

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE NON-FATAL POLICE-INVOLVED SHOOTING IN THE 500 BLOCK OF HURLEY AVENUE



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INTRODUCTION

The Baltimore City States Attorney's Office ("BCSAO") completed its review of the non-fatal police involved shooting in the 500 block of Hurley Avenue. That review was conducted by the office's Public Trust and Police Integrity Division and focused exclusively on determining whether criminal charges relating to the officers' conduct were warranted. PTPIU's review did not examine issues such as the officer's compliance with internal policies and procedures, their training or tactics, or any issues related to civil liability; however, internal policies and procedures and training are factors that were considered in evaluating the officer's conduct. This report should not be interpreted as expressing any opinions on non-criminal matters.

In brief, on March 17, 2021, at approximately 3:15 p.m., Baltimore County Police (BaCoPD) responded to a 911 call relating to a citizen "with a long gun" on the 1400 block of Adamsview Road, in the Woodland area of Baltimore County. The complainant reported that an SUV was partially blocking his driveway. When he went outside for a closer look, the driver got out of his vehicle and pointed a "long gun" at him. Another person subsequently complained about having the gun pointed at her as well.

Officers identified the vehicle as a grey GMC Envoy owned by the IC ("IC"). With the assistance of BaCoPD's Aviation Unit, the SUV was tracked to the southwestern part of Baltimore City. Several BaCoPD officers, driving unmarked patrol cars, congregated near the parking lot of the Baltimore Police Department's ("BPD") Southwest District (SWD), which is located on the 500 Block of Hurley Avenue.

The suspect SUV pulled up to the curb immediately behind the SWD building, on the 500 block of Hurley Avenue. When a BPD employee happened to walk along the back of the building, the IC, armed with what appeared to be a rifle, got out of his vehicle and pointed the rifle at him. When the IC saw that the man had turned and was walking away, he lowered his weapon.

A few seconds later, the IC appears to have noticed BaCoPD officers as they were getting out of their cars. He again raised his rifle and pointed it at several police officers who were now on foot in the SWD parking lot. The Involved Officer ("IO") fired his departmentally issued firearm seven (7) times, striking the IC twice. The suspect dropped to the ground. The rifle was recovered near the IC. Officers rendered first aid. The IC was in grave condition but later recovered from his injuries.

OVERVIEW OF THE INCIDENT
(Police-Involved non-Fatal Shooting)

On March 17, 2021, at approximately 3:15 p.m., BaCoPD responded to a 911 call relating to a citizen “with a long gun” on the 1400 block of Adamsview Road, in the Woodland area of Baltimore County. The complainant reported that an SUV was partially blocking his driveway. When he went outside for a closer look, the driver got out of his vehicle and pointed a “long gun” at him. Another person subsequently complained about having the gun pointed at her as well.

Officers identified the vehicle as a grey GMC Envoy owned by the IC. With the assistance of BaCoPD’s Aviation Unit, they tracked the SUV to the southwestern part of Baltimore City. Several BaCoPD officers, driving unmarked patrol cars, congregated near the parking lot of the Baltimore Police Department’s Southwest District, which is located in the 400 Block of Font Hill Avenue.

The IC’s SUV pulled up to the curb and parked behind the police station on the 500 block of Hurley Avenue. When a BPD employee happened to walk along the back of the SWD building, the IC got out of his vehicle and pointed the rifle at him. The BPD member remained unaware of the threat. When the IC saw him turning and walking away, he lowered his weapon.

A few seconds later, the IC noticed BaCoPD officers as they were getting out of their cars. He again raised his rifle and pointed it at several police officers who were now on foot in the SW District parking lot. Officers identified themselves as police and shouted at him to drop the gun. The IO fired his departmentally issued firearm seven (7) times, striking the IC twice. The IC dropped to the ground, the rifle falling near him. Officers approached, secured the scene, and rendered first aid. The IC was in grave condition but later recovered from his injuries.

SUMMARY OF THE EVIDENCE

TIMELINE OF THE INCIDENT:

1516h	<i>Baltimore County (“BaCo”) Police get dispatched to a Woodlawn address for a situation involving a man armed with a “long gun.”</i>
2136	BaCo Aviation finds IC and his car – parked in a remote community
2137	IC begins driving. Aviation is following him.
2147.30	IC pulls his vehicle curbside behind BPD SW district parking lot
2147.35	IC’s car comes to a complete stop
2150.30	BPD employee appears – he’s walking along the side of the building, plain clothes, smoking a cigarette – this appears to alarm the IC as he –
2150.59	- gets out of his vehicle and stares right at the BPD employee
2151.03	The IC appears to be raising his gun towards the employee
2151.04	The employee is out of the view of the video and the IC retreats to the driver’s side of his vehicle
2151.07	IC notices something in the distance (plainclothes BaCo officers) and closes his door
2151.09	IC raises his rifle and points it at the officers in the distance
2151.11	IC is taking fire (“puffs” can be seen where bullets are hitting concrete within feet of him). IC starts to bend his body as if he’s been hit already.
2151.12	IC turns to run away but collapses into the street
2151.14	IC is down and not moving. The gun is visible to his side, just a few feet away.
2151.16	Officers start moving in on him. They take him into custody (cuff him) and then begin to render aid.

WEAPON INSPECTION/FIREARMS ANALYSIS:

IC:

A Crossman 760 Pumpmaster long rifle BB gun was recovered from the ground next to the IC when he was taken into custody.

IO:

An inspection of the IO’s department-issued Glock 17 semi-automatic 9mm handgun revealed one (1) cartridge in the chamber and seventeen (17) in the magazine. A secondary magazine was also loaded with 17 rounds. It was learned that the officer performed a “tactical reload” after firing an undetermined number of rounds. That magazine was located on the ground near where the shots were fired, and was determined to have nine (9) live rounds in it. (9 live rounds + the one in the chamber = 10 total live rounds from that magazine that holds 17.) This is consistent with the seven

(7) shell casings found on the ground. A reasonable conclusion is that the officer fired seven (7) rounds.

CADS/KGA:

Relevant radio transmissions provide no additional relevant evidence.

BODY WORN CAMERA (“BWC”) VIDEO:

1. Involved Officer (IO)

The IO was originally positioned at the southeast corner of the SWD’s parking lot, with a clear view of the IC and his vehicle. He did not activate his shoulder-mounted BWC prior to the shooting, however, after it was activated, the BWC’s 30-second buffer provides direct evidence of events taking place immediately before the shooting.

BWC footage shows the IO sitting in the driver’s seat of an unmarked police car, using binoculars. About 13 seconds prior to activating his BWC, the IO jumps out of his car, drawing and raising his handgun, pointing it towards the northeast, where the IC is located. One can see him putting his head down as if lining up his weapon’s sights, then his head jerks seven (7) times. This would be consistent with pulling the trigger and experiencing the kickback of the handgun as it is being fired. After the 7th head jerk, the officer reaches for his BWC on-off switch and activates his BWC.

The next minute is chaotic. The IO and other officers can be heard yelling to one another about securing the rifle they had just seen, securing the suspect, and warning each other to slow things down and to be cautious of cross-fire. The IO approaches the IC and assists in securing him until other officers move him away from the scene. He then is brought into the District building, where he is required to turn off his BWC. Other than describing his tactical reload after firing seven rounds, he gave no recorded statements about his actions.

2. Witness Officer #1 (WO#1):

WO#1 was part of the team searching for the IC. His BWC also wasn’t activated prior to the shooting. Once activated, the 30-second buffer captures him located east of the IC and his vehicle, approximately two city blocks away, with a fairly clear and unobstructed view. BWC footage clearly shows the IC getting out of his SUV, although it is not clearly visible that he is armed.

WO#1 gets out of his patrol car and starts running towards the suspect. While running, the BWC’s buffered footage is not clear at all. By the time he stops (and turns on the BWC to go live), the IC is already on the ground. The remaining footage shows the officers rendering first aid to the suspect, with little to no discussion about the actual shooting.

3. Witness Officer #2 (WO#2):

WO#2 was in the car with the IO prior to the shooting. This officer activated his BWC once the shooting began, saving the buffered 30-second look-back.

This BWC shows that the IO and WO#2 had an unobstructed view of the suspect and his vehicle. As the IC gets out of his car, WO#2 also exits his car. For a split second, the IO is visible, running in front of the car and taking a tactical shooting position toward the IC.

When gunshots ring out, WO#2 seeks cover behind a van, and turns on his BWC, which then captures the last 3 shots (of 7). It doesn't appear that WO#2 is aware that the IO was the one that discharged his weapon. The IO and WO#2 then advance on the suspect who is down on the ground. The remaining footage is not relevant to the shooting itself.

4. Witness Officer #3 (WO#3):

WO#3's BWC footage shows a clear and unobstructed view of the IC as he gets out of his car, just a few seconds before being shot. After the shooting, WO#3 can be heard saying that "when he got out of the car with the sweater, I knew he had a gun. That's when I started yelling 'gun gun gun.'"

OTHER VIDEO

1. Baltimore County Aviation Video:

The Baltimore County Aviation Video is remarkably clear. It shows the IC parking his car, preparing to engage the man walking along the police building (later identified as Civilian Witness #1), then raising and pointing his weapon at police officers in the south-eastern part of the parking lot. The video then shows the IC getting shot and collapsing. The footage is consistent with the BaCoPD officers' BWC footage and their witness statements.

2. Baltimore Police Department – District Building cameras:

BPD's Southwest District has several building security videos. Only one, located on the southeast part of the building pointing north, recorded relevant evidence. The footage supplements the Aviation video showing the IC pointing a gun at the officers and getting shot.

3. Private video – apartment complex nearby

A camera from a nearby residential complex clearly also shows the IC as he points his rifle at the police officers in the southern part of the parking lot.

WITNESSES STATEMENT SUMMARIES

Witness Officer #2:

After a call about an individual with a long gun, a suspect is identified. An exigent phone order is obtained. Baltimore County Aviation located the suspect vehicle and follows it to the rear of the police station. A plainclothes BPD officer from the Southwest District is observed walking alongside the building up the driveway. The IC's SUV was parked across the street and in clear view. When the IC exited his car with a gun, officers gave verbal commands to drop the gun and identified themselves as "Police". The IO discharged his firearm. WO#2 walked on the right side of the IO but did not shoot.

Witness Officer #3:

WO#3 stated that he responded as a backup unit to assist the Investigative Service Team (IST) to locate a male armed with a rifle. The suspect's SUV eventually turned onto the 500 block of Hurley Avenue. Other BaCoPD officers notified the SWD. He observed the suspect get out of the parked SUV on Hurley Avenue. When WO#3 saw the rifle, he got out of his car and alerted other officers: "Gun, Gun!" The suspect raised the rifle in the direction of the Southwest District. Shots were fired. WO#3 saw the suspect move to the front of his truck and fall.

Witness Officer #4:

WO#4 responded from Woodlawn Precinct as a backup unit to assist the IST. The suspect vehicle was located on the 500 block of Hurley Avenue. He observed the suspect get out of the SUV, standing on the driver's side. The IC was holding a red clothing item, believed to be a sweatshirt. The IC discarded the material, throwing it into the SUV. WO#4 saw the rifle, got out of his car and alerted other officers: "Gun, Gun!" The IC raised the rifle in the direction of the SWD, where other officers were located. Shots were fired and the suspect walked to the truck's front before he collapsed. WO#4 retrieved the rifle from the scene and secured in his unmarked patrol car.

(Additional written statements were provided by several BPD officers who were located inside the SWD building, heard the gun shots, and ran towards the sound of the gun shots with weapons drawn. Review of their statements revealed no additional relevant evidence.)

Civilian Witness #1 (CW#1):

While employed as a BPD law enforcement officer at the time of the incident, CW#1 acted as an uninvolved civilian bystander: He was walking alongside the District building when the IC first got out of his vehicle and appeared to be ready to confront or assault CW#1, who appeared unaware of the threat. The witness stated that, as he was walking in the SWD parking lot, he noticed the IC standing near a car parked on Hurley Avenue. He only observed the upper portion of the IC's body due to the angle of view and barrier wall of the parking lot. Upon turning the corner of the garage

in the rear parking lot, he heard someone shouting “Police, don’t move!” multiple times before hearing gunshots. Looking over his shoulder, he observed the IC holding what appeared to be a rifle. Seeing the rifle, and not knowing if the other officers knew that he, too, was police due to being in plainclothes with no highly visible way to identify as police, he ran for cover and notified BPD detectives inside the police station of what is going on outside.

LEGAL ANALYSIS

At issue is whether the IO’s discharge of his firearm at the IC was a lawful use of force. If not legally justified, the IO’s use of lethal force against the IC could potentially constitute a number of criminal offenses under Maryland law, most notably 1st Degree Assault, and Misconduct in Office.

BaCoPD officers were seeking an individual who they believed had committed a 1st degree assault (felony) by pointing a rifle at unICs, and who was armed and dangerous. Their investigation led them to Baltimore City, where they found the man they were looking for.

The sequence of events is clearly captured by the Aviation footage:

The IC gets out of his car, armed with a rifle. He appears ready to confront CW#1 but retreats until, seconds later, he raises his rifle and points it at several BaCoPD officers who are in the parking lot in front of him. Officers verbally identify themselves as law enforcement and shout at him to drop his weapon. The IO, who is in the direct line of fire from the IC’s rifle, shoots, striking the IC. He may have attempted to flee but falls in the middle of the road, where he is subsequently apprehended.

While the rifle turned out to be a BB gun, the true nature of this weapon could not be recognized by the officers at whom it was directed. The IO was in reasonable apprehension of immediate serious or even fatal injury. A reasonable officer in the IO’s position certainly would have feared for both his own safety as well as the safety of others, including but not limited to his fellow officers on the scene. Officers were seeking a man wanted for 1st degree assault with a rifle, the man in front of him was armed with a rifle, and that rifle was being pointed at the officer. His use of potentially deadly force thus was reasonable.

Wherefore, the BCSAO believes that there is sufficient evidence that the Involved Officer’s conduct was objectively reasonable and that there is insufficient evidence to establish that the officer was not justified in his use of deadly force. The BCSAO declines to prosecute any officer involved in this incident.

Exhibits:



The IC sees CW#1 and appears to be ready engage him with his gun, plainly visible under his right arm in this picture.



The picture captures the moment where it appears that the IC notices BaCoPD officers.



The IC has aimed his rifle at police officers in the southern/eastern part of the parking lot.



The IC attempts to flee, rifle in hand.

Below: The IC is down, the rifle is clearly visible next to his body.

