

REPORT BY OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY ON THE  
FATAL POLICE-INVOLVED SHOOTING IN THE 6000 BLOCK OF ALTA AVENUE



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## INTRODUCTION

The Baltimore City States Attorney's Office ("BCSAO") completed its review of the fatal police-involved shooting in the 6000 block of Alta Avenue. That review was conducted by the office's Public Trust and Police Integrity Division ("PTPIU") and focused exclusively on determining whether criminal charges relating to the officers' conduct are 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. The posting of the instant report is entirely within the sole discretion of the BCSAO and is not posted pursuant to any statutorily mandated obligation. 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. Rarely, there may be supplemental information or corrections needed requiring an update to the report.

In brief, on 8/8/2021, at approximately 9:18 PM, Baltimore Police Department ("BPD") officers responded to a 911 call in the 6000 block of Alta Avenue. The 911 caller stated that her husband, the Involved Citizen ("IC") had assaulted both her and their daughter. The caller further advised that the IC had a gun and was having a behavioral crisis. When the caller and her daughter came out of the house to speak to the officers, the IC came to the front door, then closed and locked it from the inside.

Both the wife of the IC and their daughter confirmed that the IC possessed a number of firearms, including rifles and handguns and was undergoing a behavioral crisis. Officers at the scene classified the situation as a Barricade Incident pursuant to BPD Policy 702<sup>1</sup>.

Officers from the Northeast District secured the perimeter of the house. As per protocol in a Barricade Incident, SWAT, BPD Mobile Command Unit, and the Hostage Negotiation team were called to the scene. The Hostage Negotiation team initially was able to correspond with the IC; however, the IC stopped communicating after a period of time. The officers positioned outside of the home observed frequent movement inside of the residence. They also observed a red laser flashing repeatedly from inside of the home. Hours passed as Hostage Negotiators and officers made numerous attempts to contact the IC and persuade the IC to come out of the residence unarmed to no avail.

At approximately 3:14 am, the IC called 911 and demanded assistance advising that he was armed with an AR-15 and that he intended to shoot and kill anyone entering the house. While on the phone with 911, the IC stepped into the front doorway of the home and fired a shotgun round at the robot. A nanosecond afterward, the Involved Officer ("IO") returned fire, striking the IC in the left side. As BPD moved in, the IC was observed having collapsed on the floor. Officers observed an assault rifle secured to IC's body by a shoulder strap. Despite life saving measures attempted by BPD and medics, the IC was pronounced deceased.

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<sup>1</sup> A Barricade Incident is defined as any incident in which a person subject to arrest or apprehension is attempting to evade capture or avoid police contact by occupying a position from which he/she refuses to exit. (BPD Policy 702)

## **OVERVIEW OF THE INCIDENT**

On 8/8/2021, at approximately 9:18 PM, BPD officers responded to the 6000 block of Alta Avenue in response to a 911 call. The 911 caller stated that her husband, the IC, had assaulted her and their daughter. She further stated that the IC had a gun and was having a behavioral crisis. When the IC's wife and daughter came out of the house to speak to the officers, the IC came to the front door, then closed and locked the door from the inside. Both the IC's wife and daughter were interviewed at a safe location nearby. Another officer escorted the IC's son and dog to safety.

The IC's wife and daughter reported that the IC had physically assaulted them after accusing them of stealing his money. The IC suffered from depression and schizophrenia. According to the IC's wife and daughter, the IC had not been taking his medications and he had recently been let go from his job. They also informed BPD that the IC possessed a number of firearms, including rifles and handguns.

Officers at the scene classified the situation as a Barricade Incident pursuant to BPD Policy 702. Officers from the Northeast District secured the perimeter of the house and called in SWAT. Loudspeakers and canvassing officers apprized neighbors of the situation. In addition to the BPD Mobile Command Unit, the armored vehicle, "Bearcat", arrived at the scene. Three sniper units took up tactical positions around the house. Team Raven One, consisting of the IO and his spotter, OW#1, set up across the street facing the house between two residential properties. (See Exhibit #1)

An officer on scene used his departmental cell phone to establish communication with the IC via text messages. The responding Hostage Negotiation team was headed by OW#2 and OW#3. Both OW#2 and OW#3 are trained hostage negotiators with years of experience. Both the OW#2 and OW#3 instructed the officer on how to communicate with the IC. The IC's replies were nonresponsive. The IC's texts conveyed increasing agitation as the IC accused officers and family of trying to poison him and demanded that police officers leave his property. Eventually, the IC stopped responding to texts altogether.

OW#4, another trained member of the Hostage Negotiation Team, approached the home while inside of the Bearcat vehicle. OW#4 attempted to engage with the IC via loudspeaker. For several hours, OW#4 asked the IC repeatedly to step outside - unarmed - and to talk to police. OW#2 and OW#3 continued their attempts to communicate with the IC from the Mobile Command Unit via texts and phone calls. The IC did not respond.

As the time passed, Officers observed frequent movement inside the residence, from the basement to the second floor. Blinds were closed and lights turned on and off. They also saw a red laser flashing repeatedly from inside the house and "lasing" the SWAT positions. When questioned by OW#2, the IC's son confirmed that one of the IC's guns had a laser sight. Hostage Negotiators repeatedly asked the IC to stop pointing the laser outside. The IC did not comply. At some point after midnight, BPD had the electricity to the house turned off.

As several hours passed, the decision was made to perform a "Breach and Hold" tactic with the Bearcat vehicle. The purpose of this tactic was to create an entry point into the house by pushing

the door open and then navigate the Bomb Squad's remote-controlled robot<sup>2</sup> inside to provide the negotiators with an accurate location of the IC and to use its audio components to attempt communication.

OW#5 was the driver of the Bearcat vehicle. OW#5 used the Bearcat vehicle to push<sup>3</sup> in the storm and main doors of the residence with a long pole; however, the vehicle got entangled with a large branch from an adjacent tree. The Bearcat vehicle remained on the front lawn, facing the house at an angle. OW#5 reported that he heard the IC yelling on the inside and described his behavior as "agitated". OW#4 again attempted to engage with the IC, asking him to come out and talk, and offering to restore electricity to the house if the IC threw out just a single gun.

According to OW#3, procedurally, a recorded statement from family members in hostage or barricade situations is preferred over permitting unmoderated contact with the barricaded person. As such, OW#2 and OW#3 began a recorded message from the IC's son for whom the IC had expressed concern.

Meanwhile, OW#6 guided the robot to the breach. It was unable to clear the damaged storm door and fell back on the front lawn, within a few feet from the stairs leading up to the front door. OW#6 from afar observed the IC hiding "along the south side of the door", taking cover along the wall next to the doorframe. OW#5, at the wheel of the idling Bearcat vehicle, briefly caught sight of the IC as he peeked out of the door with what appeared to be an assault rifle at the ready.

At approximately 3:14 AM, the IC called 911, demanding assistance with "Federal agents" and "SWAT teams" surrounding his house. He asserted that he was armed with an AR-15 and that he intended to shoot and kill anyone entering the house. He expressed his firm belief that his family and dog were dead. Officers again observed the red laser "dancing" on the doorframe. OW#4 pleaded with the IC not to fire a warning shot saying "let's talk this out, we're not going anywhere".

While on the phone with 911, the IC stepped into the breached doorway and fired a shotgun round at the robot. A nanosecond afterward, the IO returned fire, striking the IC in the left side. The IC screamed in pain, shouting, "they killed me". The IC appeared to rapidly lose consciousness. Only a few minutes later, SWAT members found the IC, lying face-down in the nearby living room, an assault rifle underneath his body secured by a shoulder strap. An American Tactical Bulldog shotgun, another assault rifle (Anderson AR-15), and a Taurus handgun were in the immediate vicinity of the body. A semi-automatic Anderson AR-15 rifle with a laser scope was lying in the vestibule next to the door. Life saving measures were attempted, however were unsuccessful.

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<sup>2</sup> The robot is a small device which can be picked up and carried by its operator. At the time, lacking a satellite link-up, the robot had no recording capabilities. The visual relay to the control tablet was captured inadequately on OW#6's BWC.

<sup>3</sup> BPD deliberately pushed in the door slowly, rather than ramming it at speed, to avoid creating an explosion-like impact noise that would have scared the IC. No flashbang or gas was used.

## SUMMARY OF THE EVIDENCE

### NATURE OF THE GUN SHOT WOUND(S) (“GSW”)

The Office of the Chief Medical Examiner (“OCME”) performed an autopsy which revealed:

- (A) GSW to the lower left arm (entry and exit wound); and
- (B) GSW to the left torso/abdomen (entry wound only).

The GSWs were caused by a single projectile that first struck and traversed the IC’s lower left arm near the elbow, then continued into the chest cavity, where it caused fatal organ damage and bleeding. Multiple deformed jacketed bullet fragments were found along the wound path. Per OCME, cause of death was GSW.

Aligning the entry and exit wounds, it becomes obvious that the lower left arm was pressed or resting on the IC’s ribcage when he was hit. This is consistent with OW#5’s testimony of seeing the IC in the doorway with his rifle at the ready.

### BALLISTICS

All handguns and rifles carried by all officers who were present at the scene were submitted for inspection.

The IO’s Accuracy International AX308 rifle was the only weapon carried by BPD personnel that had been fired during the incident. A single .308 caliber shell casing was recovered from the IO’s position. BWC and audio recordings, as well as witness statements confirm that, after the IC shot, only one shot was fired by BPD personnel.

### IC’s ARSENAL

The following guns were registered to the IC and located in the home:

#### **“Assault-style” Rifles:**

- AM 15 (found in vestibule, with a laser sight attached)
- AM 15 (found underneath the IC in the living room)
- TW AR-15 (found near the IC in the living room)
- TW AR-15

#### **Handguns:**

- Taurus G2C
- Taurus 82
- S&W SD9Ve

#### **Other weapons:**

- Taurus 9mm G3 (found near the IC in the living room)

### **Shotguns:**

American Tactical Bulldog 12GA/3” (found near the IC in the living room)<sup>4</sup>  
Dickinson 12Gage shotgun

The residence also contained approximately 2,000 rounds of ammunition of various calibers as well as gun parts and gun making tools.

### VIDEO AND AUDIO EVIDENCE

#### **Body-Worn Camera (“BWC”)**

There are 14 BWC videos relating to this incident. Two SWAT members filed the appropriate reports that their respective BWCs were not operational when activated.

Neither the IO, OW#1, nor any other BPD sniper on the scene was wearing a BWC. This conforms with BPD Policy 824<sup>5</sup> given that BWCs have green and red lights that may give covert locations away.

Footage can be grouped together:

- (a) **distance footage:** from around the neighboring properties (beginning around 3:00 AM); the timing reflects the Bearcat vehicle’s attempt to create a breach of the doorway, ahead of the shooting;
- (b) **footage from inside the Bearcat vehicle:** as it prepares and conducts the breach of the front door; and
- (c) **footage from SWAT and patrol officers entering and securing the residence:** post-shooting (beginning around 3:20 AM).

The videos in the (a) and (b) categories all capture the IC yelling at the officers outside as well as the sound of the two consecutive shots. The footage does not capture any view of the IC during the barricade situation. The footage captures Hostage Negotiator OW#4 verbally attempting to engage the IC and convince him to throw at least one gun outside.

The (c) category footage (4 videos) begins after the shooting. Same footage captures the entrance of the SWAT team into the residence. Of note, and captured by several cameras, is footage briefly highlighting an AR-15-style rifle with what appears to be laser sights right at the doorway as well as the location of the shotgun in its relation to the IC. (See Exhibit 4) Two videos show how the

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<sup>4</sup> This is the weapon used by the IC to fire one shot toward the robot. A single shell casing was retrieved from near the IC’s body.

<sup>5</sup> Members assigned to units whose primary duties involve interactions with citizens and/or enforcement related activities (e.g., Patrol, SWAT, K-9, WATF, RATT, DAT, etc.) shall wear the BWC at all times while on-duty. Exception: Members performing tasks in which wearing the BWC would be impractical (Dive Team, Physical Fitness Training, Aviation Unit, Facilities Maintenance, etc.) or unsafe (Bomb Techs, HAZMAT responders, etc.) shall not wear the BWC while performing those tasks. (BPD Policy 824)

officers cut the shoulder strap to remove the rifle from underneath of the IC's body. There are glimpses of the IC's iPhone, which was apparently still active, laying on the floor.

## **911 Recording**

The recording of wireless communication contains a roughly five minute long exchange between the IC and the 911 operator. [911 Recording at 55:45 to 1:01] This exchange represents an auditory memorialization of the IC's last moments alive.

The IC called 911 to complain and ask for assistance regarding "Federal agents" and "SWAT teams" on his property. The audio at times is hard to understand because the IC stops the conversation every few seconds to scream at the police officers outside. He states to the 911 operator that he is armed with an "AR-15" and that he is located right next to the breached door. The IC further states that he "will pop you [directed at officers]" and "will kill you" or anyone entering the house. The voice of the IC conveyed anger.

This information was relayed almost simultaneous to the officers around the house via wireless communication.

The audio captures the IC's shotgun blast, followed less than a second later by the IO's shot. The IC screams, then shouts "they killed me," which is followed by labored breathing. The IC lost consciousness seconds later.

## **WITNESS STATEMENTS**

A total of 24 BPD members, 2 civilian witnesses, and 2 medics were interviewed.

Of particular logistical value were the statements of OW#1 and OW#5 (who, as the driver of the Bearcat vehicle, was closest to the IC at the time).

The interview of OW#3 and the second interview of OW#2 are particularly valuable as to the assessment of the strategic approach and management of the hostage situation. Their multi-year training and experience relating to barricade and hostage situations would easily qualify them as expert witnesses. Their testimony clarifies all tactical and procedural aspects of the negotiation and credibly explains exactly why they decided on the "Breach and Hold" and deployment of the robot, as well as their efforts behind the scenes.

### **OW#1 (no BWC, interview only)**

OW#1 is part of the BPD sniper team, four of whom were deployed before midnight. He was paired with the IO. They occupied the same covert position which was at a 45-degree angle to the IC's house on the other side of the street. He characterized their concealment as not having "much cover".

Their rifles were mounted on tripods, one close to the ground, one in standing position. The IO's rifle was equipped with a night vision scope. OW#1 was the "spotter" who would take over

covering the house when the team leader needed a break. Their BWCs were not activated because, in their role, they could not risk “[any] thing beeping or flashing.”

The team was aware of the negotiations although the engine noise of the Bearcat vehicle made it difficult to hear. They were able to hear the IC’s threats of “I’m gonna kill any cop that comes in”.

The IC was difficult to see, at first only “through cracks” if he was at a window. OW#1 could see the laser “reflecting through the glass here and there.” He was aware of the elevated threat level a laser attached to a gun represented. When the door was opened, it appeared that the laser was attached to “a rifle.”

As to the authorization to return fire, OW#1 stated that snipers, in life or death situations, can apply deadly force “when someone is about to get shot” or life is in jeopardy, without express authorization. As to the actual shooting, he said “there wasn’t time” to ask for authorization, “I know why he [the IO] fired,” it was the “type of reaction when you’re getting shot at.”

### **OW#2 (second interview)**

OW#2 described the command structure as a captain being in charge, himself being in charge of the scene, and a sergeant being the active team leader with command over the tactical elements.

Based on his experience handling “hundreds of barricades”, OW#2 considered the laser a “serious threat,” and an “escalating threat level” especially in combination with a weapon that could be a serious threat to “anyone within a mile,” highlighting the ease with which bullets can pass through drywall. The robot was ordered in when negotiations had broken down, to “not rely on [the IC] to respond.” He characterized the pushing in of the door as a “Breach and Hold” tactic, and indicated that the use of flashbangs or gas grenades was avoided due to fire risk.

When asked if there had been “any signs of physical escalation”, OW#2 responded, “You mean, other than shooting at us?”

### **OW#3 (interview only)**

OW#3 has been a hostage negotiator for 10 years and, as such, has participated in resolving close to 100 barricade incidents. She stated that the IC believed his family had poisoned his water and he wanted them to be checked out for “their mental issues.” His wife and daughter were “triggers” for him, but he was concerned about his son and dog. He didn’t trust the government and believed that BPD had killed his family, despite photos of them being sent to his iPhone. OW#4 was instructed by OW#2 and OW#3 what to say to the IC via loudspeaker.

The team attempted to locate his psychiatrist. Their aim was to “get him out of the house to be treated.” They assured him that they could not leave until he came out, and asked him repeatedly not to shine the laser outside. At around 2 AM, they had BGE turn the lights off, as a possible

negotiating ploy, so they could offer to turn them back on in a *quid pro quo* (lights on if he throws out one gun), again to engage the IC.

About 20 minutes before shots were fired, the IC stopped responding, an indicator that “he was done.” Holding off breaching would have yielded no advantage. The robot would give them “eyes inside” as a safety measure and “extra layer of communication.” Simply walking away was not a “risk you can take” with a person in the IC’s mental state, “heavily armed,” who had “assaulted two female members of the family.” The situation had deteriorated to the degree that the IC was an “aggressive threat.”

OW#3 also highlighted the elevated danger emanating from a laser sight mounted to a gun.

#### **OW#5 (BWC and interview)**

OW#5 was the driver of the Bearcat vehicle. (Hostage negotiator OW#4 was in the backseat, another officer was in the passenger seat.) OW#5 stated that the laser appeared “within a few minutes” after negotiations began. It was ascertained that no law enforcement officer was “lasing” the house, that “they were getting it across the street” (i.e. OW#1 and the IO’s position), the side of a neighbor’s house, through the upper left window and in the basement. After being notified that the IC had called 911, he observed the laser “just dancing on the doorframe.”

OW#5 guided the ram into the door. He heard that “[the IO] sees movement,” then observed the IC appearing “two feet from the inside” in the door for “one or two seconds,” in a shooting position. In the videotaped interview, OW#5 half-rose from his chair to imitate the IC’s posture at the time: Somewhat hunched over, with the gun at the ready at the height of his ribcage. He commented that the IC at first appeared to have “pulled the trigger a couple of times,” without firing. Then, he saw “the muzzle of the shotgun.” He said “he’s about to shoot the robot,” then saw the laser again. The two shots rang out so closely together that OW#5 at first thought the second one was an echo, and that the IC had gotten “fragged” by a ricochet or deflection of his own shot.

All other statements are consistent with those given by the above witnesses, as well as the audio and video recordings made during the standoff.

## LEGAL ANALYSIS

At issue is whether the IC's discharging of his firearm at the IC was lawfully justified use of lethal force. If not legally justified, their use of lethal force could constitute a number of criminal offenses under Maryland law, including first degree murder, second degree murder, first degree assault, use of a firearm in the commission of a felony, and/or misconduct in office.

The U.S. Supreme Court has held that “*all* claims that law enforcement officers have used excessive force – deadly or not – in the course of an arrest, investigatory stop, or other ‘seizure’ of a free citizen should be analyzed under the *Fourth Amendment* and its ‘reasonableness’ standard.” *Graham v. Connor*, 490 U.S. 386, 395 (1989) (emphasis in the original). The Court has further pointed out that it’s “*Fourth Amendment* jurisprudence law has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Id.* at 396 (citing *Terry v. Ohio*, 392 U.S. 1, 22-17 (1968)).

The reasonableness of a particular use of force by a police officer is judged from the perspective of a reasonable officer on the scene. The “reasonableness” inquiry in a use of force case is an objective one. The question is whether the police officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting the police officer, without regard to the officer’s underlying intent or motivation. *Id.* at 397. Also, reasonableness should not be evaluated solely through hindsight, see *Richardson v. McGriff*, 361 M.D. 437, 452 (2000), “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for 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.”

Further, under *Dishman v. State*, 118 Md. App. 360 (1997), an officer may justifiably use force that is reasonably related to the threatened harm which he seeks to avoid. An officer may use non-deadly force against another in self-defense if he reasonably believes that the other is about to inflict unlawful bodily harm, not necessarily death or serious bodily harm. Therefore, the use of

lethal force to prevent the threat of lethal force or serious physical injury would be within the boundaries of the law.

In the instant case, prior to the shot being fired, the evidence supports that the IC was demonstrating an aggravated level of aggression. Witness statements, BWC and audio recordings, and evidence from the scene clearly document that the IC was: (a) was heavily armed; (b) had activated a laser scope on at least one of his weapons; (c) had threatened to shoot and kill law enforcement officers; and (d) had fired his gun at the robot. The IC's gunshot was, not only in the direction of the robot, but was also in the direction of the IO and his spotter, OW#1.

The IC's actions created an objectively reasonable perception on the part of the IO that the officer, or another person, is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Had the IC raised his barrel just a few inches, Team Raven One would have been the direct line of fire. (See Exhibit 1) Given the direction that the IC's weapon was aimed, it would be unclear whether the IC shot at the robot or was shooting in the direction of IO. Since their position had been "lased" by the IC, this assumption would have been not only plausible but reasonable.

Given the circumstances, retreat would not have been a reasonable option for the IO or OW#1. As members of a sniper team, the IO and OW#1 were stationary at the time of the shooting. The tripods mounted on their sniper rifles indicate that at least one of them was prone and, hence, immobile when the IC fired his shotgun. In addition, even if they had been standing, they were within range and directly in the line of fire when the IC fired. Retreat would not have neutralized their exposure.

The IO had reason to believe that the IC was armed. Upon arrival on scene, officers were alerted by family members that the IC was heavily armed with various handguns and rifles.<sup>6</sup> The officers could see the laser flickering inside the house and then being pointed at several of their positions on the inner perimeter. The son of the IC confirmed that at least one gun was fitted with a laser sight. The presence of the laser, as attested to by several officers, including OW#3, represents an elevated level of threat as it eases the acquisition of a target for the shooter, by getting

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<sup>6</sup> It is unclear from the records if an inventory of the IC's registered weapons was procured during the standoff or afterward.

the “sights as to where you want your bullet to go”. (OW#3 interview) Further, the IC informed 911 that he was armed with an “AR-15”. (911 call) Same information was relayed almost immediately to the BPD team on the scene.

When the IO fired a single precision shot, the IC was clearly armed and had just fired his gun constituting a deadly force threat. The IO, whose rifle was equipped with a night scope, was in the extended line of the IC’s fire and would have been able to either see the IC shoot or at least the muzzle flash.

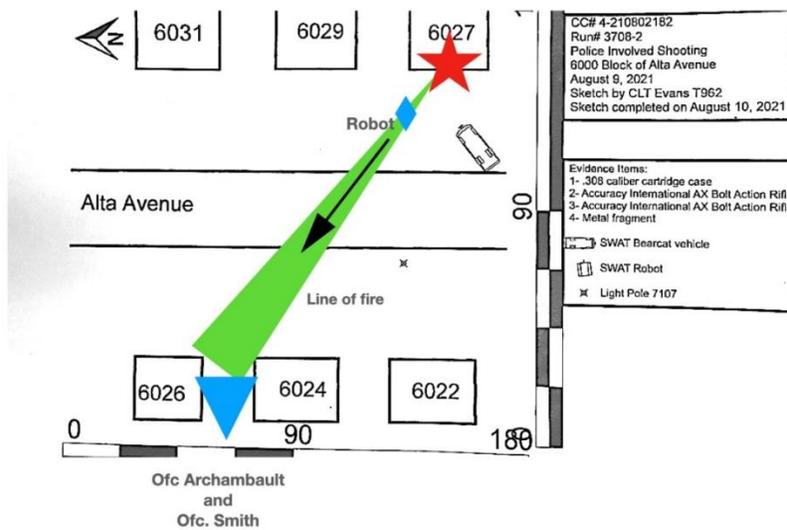
The IO’s belief that the IC was armed and had just taken a shot in his direction was objectively reasonable.

## CONCLUSION

The evidence supports the following: (1) the officers participating in this barricade situation were informed upon arrival that the IC was in possession of a number of guns; (2) the IC stated that he was armed with an “AR-15” and that he intended to shoot and kill officers; (3) previous communications had alerted officers that at least one of the IC’s weapons was equipped with a red laser sight, making target acquisition easier and increasing the probability of hitting the intended target; (4) from the distance, it is unlikely that the IO would have been able to distinguish if the IC’s shot was at the robot or the IO’s location; (5) OW#2’s statement indicated that a stray rifle projectile such as that fired by the IC can hit an unintended target within the distance of about a mile; (6) by firing his gun, the IC had displayed aggravated aggression; and (7) the response fire by the IO was no more force than reasonably necessary to defend himself and others. The reasonable conclusion reached based on the evidence presented is that the IO was acting within the scope of objectively reasonable self-defense and defense of others.

Based on a review of all evidence, it is the conclusion of the Office of the State’s Attorney for Baltimore City that the actions of the IO were objectively reasonable and, as such, declines to pursue criminal charges.

# EXHIBIT 1



## Trajectory

When the IC pointed his gun at the robot, his line of fire went beyond the robot and directly at Team Raven One's position.

Key:

Red Star - IC's location

Blue Diamond - Robot's Location

Green Cone - IC's Firing Trajectory

Blue Triangle - Team Raven One's Position

**EXHIBIT 2**

**BWC Stills**



Location of IC's assault rifle (w/ laser scope) in the vestibule upon entry by SWAT.