon Wobbleton, who was seated inside his marked patrol car when Mr. Fauver backed into Deputy Rach's patrol car and drove over the median, followed the truck through the parking lot. Mr. Fauver drove past the businesses in the shopping center, which were to his right. Deputy Wobbleton followed less than a car length behind.

Mr. Fauver stopped his car in the northern part of the parking lot. He parked parallel to Spenceola Parkway. At this time, numerous marked HCSO patrol cars were now present at the parking lot and were beginning to set up a perimeter around the truck.





Image 4. Aerial photograph of the shopping center at the 1500 block of Rock Spring Road taken by HCSO after the fatal shooting, showing the approximate location of: (A) the initial encounter with Mr. Fauver when he backed his truck into a patrol car and Sgt. Sives fired his handgun; (B) Chopstix restaurant; (C) Mr. Fauver's truck during the standoff and fatal shooting (at the time of this photo, the truck had not been moved); (D) Spenceola Parkway, which borders the north side of the parking lot; (E) Sgt. Sives throughout the standoff and at the time he fired his shotgun (at the time of the fatal shooting, a patrol car was also present to the immediate right of, and parallel to, the visible patrol car); (F) Cpl. Maddox at the time he fired his handgun; and (G) Mr. Souvlaki restaurant.

## E. Standoff

Sgt. Sives drove toward this perimeter and parked. He exited his car and retrieved his departmentally issued shotgun from inside the car. There were two other deputies present at this point, both standing outside of their patrol cars and both pointing their handguns at Mr. Fauver who was inside the parked truck with the doors closed. The driver's side window remained down. Sgt. Sives ran up to one of these parked patrol cars, which was parked diagonal to the truck, and stood behind the patrol car's front driver's side wheel. He was facing Mr. Fauver's truck, approximately 15 yards away.

As Sgt. Sives arrived, the two other deputies were telling Mr. Fauver to get out of the car, and, at 4:01:44 p.m., Mr. Fauver replied, "I'm so ready to die, man." Mr. Fauver was still on video chat with Deputy Sullivan, who remained at the house at 1415 Old Pylesville Road. Deputy Sullivan was telling Mr. Fauver to comply with the orders he was being given by other officers. At 4:01:50 p.m., Sgt. Sives yelled to Mr. Fauver, "get your hands up now." He was pointing his shotgun at Mr. Fauver, who was seated in the truck. Mr. Fauver remained in the truck as deputies pleaded with him to comply with their orders.

At 4:02:03 p.m., Mr. Fauver said, "Get your snipers, boys. I'm ready. You ready?" Sgt. Sives immediately relayed to other officers on scene, "He's reaching in the back [of the truck], and he is saying to get your snipers boys." At this time, Deputy Sullivan was looking at the video chat and said on the radio, "gun, center console." Deputy Sullivan said in a subsequent interview with the IID that he saw Mr. Fauver reaching into the center console and saw a long silver tube. Next, Mr. Fauver said, "Let me get a better shot." At 4:02:17 p.m., Deputy Sullivan asked Mr. Fauver if what he saw on the video chat was a cane or rifle. Mr. Fauver replied, "AR-15, hollow point. Ready to go, brother." Deputy Sullivan did not appear to relay that specific information on the radio.

Sgt. Sives radioed for officers to take cover and shut down Spenceola Parkway, the road directly behind the truck. Additional officers arrived and positioned themselves behind Sgt. Sives. As the situation continued, Sgt. Sives said at 4:02:40 p.m. that Mr. Fauver was "mobile in the vehicle" and warned another deputy that he should get in his patrol car in case he needs to "ram" Mr. Fauver.

At 4:03:16 p.m., Sgt. Sives yelled to Mr. Fauver, "you're making this stupid, buddy," and then told him to "stop reaching." It is not visible on any video footage what Mr. Fauver was doing in the truck at this time to elicit that comment from Sgt. Sives. At 4:03:35 p.m., Sgt. Sives yelled, "hands up, hands up, hands up" as his shotgun was pointed toward Mr. Fauver, who opened the driver's door but remained seated inside the truck. Sgt. Sives then yelled, "hands up. Don't do it, John, just show us your hands, show us your hands, it's not worth doing it John, it's not worth it John, hands up, hands up, John, hands up, don't make this stupid, hands up." At the same time, Mr. Fauver can be heard talking, but it's not clear from body camera footage what he said; however, Sgt. Sives immediately told officers, "He says he's reaching for a gun, guys." Next, Sgt. Sives radioed once again for officers to shut down Spenceola Parkway and ensure there were no cars behind the truck.

Over the next minute, Sgt. Sives alternated between instructing Mr. Fauver to put his hands up and checking on the actions of other officers on scene. At 4:05:27 p.m., Mr. Fauver got out of his truck for the first time and stood in between the open driver's door and the driver's seat. Sgt. Sives indicated to other officers, "we can't see," and he then asked whether any officers were present on scene with less-lethal weapons. It did not appear Sgt. Sives received any response to this inquiry, and no officers on scene indicated that they had long distance less-lethal weapons or can be seen on any camera footage with such weapons.

At this point, at 4:06:08 p.m., Mr. Fauver got back inside the truck, sitting in the driver's seat, but the driver's door remained open. Sgt. Sives radioed, "He's back in the vehicle, and he's reaching in the vehicle again." He next yelled out, "It's a cane, it's a cane, it's a cane," as Mr. Fauver can be seen on the video footage moving around in the truck while seated in the driver's seat. Over the next minute, Sgt. Sives told Mr. Fauver to "stop reaching" and to put his hands up and reminded other officers, "he has guns guys, we don't know if they're locked up or what."

Approximately a minute later, Mr. Fauver got out of the truck for the second time, again standing in between the open driver's door and the driver's seat. Sgt. Sives asked another officer on scene, Deputy Tyler Dailey, to try to talk to Mr. Fauver. While Deputy Dailey attempted this,

at 4:08:50 p.m., Sgt. Sives radioed, “He’s saying goodbye to his old lady.” At 4:09:14, Mr. Fauver is heard saying, “I had a bad fucking day today.”

#### F. The Shooting

Around this time, Cpl. Maddox was stationed at a Truist Bank branch in the same shopping center with other officers. He was standing at the corner of the building with his departmentally issued handgun drawn and pointed in the truck’s direction. According to measurements taken by IID personnel, he was approximately 55 yards from the truck. At 4:09:22 p.m., Mr. Fauver can be seen on Cpl. Maddox’s body camera footage walking out beyond the open truck door. Cpl. Maddox radioed that Mr. Fauver was walking and appeared to have a cell phone in his hand.

About thirty seconds later, Cpl. Maddox commented that Mr. Fauver was “reaching in” the truck. Thirty seconds after that, at 4:10:23 p.m., Cpl. Maddox said, “He’s reaching. He’s reaching.” Three seconds later, at 4:10:26 p.m., Cpl. Maddox screamed, “He’s got a gun. He’s got the gun.” At this point, Mr. Fauver can be seen on various HCSO deputies’ body camera footage—including Cpl. Maddox’s footage, as well as a cell phone video provided to investigators by a civilian who was sitting in his personal vehicle that was parked in between the Truist Bank and the Mr. Souvlaki restaurant in the same shopping center—as holding something in his hands with his arms raised and his left foot positioned in front of him.

At the same time Cpl. Maddox yelled that Mr. Fauver had a gun (at 4:10:26 p.m.), Sgt. Sives yelled, “It’s a cane, it’s a cane, it’s a cane, it’s a cane.” Neither Cpl. Maddox’s nor Sgt. Sives’ exclamations were heard on the radio. Further, Sgt. Sives is not audible on Cpl. Maddox’s body camera footage, and vice-versa, suggesting that the two deputies could not hear each other, as they were yards away. Also at this time, Deputies Daniel Cahill and Dailey, whose body camera footage revealed were standing to the side of the patrol car directly next to the car where Sgt. Sives was standing, both yelled “it’s not a gun” several times.

At 4:10:29 p.m., Cpl. Maddox, from his position approximately 55 yards away, fired his handgun in the direction of Mr. Fauver. One second later, Cpl. Maddox fired three more rounds, in rapid succession. At the same time Cpl. Maddox fired his second round, Sgt. Sives, from his position closer and diagonal to Mr. Fauver, fired his shotgun at Mr. Fauver, appearing to strike him. Sgt. Sives’ shot came four to five seconds after he first yelled, “it’s a cane.” At this point, according to the civilian cell phone video, Mr. Fauver can be seen walking away from the vehicle and toward Sgt. Sives, holding up and pointing what is later determined to be a medical walking cane. At 4:10:32 p.m., Cpl. Maddox fired a fifth and final round toward Mr. Fauver, and Sgt. Sives fired a second shotgun round at Mr. Fauver, again appearing to hit him. Mr. Fauver then fell to the ground face down. At 4:10:35 p.m., Sgt. Sives yelled “cease fire, cease fire, cease fire.”<sup>1</sup> Based on the medical examiner’s findings at Mr. Fauver’s autopsy, as discussed more fully below in Section III., E., only Sgt. Sives’ shotgun shots struck Mr. Fauver’s body and caused his death. None of Cpl. Maddox’s shots struck Mr. Fauver or in any way contributed to his death.

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<sup>1</sup> In the minutes before Sgt. Sives fired, his body camera footage does not show Mr. Fauver’s physical actions because the camera is obscured by the strap of Sgt. Sives’ shotgun.



Image 5. *Left:* Still frame from cell phone video footage provided by a civilian inside the Mr. Souvlaki restaurant located in the same shopping center, approximately 30 seconds before deputies fired. Sgt. Sives is standing on the left. The actual shooting was not captured visually by this civilian's video as he panned over to the right. *Right:* Still frame from the same video, showing Cpl. Maddox standing at the corner of the Truist Bank, approximately 55 yards from Mr. Fauver's truck, prior to him shooting.



Image 6. Still frame from cell phone video footage provided by civilian seated inside his personal vehicle parked in between the Truist Bank and the Mr. Souvlaki restaurant, depicting the moment after Cpl. Maddox first fired and immediately before Sgt. Sives fired. Mr. Fauver is seen holding and pointing what was later determined to be a medical walking cane. Sgt. Sives is the closest deputy to Mr. Fauver, to the right of Mr. Fauver in this image. Inset: close-up depiction of Mr. Fauver holding the cane and Sgt. Sives.



Image 7. Still frame from Cpl. Maddox's body camera footage at the moment he fired his first round. Circled in red is Mr. Fauver's truck.



Image 8. Still frame from cell phone video footage provided by a civilian inside the Chopstix restaurant located in the same shopping center, depicting the moment immediately after all shots were fired, and Mr. Fauver fell to the ground. The cane is visible in front of Mr. Fauver. The actual shooting was not captured by this civilian's video.

## G. After the Shooting

Immediately after Sgt. Sives yelled cease fire, Cpl. Maddox told dispatch that shots were fired, and the suspect was down. Cpl. Maddox then immediately noted, “He’s still got a rifle” as he began to run from his position at the bank towards Mr. Fauver. After checking for any crossfire, other deputies on scene approached Mr. Fauver and placed him in handcuffs. Deputies requested a medic and medivac and rolled Mr. Fauver onto his back and began to provide medical aid, including applying a tourniquet and performing CPR. Medic units were on scene within a minute of the shooting and continued to provide aid. Mr. Fauver was transported via ambulance to Upper Chesapeake Medical Center, where he was pronounced dead at 5:09 p.m.

### III. Investigation

The IID began its investigation after the shooting. This section summarizes the initial response, evidence collection at the scene, investigation interference by HCSO and subsequent civil litigation, the Medical Examiner’s autopsy report, firearms analysis, and civilian and law enforcement statements.

#### A. Initial Response

At 4:49 p.m., 39 minutes after the shooting, a HCSO Sergeant notified the IID of the incident by leaving a brief voicemail message on a general, unmonitored telephone line.<sup>2</sup> The IID’s deputy chief investigator responded to the shooting scene within 40 minutes of notification. He was quickly followed by numerous officers with the MSP homicide unit and technicians with the MSP forensic sciences division and additional IID personnel.

Despite the IID and MSP’s presence on scene, and in contravention to the IID’s authorizing statute and protocols, HCSO would not permit the IID and MSP to process the scene, collect physical evidence, or speak to witnesses. Instead, HCSO undertook these investigative steps themselves. HCSO also maintained exclusive control over the electronic and digital evidence, including over 105 hours of body-worn camera, dashboard camera, private surveillance, and cellphone camera footage, permitting the IID to view only a tiny fraction of it.

#### B. Evidence Collection at the Scene

Because of this interference by HCSO, MSP technicians were not able to independently document the shooting scene or search for, collect, or process evidence, despite their presence on scene. The evidence described below, therefore, was identified and collected exclusively by HCSO personnel.

The shooting scene was cordoned off with tape. It consisted of numerous marked HCSO police cruisers parked throughout the shopping center parking lot area. The marked police cruiser

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<sup>2</sup> IID protocols require immediate notification of any such incident to a manned, 24-hour hotline staffed by MSP so that MSP investigators and evidence technicians and IID personnel can respond without delay to process the scene, collect evidence, interview witnesses, and provide updates to the media. HCSO had previously announced its intention not to use the manned 24-hour phone line.

identified as Deputy Rach's patrol car had visible damage to the front bumper. In front of that cruiser and along the curb where Sgt. Sives fired his handgun, HCSO technicians located eight .40 caliber cartridge casings.

At the northside of the parking lot, just south of the exit leading out onto Spenceola Parkway, was Mr. Fauver's truck: a black Ford F-250 with both driver and passenger doors open, and the rear cab back window lifted up with the tailgate down. Inside the truck were numerous personal items and bags, and there was a long locked lockbox sitting in the bed of the truck. Inside this locked lockbox the HCSO technicians found two rifles and one shotgun. HCSO technicians also found magazines and live ammunition from a pull-out tray in the truck bed, approximately 98 grams of suspected marijuana in four different containers and suspected suboxone. Outside of the driver's side of the truck there was clothing, medical equipment, a black cane, and a blue cane.

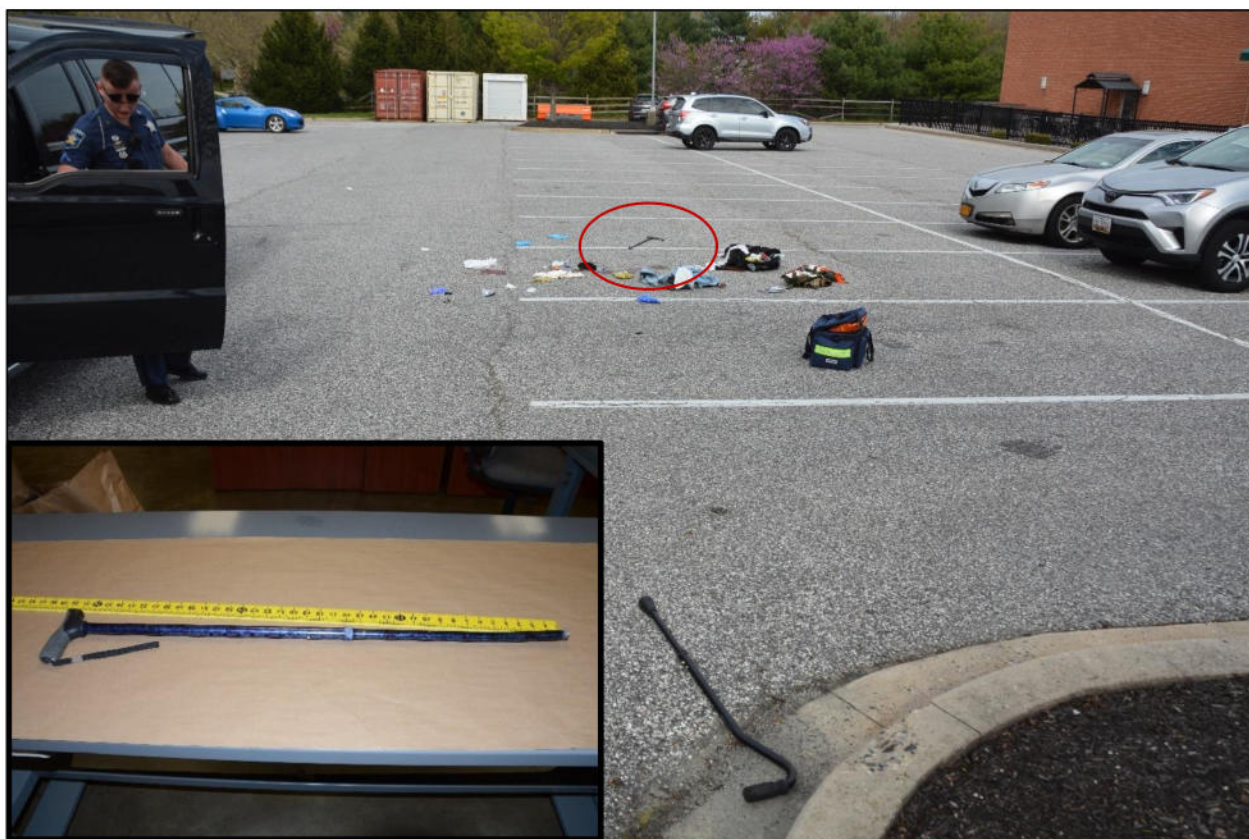


Image 10. Photographs taken by HCSO during their processing of the shooting scene, showing the immediate area outside of Mr. Fauver's truck. Circled in red is the cane recovered directly in front of where Mr. Fauver fell to the ground after being shot. A second cane, a black cane in the foreground of the photo, is also depicted. According to a subsequent interview with IID and MSP personnel, Bel Air Police Department Cpl. Alex Maro, who was present during the standoff and shooting, indicated Mr. Fauver threw this other cane out of the truck door at one point. This was not clearly visible on any reviewed body camera footage. *Inset:* Close-up depiction of the cane Mr. Fauver was holding at the time he was shot.

Immediately to the south of the truck, several marked police cruisers were parked. On the front windshield of the cruiser closest to where Sgt. Sives was standing when he fired his shotgun, HCSO technicians recovered a shotgun cartridge laying on the front windshield. They

also found a shotgun casing laying on the street at the front driver's side corner bumper of that same cruiser.

Further, at the southeast corner of the Truist Bank towards the northside of the shopping center, there were five .40 caliber cartridge casings laying in the grass. Those casings were located where Cpl. Maddox fired his handgun, approximately 55 yards from Mr. Fauver's truck.

### C. Investigation Interference

After HCSO denied MSP technicians the ability to collect evidence, and while IID and MSP personnel were still present on scene, IID personnel requested electronic copies of the body-worn camera footage of all responding officers and patrol car dashboard camera video of all patrol vehicles on scene, as well as copies of at least two non-law enforcement videos that HCSO had collected. Harford County State's Attorney Peisinger advised that while IID personnel could watch some of the body camera footage in a mobile HCSO command center alongside himself and HCSO command staff, HCSO would not provide electronic copies of the requested material to the IID.

The next day, in a letter emailed to HCSO command staff, IID personnel formally requested copies of over 20 different categories of evidence and records that were in the exclusive control of HCSO that were relevant to the investigation into the death of Mr. Fauver and necessary for the IID to promptly receive in order to fulfill its statutorily mandated obligation. HCSO confirmed receipt of this letter.

### D. Civil Litigation

The next morning, which was two days after the fatal Saturday afternoon shooting, the Attorney General's Office filed suit in Harford County Circuit Court requesting a temporary restraining order and preliminary injunction to stop HCSO from interfering with the IID's investigation in violation of state law.<sup>3</sup>

On April 28, 2022, following a hearing on the matter, The Honorable Yolanda L. Curtin, administrative judge for the Circuit Court for Harford County, granted the Attorney General's request for a temporary restraining order, instructing the sheriff's office to immediately turn over all electronic and digital evidence and all requested documents and records to the IID and all physical evidence to MSP's forensic sciences division. The judge also ordered the sheriff's office to provide to the IID on an ongoing basis any new evidentiary information they received.

Judge Curtin's order stated the Attorney General "will suffer immediate irreparable harm" from the sheriff's office's "refusal to turn over all evidence to the IID . . . in order to conduct its own independent investigation." The order stated, "this harm will be irreparable because of the IID's inability to conduct its investigation independently during the critical time period immediately after" Mr. Fauver's death and "the public's loss of confidence in the

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<sup>3</sup> The Attorney General's complaint, motion, and memorandum in support of the motion are available here: [https://www.marylandattorneygeneral.gov/news%20documents/042522\\_gahlerVfroshTRO.pdf](https://www.marylandattorneygeneral.gov/news%20documents/042522_gahlerVfroshTRO.pdf)



investigation as a result of the Defendant’s refusal to turn over all evidence of its investigation to the IID.”

In granting the order, Judge Curtin found the plain language of the IID’s authorizing statute, when read in conjunction with related language in Maryland Code, Public Safety § 3-527—requiring local agencies to notify and cooperate with the IID—as well as the legislative history of these two statutes, indicates the IID is “the primary investigator and not the local enforcement agency” in matters of police-involved deaths. Judge Curtin also found that HCSO’s actions of withholding evidence created a “significant harm” and “hindered” the IID’s investigation, concluding, “The integrity of this investigation is crucial and without unfettered access to the evidence and control of it, the [IID] cannot fulfill its statutory obligation to conduct an independent investigation.”

In the days following the entry of the judge’s order, the sheriff’s office complied with the ruling by providing all requested material to the IID and transferring all physical evidence to MSP, which allowed their lab to conduct necessary forensic analysis.

#### E. Medical Examination

Mr. Fauver’s autopsy was performed by Assistant Medical Examiner Donna Vincenti, MD. The autopsy report was transmitted to the IID on November 21, 2022. In the report, Dr. Vincenti concluded Mr. Fauver’s cause of death was shotgun wounds to the torso and right arm, and she concluded his manner of death was homicide.<sup>4</sup>

Specifically, Dr. Vincenti found a grouping of seven similar ballistic wounds to Mr. Fauver’s chest, abdomen, and right forearm. This included six penetrating wounds and one perforating through-and-through wound. In each of the six penetrating wounds, a shotgun pellet was recovered and subsequently turned over to MSP for examination. Dr. Vincenti also noted that the one perforating wound was consistent with a shotgun pellet wound.

In addition to these seven wounds, Dr. Vincenti found a shotgun slug wound to Mr. Fauver’s right flank, in which a deformed shotgun slug was recovered and turned over to MSP for examination. She also found a perforating through-and-through ballistic wound to Mr. Fauver’s right elbow, which was consistent with a shotgun slug wound. She opined that “the relative location of the exit of the ballistic wound to the right elbow and the entrance of the shotgun slug wound of the right flank indicates that this could be the continued path of one projectile through the right elbow and re-entering the right flank.”

Standard post-mortem toxicology testing performed on Mr. Fauver was negative for drugs and alcohol.

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<sup>4</sup> Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. “Homicide” is one of six categories used by the Office of the Chief Medical Examiner of Maryland and refers to a death resulting from a volitional act committed by another person to cause fear, harm, or death. The term is not used to connote criminal liability.

## F. Firearms Analysis

According to the firearms analysis performed by the MSP lab, the eight fired .40 caliber cartridge casings recovered from the area where Sgt. Sives initially encountered Mr. Fauver and fired his handgun were concluded to have been fired from Sgt. Sives' .40 caliber Glock semiautomatic pistol. Also, the one rifled shotgun slug and one buck, recovered from the area where Sgt. Sives was standing when he fired his shotgun, were determined to have been fired from Sgt. Sives' 12-gauge Remington pump action shotgun.<sup>5</sup>

The five fired .40 caliber cartridge casings recovered from the corner of the Truist Bank where Cpl. Maddox was standing during the standoff and when he fired his handgun were concluded to have been fired from Cpl. Maddox's .40 caliber Glock semiautomatic pistol.

Finally, the six shotgun pellets recovered from Mr. Fauver's torso and right forearm at autopsy were examined and identified as six copper-coated shotgun pellets with a shot size of approximately 0 buck to 00 buck. They were not suitable for microscopic comparison. The one slug shot recovered from Mr. Fauver's right flank was examined and identified as one lead-like rifled slug consistent with a 12 gauge. This item was also not suitable for microscopic comparison.

## G. Civilian Witness Statement

In the hours following the shooting, HCSO personnel interviewed several civilian witnesses who were present in and around the shopping center during various parts of the standoff and shooting. These interviews were recorded and, after the entry of the temporary restraining order, as described above in Section III., D., the recordings were turned over to and reviewed by IID personnel. Witnesses detailed seeing the police response and then hearing shots. Some witnesses were able to generally describe Mr. Fauver's behavior that was consistent with what could be seen on some officer's body camera footage. HCSO investigators also obtained cell phone video footage, as described above throughout Section II, that captured parts of the standoff and shooting. Those videos were also turned over to IID personnel pursuant to the court order.

## H. Officer Statements

### 1. Involved Officers

Sgt. Sives and Cpl. Maddox, the two officers who fired their weapons, did not provide interviews. Like the subjects of any criminal investigation, they have the right under the Fifth Amendment to remain silent.

Body camera footage did capture various statements made by Sgt. Sives and Cpl. Maddox to other deputies on scene immediately after the shooting indicating that they both had fired their weapons. At 4:11:22 p.m., for example, while providing aid to Mr. Fauver, an unidentified officer asked, "Who shot?" and Sgt. Sives responded, "I did." Cpl. Maddox, who

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<sup>5</sup> Per HCSO practice, Sgt. Sives' shotgun was loaded with *both* 12 gauge rifled slugs and 00 buck shotshells.

was walking up to Sgt. Sives, said, "I shot too." Besides acknowledgments like this, Sgt. Sives and Cpl. Maddox did not say anything else relevant to the shooting after the shooting occurred and before turning off their body cameras.

## 2. Witnessing Officers

In the hours following the shooting, HCSO personnel interviewed several officers with the Bel Air Police Department who responded to the incident and were present on scene for the standoff and shooting. These interviews were recorded and, after the entry of the temporary restraining order, as described above in Section III., D., the recordings were turned over to and reviewed by IID personnel. In addition, in the weeks following the shooting, IID and MSP personnel interviewed over 15 officers from HCSO who responded to the incident. IID personnel also reviewed the body camera footage and dashboard camera footage of these HCSO and Bel Air Police Department officers. The information provided by officers in their interviews generally matches what is visible on the corresponding officers' camera footage.

The statements below are from officers who were positioned near Sgt. Sives shortly before he fired his shotgun. According to witnessing officer interviews and a review of corresponding body camera footage, no officer had the same or similar vantage point as Cpl. Maddox, who was standing by himself at the corner of the Truist bank.

Bel Air Police Department Cpl. Alex Maro arrived at the shopping center around 4:05 p.m. and initially took cover behind a HCSO patrol car parked in front of Chopstix restaurant. After about three minutes, Cpl. Maro moved forward and positioned himself at the rear of the patrol car that Sgt. Sives was standing in front of. Cpl. Maro's body camera footage is obscured by this patrol car and therefore does not show Mr. Fauver's actions, but in his interview with HCSO personnel, Cpl. Maro said at one point Mr. Fauver threw a cane out of the truck door. Cpl. Maro added that he could see there was another cane in the truck on the passenger seat, and it looked like another object was also there, but he could not determine what it was. He said Mr. Fauver then ducked between the seats but quickly returned with a water bottle.

Cpl. Maro indicated that while other officers and Mr. Fauver were yelling back and forth, Mr. Fauver went into the truck and got another cane. He said he was close enough to see it was not a gun. Cpl. Maro said Mr. Fauver raised the cane and lifted it on his shoulder like a rifle or shotgun. He said that Deputies Cahill and Dailey, who were standing to the side of the patrol car next to the car where Cpl. Maro was standing, yelled "it's not a gun" immediately prior to Sgt. Sives firing.

In his interview with IID and MSP personnel, Deputy Cahill said at the time he arrived on scene, Mr. Fauver was still in the truck and Sgt. Sives was speaking with him. He said that Mr. Fauver kept going in his truck and it was relayed on the radio that he had guns in the vehicle. Cpl. Cahill said Mr. Fauver came out of the truck with a cane and that Cpl. Cahill's view was unobstructed. He said officers yelled that it was a cane and not a gun before shots were fired. Cpl. Cahill indicated that he did not fire his weapon because he could see that Mr. Fauver did not have a gun, and he did not feel he was in harm's way. Cpl. Cahill stated he had a better vantage point than Sgt. Sives.

Deputy Dailey said immediately prior to the shooting he saw Mr. Fauver come out of the truck with an object. He said he heard Cpl. Cahill yell that it was a cane, but then heard gunshots and someone yelling, “cease fire, it’s a cane.” Deputy Dailey said he did not shoot because he heard Cpl. Cahill say the object was not a gun.

#### IV. Involved Parties’ Background

As part of its standard investigative practice, the IID obtained information regarding all parties’ criminal histories, as well as any departmental internal affairs records and prior uses of force for Sgt. Sives and Cpl. Maddox. In this particular case, this information did not affect the analysis of potential criminal charges provided below in Section VI. To the extent it exists, any criminal history information is being provided to the Harford County State’s Attorney’s Office with this report. Additionally, the IID also obtained departmental firearms qualification logs for Sgt. Sives and Cpl. Maddox.

##### A. Mr. John Fauver

Mr. Fauver was a 53-year-old white man who lived with his wife, Ms. Bridges, in Whiteford, Maryland. According to witness interviews, [REDACTED]

[REDACTED]

[REDACTED] Protected Medical Information [REDACTED] According to Maryland court records, Mr. Fauver and Ms. Bridges had an uncontested divorce hearing scheduled in Harford County Circuit Court for April 26, 2022, three days after the shooting.

##### B. Sgt. Bradford Sives

Sgt. Sives is a white man who was 37 years old at the time of the shooting. He was assigned to HCSO’s Northern Precinct and had 15 years of service with the agency. According to HCSO’s Office of Professional Standards, Sgt. Sives has [REDACTED]

[REDACTED] Protected Personnel Record [REDACTED]

##### C. Cpl. Christopher Maddox

Cpl. Maddox is a white man who was 40 years old at the time of the shooting. He was assigned to HCSO’s Criminal Investigation Division and had 15 years of service with the agency. According to HCSO’s Office of Professional Standards, Cpl. Maddox [REDACTED]

[REDACTED] Protected Personnel Record [REDACTED]

## V. Applicable HCSO Policies

HCSO had the following policies in place concerning the use of force—including the use of deadly force—and the use of firearms by deputies at the time of the shooting of Mr. Fauver. The complete policies are attached to this report as Appendix B.

### A. Use of Force (OPS 0501)

#### 1. “Prohibitions”

“The use of excessive and unreasonable force or brutality is prohibited and will not be tolerated under any circumstances.” OPS 0501, 5., A., 1.

“Deputies should not fire any weapon from or at a moving vehicle except to counter an imminent threat of death or serious physical injury to the deputy or another person.” OPS 0501, 5., A., 5. “Deputies should avoid positioning themselves in the path of a moving vehicle.” OPS 0501, 5., A., 6.

#### 2. “General Factors”

“Factors for evaluating any use of force include but are not limited to:

- a. The seriousness of the crime or the suspected offense;
- b. Whether the suspect posed an imminent threat to the safety of the deputies or others;
- c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
- d. Whether the use of force is objectively reasonable;
- e. The deputy’s tactical conduct and decisions pending the use of force;
- f. Whether the deputy has reason to believe that the subject is:
  - i. Mentally ill;
  - ii. Has a physical, developmental, or cognitive disability;
  - iii. Is emotionally disturbed;
  - iv. Is under the influence of alcohol or drugs;
  - v. Is suffering from a behavioral crisis; and/or
  - vi. Has a language barrier.

- g. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
- h. Whether there was any assessment by the deputy of the subject's ability to cease resistance and/or comply with the deputy's commands;
- i. Specialized knowledge, skills, or abilities of subjects;
- j. Prior contact;
- k. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
- l. Whether the subject's escape could pose a future safety risk." OPS 0501, 5., B., 1.

### 3. "Use of Force"

"Deputies will use only the force objectively reasonable to effectively and safely resolve an incident, while protecting the lives of the deputy or others." OPS 0501, 5., C., 1. "The reasonableness of a particular use of force is based on the totality of circumstances known by the deputy at the time of the use of force." OPS 0501, 5., C., 1., a. "Reasonableness must be judged from the perspective of a reasonable deputy on scene, rather than with the benefit of hindsight." OPS 0501, 5., C., 1., a., i. "The reasonableness standard is an objective one; whether the deputy's actions are objectively reasonable in light of the facts and circumstances confronting the deputy, without regard to the deputy's underlying intent or motivation." OPS 0501, 5., C., 1., a., ii. "Reasonableness is not capable of precise definition of mechanical application." OPS 0505, 5., C., 1., a., iii. "The reasonable standard must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that is necessary in circumstances that are tense, uncertain, dynamic, and rapidly evolving." OPS 0501, 5., C., 1., a. iv.

"Deputies will utilize their authorized weapons or other less lethal items in accordance with established policy and training for that particular item." OPS 0501, 5., C., 2.

"Additional care and caution should be exercised when encountering children, the elderly, or individuals who are pregnant, suffering from pre-existing injuries, frail, have a low body mass, are experiencing a medical or mental health crisis, or are otherwise apparently vulnerable or in distress. OPS 0501, 5., C., 4.

### 4. "Use of Deadly Force"

"A deputy may use deadly force when he reasonably believes such action is necessary to protect himself, another deputy, or another person from imminent danger of death or serious physical injury." OPS 0501, 5, E., 1.

## 5. “Duty to Provide Medical Assistance”

“Whenever there is an obvious injury . . . due to use of force . . . deputies will render aid in a timely manner or as soon as practical without further endangering the employee or others, consistent with their training and experience, and request that a Medic Unit respond to the scene to treat or transport the individual directly to the nearest hospital emergency room.” OPS 0501, 5., G., 1.

### B. Use of Firearms (OPS 0507)

#### 1. “Use of Force”

“Deputies will utilize their approved weapons in accordance with the established HCSO policy and training for that particular item.” OPS 0507, 5., A., 2.

“A deputy may use deadly force when they reasonably believe such an action is immediately necessary to protect a deputy or another person from imminent danger of death or serious physical injury.” OPS 0507, 5., A., 4.<sup>6</sup>

#### 2. “Primary and Secondary Handgun”

“The deployment and/or discharge of an approved primary or secondary handgun shall be consistent with Agency training.” OPS 0507, 5., B., 1. “Deputies shall take into consideration the potential background targets . . . when deciding to utilize the handgun.” OPS 0507, 5., B., 2.

#### 3. “Shotguns and Rifles”

“The primary function of the shotgun and rifle is that of a perimeter weapon. The decision to deploy a shotgun or rifle shall be in conformance with the training provided by the Training Academy and based upon the resources available to the deputy at the time, the risks created by the use of the shotgun or rifle and the danger posed by the suspect.” OPS 0507, 5., C., 1. Examples of such situations contained in the policy that are relevant to the instant case include, “response to . . . a major criminal incident such as a barricaded subject;” “any situation where a deputy reasonably believes there is a high likelihood that weapons may be encountered or a potential of encountering an armed subject;” “incidents in which suspects are believed to have weapons superior to the issued handgun.” *Id.*

## VI. Applicable Law and Analysis

On June 29, 2022, Harford County State’s Attorney Peisinger sent a letter to Harford County Sheriff Jeffrey Gahler in reference to the “circumstances surrounding the death of John Fauver.” The letter stated, “No criminal charge will be sought against any member of your

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<sup>6</sup> There does appear to be a discrepancy within the use of deadly force standards provided in HCSO policy. The “Use of Force” policy (OPS 0501) states that deadly force may be used when a deputy “reasonably believes such action is necessary to protect himself, another deputy, or another person from imminent danger of death or serious physical injury.” The “Use of Firearms” policy (OPS 0507), however, provides that deadly force may be used when a deputy reasonably believes such an action is “*immediately* necessary” to protect from imminent danger of death or serious physical injury (emphasis added).

agency in the death of Mr. Fauver based upon the evidence and material that was reviewed by my office.” At the time of this letter, this matter was still under active investigation by the IID, and the State’s Attorney’s Office had neither requested nor received the results of witness interviews, forensic testing, or medical reports, nor had any contact with any IID personnel about the case or any of the IID’s investigative findings to date.

The clear legislative intent in creating the IID was that an independent investigation shall be conducted and completed before any prosecution decision is made by the local State’s Attorney. Despite State’s Attorney Peisinger’s preemptive declination, the IID is bound by statute to provide this report, which includes the analysis below of Maryland statutes that could be relevant in a shooting of this nature.

#### A. Sgt. Sives

This section analyzes criminal charges that may be relevant to Sgt. Sives’ actions in firing his shotgun at Mr. Fauver two times, which struck Mr. Fauver and caused his death, and the earlier firing of his handgun at Mr. Fauver’s truck eight times. The section presents the elements of each possible criminal charge and analyzes these elements in light of the findings discussed above.

##### 1. Intentional Second-Degree Murder & Voluntary Manslaughter<sup>7</sup>

Because a charge of intentional second-degree murder may be reduced to voluntary manslaughter if a defendant acted in partial self-defense, these potential charges will be analyzed together here. With respect to Sgt. Sives’ firing two shotgun rounds at Mr. Fauver which did strike and kill Mr. Fauver, this section will analyze consummated second-degree murder and voluntary manslaughter.

Criminal Law § 2-204 states: “A murder that is not in the first degree under § 2-201 of this subtitle is in the second degree.” Intentional second-degree murder differs from first-degree murder in that it is not “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Self-Defense and Perfect/Imperfect Defense of Habitation), MPJI-Cr 4:17.2 (2d ed. 2021). It is, however, a killing conducted with “either the intent to kill or the intent to inflict such serious bodily harm that death would be the likely result.” *Id.*

To prove intentional second-degree murder, the State must establish: “(1) that the defendant caused the death of [Mr. Fauver]; (2) that the defendant engaged in the deadly conduct either with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result; (3) that the killing was not justified; and (4) that there were no mitigating circumstances.” *Id.*

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<sup>7</sup> Because a charge of intentional second-degree murder may be reduced to voluntary manslaughter if a defendant acted in partial self-defense, these potential charges will be analyzed together here. This report will also not separately analyze the charge of first-degree assault because that offense merges with the crimes of intentional second-degree murder and voluntary manslaughter. *Sifrit v. State*, 383 Md. 116, 137 (2004); *Dixon v. State*, 364 Md. 209, 239-40 (2001).



Self-defense is one possible justification or mitigating circumstance. Self-defense may be either complete (*i.e.*, the use of deadly force was completely justified) or partial (*i.e.*, the use of deadly force was partially, but not completely, justified). If a defendant acted in complete self-defense, no murder or manslaughter charge is appropriate. If a defendant acted in partial self-defense, a charge of second-degree murder must be reduced to voluntary manslaughter.

Complete self-defense exists where: (1) the defendant was not the aggressor; (2) the defendant actually believed that [they were] in immediate or imminent danger of death or serious bodily harm; (3) the defendant's belief was reasonable; and (4) the defendant used no more force than was reasonably necessary to defend [themselves] in light of the threatened or actual force. MPJI-Cr 4:17.2; *see also Porter v. State*, 455 Md. 220, 234-36 (2017). Partial self-defense exists where the first two of these elements are present, but the defendant either unreasonably believed danger to be imminent or unreasonably believed the amount of force they used was necessary. MPJI-Cr 4:17.2.

Another possible defense is law-enforcement justification. This defense provides that an officer may use “that force necessary to discharge his official duties” and “[i]n so doing, he is not liable civilly or criminally for the assault or battery that may result, including, if necessary, the use of deadly force.” *Wilson v. State*, 87 Md. App. 512, 519-20 (1991). The rationale for this justification is that officers' duties are “markedly different” from those of ordinary citizens, requiring that officers “threaten deadly force on a regular basis.” *Koushall v. State*, 249 Md. App. 717, 728-29 (2021), *aff'd*, No. 13, Sept. Term, 2021 (Md. Feb. 3, 2022). To reasonably use deadly force, an officer must have “probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others.” *Estate of Blair by Blair v. Austin*, 469 Md. 1, 23-24 (2020) (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)). If an officer used more force than was reasonably necessary, “the privilege is lost.” *French v. Hines*, 182 Md. App. 201, 265-66 (2008).

For either defense—self-defense or law-enforcement justification—the reasonableness of an officer's actions “must be evaluated not from the perspective of a reasonable civilian but rather from the perspective of a reasonable police officer similarly situated.” *State v. Albrecht*, 336 Md. 475, 501 (1994). A court will consider “the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham v. Connor*, 490 U.S. 386, 397 (1989)). However, “an objectively reasonable officer would use deadly force *only* when threatened with serious physical harm.” *Estate of Blair by Blair*, 469 Md. at 24 (emphasis in original).

Under Maryland law at the time of this shooting, only the circumstances facing the officer at the moment lethal force was used are relevant. “Antecedent and allegedly negligent acts that may have contributed to the creation of a dangerous situation are not pertinent in evaluating the officer's state of mind at the critical moment when the gun, for instance, was discharged.” *State v. Pagotto*, 127 Md. App. 271, 356 (1999), *aff'd*, 361 Md. 528 (2000); *see*

also *Mayor & City Council of Baltimore v. Hart*, 167 Md. App. 106, 118 (2006), *aff'd*, 395 Md. 394 (2006); *Richardson v. McGriff*, 361 Md. 437, 458 (2000).<sup>8</sup>

Violation of or compliance with departmental policies is one way to assess an officer's reasonableness. "[A] violation of police guidelines *may* be the basis for a criminal prosecution." *Pagotto*, 361 Md. at 557 (citing *Albrecht*, 336 Md. at 502-03) (emphasis in original) ("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."). Officers' policy violations may be evidence of negligence, recklessness, unreasonableness, and corrupt intent. *See, e.g., Albrecht*, 336 Md. at 503; *Pagotto*, 361 Md. at 550-53; *Koushall*, 249 Md. App. at 729-30; *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>9</sup>; *Hart*, 395 Md. at 398 (civil litigation). However, a "hypertechnical" violation of policy, without more, is not sufficient to establish gross negligence. *Pagotto*, 127 Md. App. at 304.

In the instant case, as to the first element of second-degree murder, which would require a showing that Sgt. Sives actually caused the death of Mr. Fauver, the autopsy report is clear that Mr. Fauver died of shotgun wounds to his torso and right arm, and shotgun pellets and a shotgun slug were recovered from these wounds. Body camera footage also indicates that Sgt. Sives twice fired his shotgun directly at Mr. Fauver, appearing to strike him, and the autopsy also confirms that the shots fired by Cpl. Maddox, the only other officer to discharge his weapon, did not strike Mr. Fauver or contribute in any way to his death. As to the second element of second-degree murder, that Sgt. Sives fired his shotgun with the intent to kill or with the intent to inflict such serious bodily harm that death would be the likely result, the evidence supports a contention that Sgt. Sives intentionally fired his shotgun at Mr. Fauver, and Sgt. Sives certainly would have known the fatal consequence of such an action. Further, throughout the entire nine-minute standoff with Mr. Fauver, Sgt. Sives was holding his shotgun and had it aimed directly at Mr. Fauver, seemingly prepared to shoot at any moment as called for by the evolving situation. Likewise, in statements made to other officers immediately after the shooting, Sgt. Sives indicated that he did shoot Mr. Fauver, but he did not make any statements that his shots were unintentional or accidental.

With respect to the third and fourth elements of second-degree murder, any analysis of Sgt. Sives' criminal culpability centers on whether, at the time Sgt. Sives fired his shotgun, he was acting in either complete self-defense or partial self-defense, and specifically whether Sgt. Sives actually believed he was in immediate or imminent danger, whether that belief was reasonable, and whether he used no more force than was reasonably necessary. As is his right under the Fifth Amendment, Sgt. Sives elected to not make any statements to investigators concerning the shooting, including whether he believed he was in immediate or imminent danger. Available body camera footage, however, shows that immediately prior to shooting Mr. Fauver, Sgt. Sives yelled, "It's a cane" four times in a row, indicating a subjective understanding

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<sup>8</sup> After Mr. Fauver's death, this standard changed on July 1, 2022, when Maryland's statutory use of force standard became effective. *See 107 Opinions of the Attorney General* 33, 38-39 (2022).

<sup>9</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.

that Mr. Fauver was holding a cane rather than a firearm in the moments before Sgt. Sives fired. Body camera footage also shows that from the time Sgt. Sives first indicated he knew Mr. Fauver was holding a cane until the time he fired his first shotgun round, four to five seconds had elapsed, arguably giving Sgt. Sives sufficient time, albeit just a few seconds, to further confirm what he was seeing in Mr. Fauver's hands was not a deadly weapon. Other officers standing next to Sgt. Sives also shouted out that Mr. Fauver was not holding a gun. Collectively, this is evidence that Sgt. Sives did not actually believe he was in immediate or imminent danger at the time he fatally struck Mr. Fauver, which, if true, would overcome any claim of complete self-defense.

It is notable that Sgt. Sives shot Mr. Fauver only after Cpl. Maddox fired his handgun. This indicates that Sgt. Sives' shots may have been a response to seeing or hearing Cpl. Maddox fire. Legally, an officer cannot rely on a reasonableness determination made by another officer. "[A]n objectively reasonable officer would use deadly force *only* when threatened with serious physical harm." *Estate of Blair by Blair*, 469 Md. at 24 (emphasis in original). Each officer must have his own reasonable belief that force is justified before using it.

Of course, given the nature of what was a rapidly evolving situation between Mr. Fauver and the police over 10 minutes at the shopping center parking lot, it remains possible that a factfinder determines Sgt. Sives did believe he was in immediate or imminent danger at the time he fired his shotgun twice. Facts supporting this contention are that Ms. Bridges told police, first on the 911 call and again at her house, that Mr. Fauver was suicidal and had access to guns and that she believed those guns may have been in the truck Mr. Fauver was driving. Further, when Sgt. Sives located Mr. Fauver, he was agitated and acting irrationally, as illustrated by his backing of his truck directly into Deputy Rach's patrol car and then driving over a concrete median. Throughout the standoff, Mr. Fauver was making various statements indicating that he wanted to be shot and killed by police and statements stating or implying he had access to guns, which had earlier been confirmed by Ms. Bridges. Mr. Fauver was also continually reaching into the truck against police orders. Also, Sgt. Sives would have heard Cpl. Maddox's gunshots before he fired, so a factfinder could potentially determine that Sgt. Sives was confused about the source of those gunshots.

If a factfinder does find such an "actual belief" on Sgt. Sives' behalf, they would still need to determine whether that belief was reasonable and whether Sgt. Sives used no more force than was reasonably necessary. To this end, Mr. Fauver's actions immediately before the shooting are relevant. In the moment before Sgt. Sives fired, body camera and civilian cell phone camera footage shows that Mr. Fauver had just reached inside the truck and was holding a metal object and pointing it in the direction of officers. The question of reasonableness, then, may hinge on Sgt. Sives' physical location. Unlike Cpl. Maddox, who was 55 yards away and off to the side during the latter part of the standoff, Sgt. Sives was much closer and in a better position to determine what Mr. Fauver was truly holding in the moments preceding Sgt. Sives firing his shotgun. It is also relevant that other officers who had a similar vantage point as Sgt. Sives, although not an identical one, saw that Mr. Fauver was holding a cane and did not fire their weapons.

## 2. Use of a Firearm in the Commission of a Crime of Violence

Criminal Law § 4-204(b) states: “A person may not use a firearm in the commission of a crime of violence, as defined in § 5-101 of the Public Safety Article, or any felony ....” Second-degree murder, voluntary manslaughter, first-degree assault, and second-degree assault are all crimes of violence. Pub. Safety § 5-101(c). Police officers are not afforded any special dispensation or exemption from this statute. *Riley v. State*, 227 Md. App. 249, 261 (2016).

To prove use of a firearm in the commission of a crime of violence, the State must establish: (1) that the defendant committed a felony or crime of violence; and (2) that the defendant used a firearm in the commission of that felony or crime of violence. MPJI-Cr 4:35.4 Weapons—Use of a Handgun or Firearm in the Commission of a Felony or Crime of Violence, MPJI-Cr 4:35.4 (2d ed. 2021).

Unless the State could establish one of the predicate offenses discussed above, it could not pursue a charge for use of a firearm in the commission of a crime of violence. If, however, the State could prove second-degree murder, or in the alternative, voluntary manslaughter, that same evidence would also allow the State to prove the second element of this crime as a shotgun is considered a “firearm” under Maryland law.

## 3. Reckless Endangerment

Criminal Law § 3-204(a) states: “A person may not recklessly [] engage in conduct that creates a substantial risk of death or serious physical injury to another.” To prove reckless endangerment, the State must establish: “(1) that the defendant engaged in conduct that created a substantial risk of death or serious physical injury to another; (2) that a reasonable person would not have engaged in that conduct; and (3) that the defendant acted recklessly.” MPJI-Cr 4:26B Reckless Endangerment, MPJI-Cr 4:26B (2d ed. 2021).

To prove recklessness, the State must show that the defendant “consciously disregarded” the substantial risk to others. *Marlin v. State*, 192 Md. App. 134, 166 (2010) (citation omitted). “The test is whether the [defendant’s] misconduct, viewed objectively, was so reckless as to constitute a gross departure from the standard of conduct that a law-abiding person would observe, and thereby create the substantial risk the statute was designed to punish.” *Minor v. State*, 326 Md. 436, 443 (1992). In the context of officers’ interactions with civilians, relevant factors include: an officer’s modifications to their service weapon; an officer aiming their gun at the civilian; the officer’s placement of their trigger finger; the officer’s knowledge of the threat, or lack thereof, posed by the civilian; and the proximity of bystanders. *Pagotto*, 361 Md. at 554-55 (finding these factors to have been determinative in *Albrecht*, 336 Md. at 505, but not present in the incident involving Sergeant Pagotto).<sup>10</sup>

A reckless endangerment charge with respect to Sgt. Sives’ endangerment of Mr. Fauver by firing his shotgun at him would merge with the charges discussed above and is therefore not

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<sup>10</sup> While *Albrecht* and *Pagotto* considered the *mens rea* for gross negligence involuntary manslaughter rather than for reckless endangerment, courts have indicated that the two *mentes reae* are functionally identical. See *State v. Morrison*, 470 Md. 86 (2020).

discussed separately here. *Williams v. State*, 100 Md. App. 468, 490-91 (1994). The State may, however, consider a reckless endangerment charge with respect to Sgt. Sives' earlier shooting of his handgun at Mr. Fauver's truck as the truck pulled forward and away from Sgt. Sives, who was standing on the driver's side of the truck and in close proximity—one to two feet—to the truck. He then continued to shoot as the truck accelerated forward and turned to the left, moving even closer to Sgt. Sives.

As to the first element, whether Sgt. Sives' conduct created a substantial risk of death or serious physical injury to Mr. Fauver or another individual on scene, it is certainly relevant that all eight of Sgt. Sives' shots were limited to the wheel and tire area of Mr. Fauver's truck and that it does not appear from body camera and dashboard camera footage any other individual or vehicle was in Sgt. Sives' direct line of fire. It does remain possible, however, that because the truck was moving, albeit at a relatively low speed, and driving negligently (*i.e.*, driving over a cement median) at the time Sgt. Sives fired eight rounds, he still created a substantial risk of serious injury to another. This could include, for example, causing Mr. Fauver to crash into another occupied vehicle or pedestrian, whether that would be Deputy Rach who was standing next to and slightly behind Sgt. Sives on the driver's side of the truck; Deputy Wobbleton, who was seated inside his patrol car on the passenger side of the truck; or any civilian who was walking or driving in the public shopping center during what appeared to be a busy Saturday afternoon. Also, given the dynamics at play, it remained possible that one or more of Sgt. Sives' fired bullets could have ricocheted and struck an unintended target.

Even if a factfinder determines Sgt. Sives' conduct did create the required substantial risk, a factfinder will still need to decide whether Sgt. Sives' conduct itself was reckless and not merely, for example, unnecessary or ineffective. As stated above, an officer's policy violation can be evidence of recklessness, and HCSO's general Use of Force policy (OPS 0501) states that deputies should not fire any weapon at a moving vehicle except to counter an imminent threat of death or serious physical injury. In this case, then, a factfinder must examine whether Sgt. Sives, other officers, or civilians on scene faced an imminent threat of serious physical injury when Mr. Fauver drove his truck away from where Sgt. Sives was standing. According to body camera footage, Sgt. Sives remained on the side of the truck and not in its direct path of travel at the time he fired seven of eight shots. After he fired the eighth shot, it appeared from available footage that the truck was close to sideswiping Sgt. Sives, but it is unclear if it did. Given Sgt. Sives' position and the fact that the truck was moving away from him, it may be difficult to find that he was acting to counter an imminent threat of being run over, and a factfinder could thus use his violation of HCSO policy as evidence of recklessness.

#### 4. Misconduct in Office

Misconduct in office is a common law misdemeanor not enumerated in statute. *Leopold v. State*, 216 Md. App. 588, 604 (2014). To prove misconduct in office, the State must establish: (1) that the defendant was a public officer; (2) that the defendant acted in their official capacity or took advantage of their public office; and (3) that the defendant corruptly did an unlawful act (malfeasance), corruptly failed to do an act required by the duties of their office (nonfeasance), or corruptly did a lawful act (misfeasance). MPJI-Cr 4:23 Misconduct in Office (Malfeasance, Misfeasance, and Nonfeasance), MPJI-Cr 4:23 (2d ed. 2021). “[T]he conduct must be a willful

abuse of authority and not merely an error in judgment.” Comment to *id.* (citing Hyman Ginsberg and Isidore Ginsberg, *Criminal Law & Procedure in Maryland* 152 (1940)).

Unless the State could prove one of the above charges, it would be difficult to establish the corrupt intent necessary to prove misconduct in office. *See Sewell v. State*, 239 Md. App. 571, 604 (2018) (Malfeasance is conduct that “falls outside the official’s discretion and authority, and if done willfully, is corrupt on its face. The fact-finder can therefore infer the element of corruption with direct evidence of the official’s intent to act corruptly....”). There does not appear to be any strong evidence that Sgt. Sives was specifically motivated by “depravity, perversion, or taint.” *Id.* However, if the State was able to prove one of the crimes discussed above, the State could attempt to argue that evidence of corruption can be inferred from the wrongfulness of Sgt. Sives’ actions.

## B. Cpl. Maddox

This section analyzes criminal charges that may be relevant to Cpl. Maddox’s actions in firing his handgun five times at Mr. Fauver, although not striking him. The section presents the elements of each possible criminal charge and analyzes these elements in light of the findings discussed above.

### 1. Attempted Second-Degree Murder & Attempted Voluntary Manslaughter<sup>11</sup>

The elements of second-degree murder and voluntary manslaughter are discussed above in Section VI(A)(1). Attempted second degree murder, however, is a substantial step beyond mere preparation, toward the commission of murder in the second degree combined with an intent to commit the crime. MPJI-Cr 4:14.14 Homicide—Attempted Second Degree Murder, MPJI-Cr 4:17.14 (2d ed. 2021). In order to convict the defendant of attempted murder in the second degree, the State must prove: (1) that the defendant took a substantial step, beyond mere preparation, toward the commission of murder in the second degree; (2) that the defendant had the apparent ability, at that time, to commit the crime of murder in the second degree; and (3) that the defendant actually intended to kill Mr. Fauver. *Id.* Attempted second-degree murder and attempted voluntary manslaughter still require the State prove a specific intent to kill. *Chisum v. State*, 227 Md. App. 118, 135-36 (2016). But, “[i]f a man voluntarily and wil[l]fully does an act, the natural consequences of which is to cause another’s death, an intent to kill may be inferred from the doing of the act.” *Lindsay v. State*, 8 Md. App. 100, 105 (1969); *see also Chisum*, 227 Md. App. at 133, 136.

Defense of others is a possible justification or mitigating circumstance for a homicide charge that is relevant to Cpl. Maddox’s actions. This justification parallels the self-defense justification discussed above in Section VI(A)(1). As with self-defense, defense of others may be either complete (*i.e.*, the use of deadly force was completely justified) or partial (*i.e.*, the use of deadly force was partially, but not completely, justified). If a defendant acted in complete defense of others, no murder or manslaughter charge is appropriate. If a defendant acted in

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<sup>11</sup> As above, this report will not separately analyze the charge of first-degree assault because that offense merges with the crimes of intentional second-degree murder and voluntary manslaughter, either attempted or consummated. *Sifrit*, 383 Md. at 137; *Dixon*, 364 Md. at 239-40.

partial defense of others, a charge of second-degree murder must be reduced to voluntary manslaughter. Complete defense of others exists where: (1) the defendant actually believed that the person [they were] defending was in immediate or imminent danger of death or serious bodily harm; (2) the defendant's belief was reasonable; (3) the defendant used no more force than was reasonably necessary in light of the threatened or actual force; and (4) the defendant's purpose in using force was to aid the person they were defending. MPJI-Cr 4:17.3 Homicide—First Degree Premeditated Murder, Second Degree Specific Intent Murder and Voluntary Manslaughter (Perfect/Imperfect Defense of Others), MPJI-Cr 4:17.3 (2d ed. 2021). Partial defense of others exists where the first and fourth of these elements are present, but the defendant either unreasonably believed the person they were defending was in immediate or imminent danger or unreasonably believed the amount of force they used was necessary. *Id.*

In this case, Cpl. Maddox fired his handgun five times in Mr. Fauver's direction, none of which struck Mr. Fauver according to the autopsy report, and the available evidence suggests all five shots were intentional. Further, immediately prior to firing, Cpl. Maddox yelled, "He's got a gun," and immediately after the shooting while running up to other officers who were closer to Mr. Fauver, he said, "He's still got a rifle." These statements, absent any other evidence, would seem to indicate that Cpl. Maddox did actually believe Mr. Fauver was holding a gun and pointing it at officers at the time he fired his handgun. A factfinder could reasonably infer that Cpl. Maddox's intent in shooting was to protect those officers from death or serious injury. Assuming this is true, any analysis of Cpl. Maddox's criminal culpability would center on whether the second and third elements of a defense of others are present and whether Cpl. Maddox therefore acted in either complete or partial defense of others.

The second element considers whether Cpl. Maddox's belief that other officers were in immediate or imminent danger of death was reasonable. There is some evidence to suggest that Cpl. Maddox's belief that Mr. Fauver was holding a gun was objectively reasonable. This includes the fact that responding police officers were told via radio that Mr. Fauver had access to guns—which may be in his truck—and that Mr. Fauver was reaching inside the truck on several occasions during the standoff. Mr. Fauver was also talking about wanting to be shot by police, although it is unclear from the evidence reviewed in this matter if Cpl. Maddox was aware of those specific statements. Further, in the moments immediately before Cpl. Maddox fired his handgun, Cpl. Maddox noted Mr. Fauver was "reaching in" the truck, and Mr. Fauver can then be seen on camera footage holding a metal object (later identified to be the cane) in his hands. At this point, Mr. Fauver's arms were raised, and his foot was positioned in front of him, which imitates a shooter's stance. Given all this, and from Cpl. Maddox's position at the corner of the bank, it could have been reasonable for him to think what Mr. Fauver was holding was a gun.

In contrast, the very fact that Cpl. Maddox was 55 yards away from Mr. Fauver could serve as evidence that his belief that Mr. Fauver was holding and pointing a gun at other officers was unreasonable. This is coupled with the fact that there were numerous other officers physically closer and at a better angle to Mr. Fauver who would, because of their location, have had a better vantage point than Cpl. Maddox to determine if the object Mr. Fauver was holding was a gun and whether it was therefore reasonable to believe officers were in imminent danger of death at the time he fired.

A similar analysis could be conducted with regard to the third element, whether the level of force used by Cpl. Maddox was reasonable. Here again, a factfinder could determine that Cpl. Maddox's use of a handgun, as opposed to a less-lethal weapon for example, from his location was reasonable if he believed Mr. Fauver was holding a gun and threatening other officers. However, a factfinder could also determine that this level of force was unreasonable given that the farthest distance Cpl. Maddox had qualified on a handgun in daylight conditions was 25 yards, which is less than half the distance he was from Mr. Fauver. This is in addition to the fact that other officers were present—and in closer proximity to Mr. Fauver—with long guns, which were, according to HCSO policy, properly being used as perimeter weapons.

## 2. Use of a Firearm in the Commission of a Crime of Violence

The elements of use of a firearm in the commission of a crime of violence are discussed above in Section VI(A)(3) with respect to Sgt. Sives' actions.

Unless the State could establish one of the predicate offenses discussed above, it could not pursue a charge for use of a firearm in the commission of a crime of violence.

## 3. Reckless Endangerment

The elements of reckless endangerment are discussed above in Section VI(A)(4) with respect to Sgt. Sives' actions.

A reckless endangerment charge with respect to Cpl. Maddox's endangerment of Mr. Fauver by shooting at him would merge with the above charges and is therefore not discussed separately here. *Williams*, 100 Md. App. at 490-91.

The State may also consider reckless endangerment charges with respect to Cpl. Maddox's endangerment of other officers at the scene. As stated above, based on his statements both before and after firing his handgun, Cpl. Maddox's apparent intent in firing was likely to protect other officers from what he perceived as an immediate threat of death to those officers. For a reckless endangerment charge, then, the main question is whether Cpl. Maddox's firing created a substantial risk of death to other officers on scene and whether his firing five times from far away constituted a gross departure from the standard of conduct. There is no evidence from any camera footage or any interviews that any officer was in Cpl. Maddox's direct line of fire. Similarly, there is no evidence that any of the five shots came close to striking an unintended target, although all five shots did in fact miss the intended target.

On the other hand, a factfinder could consider whether Cpl. Maddox's firing did create a risk of death to others given the sheer number and positioning of responding officers on scene and how quickly the incident was developing. If such a risk was present, it remains unclear whether that risk rose to the level of "substantial" as required by the reckless endangerment statute. As to whether the firing was "so reckless" and a "gross departure from the standard of conduct," the available evidence to support this contention is that Cpl. Maddox fired from more than double the distance for which he was qualified, and the very fact that he used a handgun



from such a significant distance, especially when HCSO policy calls for shotguns or rifles to be used in a perimeter setting.

#### 4. Misconduct in Office

The elements of misconduct in office are discussed above in Section VI(A)(5) with respect to Sgt. Sives' actions.

Unless the State could prove one of the above charges, it would be difficult to establish the corrupt intent necessary to prove misconduct in office. *See Sewell*, 239 Md. App. at 604 (2018) (Malfeasance is conduct that “falls outside the official’s discretion and authority, and if done willfully, is corrupt on its face. The fact-finder can therefore infer the element of corruption with direct evidence of the official’s intent to act corruptly....”). There is no evidence that Cpl. Maddox was specifically motivated by “depravity, perversion, or taint.” *Id.* Evidence of corruption would have to be inferred from the possible wrongfulness of his actions.

#### C. Other Charges

The facts of this incident did not warrant a full analysis of the charge of consummated or attempted first-degree murder. This crime requires the State to prove that the killing was “willful, deliberate, and premeditated.” MPJI-Cr 4:17.2. Said another way, the State must prove “the actual intent, the fully formed purpose to kill, with so much time for deliberation and premeditation as to convince [the factfinder] that this purpose is not the immediate offspring of rashness and impetuous temper and that the mind has become fully conscious of its own design.” *Ferrell v. State*, 304 Md. 679, 687 n. 2 (1985) (citations omitted). There is no evidence here that either Sgt. Sives or Cpl. Maddox came to a considered decision to kill Mr. Fauver. The evidence suggests both officers were reacting to a quickly evolving situation.

### **VII. Conclusion**

This report has presented factual findings and legal analysis relevant to the fatal shooting of John Fauver that occurred on April 23, 2022, in Harford County, Maryland. Please contact the IID if any further investigation or analysis is required.

## Appendices

### Appendix A – Materials Reviewed

911 Call and Radio Traffic  
Body-Worn Camera Video (64 videos)  
CAD Reports (2 documents)  
Civilian Witness Interviews (3 files)  
Dashboard Camera Video (56 videos)  
Decedent Documents  
IA History and Training Records (5 documents)  
KGA Communications  
Lab Reports (7 documents)  
Medical Records (1 document)  
OAG Reports (50 documents)  
OCME (1 document)  
Officer Witness Statements (20 files)  
Other Video  
Photographs (1,255 items)  
Police Reports (15 documents)

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

### Appendix B – Applicable HCSO Policies

See attached.

## **Appendix B**

### Applicable HCSO Policies



# HARFORD COUNTY SHERIFF'S OFFICE OPERATIONS POLICY

## Use of Force

Jeffrey R. Gahler,  
Sheriff

<b>Distribution:</b>	<b>All Employees</b>	<b>Index:</b>	<b>OPS 0501</b>
<b>Responsible Unit:</b>	<b>Planning and Research Division</b>	<b>Rescinds:</b>	<b>OPS 0501 06/15/18</b>
<b>DLI Program:</b>	<b>N/A</b>	<b>MD Code:</b>	<b>See References</b>

<b>Issued:</b>	<b>06/18/20</b>	<b>Revised:</b>	<b>12/08/20</b>	<b>Reviewed:</b>	<b>12/08/20</b>	<b>Next Review:</b>	<b>12/08/21</b>
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### 1. Purpose

To provide Harford County Sheriff's Office (HCSO) employees with guidance on proper procedures regarding situations when force must be used.

### 2. Policy

Deputies have been given the responsibility to protect and serve all citizens while balancing the need for officer safety and are granted the authority to use force when necessary to accomplish lawful ends. This authority is grounded in the laws of the State of Maryland, the United States Constitution, Court rulings and the provisions of this policy. Recognition of, and respect for the dignity of all persons and the value of human life will guide all training, leadership, and procedures, as well as guide deputies in the use of force.

### 3. Definitions

**ACTIVE RESISTANCE:** physical evasive movements or behaviors to defeat a deputy's attempt at arrest or control, including bracing, twisting, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into custody.

**ACTIVE AGGRESSION:** overt, hostile, attacking movements or actions by a subject, which may cause injury to the deputy. This aggression may manifest itself through actions including, but not limited to, punching, kicking, biting or pushing.

**AGGRAVATED AGGRESSION:** when a subject's actions create an objectively reasonable perception on the part of the deputy that the deputy or another person is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Aggravated Aggression represents the least encountered but most serious threat to the safety of law enforcement personnel or another person.

**CONDUCTED ELECTRICAL WEAPON (CEW):** a less lethal weapon that emits an electrical energy charge which causes electro muscular disruption that affects the sensory and motor functions of the central nervous system.

**CHOKE HOLD/STRANGLE HOLD:** any hold that restricts the ability to breathe or that restricts the flow of blood to the brain.

**DEADLY FORCE:** a degree of force applied which is intended to cause death or serious injury; or force which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury.

**FORCE:** amount of effort required by a deputy to compel compliance from an unwilling suspect.

**FORCE TRANSITION:** the movement from the application of one force type to another consistent with the "objectively reasonable" standard (e.g., escalation/de-escalation).

**IMMINENT DANGER:** actions or outcomes that may occur during an encounter which places a fear for safety of the deputy or others.

**IN-CUSTODY DEATH:** an incident in which an arrestee/detainee died while in HCSO custody.

**INSTRUMENT OF NECESSITY:** an item at hand or in close proximity that can be used immediately without delay (e.g. flashlight, clipboard, etc.).

**LESS LETHAL PHILOSOPHY:** a concept of planning and applying force that meets operational objectives that is neither likely nor intended to cause death or serious physical injury.

**MECHANICAL FORCE:** the use of a device or object, other than a firearm, shotgun, or rifle, to overcome a subject's resistance to the exertion of the deputy's authority (e.g., use of a baton, CEW or chemical agent).

**OBJECTIVELY REASONABLE:** in determining the necessity for force and the appropriate level of force, deputies will evaluate each situation in light of the known facts and circumstances of each particular case, including, but not limited to, the seriousness of the crime, whether the subject poses an immediate threat to the safety of the deputy or others, and whether the subject is actively resisting arrest or attempting to evade arrest by flight.

**PASSIVE RESISTANCE:** subject is not physically cooperating with the deputy's attempt to restrain them and is not assaulting the deputy or trying to escape (e.g. going limp).

**PROBABLE CAUSE:** reasonable likelihood that a crime has been committed that is based upon facts and circumstances known to the deputy at the time of the incident.

**REASONABLE BELIEF:** the existence of facts, or combination of facts, that the circumstances are such to cause a reasonable person to believe them to be true.

**REASONABLE FORCE:** the use of a device, technique, or object to overcome a subject's resistance to the exertion of the deputy's authority.

**SERIOUS PHYSICAL INJURY:** physical injury that creates a substantial risk of death or causes permanent or protracted serious disfigurement, loss of the function of any bodily organ, or the impairment of the function of any bodily organ.

**USE OF FORCE:** any execution of a physical act to control a person, overcome resistance and/or defend oneself or another. The force may entail the use of body parts, issued Agency defense equipment, an instrument of necessity or deployment of a K-9.

#### **4. References**

OPS 0504 Use of Batons/Impact Weapons  
OPS 0505 Use of Chemical Agents  
OPS 0506 Use of Conducted Electrical Weapons  
OPS 0507 Use of Firearms  
OPS 0508 Use of Force Review Committee  
Tennessee v. Garner, 471 U.S. 1 (1985)  
Graham v. Connor, 490 U.S. 386 (1989)  
Scott v. Harris, 550 U.S. 372, 381 (2007)

Thomas v. Holly, 553 Fed. Appx. 208, 215 (4th Cir. 2013)  
MD Code, Criminal Law § 3-201

## 5. Procedures

### A. Prohibitions

1. The use of excessive and unreasonable force or brutality is prohibited and will not be tolerated under any circumstances.
2. The use of any choke hold/strangle hold is prohibited except when the deputy reasonably believes there is an imminent threat of death or serious injury to himself or another and has determined that the hold is the most reasonable means of protecting himself or another. The use of any such technique will stop immediately if/when the imminent threat has ended.
3. The discharge of firearms for use as "warning shots" is prohibited.
4. A deputy should not use deadly force to subdue persons whose actions are a threat only to property.
5. Deputies should not fire any weapon from or at a moving vehicle except to counter an imminent threat of death or serious physical injury to the deputy or another person.
6. Deputies should avoid positioning themselves in the path of a moving vehicle.

### B. General Factors

1. Factors for evaluating any use of force include but are not limited to:
  - a. The seriousness of the crime or the suspected offense;
  - b. Whether the suspect posed an imminent threat to the safety of the deputies or others;
  - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
  - d. Whether the use of force is objectively reasonable;
  - e. The deputy's tactical conduct and decisions preceding the use of force;
  - f. Whether the deputy has reason to believe that the subject is:
    - i. Mentally ill;
    - ii. Has a physical, developmental, or cognitive disability;
    - iii. Is emotionally disturbed;
    - iv. Is under the influence of alcohol or drugs;
    - v. Is suffering from a behavioral crisis; and/or
    - vi. Has a language barrier.

- g. Whether there was an opportunity to warn about the use of force prior to force being used, and if so, was such a warning given;
  - h. Whether there was any assessment by the deputy of the subject's ability to cease resistance and/or comply with the deputy's commands;
  - i. Specialized knowledge, skills, or abilities of subjects;
  - j. Prior contact;
  - k. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards; and
  - l. Whether the subject's escape could pose a future safety risk.
2. Not all the above factors may be present or relevant in a particular situation, and there may be additional factors not listed.

### C. Use of Force

1. Deputies will use only the force objectively reasonable to effectively and safely resolve an incident, while protecting the lives of the deputy or others. When feasible, deputies should announce that force will be utilized prior to the application of such force.
  - a. The reasonableness of a particular use of force is based on the totality of circumstances known by the deputy at the time of the use of force.
    - i. Reasonableness must be judged from the perspective of a reasonable deputy on the scene, rather than with the benefit of hindsight.
    - ii. The reasonableness standard is an objective one; whether the deputy's actions are objectively reasonable in light of the facts and circumstances confronting the deputy, without regard to the deputy's underlying intent or motivation.
    - iii. Reasonableness is not capable of precise definition or mechanical application.
    - iv. The reasonableness standard must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that is necessary in circumstances that are tense, uncertain, dynamic, and rapidly evolving.
2. When the circumstances justifying a particular level of force no longer exist, that level of force must be discontinued as part of the reassessment of the situation.
3. Deputies will utilize their authorized weapons and other less lethal items in accordance with established policy and training for that particular item.
4. Additional care and caution should be exercised when encountering children, the elderly, or individuals who are pregnant, suffering from pre-existing injuries, frail, have a low body mass, are experiencing a medical or mental health crisis, or are otherwise apparently vulnerable or in distress.
5. Deputies may use reasonable force against a domestic animal/pet to prevent substantial harm to the deputy or another person.

D. De-escalation

1. Deputies should use de-escalation techniques when appropriate.
2. The recommendation for deputies to engage in de-escalation techniques does not preclude deputies from using justifiable force when objectively reasonable.
3. Deputies should, when feasible, use combinations of the following de-escalation tactics to reduce the need for, or degree of, force used:
  - a. Attempt to isolate and contain the subject;
  - b. Create time and distance from the subject by establishing a buffer zone (reactionary gap) and utilize cover to avoid creating an imminent threat that may require the use of force;
  - c. Request additional resources;
  - d. Attempt to establish rapport and engage in communication with the subject;
  - e. Tactically re-position to maintain the reactionary gap, protect the public, and preserve deputy safety; and
  - f. Continue de-escalation techniques, taking as much time as reasonably necessary, to resolve the incident, before having to use force.

E. Use of Deadly Force

1. A deputy may use deadly force when he reasonably believes such action is necessary to protect himself, another deputy, or another person from imminent danger of death or serious physical injury.
2. **Deadly force shall not be used solely to prevent a subject fleeing from a deputy.** A deputy may use deadly force to prevent the escape of a fleeing suspect if the deputy has probable cause to believe that the action is necessary.
  - a. To protect the deputy or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
  - b. Has reason to believe that the person has committed, or intends to commit a felony involving serious bodily injury or death, and the deputy reasonably believes that there is an imminent risk of serious bodily injury or death to the deputy or another if the subject is not immediately apprehended.
3. When feasible, a member should identify himself as a deputy and state his intention to use deadly force before using a firearm or employing deadly force.

F. Duty to Intercede

1. Deputies have a duty to intercede to prevent the use of excessive force by another deputy or law enforcement officer toward any person; intervention may be verbal and/or physical.
2. Failure to intercede will subject a deputy to disciplinary action and/or criminal charges.
3. Deputies must immediately notify a supervisor after such an intervention, when safe to do so.



#### G. Duty to Provide Medical Assistance

1. Whenever there is an obvious injury or complaint of injury due to use of force, to include canine deployment and application of a CEW, or if requested by any individual, deputies will render aid in a timely manner or as soon as practical without further endangering the employee or others, consistent with their training and experience, and request that a Medic Unit respond to the scene to treat or transport the individual directly to the nearest hospital emergency room.
2. The deputy will document the requested medical aid and/or assistance provided or made available to all persons who have sustained a physical injury occurring as a result of an employee's use of force on the Incident Report (SO-001) of the original call for service.
3. If the individual refuses medical treatment or leaves the location prior to the arrival of the Medic Unit, deputies must document the actions taken to identify and render aid to the individual on the Incident Report (SO-001).

#### H. Training Requirements

1. The Training Academy will conduct and document annual training for all deputies on the lawful and appropriate use of force and deadly force. This training will:
  - a. Reflect current Maryland Police and Correctional Training Commissions (MPCTC) standards; and
  - b. Include, but not be limited to:
    - i. The use of force in general;
    - ii. De-escalation and tactical alternatives to the use of force;
    - iii. The use of physical and mechanical force;
    - iv. The use of deadly force; and
    - v. The limitations that govern the use of force and deadly force.
2. Training records will include, at a minimum, the name of the deputy who received the training, type of training conducted, and date the training was completed.
3. Training records will be maintained electronically by the Training Academy in accordance with the established records retention schedule and accessible for supervisory review.

#### I. Reporting Requirements

1. An on-duty deputy, off-duty deputy, or a deputy working supplemental law enforcement services is required to immediately notify his supervisor or the on-duty supervisor whenever he has:
  - a. Discharged an issued or approved firearm for any reason other than for training purposes or target practice at an established firing range;
  - b. Applied force or taken an action that results in, or is alleged to have resulted in, the physical injury or death of another person or a domestic animal/pet;

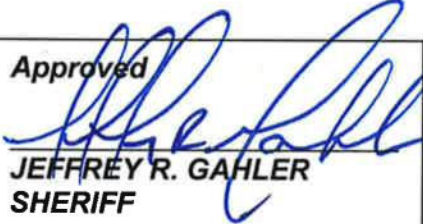
- c. Applied force through the use of lethal or less lethal weapons;
  - d. Applied weaponless control techniques to the extent that it was likely to cause or lead to physical injury, a claim of injury, or an allegation of excessive force (this does not include the use of techniques that have little or no chance of producing injuries when gaining control over, subduing non-compliant or resisting persons when no injury results. These techniques include, but are not limited to physical touching, holding, frisking, handcuffing, or other custodial procedures);
  - e. Applied intentional force against property that results in damage to that property;
  - f. Pointed a firearm or CEW at a person (display only).
    - i. Whenever a firearm or CEW is pointed at a subject (displayed only) and not discharged, the incident will not be labeled a "use of force"; however, it must be documented by checking the "Display Only" box on the Use of Force Report (SO-044).
2. Deputies involved in the above described incidents will document the event in an Incident Report (SO-001) for the original call for service or a Supplement Report (SO-002) prior to the end of that deputy's tour of duty.
- a. In instances where a deputy is injured or otherwise unable to complete an Incident Report (SO-001), his supervisor will complete that report.
  - b. When the deputy's supervisor is unavailable, the on-duty supervisor will complete the report.
  - c. Discharge of firearms to humanely destroy an injured animal will be documented by a CAD entry only, while indicating the type of animal and the number of rounds discharged.
3. Chain of Command Review
- a. The deputy's supervisor, or an on-duty supervisor, must report to the scene of any use of force incident, except:
    - i. When a firearm is discharged to humanely destroy an injured animal who is so badly injured that humanity requires its relief from further suffering; or
    - ii. When there is a display of the firearm only.
  - b. The responding supervisor will assist the deputy as necessary and will review the circumstances of the incident.
  - c. The responding supervisor must complete one Use of Force Report (SO-044) for each deputy involved in any use of force incident before the end of that tour of duty and forward it through the chain of command.
  - d. When one deputy uses force on multiple subjects, a Use of Force Report (SO-044) will be completed for each subject on which the force was used.
  - e. The supervisor completing the Use of Force Report (SO-044) will verify that the deputy made the appropriate entry on an Incident Report (SO-001) or Supplement Report (SO-002) as required above.

- f. The shift Lieutenant and Division Commander will complete an assessment of the use of force incident within 72 hours to determine compliance with Agency policy and each will document his findings on the Use of Force Report (SO-044).
- g. The Division Commander will enter the data from the Use of Force Report (SO-044):
  - i. Into the Records Management System (RMS) under the Use of Force tab; and
  - ii. When violations of Agency policy are suspected, the Division Commander will contact the Office of Professional Standards (OPS) and handle in accordance with PER 0201 Complaints Against Deputies.
- h. Distribution of the Use of Force Report (SO-044):
  - i. The Division Commander will forward the original Use of Force Report (SO-044) within seven days to OPS for entry into the Early Intervention Program in accordance with PER 0210 Early Intervention Program; and
  - ii. The Division Commander will forward an electronic copy of the Use of Force Report (SO-044) via email, within seven days, to the Chairperson of the Use of Force Review Committee for review as outlined in OPS 0508 Use of Force Review Committee policy.

J. Investigations of Use of Force

- 1. Any supervisor who is notified of a use of force incident, other than a display or the dispatch of an injured animal, must:
  - a. Ensure that emergency medical services have been notified and are responding, if needed;
  - b. Respond and ensure scene security;
  - c. Ensure photographs are taken of the injuries or alleged injury sites of both the deputy and suspect; and
  - d. Review the circumstances and complete the Use of Force Report (SO-044).
- 2. If the force involved the use of a firearm and/or resulted in serious physical injury or death:
  - a. The supervisor must:
    - i. Notify the Division Commander in the area in which the incident occurred;
    - ii. Notify the Criminal Investigations Division (CID) to respond to the scene for investigation; and
    - iii. Notify OPS for an independent administrative investigation.
  - b. CID must respond to the scene to:
    - i. Ensure evidence is identified and secured; and
    - ii. Conduct a thorough investigation.

- c. Direct involvement in a use of force incident by a supervisor will preclude that member from involvement in the administrative process and will require the paperwork to be completed by a supervisor of equal or superior rank.
- d. If a firearm was discharged, the on-scene supervisor will secure the firearm involved for further investigation when the scene is safe to do so.
  - i. A deputy's firearm will not be taken in the presence of the suspect, a witness, or the media.
  - ii. Ensure that the condition of the deputy's firearm is documented to include the number of rounds of ammunition that are in each magazine.
- e. The deputy will be removed from the scene as soon as practical and will not participate in the investigation beyond the required initial reporting requirement.
- f. The deputy will be placed on non-disciplinary administrative leave with pay pending further disposition by the Sheriff.
- g. When a deputy's firearm is discharged, the deputy's supervisor will arrange for the Agency Rangemaster to issue a replacement firearm prior to the deputy going home, if appropriate.

Approved  
  
JEFFREY R. GAHLER  
SHERIFF  
DATE 12.10.2020



Jeffrey R. Gahler,  
Sheriff

# HARFORD COUNTY SHERIFF'S OFFICE OPERATIONAL POLICY

## Use of Firearms

<b>Distribution:</b>	<b>All Personnel</b>	<b>Index:</b>	<b>OPS 0507</b>
<b>Responsible Unit:</b>	<b>Planning and Research Division</b>	<b>Rescinds:</b>	<b>MAN0700</b>
<b>DLI Program:</b>	<b>N / A</b>	<b>MD Code:</b>	

<b>Issued:</b>	<b>6/15/18</b>	<b>Revised:</b>	<b>5/17/18</b>	<b>Reviewed:</b>	<b>5/1/18</b>	<b>Next Review:</b>	<b>6/15/19</b>
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### 1. Purpose

To provide Harford County Sheriff's Office (HCSO) employees with guidance on proper procedures regarding situations when firearms must be used.

### 2. Policy

Deputies have been given the responsibility to protect and serve all citizens while balancing the need for officer safety and are granted the authority to use force when necessary to accomplish lawful ends. This authority is grounded in the laws of the State of Maryland, the United States Constitution, Court rulings and the provisions of this policy. Recognition of, and respect for the dignity of all persons and the value of human life shall guide all training, leadership, and procedures, as well as guide deputies in the use of force.

### 3. Definitions

**AGGRAVATED AGGRESSION:** when a subject's actions create an objectively reasonable perception on the part of the deputy that the deputy or another person is subject to imminent death or serious physical injury as a result of the circumstances and / or nature of an attack. Aggravated Aggression represents the least encountered but most serious threat to the safety of law enforcement personnel or another person.

**DEADLY FORCE:** a degree of force applied which is intended to cause death or serious injury; or force which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury.

**DEPLOYMENT:** the visible presence of a firearm, shotgun or rifle for an operational purpose. A deployment is not considered a use of force or display and no report will be required.

**DISPLAY:** pointing a firearm, shotgun or rifle at a subject or in the direction of a subject will be considered a "display", not a use of force; therefore, will be recorded as a "Display Only" on the Use of Force Report (Form SO-044).

**DISCHARGE:** the firing of a firearm, shotgun or rifle at or in the direction of a subject.

**IMMINENT DANGER:** actions or outcomes that may occur during an encounter which places a fear for safety of the deputy or others.

**USE OF FORCE:** any execution of a physical act to control a person, overcome resistance and / or defend oneself or another. The force may entail the use of body parts, issued Agency defense equipment, an instrument of necessity or deployment of a K-9.

#### 4. References

HCSO Policy OPS 0501 - Use of Force  
HCSO Policy OPS 0502 - Issued and Approved Firearms and Ammunition  
HCSO Policy OPS 0503 – Qualification and Remedial Firearms Training

#### 5. Procedures

##### A. Use of Force

1. Deputies shall use only the force objectively reasonable to effectively and safely resolve an incident, while protecting the lives of the deputy or others. When practical, deputies should announce that force will be utilized prior to the application of such force.
2. Deputies will utilize their approved weapons in accordance with the established HCSO policy and training for that particular item.
3. Carrying of weapons shall be consistent with HCSO Policy OPS 0502 – Issued and Approved Firearms and Ammunition.
4. A deputy may use deadly force when they reasonably believe such action is immediately necessary to protect a deputy or another person from imminent danger of death or serious physical injury.
5. Deputies shall always consider the potential consequences of their actions when making the decision to use a firearm, shotgun or rifle.

##### B. Primary and Secondary Handgun

1. The deployment and / or discharge of an approved primary or secondary handgun shall be consistent with Agency training.
2. Deputies shall take into consideration the potential background targets and the likelihood that rounds may pass through walls etc. when deciding to utilize the handgun.
3. Secondary handguns are authorized for use only in those critical situations when the primary weapon has been taken, lost, emptied or disabled. Approval, inspections, qualifications and training shall be done in accordance with HCSO Policy OPS 0502 – Issued and Approved Firearms and Ammunition.

##### C. Shotguns and Rifles

1. Operational Guidelines
  - a. the primary function of the shotgun and rifle is that of a perimeter weapon. The decision to deploy a shotgun or rifle shall be in conformance with the training provided by the Training Academy and based upon the resources available to the deputy at the time, the risks created by the use of the shotgun or rifle and the danger posed by the suspect. Such situations may include, but are not limited to:

- i. response to an active shooter or a major criminal incident such as a barricaded subject;
- ii. high-risk traffic stop or roadblocks ;
- iii. any situation where a deputy reasonably believes there is a high likelihood that weapons may be encountered or a potential of encountering an armed subject;
- iv. provide cover for a police K-9, or another deputy, in the search for an armed subject;
- v. incidents in which suspects are believed to have weapons superior to the issued handgun;
- vi. incidents where suspects are believed to be wearing body armor;
- vii. destruction of animals in situations where the handgun would not be effective; or
- viii. any situation where the supervisor of an operation deems the shotgun or rifle to be necessary, in accordance with the guidelines of this Order.

#### D. Reporting Requirements

1. Deputies must immediately report to their supervisor or the on-duty supervisor whenever they discharge or display a handgun, shotgun or rifle for any reason other than training purposes or target practice at an established firing range.
2. Deputies must document the event in an Incident Report (Form SO-001) for the original call for service or a Supplemental Report (Form SO-002) prior to the end of that deputy's tour of duty.
  - a. in instances whereby a deputy is injured or otherwise unable to complete an Incident Report (Form SO-001), his supervisor will complete that report.
  - b. in the event that the deputy's supervisor is also unavailable, the on-duty supervisor will complete the report.
  - c. discharge of firearms to humanely destroy an injured animal will be documented by a CAD entry.

#### E. Supervisory Responsibilities

1. Any supervisor who is notified of a use of a firearm must follow the guidelines established in the HCSO Use of Force Policy OPS 0501.
2. The deputy's supervisor or an on-duty supervisor must report to the scene of any firearm use or display (except when firearm discharge was to humanely destroy an injured animal).
3. The responding supervisor will assist the deputy as necessary and will review the circumstances of the incident.
4. The responding supervisor must complete one Use of Force Report (Form SO-044) for each deputy involved in any incident described in D.1. above before the end of that supervisor's tour of duty and forward it through the chain of command (except when firearm discharge was to humanely destroy an injured animal).

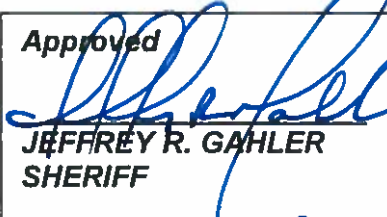
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5. The supervisor completing the Use of Force Report (Form SO-044) will verify that the deputy made the appropriate entry on an Incident Report (Form SO-001) or Supplement Report (Form SO-002) as required above.

F. Chain of Command Review

1. Shift Lieutenants, Duty Officers and Division Commanders will ensure the use of force reporting requirements, training, investigations, review process and distribution of the Use of Force Reports (Form SO-044) are conducted in accordance with the procedures established in the HCSO Use of Force Policy OPS 0501.

Approved  
  
JEFFREY R. GAHLER  
SHERIFF  
DATE 6-1-18