

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY
ON THE FATAL POLICE-INVOLVED INCIDENT
ON THE 3500 BLOCK OF LIBERTY HEIGHTS AVENUE



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Introduction

The Baltimore City State's Attorney's Office ("BCSAO") completed its review of an incident occurring in the area of 3500 Liberty Heights Avenue on October 8, 2022, in which a 17 year old unlicensed driver took flight from police officers and subsequently caused a 4-car motor vehicle crash that killed the fleeing driver. The BCSAO review was conducted by the office's Public Trust and Police Integrity Unit ("PTPIU") and focused exclusively on determining whether criminal charges relating to the officer's conduct were warranted.

The intended purpose of posting this report is to provide insight into the investigation and conclusion reached by the BCSAO regarding the police involved incident as described herein. The investigation and conclusion reached should not be interpreted as expressing any opinions on non-criminal matters.

OVERVIEW OF THE INCIDENT
(Police Pursuit - Automobile Accident with Fatality)

On October 8, 2022, BPD detectives Cesar Gonzalez (hereinafter “Gonzalez”) and Cierra Thurmond (hereinafter “Thurmond”) were on routine patrol in the Northwest District. Gonzalez was driving and Thurmond was seated in the front passenger seat of the marked patrol cruiser. At approximately 6:22 p.m. the detectives were travelling on Chelsea Terrace when they observed the Involved Citizen (hereinafter “Involved Citizen”) operating a black Honda CRV with Florida license plates near the intersection of Chelsea Terrace and Fairview Avenue. The black Honda CRV was facing the wrong direction on the street, and took off at a high rate of speed when Gonzalez and Thurmond approached. Gonzalez then made a U-turn and began to follow the Involved Citizen as he rapidly accelerated away from the detectives.

Gonzalez and Thurmond did not initiate their lights and sirens but followed behind the Involved Citizen at distances measuring between ½ block and 3 full blocks as the Involved Citizen turned right onto Norfolk Avenue, right onto Garrison Boulevard, left onto Fairview Avenue, and left onto Grantley Road. At 6:23:24 p.m., Gonzalez and Thurmond requested overhead assistance from Foxtrot, and continued to follow the Involved Citizen at a distance as he sped away until he drove through the stop sign at the intersection of Grantley Road and Liberty Heights Avenue at a high rate of speed, causing a 4-car motor vehicle collision. Gonzalez and Thurmond were approximately three blocks behind the Involved Citizen’s Honda CRV when he collided with two other vehicles, causing one of those vehicles to careen into the path of a fourth vehicle.

All of the vehicle occupants involved in the collision suffered varying degrees of injury. The Involved Citizen was transported to Sinai Hospital where he was pronounced deceased shortly after admission. None of the other accident victims suffered life threatening injuries.

The Involved Citizen was 17 years of age at the time. A check of MVA records revealed he did not possess a Maryland Driver’s License.

THE INVESTIGATION

Consistent with BPD policy and procedure, this matter was investigated by both the Special Investigative Response Team (SIRT) and the Accident Reconstruction Unit (ARU) of that agency. The Independent Investigation Unit within the Office of the Attorney General also investigated this matter.

The following are the relevant statements and evidentiary considerations in this investigation:

STATEMENT OF DETECTIVE CESAR GONZALEZ

On the day of the incident, Det. Gonzalez was equipped with a body-worn camera that captured the following contemporaneous and relevant statements:

“So we saw this car up on Chelsea and Norfolk, and as we were coming up he took off at a high rate of speed. So we advised Foxtrot to try and see if he was up, the one there, and then when we made it all the way up here, it was on, an accident.” (00:15:28)

“We never even got a chance to stop him. He saw us banging, we requested Fox.” (00:15:50)

“I was telling the Sarge that that’s the car that left Chelsea, and we tried to get Fox as it was fleeing out, but we didn’t get a chance to pull it over.” (00:18:30)

“So as I was turning I saw, like, dust on the way up here. And then I figured it was going to be an accident. But I didn’t see if he stopped, if he just shot across. I didn’t see none of that.” (00:38:22)

“We tried to get Fox, so Fox could put eyes on him and then it was too late.” (00:38:43)

“Nobody was following the car. No. We try to keep eyes on it and requested Fox.” (01:55:17)

“He was facing the other way, and I banged a U-turn. I was trying to get a tag but I couldn’t.” (01:55:34)

“We never got a chance to light him up, get close enough behind him to get a tag. He was facing the wrong way when we were coming up. Then he just took off. And then she requested Fox so Fox can be up here and try to see if he can put eyes on him. And then by the time we made it to this point, that’s when we saw the debris, so that’s three blocks away.” (01:56:24)

“He was on Chelsea and Norfolk. It was on Chelsea facing the opposite way. And we passed him and he took off. He took off at a high rate of speed. I started doing a U-turn but I could never catch up to him to light him up or anything like that.” (02:02:30)

“He left there and he came right back, but he slowed down so I thought he was going to stop. That’s why at one point I got, we got kind of close, but not close enough to light him up. Then he continued, and that’s when she requested Fox.” (02:03:05)

“Cause he went back to the same spot. It was like a circle that he did.” (02:03:30)

STATEMENT OF DETECTIVE CIERRA THURMOND

On the day of the incident, Det. Thurmond was equipped with a body-worn camera that captured the following contemporaneous and relevant statements:

“We just came up on a Signal thirty..one if you could get a medic here. We’re at Grantley and Liberty Heights.” (00:01:03)

“We lit him up, we asked for Fox, we were a few blocks away from him. We didn’t have lights or sirens on and he just came out.” (00:13:05)

“He flew through the intersection.” (00:13:22)

“We didn’t light him up. We didn’t light him up.” (00:18:55)

STATEMENT OF DETECTIVE ISRAEL LOPEZ

SIRT investigators interviewed Detective Lopez on November 8, 2022 in the office of the Public Integrity Bureau. Detective Lopez reported that on October 8, 2022 he was operating a marked patrol car and working with the Northwest District Action Team. Lopez reports that he was driving behind the vehicle that occupied detectives Gonzalez and Thurmond. Lopez indicates he turned right onto the 3200 block of Chelsea Terrace when he observed a black SUV parked the wrong way with no front tag. There were approximately ten people on foot surrounding the black SUV, some of whom the detective recognized from previous CDS enforcement in the area. Once Lopez passed the vehicle he looked in his rear view mirror and saw the black SUV pull off at a high rate of speed.

The black SUV sped past the car being driven by Gonzalez and Thurmond which caused Gonzalez to make a U-turn to follow the black SUV. Lopez did not follow Gonzalez and Thurmond but instead took a different route. As he was approaching the intersection of Calloway Avenue and Liberty Heights Avenue he heard a loud crash. Lopez then turned onto Liberty Heights and saw four vehicles were involved in a crash, including the black SUV he previously saw eluding detectives Gonzalez and Thurmond.

AIU INVESTIGATION

As part of their accident investigation, AIU detectives requested Detectives Gonzalez, Thurmond, and Lopez to complete written Statement of Collision forms while still at the scene of the crash.

Gonzalez: Wrote that he was conducting a left turn from the 3600 block of Fairview Avenue to the 3100 block of Grantley Avenue when he observed a lot of smoke and debris three blocks away near the intersection of Liberty Heights Avenue and Grantley Avenue. Upon his arrival at the intersection he observed a four car accident and multiple injured persons.

Thurmond: Wrote that she was coming from the 3600 block of Fairview Avenue onto the 3100 block of Grantley Avenue when she saw smoke from a vehicular collision at the intersection of Grantley Avenue and Liberty Heights Avenue.

Lopez: Wrote that he was on the 3300 block of Calloway Avenue and as he turned onto the 3600 block of Liberty Heights Avenue he observed a large cloud of smoke. As he approached Liberty Heights and Grantley Avenue he observed the vehicle accident that had occurred.

STATEMENT OF WITNESS – Witness #1

SIRT investigators interviewed Witness #1 at his home located on Forest Park Avenue on October 11, 2022. Witness #1's home is located approximately one block away from the intersection of Liberty Heights Avenue and Grantley Avenue. The witness indicated he was home on the evening of the accident monitoring his outside security cameras when he was alerted to the

sound of a vehicle travelling at a high rate of speed down Grantley Avenue. The witness estimated the speed of the black Honda SUV to be between 70 to 90 miles per hour. The witness then heard the crash and ran onto to his bedroom patio to look outside, but could not see the accident scene as his view was blocked by trees. Witness #1 reports that the police car passed his house approximately thirty seconds after the black Honda SUV, initiated its lights after the crash, and proceeded to the intersection of Grantley and Liberty Heights to assess the scene of the accident.

STATEMENT OF WITNESS – Witness #2

SIRT investigators interviewed Witness #2 at his home located on Springdale Avenue on October 11, 2022. Witness #2's home is located near the intersection of Springdale Avenue and Grantley Avenue, approximately three blocks away from the intersection of Liberty Heights Avenue and Grantley Avenue. This witness indicates he was in the rear of his home chopping wood when he heard a car driving down Grantley Avenue at a high rate of speed. The witness indicates the speeding vehicle drove through the stop sign outside his home and a police car drove past approximately three seconds later. Witness #2 believes the police car had its lights on but not its sirens. He then hears a loud crash at the intersection of Grantley and Liberty Heights and ran up the street to see what happened. When Witness #2 arrived at the scene of the collision he observed the four cars involved in the crash and saw the Involved Citizen laying halfway out of a black SUV.

STATEMENT OF WITNESS - Witness #3

On October 14, 2022, Witness #3 called the Office of the Attorney General after seeing a news report about the police-involved traffic accident. This witness went on to report that on the day of the accident she was driving on Liberty Heights Avenue towards the city when she observed a black SUV travelling at approximately 40-50 miles per hour when it drove through the stop sign at Grantley Avenue and Liberty Heights Avenue. Witness #3 indicated the black SUV made it across the first two lanes of Liberty Heights but was struck by a truck on the far lanes, which caused the black SUV to spin into other cars on the same side of Liberty Heights. She observed the driver of the black SUV lying motionless and shoeless with his legs outside of the vehicle.

Witness #3 then stated she began to call 9-1-1 when she observed a marked police car coming from the same direction as the black SUV. The police car was occupied by a male driver and a female front seat passenger. She indicated the police car arrived without lights and sirens to the intersection of Grantley and Liberty Heights approximately 20-30 seconds after the crash. The witness further clarified, "In my opinion the police were not chasing him."

CAD/KGA

A review of the CAD report indicates that at 18:23:34 hours, Detective Thurmond requested assistance of the Aviation Unit because a black SUV "took off on us at a high rate of

speed.” At 18:24:04 hours, Detective Thurmond reported a multi-vehicle accident at the intersection of Liberty Heights Avenue and Grantley Road.

BODY WORN CAMERA (“BWC”) VIDEO

Although both Gonzalez and Thurmond were equipped with body worn cameras on the day of the incident, their footage does not provide pertinent images of the pursuit or vehicle accident.

LEGAL ANALYSIS

Officers Gonzalez and Thurmond’s actions have been reviewed in light of Criminal Procedure Article §2-301: Elements and Conditions of Fresh Pursuit; Criminal Law Article §2-209: Manslaughter by Vehicle--Gross Negligence; Criminal Law Article §2-210: Manslaughter by Vehicle--Criminal Negligence; and the Baltimore Police Department’s Policy 1503: Emergency Vehicle Operation and Pursuit Policy. If not legally justified, the actions of Gonzalez and Thurmond could constitute the crimes of *Manslaughter by Motor Vehicle* and/or *Misconduct in Office*.

Notably, the SAO has compared the BPD Policy on Vehicle Pursuits against the evidence in this case. That policy is as follows:

BPD Policy on Vehicle Pursuits

Policy 1503 – Emergency Vehicle Operation and Pursuit Policy:

Departmental Policy

1. Members of the Baltimore Police Department shall operate departmental vehicles with utmost care and caution, and, except when operating in Emergency Response Mode, will comply with all traffic regulations.
2. It is the policy of the BPD to weigh the risks of driving in Emergency Response Mode and/or engaging in a vehicle Pursuit against the nature of the emergency, including the importance of apprehending suspects who unlawfully flee from law enforcement.
3. The BPD recognizes it is better to allow a suspect to temporarily escape apprehension than to jeopardize anyone’s safety in a pursuit.
4. No member shall be criticized or disciplined for a decision not to engage in a Vehicular Pursuit or to terminate an ongoing Vehicle Pursuit based on the risk involved, even in circumstances where this policy would permit the commencement of the pursuit.

Definitions

1. Emergency Response Mode – Driving with emergency lights and sirens activated.
2. Eluding – When a member of BPD, operating a law enforcement vehicle, issues by hand, voice, emergency lights, or siren a visible and/or audible signal to the driver of a vehicle to stop, and, after a reasonable time to yield in response to the member’s signal, the driver increases speed, takes evasive action, and/or refuses to stop.

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

In light of the legal considerations, the SAO has considered the following critical questions:

1. Was this a vehicle pursuit? And if so, was it justified?

Members may pursue an eluding vehicle when “failure to immediately apprehend the person places a member or others in immediate danger of death or serious bodily injury.” When applying the facts of this case, it cannot be established conclusively that Gonzalez and Thurmond conducted a “vehicle pursuit.” The fact that the officers did not engage their lights and sirens and the fact that they requested aerial assistance from Foxtrot tends to suggest the officers were merely attempting to maintain a safe distance until Foxtrot could help locate the suspect vehicle which had committed misdemeanor traffic offenses. Although the evidence does tend to indicate the officers may have exceeded the posted speed limit of 25 miles per hour and failed to stop at 1 or more stop signs, neither of which prove a “pursuit.” Moreover, regarding their driving and “pursuit” of the Involved Citizen, there there is no other evidence suggesting they performed driving maneuvers (other than those mentioned herein) or other police duties in a negligent manner. In hindsight, it appears to be a prudent decision by the Involved Officers not to engage in a vehicle pursuit.

In light of the conclusion that this was not a pursuit, we need not reach the question of whether it was justified or not.

2. Did the police engage in conduct that resulted in the Involved Citizen’s death?

No. While reasonable minds can conclude that the Involved Citizen would not have driven the way he drove but for the police officers turning around and – at a distance – following him, this conclusion ignores completely the fact that he, the Involved Citizen, is the primary cause of the accident regardless of what the officers did, or didn’t, do.

Police Officers are authorized, if not required, to enforce traffic laws and to apprehend drivers engaged in unsafe or unlawful operation of motor vehicles. Despite what the officers were or weren’t doing, the Involved Citizen himself chose to flee in a reckless and dangerous manner. He is the singular primary cause of his fatal accident.

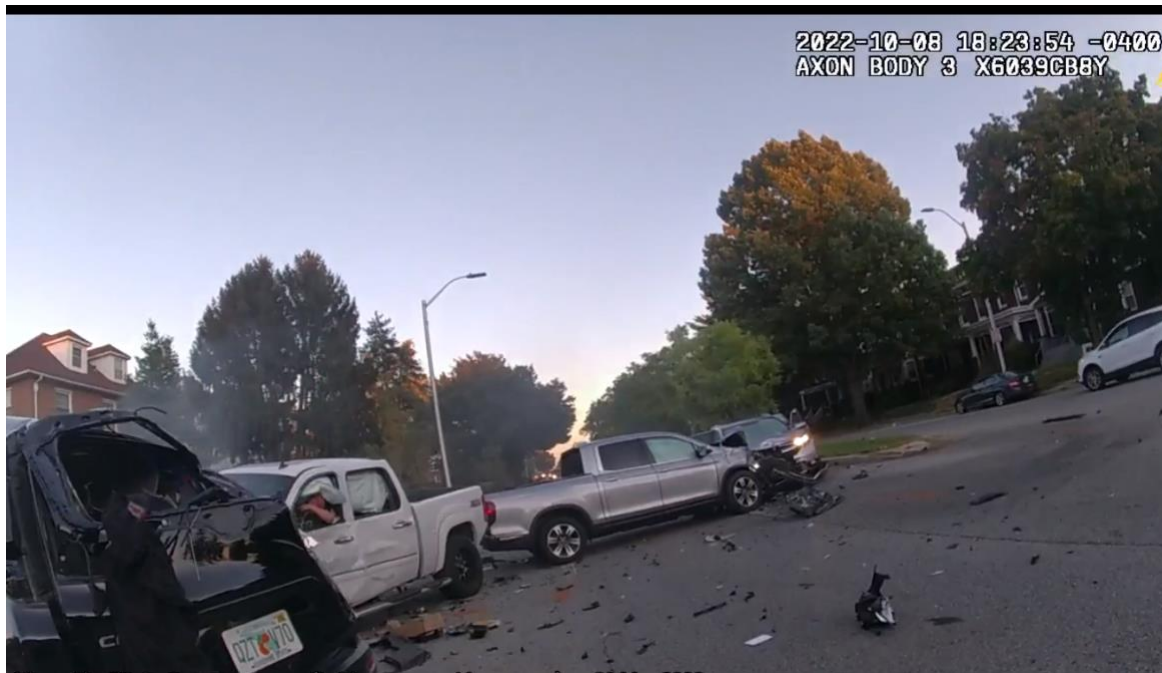
Office of the Attorney General – Independent Investigations Division (OAG IID)

Pursuant to Md. Code, State Government Article Section §6-106.2, the Office of the Attorney General conducted an independent investigation of this incident. That agency provided an interim report to the Office of the State’s Attorney for Baltimore City on March 24, 2023. On ***, the OAG filed a final report. The OAG report has been carefully reviewed and considered in this analysis. The OAG report does not provide a recommendation for prosecution or declination of prosecution. There are no material differences in the findings of the OAG report and the BPD SIRT and AIU investigations.

Conclusion

When considering all of the evidence, the BCSAO concludes the following: 1) that Officers Gonzalez and Thurmond had probable cause to initiate a traffic stop; 2) that Officers Gonzalez and Thurmond did not “chase” the Involved Citizen, nor did they follow the Involved Citizen in a manner that was either “grossly negligent” or “criminally negligent;” 3) that there is no legal causation between the actions of the Involved Officers and the Involved Citizen’s traffic accident and subsequent death; and 4) that the actions of the Involved Citizen were the overwhelming primary factor in the cause of his own death.

OVERVIEW OF THE VIDEO/PHOTO EVIDENCE OF THE INCIDENT



The four automobiles involved in the crash at the intersection of Liberty Heights Avenue and Grantley Road. The black Honda CRV that caused the accident is in the foreground.

