

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY
ON THE FATAL POLICE-INVOLVED SHOOTING
ON THE 2400 BLOCK OF SHERWOOD AVENUE



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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 2400 Sherwood Avenue on August 4, 2022, in which police officers responded to that location for an "attempted suicide" that later resulted in the death of one citizen. The BCSAO review was conducted by the office's Public Trust and Police Integrity Unit ("PTPIU") and focused exclusively on determining whether criminal charges are warranted, based on the officer's conduct.

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 is not an expression of any opinions on non-criminal matters.

Overview of the Incident

On August 4, 2022, at approximately 11:17 a.m., Officer Gregory Vilchez responded to the 2400 block of Sherwood Avenue for what was initially reported as an "Attempted Suicide" call for service. Upon his arrival, a male (hereinafter "Involved Citizen"), was lying in the street at the corner of the 2400 block of Sherwood Avenue and the 1300 block of East 25th Street. He was exhibiting obvious signs of medical distress and convulsing on the ground.

Several unidentified males were standing around the Involved Citizen and one male was trying to restrain him by holding his upper body while lying on the ground next to him. A second citizen at the scene administered nasal Narcan into the Involved Citizen's nostrils as he lay on the ground. Another male at the scene yelled at Officer Vilchez to do something to help the man on the ground. Initially, Officer Vilchez tried to talk to the Involved Citizen to calm him down while assisting the other unknown male citizen who trying to restrain him. Officer Vilchez also requested a medic respond to the scene.

Officer Vilchez and the unknown male who was trying to restrain the Involved Citizen struggled to try to control the Involved Citizen as he fought to break free from them. The unknown male who was restraining the Involved Citizen continually referred to him by name and asked why he was fighting them. Because of the Involved Citizen continuously flailing his body, arms, and legs, Officer Vilchez placed handcuffs on his wrists in front of his body for the safety of all involved.

Baltimore City Firefighters from Truck #5 arrived on the scene and took over from the citizens and Officer Vilchez in attending to the Involved Citizen. Officer Vilchez then put on leg restraints in front of the so as to aid and protect the Firefighters. The Involved Citizen continually struggled with the firefighters as they tried to control him and render first aid. After a few minutes, he stopped struggling

with them as Baltimore City Fire Department Medic #6 arrived at the scene. Medics then began to use devices to assist the Involved Citizen in breathing. At that point, the unknown male who was initially trying to restrain the Involved Citizen alerted Officer Vilchez and the medics that the Involved Citizen had Fentanyl in his pockets, but he did not see it anymore. No Fentanyl or any other illicit narcotics were recovered from the scene or subsequent searches of his belongings.

The medics produced a gurney and Officer Vilchez assisted in putting the Involved Citizen on the gurney. Officer Vilchez then returned to his vehicle and after several minutes, he was summoned to return to the ambulance where they asked him to remove the handcuffs so the medics could attend to him. Officer Vilchez removed both the handcuffs and ankle cuffs at their request so they can attend to the Involved Citizen.

The Involved Citizen was then transported to Johns Hopkins Hospital and treated by the medical team. Despite their efforts, the Involved Citizen was pronounced deceased at 1224 hours. He was transported to the Medical Examiner's Office.

Summary of the Evidence

BODY WORN CAMERA (“BWC”) VIDEO

The Involved Officer’s BWC was activated per BPD policy and captures a significant amount of the incident.

The video clearly shows the Involved Citizen in some type of distress; moreover, it shows an unidentified male trying to assist the Involved Citizen – both men essentially interlocked (by arms and legs) laying on the paved road.

Another unidentified civilian grabbed a NARCAN spray, opened it, and tried to administer it on the Involved Citizen as Officer Vilchez made his initial approach to the situation. One of the civilians

encouraged the officer to handcuff the Involved Citizen – for safety reasons. Officer Vilchez agreed and complied. He also called for medics.

The Involved Citizen was non-responsive verbally, or, to be more accurate, was unable to produce words – he was groaning. He was also thrashing about. He appeared to go in and out of consciousness at times.

When medics arrived, they took control of the Involved Citizen, and soon after he appeared to go limp, the medics realized that the man was likely in cardiac arrest. All efforts from that point until he was loaded into the ambulance were focused on helping the man to breath.

The officer’s role was limited when he arrived, and more so once the medics arrived. He did peer into the ambulance occasionally as the medics were performing life saving techniques.

The BWC showed no “law enforcement” actions beyond putting the handcuffs on the man and calling for medics.

WITNESSES STATEMENT SUMMARIES¹

A. Firefighters & Medics

All responding firefighters and medics were interviewed by the IID, MSP, and BPD. Each statement given by the firefighters and medics was consistent with body-worn camera video that was obtained during the investigation. When the medics arrived on scene, The Involved Citizen was already in handcuffs and being restrained by the officers and civilians on scene. None of the medics witnessed Officer Vilchez using any other type of force on the Involved Citizen.

The firefighters and medics all stated in their interviews that the Involved Citizen was only conscious for a short time after medics’ arrival. Medics assisted with getting the Involved Citizen in leg restraints and began rendering aid. The medics, with the assistance of Officer Vilchez, placed The Involved Citizen

¹ The majority of this section is copied nearly verbatim from the OAG/IID Interim Report.

on a stretcher and put him in the ambulance. The Involved Citizen was unconscious at that point. In the ambulance, the Involved Citizen went into cardiac arrest. Medics then asked Officer Murray to take off the restraints. A short time later, Officer Vilchez went in the ambulance and took the handcuffs and leg restraints off the Involved Citizen. EMS services transported the Involved Citizen to Johns Hopkins Hospital. They turned over the treatment to personnel at the hospital at that time.

B. Law Enforcement Officers

Officer Vilchez was not required by policy or law to document this incident., and he elected to not give a statement.

However, his body-worn camera captured him on scene telling other officers that when he arrived, there were about three people wrestling with the Involved Citizen on the ground. He said, “He was literally spazzing out, really violent.” Officer Vilchez said that the civilians on scene told him that the Involved Citizen kept trying to bang his head on the ground. Officer Vilchez said, “When I got there, they were restraining him, so I put handcuffs on him, I put leg shackles also, and as soon as I put the handcuffs, he relaxed.” Officer Vilchez later told his supervisor on scene, Lt. Walton, “There was no force used by me, just the people that were restraining him, but they all cleared.” While placing the Involved Citizen in restraints is considered a use of force, Officer Vilchez’s statement is otherwise consistent with the body-worn camera footage.

Officer Murray was interviewed by the IID and BPD on August 18, 2022. Officer Murray said that she and Officer Vilchez responded to a call for a naked man in the street approximately 30 minutes prior to this incident.

Officer Murray said the second call came in as an attempted suicide. Officer Murray said that when she arrived on the scene, Officer Vilchez was already there. She saw a civilian sitting on top of the Involved Citizen. Medics were also surrounding him, attempting to calm him down. Officer Murray saw

that the Involved Citizen had “shackles and handcuffs on him.” Officer Murray described that the Involved Citizen was acting “like a fish out of water” and scraping his head on the ground.

Additional medics arrived on scene shortly thereafter. Officer Murray said that they began rendering aid to the Involved Citizen by turning him on his side. They then put him on a stretcher, put a breathing apparatus on him, and put him in the ambulance. Officer Murray said that one of the medics asked to take the restraints off the Involved Citizen.

Lt. Walton gave a statement that was audio/video recorded; unfortunately, the audio portion is damaged (digital error) and not available at this time.

C. Civilian Witnesses

The IID interviewed “Witness A” on September 27, 2022. Witness A worked near the incident. Witness A observed the Involved Citizen for several minutes on the day of the incident, prior to the events described in this interim report. He said that the Involved Citizen’ pants were down and he was incoherent and stumbling in and out of the street. Witness A said that several cars had to slow down and maneuver around the Involved Citizen to avoid hitting him. Witness A did not call 911, nor did he see police or medics arrive on scene.

Attorney General’s Office

Pursuant to Md. Code, State Government Article Section 6-106.2, the Office of the Attorney General conducted an independent investigation of this incident. That agency provided an “Interim Report to the State’s Attorney’s Office on March 1, 2023.”²

² The report is only an “Interim” as the OAG/IID is waiting on the OCME report. The SAO has spoken with the OCME assigned pathologist and does not believe that waiting on that report is necessary.

The AG's Office report does not give a recommendation for prosecution or declination of prosecution. The report only provides findings of facts. The findings of the AG's Office have been reviewed and were considered for purposes of this report.

It is worth noting that there are no material differences in what the AG's Office's team found versus what the Police Integrity Unit of the State's Attorney's Office found in a joint investigation with the BPD Special Investigative Response Team (SIRT).

Legal Analysis

Ordinarily, a report of this kind would site to crimes that the SAO evaluated in the context of the events being reviewed. Here, however, the SAO not only failed to find any criminal wrongdoing, it also fails to understand why this was being investigated as a criminal matter. The Involved officer clearly didn't know what was wrong with the Involved Citizen – was he having an emotion/psychological issue? Was he under the influence of CDS? There was no way for the officer to know in that moment.

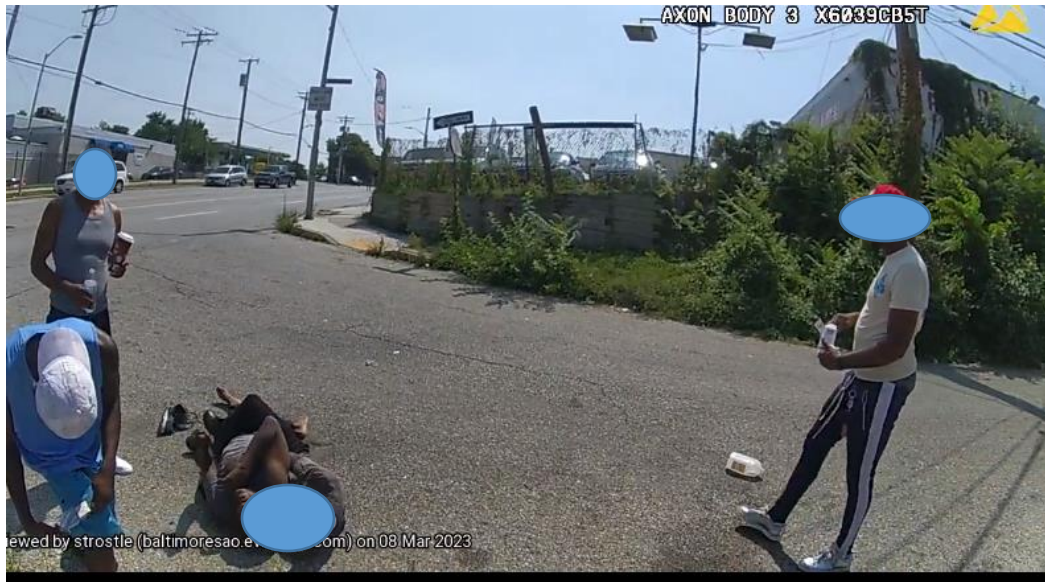
The officer took little law enforcement action – he called for medics, and he placed handcuffs on the man at the suggestion of at least one citizen on scene. It appears that the Officer only put handcuffs on the Involved Citizen at the request of the Citizens on scene who were trying to assist him and to protect the Involved Citizen from harming himself and others during the apparent medical event. Given how the man was thrashing about and given that an unidentified civilian was actively engaged in trying to subdue and protect the man, the use of handcuffs – while maybe not the best choice – was not an unreasonable choice. It was, again, at the urging of at least one citizen on scene trying to help.

Afterwards, the man suffered cardiac arrest, and later died. There is no evidence of causation between anything that the officer did and the citizen's death. The SAO would not have classified this as an "In Custody Death."

Overview of the Video/Photo Evidence of the Incident



This is the moment that the Involved Officer walked up on the scene – the Involved Citizen was being restrained on the pavement by an unknown civilian. The civilians are openly talking about this being an over-dose.



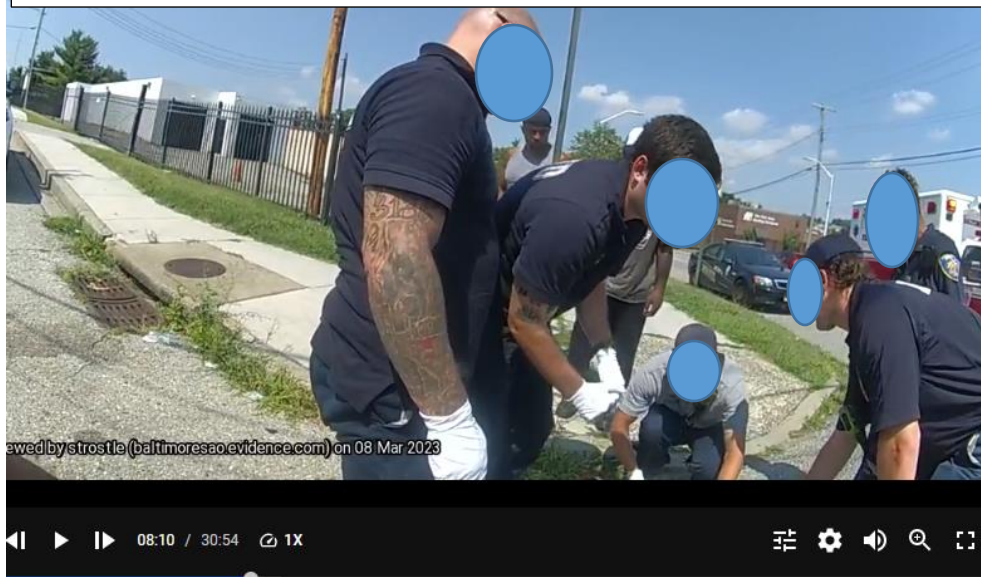
The man in the blue obtained a Narcan nasal package, opened it, and attempted to administer it on the Involved Citizen (as the Involved Citizen, who is “going in and out” became quiet and limp).



The unidentified men suggested that the officer cuff the man – and here the officer did just that. The men then suggested leg shackles. The conversation revolved around protecting the Involved Citizen from hurting himself.



Medics have arrived and the leg shackles have just been put on. Nobody voices any objection to the use of the shackles. The Involved Citizen is still vocally struggling at this moment.



At this precise moment, the man has gone silent and stopped breathing – and the medics changed gears to “bagging” the man (aiding in breathing). He never fully regained consciousness after this moment.