

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE FATAL
POLICE-INVOLVED SHOOTING IN THE UNIT BLOCK OF MARKET PLACE



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INTRODUCTION

The Baltimore City States Attorney's Office ("BCSAO") completed its review of the fatal police officer involved shooting in the unit block of Market Place. 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 the evening of February 25, 2021, Involved Officer #1 ("IO#1") and another officer, both members of the BPD Inner Harbor Unit, were on routine automotive patrol near Pratt Street and the 100 block of S. Gay Street. Contemporaneously, Involved Officers #2 and #3 ("IO#2" and "IO#3") were on patrol in the BPD Central District.

At about 9:22 p.m., the Involved Citizen ("IC") was involved in a physical altercation with a Civilian Witness #2 ("CW#2") at the corner of E. Pratt and S. Gay Streets. The IC produced a handgun and shot CW#2 in the stomach. The IC fled eastbound on Pratt.

Moments later, citizens alerted the BPD Inner Harbor Unit that someone had been shot and that the suspect (IC) was running east on Pratt Street. As one officer assisted CW#2, IO#1 pursued the suspect first by car, then by foot.

Eventually, the IC turned left onto the ramp into the Market Place garage where he stumbled and fell. The IC was repeatedly ordered to stop running and raise his hands. Instead of complying, the IC pulled out his handgun which was clearly visible in the light. The IC raised and pointed the gun toward IO#1. Officers fired multiple shots, striking the IC who fell to the ground. The IC's gun dropped from his hand and landed about one foot away from him. The officers called for a Signal 13 and requested a medic.

The IC was transported to Johns Hopkins Hospital where he was pronounced deceased at 9:39 p.m. CW#2, who civilian witnesses had identified as having been shot by the IC, was transported to the University of Maryland Shock Trauma Center.

OVERVIEW OF THE INCIDENT
(Police Involved Shooting with Fatality)

On the evening of February 25, 2021, Involved Officer #1 and another officer, both members of the BPD Inner Harbor Unit, were on routine automotive patrol near Pratt Street and the 100 block of S. Gay Street. Contemporaneously, Involved Officers #2 and #3 were on patrol in the BPD Central District.

At about 9:22 p.m., the Involved Citizen became involved in a physical altercation with Civilian Witness #2 at the corner of E. Pratt and S. Gay Streets. The IC produced a handgun, shot CW#2 in the stomach, and fled eastbound on Pratt.

Moments later, citizens alerted the Inner Harbor Unit that someone had been shot and that the suspect, all dressed in black, was running east on Pratt Street. As one officer stayed behind to assist CW#2, IO#1 pursued the Involved Citizen.

IO#1 drove east on Pratt Street, then turned left onto Market Place. He caught up to the IC at the intersection of Market Place and Lombard Street, where he attempted to stop the IC with his car. The IC avoided him and crossed Lombard heading east. IO#1 got out of the car and continued the pursuit on foot.

The IC turned left onto the ramp into the Market Place garage where he stumbled and fell. He got up and resumed running up the ramp. IO#1 reached the bottom of the ramp at the same time as IO#2 and IO#3. Guns drawn, all three officers approached the IC who by then had stopped approximately two-thirds up the ramp. They ordered him to raise his hands seven times. As they were shouting instructions, the IC turned toward them and reached into his right coat pocket. He pulled out his handgun. As it was being drawn and raised, its barrel pointed forward in the direction of IO#1, who was situated on the left. The gun is clearly visible against the light (See Exhibit #1). The officers fired multiple shots. The IC was struck and fell to the ground. The gun dropped from his hand and landed about one foot away from him. IO#3 secured the gun by moving it ten to fifteen feet from its original location. The officers called for a Signal 13 and requested a medic.

The IC was transported to Johns Hopkins Hospital where he was pronounced deceased at 9:39 p.m. CW#2, the victim in the prior shooting, was transported to the University of Maryland Shock Trauma Center for treatment and was listed in stable condition. He spent several days in Shock Trauma.

SUMMARY OF THE EVIDENCE

BALLISTIC FINDINGS

Inspection of the involved officers' service weapons indicated that **IO#1's** department-issued Glock 22 contained one (1) round in the chamber and seven (7) rounds in the magazine. Based on this finding it was determined that IO#1 likely fired his service weapon six (6) times, as six rounds were unaccounted for.

IO#2's department-issued Glock 22 was found to have one (1) round in the chamber and nine (9) rounds in the magazine. Based on this finding it was determined that IO#2 likely fired his service weapon four (4) times, as four rounds were unaccounted for.

IO#3's department-issued Glock 22 was found to have one (1) round in the chamber and seven (7) rounds in the magazine. Based on this finding it was determined that IO#3 likely fired his service weapon six (6) times, as 6 rounds were unaccounted for.

Sixteen (16) .40 caliber casings were recovered from the scene, which matches the total number of rounds missing from the officers' service weapons at inspection.

The gun recovered near the outstretched hand of the **Involved Citizen** was determined to be a 9mm Polymer 80 semiautomatic handgun. Upon inspection, the gun contained one (1) round that was stuck between the chamber and the magazine. The magazine of the weapon contained sixteen (16) rounds. One (1) 9mm Ruger casing was recovered from the scene of the first shooting at the corner of Pratt Street and Gay Street and corresponded to the single shot fired at and striking CW#2.

NATURE OF THE GUN SHOT WOUNDS

The Office of the Chief Medical Examiner ("OCME") conducted an autopsy of the IC. The autopsy revealed that the IC suffered seven (7) gunshot wounds ("GSW"). The GSW were as follows: head (1), torso (4), and extremities (2), which injured the skull and brain, lungs, aorta, and other vital structures proving fatal. The entry wounds were predominantly located frontally and laterally.

Bullets and/or bullet fragments were recovered from the head and chest and extremities. An old projectile from a prior GSW, unrelated to this incident, was also recovered from the IC's left arm. There was no evidence of close-range discharge of a weapon on the skin surrounding any of the entrance wounds.

CAD/KGA

A review of the CAD report indicates the BPD Communications Section received a call for a male being shot at 21:22:53. A second call was received at 21:25:10 reporting a male was laying in the street, two males in dark clothing were running away, and police were on the scene. Police then called out a Signal 13 at 21:28:26.

VIDEO EVIDENCE

BWC footage, Involved Officer #1 (IO#1) (00:39:52 minutes)

00:00:04	IO#1 is running across Lombard Street with his service weapon in his right hand.
00:00:15	IO#2 and #3 pass IO#1 in their patrol car with lights and sirens.
00:00:23	IO#1 turns left onto the ramp to the Harbor Park garage. The IC is seen standing half way up the ramp facing the sidewall.
00:00:24	IO#1 runs toward the IC, who starts to retreat up the parking ramp.
00:00:27	The IC stops approximately three quarters of the way up the ramp and appears to bend over and manipulate something in his hands.
00:00:29	The IC is seen “blading” his right side to IO#1 who is pointing his service weapon at him and shouting at him to raise his hands. Both of the IC’s hands are near his right coat pocket.
00:00:30	The IC turns and faces IO#1 with his right hand in his right coat pocket. The officers yell, “Put your hands up. Put em’ up!”
00:00:31	The IC pulls a handgun from his right coat pocket with his right hand. The gun is pointing horizontally and forward upon its removal from the coat pocket.
00:00:32	The officers begin firing. The IC is struck and bends his upper body slightly forward before falling backward onto the pavement.
00:00:35	The officers cease fire after one of the officers yelled, “Stop.” The IC is on the ground and stops moving.
00:00:37	IO#1 calls out a “Signal 13” and requests a medic.
00:00:44	IO#1 keeps his gun on the prone IC. IO#3 approaches the IC. A handgun can be seen about a foot from the IC’s outstretched right hand. IO#3 moves the gun about ten to fifteen feet from the reach of the IC.
00:00:58	IO#1 walks over and looks at the IC’s handgun.
00:01:14	Backup units arrive and proceed up the parking ramp.
00:01:25	An officer asks IO#1 if he is alright and he replies, “Yeah, I’m good.”
00:01:50	Obviously upset by the events, IO#1 yells, “[Expletive]” and walks up the ramp away from the other officers.
00:02:40	IO#1 tells another officer the original shooting took place at 400 East Pratt Street and states, “That’s where the victim of this guy is.”
00:05:30	A sergeant asks IO#1, “So, did he shoot somebody on Pratt Street?” IO#1 replies, “He shot somebody on Pratt Street, as Sarge and I were coming down. Sarge got out of the car, I followed because they said, ‘He just turned the corner’. I turn the corner and he’s kind of running across Market Place. That’s when I started calling out.”
00:07:20	Medics can be seen assisting the IC.
00:12:50	A superior officer on the radio asks if there are other suspects and IO#1 replies, “No sir. The only suspect that was told to us was the one that died.”
00:24:10	A homicide detective asks IO#1 about the initial shooting and he replies, “It’s 400 East Pratt at the CVS where allegedly the suspect shot an individual in the back [...]”
00:30:15	An officer asks IO#1 if there is a victim over at 400 East Pratt Street and he replies, “Yes. [Sergeant] is over there with him. When we came down we heard a ‘pop’. I didn’t know what it was. As we’re coming down, people are yelling at us, ‘Hey, he

	just shot, he just shot, he's in all black, he's turning the corner. Sarge got out and I went down and the rest happened from there."
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BWC footage, Involved Officer #2 (IO#2) (00:36:28 minutes)

00:00:37	IO#2 is in the front passenger seat of a squad car responding with lights and sirens, the radio can be heard transmitting, "He's going on Market Place."
00:00:51	IO#2 and #3 arrive at the ramp to the Harbor Place garage and exits.
00:00:59	IO#2 follows IO#1 and #3 up the parking ramp. He is twenty-five to thirty feet behind the other officers as they tell the Involved Citizen to put his hands up.
00:01:03	IO#2 closes the distance with the other officers so that he is about ten feet behind them. All three officers stand facing the IC with their guns drawn and ordering him to put his hands up.
00:01:04	IO#1 and #3 open fire on the Involved Citizen.
00:01:09	An officer calls out a "Signal 13."
00:01:30	IO#3 calls for a medic.
00:01:45	Back-up units respond to the scene.
00:05:28	IO#2 sees a bullet laying on the ramp and asks IO#3, "Did he shoot?" IO#3 responds, "I don't know, his gun was locked back (while making a motion with his hands seemingly indicating the Involved Citizen's gun was jammed), he might have. I don't know."

BWC footage, Involved Officer #3 (IO#3) (00:44:04 minutes)

00:00:50	IO#3 is driving and arrives at the scene, exits the car.
00:00:53	IO#3 removes his gun and proceeds up the parking garage ramp just two or three feet behind IO#1.
00:00:56	IO#1 and #3 tell the IC to put his arms up seven times.
00:01:01	The IC's arm is toward the right side of his body, out of IO#3's camera angle when shots begin.
00:01:13	IO#3 picks up the IC's gun and moves ten to fifteen feet away from the IC.
00:01:30	IO#3 calls for a medic.
00:02:30	IO#3 sounds upset and says, "Oh my God" several times.
00:04:25	A sergeant asks where the IC's gun is and IO#3 replies, "I took it off his hand. It's right there."
00:05:25	IO#2 asks IO#3, "Dude, did he shoot? That's a bullet." IO#3 replies, "I don't know. His gun was locked back. He might have. I don't know."

WITNESS STATEMENTS

(a) Market Place Shooting

Civilian Witness #1 (CW#1)

CW#1 stated that she was driving westbound on Lombard Street when she had to stop because of an approaching police car. She saw police exit the car and pursue the Involved Citizen up the parking garage ramp. Police began shooting at the Involved Citizen.

(b) Pratt Street Shooting

Civilian Witness #2 (CW#2)

CW#2 is the victim of the Pratt Street shooting that preceded the Market Place Shooting. He was visiting Baltimore. He was riding with friends and got out of the car near the CVS on Pratt Street to speak on the phone with his mother.

As he was talking on the phone, the Involved Citizen (wearing a mask) and his companion, CW#3, walked past him. The IC addressed CW#2 “real hostile like he knew me before.” As the IC stared at CW#2 intensely, CW#2 asked him if he knew him and what his problem was. The IC approached CW#2 and a physical altercation ensued, with both men trading pushes and punches. CW#2 believed he was getting the upper hand when the IC stepped behind CW#3 and pulled a gun from his pocket. He then reached around CW#3, shot CW#2 point blank in the stomach, then fled the scene. CW#2 fell to the ground.

When shown a photograph of the IC and asked if that was the person who shot him, CW#2 stated “Yes, that’s him. I think. The eyes look the same...I only saw eyes. The eyes look the same though.” He said it was difficult to be certain because the IC was wearing a mask at the time. He was able to identify a photo of CW#3, who accompanied the IC at the scene, stating she was only a bystander and was not involved in the assault.

Civilian Witness #3 (CW#3)

CW#3 was extremely upset, crying, at times inconsolably. She stated she had met the IC on two prior occasions. On the day of the incident, she called him to ask for a ride to several stores. After purchasing an item at CVS, she and the IC were leaving the store when the IC became involved in an argument with CW#2.

Civilian Witness #4 (CW#4)

CW#4 was leaving the CVS behind the IC and CW#3 when she saw them get into an argument with CW#2 as he was crossing the street. She heard the IC saying, “Who you calling a bitch?” CW#2 replied, “I wasn’t even talking to you.” The IC then challenged CW#2, “Say bitch, again.” CW#2 responded: “No. What are you going to do about it?”

The two men then were pushing and hitting each other. CW#4 saw the IC removing a gun from his jacket, then she heard a bang. She walked up to CW#2 who was laying on the ground and asked if he was okay. CW#2, crying, replied, “No. I got shot.” She stated the IC ran east on Pratt Street after the shooting. His hat fell off and remained at the scene. He was wearing all black but she could not identify him because he was wearing a mask.

LEGAL ANALYSIS

At issue is whether the Involved Officers' discharge of their firearms at the Involved Citizen was a legally justified use of deadly force. If not legally justified, the Involved Officers' use of lethal force against the IC could constitute a number of criminal offenses under Maryland law, including first degree murder and related charges as well as 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.”

The evidence supports that the Involved Citizen was under suspicion of having just committed a non-fatal shooting with a handgun by shooting CW#2. Further, the evidence supports the Involved Officers knew about the incident: BWC captures IO#1 saying “when we came down we heard a pop. I didn’t know what it was. As we’re coming down, people are yelling at us, ‘hey, he just shot, he just shot, he’s in all black, he’s turning the corner’.” The officers, in fact, observed CW#2 suffering from a GSW.

Based on hearing a pop, being told by civilian witnesses that the IC had just shot and his direction of travel, and observing CW#2 having been shot, the involved officers had probable cause to believe the Involved Citizen was armed, had shot a citizen on a public street in close proximity to at least two other civilian witnesses, and that he presented a grave, imminent danger to the public and police.

Once confronted on the ramp, the IC turned to face the officers, “blading” the right side of his body toward them. All officers were identifiable as law enforcement officers. All three officers repeatedly and loudly ordered the IC to raise his hands. The IC ignored the officers’ seven (7) distinct and clear demands to raise his hands. Instead, he pulled a handgun from his right coat pocket and pointed it in the direction of one of the officers. A later visual inspection of that weapon

showed that it was jammed. The involved officers' shots occurred within fractions of a second after the IC pulling his gun.

Initial media reports promoted the theory that the IC was removing his firearm as he was surrendering and that the gun was pointed to his right, not at the officers. A thorough review of the available video, with the benefit of frame-by-frame analysis, shows this theory to be unsupported by the evidence and, thereby, without merit. Notably, the BWC reflects as follows:

BWC footage shows that the IC ignored the seven demands to raise his hands. Instead of complying with orders to raise his hands, the IC pulled out his gun from his coat pocket. Footage further shows the IC raising the weapon so that the barrel of his gun faced in the direction of IO#1 who was near the left wall of the ramp. It is exactly at that moment, when the IC pointed his gun in the direction of IO#1, that the officers began firing, causing the IC's hand to fall to his right before he collapsed. BWC footage does not reflect evidence that suggests that the IC attempted to surrender: there were no words or gestures that would support a conclusion that the IC was giving himself up. Indeed, the IC turned to face the officers while moving his right leg and side forward toward the officers as he pulled out and raised his gun.

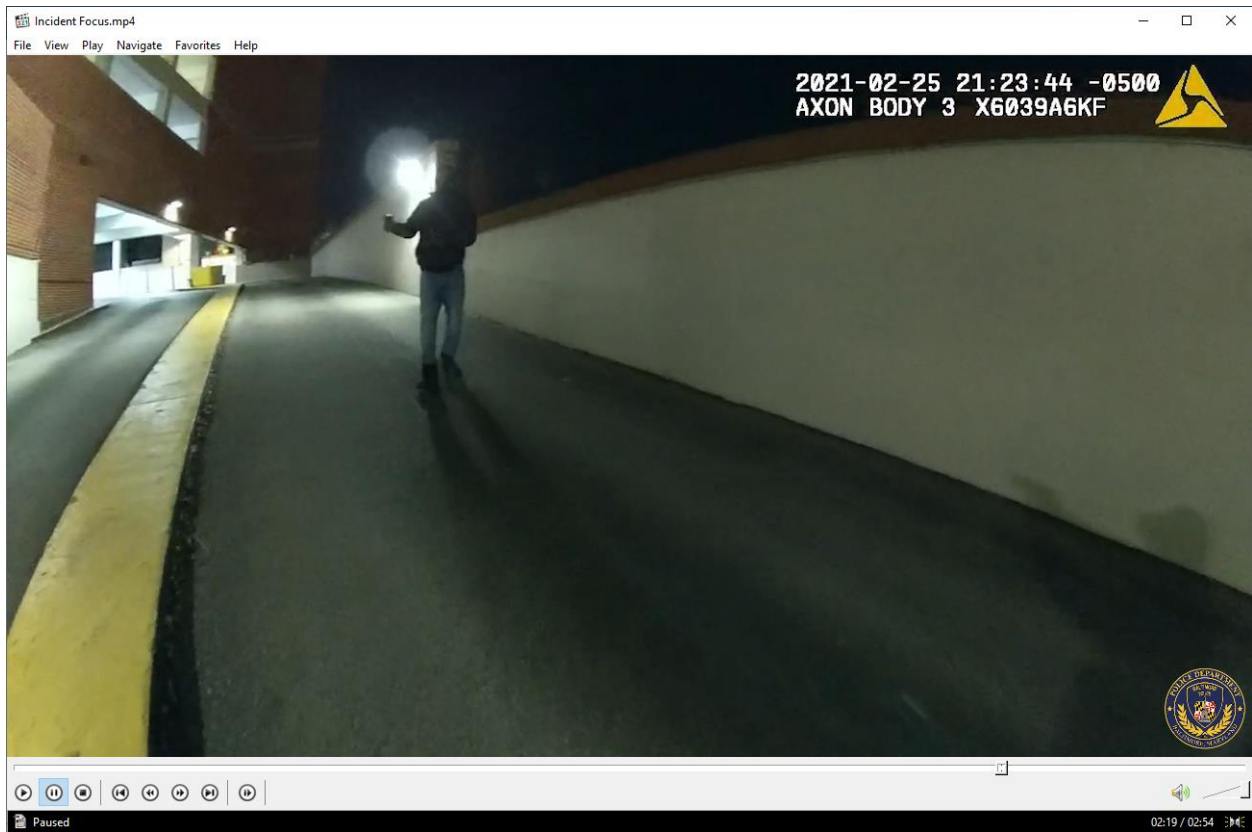
For the purpose of legal analysis, it is immaterial that his gun was *temporarily* inoperable due to a jam that occurred after the IC shot CW#2. Also immaterial is where specifically the gun was pointing or how many shots were fired by the officers. Indeed, the evidence supports that the IC and involved officers were unaware that the IC's gun was temporarily inoperable. The IC's gun had demonstrated itself as operable when the IC allegedly shot CW#2 moments beforehand. The mere act of showing - let alone drawing, brandishing, raising, and pointing - a handgun at a person on may constitute a number of crimes of violence, from second- and first-degree assault to attempted murder, provided that the act places the victim(s) in objectively reasonable anticipation of imminent serious injury and/or death. By drawing his gun, the IC committed an aggravated aggression against the officers. Had he survived, the IC could have reasonably expected to be charged with the attempted murder of CW#2 and three counts of first degree assault against each of the officers.

Under these circumstances, there is sufficient evidence to support a finding that the IOs' use of deadly force was objectively reasonable to protect themselves from the immediate and imminent danger of death or serious physical injury emanating from the IC. *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.”) (quoting *Graham*, 490 U.S. at 396-97)). This is applicable to the facts of this case. The officers responded to the shooting of CW#2 by pursuing a fleeing individual (IC) who they had reason to believe was armed, dangerous and had just committed the shooting. Only once the IC - failed to stop running, failed to comply with multiple commands to put his hands up, reached in his pocket to grab his handgun, pulled out a handgun, pointed the handgun at officers – only at this point, were the officers left with lethal force as the only available option lest they themselves be shot and/or killed.

CONCLUSION

The IO's decision to use lethal force under these circumstances is objectively reasonable. A brief recitation of the evidence in support of this conclusion is as follows: (1) the IC was being stopped as a result of his alleged shooting of CW#2 immediately preceding; (2) after having observed CW#2 suffering from a GSW and having received identification of CW#2's shooter as the IC from citizens, Involved Officers had probable cause to believe the IC had committed a non-fatal shooting; (3) the IC instead of obeying many commands to put his hands up, went into his pocket, pulled out his handgun, raised his handgun, and pointed his handgun at IO#1; (4) Involved Officers had sufficient probable cause to believe their lives were in imminent threat of serious harm or death; (5) the gun recovered near the outstretched hand of the Involved Citizen was determined to be a 9mm handgun; and (6) one 9mm casing was recovered from the scene of the shooting of CW#2 and corresponded to the single shot which struck CW#2. The decision to use force was justified under the Maryland law of self-defense, defense of others and the standard put forth by *Graham v. Connor*, 490 US 386 (1989). The officers' actions in this case did not rise to a level of criminal culpability. Therefore, the State declines to prosecute.

EXHIBIT #1



IO#1's BWC shows the Involved Citizen stepping back as he removes a handgun from his right coat pocket and raises it. The gun can be seen momentarily pointing in the direction of IO#1 (shadow at bottom right of screenshot) in the split second before all three officers open fire.