

## **EVIDENCE COLLECTION, STORAGE, AND ANALYSIS PROTOCOLS FOR THE INDEPENDENT INVESTIGATIONS DIVISION**

The Office of the Attorney General’s Independent Investigations Division (“IID”) and the Maryland State Police (“MSP”) will lead the investigation of all alleged or potential officer-involved deaths of civilians as mandated by Maryland Annotated Code, State Government Article, § 6-106.2. In this document, the “Independent Investigations Division” or “IID” refers to the entity created by that legislation, consisting of both AG and MSP personnel.

The following protocols are intended to govern the gathering and preservation of evidence at those scenes. Because no protocol can cover all situations, please call the MSP Headquarters Duty Officer at (410) 653-4200 or the on-call IID investigator at (410) 576-7070 with any questions that arise prior to IID’s arrival on scene.

- I. Collection of Physical Evidence at Scene
  - A. Personnel from the MSP Forensic Sciences Division (“MSP-FSD”) and Criminal Enforcement Division will oversee the scene of potential IID investigations and will make every effort to arrive at the scenes of IID investigations within one to two hours from notification.
  - B. Cases Where There is no Imminent Threat to Evidence
    1. In all cases in which there is no imminent threat to losing, damaging, or contaminating evidence, the evidence should be collected by personnel from the MSP-FSD.
    2. In these cases, personnel from the local law enforcement agency (“LEA”) will not collect evidence but will locate, identify and secure all crime scenes and evidence until MSP-FSD personnel arrive.
    3. If the local LEA has scanning devices, we encourage them to begin scanning the scene prior to the arrival of IID personnel, if feasible.
  - C. Cases Where There is an Imminent Threat to Evidence
    1. An imminent threat to evidence is defined as a situation in which evidence will be lost, damaged, or contaminated if personnel on the scene do not take action. Examples include, but are not limited to, weather (rain, wind, flood, heat) and potential interference (civilian, medical personnel, animals) with evidence.
    2. If there is an imminent threat to any evidence and crime scene personnel from the local LEA are present, then the local crime scene personnel should document, photograph, and collect that evidence as per their own protocols prior to the arrival of MSP-FSD crime scene personnel. If the evidence must be processed in order to preserve it from threat, the local LEA may do so. Evidence that is not subject to an imminent threat will be left for MSP-FSD crime scene personnel to process.

3. If there is an imminent threat to any evidence and no crime scene personnel (MSP-FSD or local) are present, then the sworn personnel on-site should document, photograph, and collect that evidence rather than waiting for crime scene personnel to arrive. If time allows, the sworn personnel from the local LEA should contact IID personnel for guidance prior to the collection of evidence. Evidence that is not subject to an imminent threat will be left for MSP-FSD crime scene personnel to process.
4. If personnel from the local LEA collects evidence, the name of the personnel collecting the evidence and the reason for collection should be documented and provided to the IID as soon as possible.
5. The guiding principle for when there is a threat to evidence is that it is always better to collect the evidence in some manner rather than losing the evidence or having it damaged or contaminated.

## II. Collection of Other Evidence at Scene

### A. Video Evidence

1. The local LEA should identify all personnel who are equipped with a Body Worn Camera (BWC) and/or Mobile Video System (MVS) that potentially captured any aspect of the encounter, including footage from before and after the incident. Any BWC and/or MVS footage should be secured and turned over to IID personnel.
2. The local LEA should begin to identify all video surveillance evidence prior to the arrival of IID personnel.

### B. Involved and Witness Officers

1. The local LEA should identify and separate all involved and witness officers. If possible, the local LEA should contact IID personnel prior to any removal of an involved or witness officer.
2. If there is an imminent need to remove the involved or witness officer from the scene, the local LEA should, if possible, photograph the officer while on scene and contact IID personnel prior to transport for further guidance. If an officer must be transported from the scene before being photographed or his or her firearm being recovered, he or she should, if possible, be transported in a car with an operating camera and/or in the company of an officer wearing an operating BWC.

### C. Civilian Witnesses

1. The local LEA should identify, separate, and maintain all possible civilian witnesses and ask them to remain present until IID personnel arrives to conduct interviews.
2. In cases where a civilian witness needs to be transported from a scene, the local LEA should, if possible, contact IID personnel prior to transport for further guidance.

3. If a witness is unwilling to wait on scene for the arrival of IID personnel, the local LEA should attempt to conduct an interview of that individual, to collect any video or other evidence they might have, and to obtain the contact information for the witness to include his/her name, date of birth, address, phone number, and vehicle registration information.
4. If possible, any on-scene interaction with the civilian witnesses should be recorded and documented. These recordings and documentation should be maintained and will be collected by the arriving IID personnel.

### III. Death Notifications

- A. If there has been an “Officer-Involved Death” incident, IID personnel will make the next-of-kin notification to the family of the involved decedent. At the discretion of the IID, a representative from the local LEA may accompany IID personnel to the next-of-kin notification.
- B. If extenuating circumstances prevent the IID from making a timely notification, the local LEA can make the next-of-kin notification after consulting with the IID. During that notification, the local LEA will provide the family with contact information for the IID and will also provide the IID with the contact information of the involved family.
- C. Following the next-of-kin notification, and throughout the course of the investigation, the IID will be the primary point of contact with the decedent’s family.

### IV. Submission Of Evidence

- A. All evidence collected as part of an IID investigation should be submitted to the MSP-FSD regardless of who collects the evidence.
- B. If there is a dispute with a local LEA as to whether evidence is part of an IID investigation, IID personnel will make the final determination regarding the evidence.
- C. If potential IID evidence is submitted to a crime lab other than the MSP-FSD, the IID will request or subpoena the evidence so that it can be transferred to the MSP-FSD.
- D. Requests for Transfers of IID Evidence
  1. If a local LEA determines that it needs possession of evidence submitted to the MSP-FSD for its own investigation or prosecution, it may request the transfer of evidence.
  2. IID personnel will address evidence transfer requests on a case-by-case basis. Every effort will be made to accommodate transfer requests if they do not prejudice an IID investigation or potential prosecution.

3. All transfers of IID evidence from the MSP-FSD to another LEA's accredited and licensed crime lab must be requested by that LEA's crime lab director and be approved by the director of the MSP-FSD, and the IID chief.

V. Analysis of Evidence

- A. IID personnel may request the analysis and testing of evidence collected for IID investigations that they deem appropriate.
- B. Because of the increased burden these cases will place on the MSP-FSD, the FSD Director may request that other accredited and licensed crime labs in the State perform the analysis. Insofar as practical, the MSP-FSD will not send any evidence related to the IID investigation to the crime lab in the same jurisdiction as the officer under investigation. The MSP-FSD will notify the IID if this transfer occurs.
- C. Local LEA requests for analysis of IID Evidence.
  1. If a local LEA determines that it would like evidence that has been submitted to the MSP-FSD to be analyzed, it may request that the MSP-FSD conduct the analysis.
  2. IID personnel will determine if the analysis should be done on a case-by-case basis depending on the request and the resources available at the time of the request.
  3. If a local LEA's request for analysis is denied, IID personnel will make every effort to transfer the evidence to another accredited and licensed crime lab as soon as practicable without prejudicing the IID investigation or potential prosecution.

VI. Collateral Criminal Investigations

- A. Because the IID solely investigates law-enforcement personnel, local LEAs may need to conduct criminal investigations and prosecutions of non-police criminal activity arising from the same general incident as IID investigations. IID personnel will collaborate with the local LEA in every case in which there is a collateral criminal investigation. All efforts will be made to find solutions that allow for the proper investigation and potential prosecution of both the IID case and the collateral criminal case without causing prejudice to either case.
- B. Where the two investigations share witnesses, the IID and local LEAs will coordinate, to the extent possible, prior to conducting interviews.
- C. Collection of Evidence for Collateral Investigations.
  1. If IID personnel determine that evidence is necessary for an IID investigation, the evidence will, barring, an imminent threat to the evidence, be collected by the MSP-FSD and submitted to the MSP-FSD. This will occur even if a local LEA believes the evidence is necessary for a collateral criminal investigation.

2. If IID members determine that evidence is not required for an IID investigation, local LEA may collect, store and analyze the evidence according to their normal practices or procedures. The local LEA may also request that the MSP-FSD personnel collect that evidence at the scene and provide it to the local LEA for its own future analysis.