

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY
ON THE NON-FATAL POLICE-INVOLVED SHOOTING
NEAR 310 CATHERINE STREET IN BALTIMORE CITY



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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 310 Catherine Street in which patrol officers attempted to interrupt what they believed to be possible criminal activity, which resulted in the chase of an armed man. The chase resulted in one officer shooting a citizen. The citizen survived. 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

On May 11, 2023, Detective Cedric Elleby (“Involved Officer”) of the Western District Action Team (“DAT”) shot a 17-year-old juvenile (“Involved Citizen”) in the area of 310 Catherine Street. The Involved Citizen survived his wounds.

The incident began at approximately 1320 hours when the Involved Officer and another detective were canvassing the 2500 block of McHenry Street. The Involved Officer observed the Involved Citizen and believed him to be involved in drug activity. The Involved Officer sat on the steps of 2547 McHenry Street and engaged in conversation with several citizens – including the Involved Citizen. The Involved Officer was attempting (by his presence) to interfere with whatever the citizens were doing. The Involved Officer and his partner took note of the Involved Citizen, noticed a bulge in his “dip” area of his waistband, and observed the Involved Citizen get up and try to move away from the Involved Officer as he sat near him. Believing him to be armed, the Involved Officer decided to try to stop the Involved Citizen. As the Involved Officer reached for the Involved Citizen, the Involved Citizen took flight.

After a several-block chase, as the Involved Citizen ran towards 300 South Catherine Street, he withdrew a black gun with an extended magazine. The Involved Officer gave clear commands to “drop it” to the Involved Citizen, but the Involved Citizen did not comply.

Seconds before the Involved Officer fired his handgun, the Involved Citizen turned slightly to his right – and his right arm, armed with his gun, moved outwards to the right as well, as if the Involved Citizen and his gun were turning towards the Involved Officer. The Involved Citizen

was also running towards an unidentified man on porch steps. The Involved Officer then discharged his weapon, striking the Involved Citizen and incapacitating him.

The Involved Officer and the other detective notified dispatch of the shooting and the need for a medic; the two began life-sustaining procedures on the Involved Citizen – while also taking him into custody.

The Involved Citizen was taken to Shock Trauma. He survived his gunshot wounds.

Back at the scene, officers recovered not only the Involved Citizen’s 9mm Smith & Wesson handgun and its extended magazine but they also recovered the Involved Citizen’s backpack – containing several differently packaged controlled substances.

SUMMARY OF THE EVIDENCE

911 CALL LOG

The BPD CAD/KGA reports were reviewed. There is nothing of evidentiary value noted in the CAD/KGA reports until *after* the shooting occurred.¹

WITNESS STATEMENTS

1. Witnessing Detective #1

Det. #1 was working with the Involved Officer when this incident occurred. He agreed to give a statement to homicide detectives – this interview took place approximately 2 hours after the shooting occurred.

Det. #1 stated that he was in the 2500 block of McHenry Street with the Involved Officer when detectives observed an individual displaying characteristics of an armed person.

¹ Calls from civilians were documented—they merely reported that a shooting had occurred. One caller stated, “...the officer who did the shooting fled the scene...” (which is untrue). There is no evidentiary value to these calls.

The Involved Officer sat near the Involved Citizen and started a conversation with him. They had had conversations with this man previously.

When the Involved Citizen attempted to walk away, given that they (the officers) had seen a bulge and believed him to possibly be armed, they attempted to stop the Involved Citizen. The Involved Citizen took flight. The Involved Officer chased on foot – Det. #1 got into his vehicle and tried to keep up with the chase.

Det. #1 did not see the shooting. He heard shots, and as he turned the corner onto Catherine Street, he saw the involved Citizen lying on the ground. He notified dispatch of shots fired.

The Involved Officer already had the suspect's gun secured, allowing Det. #1 to render aid to the man

2. Witness Officer #2

This officer authored the Statement of Probable Cause against Mr. Franklin after his arrest. His narrative reads as follows:

“On May 11, 2023, at approximately 1320 hours, (Det. #1) and the (Involved Officer) were in the 2500 block of McHenry Street. The detectives were operating an unmarked police vehicle and in District Action Team Uniform. This included ballistic vests with clear markings of “POLICE” on the front and back. (Det. #1) advised he observed several individuals in the block, including an individual later identified as (the Involved Citizen), who was observed displaying the characteristics of an armed person. (The Involved Citizen) sat on the steps of 2547 McHenry Street to engage in a conversation with the individuals to include (the Involved Citizen). At one point (the Involved

Citizen) got up and began to walk eastbound in the 2500 block of McHenry Street. (Det. #1) then observed a bulge in the front right waistband of (the Involved Citizen). The Involved officer and (Det. #1) attempted to stop (the Involved Citizen), at which time he began to flee on foot westbound from the 2500 block of McHenry Street with (the Involved Citizen) in pursuit on foot.

Your Affiant will note the facts listed below were obtained from the viewing of (the Involved Officer's) Body Worn Camera Footage. (The Involved Citizen) continued to proceed southbound through a field and then eastbound through an alley, southbound through another alley, then eastbound onto the 2500 block of Frederick Avenue. As (the Involved Citizen) runs up to the corner of 2500 Frederick Avenue and 300 South Catherine Street, (the Involved Citizen) turns left, running northbound onto the 300 block of South Catherine Street, and a black handgun can be observed in his right hand. (The Involved Citizen) can be heard giving several verbal commands to "stop" and "put the gun down." While having refused to comply with (the Involved Officer's) commands and still running with the gun in his right hand, (the Involved Citizen) began to turn to this right and appeared to look back towards (the Involved Officer). The video shows his right arm starting to come back towards (the Involved Officer's) position, as his body is turning slightly to the right as well. (The Involved Officer) then discharged his duty weapon four times, striking (the Involved Citizen) one time in the lower left torso area. (Det. #1) arrives in the block shortly after the shooting had occurred and immediately began applying first aid to (the Involved Citizen).

Additional officers were dispatched and responded to the scene. Medics were called, and (the Involved Citizen) was transported to the University of Maryland, Shock Trauma,

where he is currently listed in critical but stable condition. The firearm that was recovered was found to be a 9mm Smith and Wesson MP9 Serial #NKC4938 loaded with an extended magazine with 3 – 9mm cartridges and 1 – 9mm cartridge in the chamber of the weapon. The handgun had been reported stolen under Baltimore City CC# 7-210608194 on June 27, 2021, from the 1300 block of Mosher St. Baltimore Md, 21217. (The Involved Citizen) is 17 years of age and is prohibited from possessing a firearm. The above-recovered firearm was submitted to the Evidence Control Unit under Property #4930070. All events occurred in Baltimore City, State of Maryland.”

3. Medic #1

This medic noted that he arrived on the scene with other medics to find a 17-year-old male bleeding from a gunshot wound and complaining of respiratory distress. The medic noted that police had previously applied chest seals to the wound prior to their arrival. Medical techniques were started as the man was transported to Shock Trauma.²

In addition to any statements obtained, investigators attempted to contact residents in the immediate area. They knocked on 25 doors. Only two people answered – the first said she heard 3-4 shots but declined to identify herself or offer any additional information; the second heard 3-4 shots and did identify himself.

Despite several houses appearing to have cameras affixed to their homes, nobody would answer the knock of the investigators. Accordingly, no CCTV was secured.

² Other medics on scene wrote narratives; nothing of evidentiary value, noting that the other narratives were consistent with Medic #1’s narrative.

The investigators were advised that an MTA bus driver may have seen the incident. The bus driver in the area did not see the incident, and the camera affixed to the bus did not capture the incident.

BODY-WORN CAMERA (“BWC”) VIDEO

1. Involved Officer’s BWC

13:16:53	The 60-second look back is first available. The Involved Officer is sitting, and he has several citizens in his immediate vicinity.
13:16:58	The Involved Citizen and another unidentified male start to walk away from the Involved Officer, and the Involved Officer gets up and starts to follow them at a distance.
13:17:50	The Involved Officer activates his BWC and directs the Involved Citizen to “come here.”
13:17:51	The Involved Officer reaches for the Involved Citizen at the same time the Involved Citizen takes flight.
13:18:18	The chase has been going through mostly alleys and grassy areas – it is at this point that the Involved Officer yells, “Stop, stop!”
13:18:20	Though the BWC doesn’t show the Involved Citizen with a gun in hand yet, the Involved Officer can clearly be heard yelling, “Put the gun down!” This is the first time that the officer’s own firearm can be seen in his hand.
13:18:22	There is clear video footage of a handgun in the Involved Citizen’s right hand. It is also clear that the gun has an extended magazine. The Involved Officer is giving loud, clear directives to “put the gun down.” It is in this split second that the Involved Citizen looks over his shoulder at the officer, and his right hand and the gun start to move outwards to the Involved Citizen’s right side. The Involved Officer has a clear, unobstructed view of this. He opens fire.
13:18:23	The Involved Citizen drops to the ground. He has been shot.

2. Det. #1’s BWC

This BWC footage has been reviewed but offers nothing additional regarding the shooting, as this officer was not close enough to the shooting to see it.

BALLISTICS/WEAPONS FINDINGS

On May 11, 2023, a weapons inspection of the Involved Officer’s departmentally issued Glock 22 (Serial# HZT063) was conducted. The Involved Officer’s handgun contained one round in the chamber, and nine rounds in the magazine removed from the weapon. The Involved Officer’s

primary and secondary magazines contained fourteen rounds in each. The weapons inspection of the Involved Officer's firearm would indicate that he may have fired four rounds, as four rounds were not accounted for during the inspection.

A weapons inspection of Det. #1's departmentally issued Glock 22 (Serial# HVR539) was conducted. Det. #1's handgun contained one round in the gun and thirteen rounds in the magazine. Det. #1's primary and secondary magazines contained fourteen rounds in each.

Four shell casings were located at the scene. The conclusion is that the Involved Officer was the lone shooter in this incident.

LEGAL ANALYSIS

At issue is whether the Involved Officer's discharge of his firearm against the Involved Citizen was a lawfully justified use of deadly force.

Part I – “The Stop”

DAT team detectives are trained and experienced in detecting illegal activity in high-crime neighborhoods, which is the very reason for their existence in a neighborhood at any given time. These two detectives, through their training and experiences, believed that a group of young men gathered in the area of 2500 McHenry Street were likely involved in illegal activity, CDS-related or otherwise. The two detectives, uniformed in such a way that they were unmistakably police officers, decided to play the role of “disrupters” by approaching the young men and sitting down and engaging with them. This is a tried and true legal police practice.

Upon getting close to the Involved Citizen, the officers noticed a bulge in the waistband area. The BWC footage supports this observation, as it's readily apparent on the video that there's an outline of an object in the man's waistband area.





Upon the observation of what the detectives thought might be a weapon/gun, particularly in a high-crime neighborhood, their attention was reasonably drawn to the Involved Citizen. Then, when the Involved Citizen appeared to want to leave the ‘conversation’ with the officers, the Involved Officer decided that he needed to investigate whether the Involved Citizen had a weapon on him or not.

In legal terms, this is more than a hunch. It is supported by reasonable, articulable suspicion. The Involved Officer, therefore, had the authority to stop (or here, attempt to stop) the Involved Citizen.

Part II – “The Chase”

Once the stop was justified, when the Involved Citizen failed to obey the lawful orders of the officer and took flight, it was perfectly within the law for the officer to pursue.



Part III – “The Use Of Force”

The Involved Citizen refused to stop running from the Involved Officer for several blocks. As the chase turned towards South Catherine Street, the Involved Officer’s BWC clearly captured the Involved Citizen arming himself with a 9mm handgun with an extended capacity magazine. The Involved Officer raised his gun and put his sights on the armed Involved Citizen and loudly and clearly yelled for him to “Drop it!”

The Involved Citizen failed to comply with the lawful order(s) of the officer as he ran from quiet alleys and grassy areas to the public roads where people were walking and driving.





As the two approached 310 South Caroline Street, the Involved Citizen could be seen turning both his head and his torso to his right – and along with his torso, his right arm flung sideways to his right as well. In the split second that the Involved Citizen swung his arm to his right, a reasonable officer could have believed that the Involved Citizen was turning himself towards the officer to shoot at him. It appears clear that that’s what the Involved Officer thought as well, as that’s the moment that he opened fire on the Involved Citizen.



We cannot say that other reasonable officers would not have feared for their own safety, nor that they wouldn’t have taken the same action (shooting).



Additionally, beyond the officer likely fearing for his own safety, there can be little doubt that the officer would have generally feared for the safety of all members of the community in that immediate area at that time. That *general* concern clearly could have turned into a *specific* concern for one specific member of the community – the man on these steps. The Involved Citizen was running directly at him.



While it is possible that the Involved Citizen was merely trying to dispose of his firearm and that he likely was going to turn into the alleyway to continue running from the chasing officer, the Involved Officer simply could not assume either of those facts at the moment he pulled the trigger. What the Involved Officer saw in front of him was an armed man running towards another man and ignoring lawful orders.

We cannot say that a reasonable officer would not have feared for the safety of the man on the steps, nor can we say that a reasonable officer would not have fired his gun at the armed man to protect the other man.

CONCLUSION

The actions of the Involved Officer were objectively reasonable to protect himself and the unknown man in the armed man's direct path. The State declines to prosecute.