REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE OFFICER INVOLVED-SHOOTING DEATH ON JANUARY 28, 2018 LOCATED AT 3600 GWYNN FALLS PKWY

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INTRODUCTION

The Baltimore City States Attorney's Office (BCSAO) completed its review of the officer involved shooting that resulted in the death of a citizen. The BCSAO review was conducted by the office's Public Trust and Police Integrity Division and focused exclusively on determining whether criminal charges relating to the officer's conduct were warranted. PTPIU's review did not examine issues such as the officer's compliance with internal BPD policies and procedures, their training or tactics, or any issues related to civil liability; however, internal BPD 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 July 23, 2019, Baltimore Police (BPD) Officers #2 and #3 responded to a vehicle pursuit by the BPD FoxTrot Unit (the Helicopter Unit). Officers #2 and #3 approached the Involved Citizen after he had pulled into an alley and parked his vehicle. The Involved Citizen fled from the officers. As Officer #2 was chasing the Involved Citizen, he observed the citizen drop an object later determined to be a gun magazine. The Involved Citizen was ordered several times to stop but he refused to comply. The Involved Citizen turned toward the officer and fired one round at the officer. The officer returned fire striking the citizen. The citizen died of gunshot wounds.

As detailed below, all available evidence supports the conclusion that the law enforcement officer's actions were taken in self-defense. The State's Attorney, therefore, declines to pursue criminal charges in this matter.

OVERVIEW OF THE INCIDENT

(Police-Involved Fatal Shooting)

At approximately 8:00 pm, on January 28, 2018, in the 2100 block of Westwood Avenue of Baltimore City, BPD Police Officer #1 (referred to as Officer #1) initiated a traffic stop of a red Ford Explorer for failing to stop at a stop sign. Officer #1 was wearing a Body Worn Camera ("BWC") that recorded this traffic stop.

Officer #1's BWC video shows that he approached the driver's side window and asked the driver, the Involved Citizen, for his "license and registration." In response, the Involved Citizen asked what the reason for the stop was and Officer #1 informed him that he "didn't come to a complete stop there." Upon hearing this, the Involved Citizen replied, "come on, man." And replied, "Y'all can't stop me," and then he put his car into gear and drove away.

As the Involved Citizen fled, Foxtrot was used to assist in tracking his vehicle from the air. At one point, the Involved Citizen stopped and one of the passengers, Civilian #1, got out of the car. Later the investigation would reveal that when the Involved Citizen was initially pulled over for the traffic stop he was providing an unlicensed for-hire ride to Civilian #1 and her mother, Civilian #2. Civilian #1 later stated she got out of the car because she did not want to be involved in a police chase. Civilian #2 stated that she wanted to get out too, but that she was not fast enough to get out at the same time Civilian #1 did, and she was too scared to jump out while the car was moving.

Foxtrot continued to track the vehicle for approximately 12 minutes before the Involved Citizen stopped and got out of the car with Civilian #2. At this point, Foxtrot reported to other BPD officers that the vehicle was in the 2300 block of Allendale Road, and had parked in the rear alley, between Allendale Road and Elsinore Avenue.

Approximately 15 minutes after the Involved Citizen had fled the initial traffic stop, BPD Police Officer #2 and Police Officer #3 made contact with the Involved Citizen and Civilian #2. When the officers made contact with the Involved Citizen and Civilian #2, they were already out of the Ford Explorer and walking in the 3600 block of Gwynn Falls Parkway. When Officer #2, who had gotten out of the patrol car, identified himself the Involved Citizen immediately fled, and a foot pursuit ensued. Officer #2 chased the Involved Citizen on foot while Officer #3 pursued him in the patrol car.

During the foot chase, the Involved Citizen ran through residential yards and dropped his keys and a handgun magazine that had six 9mm cartridges in it near the point where he had to jump over a fence that divided two yards. After he jumped the fence, the Involved Citizen crossed a residential lawn back to Gwynn Falls Parkway and, at this point, the Involved Citizen can be seen on BWC video carrying a handgun in his hand. Officer #2 continued to pursue the Involved Citizen on foot across the eastbound lane of Gwynn Falls Pkwy and onto the wide, grass median that separates the east and west bound lanes of Gwynn Falls Pkwy.

The BWC video, the location of a recovered 9mm spent shell casing from his gun, and eyewitness accounts, show that the Involved Citizen turned toward Officer #2 and discharged his

firearm once at the officer. A responding officer, Officer #4, stated that he saw the Involved Citizen discharge his firearm at Officer #2. Immediately after the Involved Citizen discharged his gun, Officer #2 fired fourteen (14) shots in rapid succession at the Involved Citizen, hitting him nine (9) times.

First aid was given to the Involved Citizen at the scene by Officer #2 and other responding police officers before medics arrived. An ambulance subsequently transported the Involved Citizen to Sinai Hospital; however, medical treatment proved unsuccessful and the Involved Citizen was pronounced dead.

A few moments after the Involved Citizen was shot and fell to the ground, other BPD officers were at the scene and helped to handcuff the Involved Citizen. When the Involved Citizen was turned over Officer #5 found a 9mm handgun, which was missing its magazine, under him. (Even though the Involved Citizen did not have a magazine in his handgun, the evidence showing that he fired a shot indicates that he still had one 9mm round loaded in the chamber of his gun.)

A BB gun, (Daisy Powerline 426 .1177cal), that looked like a handgun, was also found in the bag that the Involved Citizen was carrying.

SUMMARY OF THE EVIDENCE

FIREARMS ANALYSIS

The Firearms Analysis Unit received and analyzed the following pieces of evidence:

- One Highpoint C9 9MM handgun (the handgun found under the Involved Citizen).
- One .40 S&W Glock handgun with fourteen (14) cartridges (Officer #1's service weapon).
- One magazine with fourteen (14) cartridges.
- One 9mm magazine with six (6) cartridges.
- Fourteen (14) .40 caliber spent cartridge casings.
- One 9mm Luger cartridge case.
- One bullet jacket fragment and one metal fragment.
- Ten bullets or bullet fragments recovered in the autopsy of the Involved Citizen.

After reviewing the above evidence, the Firearms Analysis Unit came to the following conclusions:

The Firearms Analysis Unit found that all of the .40 S&W spent cartridge cases had been fired from a Glock 22 .40 S&W Pistol (Officer #2's firearm).

The Firearms Analysis Unit found that the 9mm Luger cartridge case recovered at the shooting scene had, "sufficient agreement of individual characteristics"[1] to identify that it had been fired by the Hi-Point C9 9MM Luger pistol (the firearm found under the Involved Citizen).

The Firearms Analysis Unit found that the Hi-Point 9MM handgun it had received was, "Inoperable-cannot be fired," because of damage to the transfer bar and other internal parts. At the time the Firearms Analysis Unit examined it, a piece of plastic was also wedged between the trigger and trigger guard which did not allow the trigger to be moved. The Firearms Analysis Unit further found that due to internal damage the magazine could not be inserted into the gun.[2] The Involved Citizen suffered a gunshot wound to his right hand which was the hand that held his gun. During the exchange of gunfire between Officer #2 and the Involved Citizen, the Involved Citizen's gun received significant damage (a hole in the right side where part of the plastic on the gun was pushed into the trigger and trigger guard area). See below photograph on page 22.

To obtain a fired cartridge case for comparison, the slide of the Hi-Point 9MM handgun had to be removed and placed on the frame of handgun from the Firearms Unit reference collection so that it could be test fired.

SERVICE WEAPON INSPECTION

Officer #2's and Officer #3's weapons were inspected on January 29, 2018. The weapon inspections found that Officer #3 had not discharged his service weapon, but that Officer #2 had discharged his weapon, and that he had discharged it fourteen (14) times.

FORENSIC BIOLOGY REPORT

Of relevance to this legal review, the Forensic Biology Report found, with a high statistical probability, that the Involved Citizen's DNA was on the 9mm ammunition magazine that had been recovered by the fence that the Involved Citizen jumped over. (Foxtrot video appears to show the Involved Citizen dropping this magazine right before he went over this fence).

The Involved Citizen's DNA was also found on the BB-gun recovered from his backpack.

CADS/KGA

The KGA radio transmissions were reviewed for this legal review and the KGA appears consistent with the CAD report. The following are relevant CADS entries:

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[1] "Sufficient agreement is related to the significant duplication of random tool marks as evidence by a pattern or combination of patterns of surface contours. 'Sufficient agreement' exists between two tool marks means that the agreement is of a quantity and quality that the likelihood another tool could have made the mark is so remote as to be considered a practical impossibility." Firearms Analysis Unit, Summary Report, dated Jan. 29, 2018, at pg. 6.

[2] When the Firearms Analysis Unit received this firearm it was in an inoperable condition and could not be fired. The Firearms Analysis Unit did not analyze what caused the damage to the gun. However, the evidence showing that the Involved Citizen's handgun had in fact been fired during the incident indicates that it was operable at that time. Based on the fact that it had been fired, it is reasonable to conclude that it was subsequently damaged, to the point of being inoperable, by the Officer #2's shot that hit the Involved Citizen's right hand.

20:21:21	(Event created): GWYNN FALLS PY/N HILTON ST. BAL
20:21:38	SHOTS FIRED. . .2100 NTFY ..SUSP DOWN
20:22:07	ALL OFFICERS OK. . . ADMIN CPR
20:22:32	SIGNAL 13 DROPPED
20:23:41	NEED MED PACK
20:27:44	MEDIC ON SCENE
20:34:30	POLICE INVOLVED
20:35:42	WB ON GWYNNS FALLS/DENISON. . .BLOCK TRAFFIC

VIDEO[3]

PRIVATE SURVEILLANCE

Surveillance video from a resident's home in the area of the shooting is consistent with all the other video and does not show any additional materially relevant aspects of the incident.

BODY WORN CAMERA ("BWC") VIDEO

1. **Officer #1: Body Worn Camera Video, January 28, 2018**

Officer #1's BWC video begins with him getting out of his patrol car to approach the red Ford Explorer that he had apparently pulled over before he activated his BWC. The video shows Officer #1 approaching and making initial contact with the driver, who was later identified as the Involved Citizen. Officer #1 first asks for the Involved Citizen for his, "license and registration." The Involved Citizen appears to ask what the reason for the stop was, (though his exact words are not clear), and Officer #1 informs him that he, "didn't come to a complete stop there." Upon hearing this, the Involved Citizen says, "come on, man," and then Officer #1 tries to placate him by telling him, "I ain't going to give you a ticket, just make sure valid...[unintelligible]...get your...." Immediately upon hearing this, the Involved Citizen says, "Y'all can't stop me," and he puts his car into gear and drives away.

2. **Officer #2: Body Worn Camera Video, January 28, 2018**

The following is a timeline of the relevant events captured on Officer #2's BWC:

01:12:53	The video recording begins with Officer #2 in the passenger side of the patrol car.
01:13:23	Audio begins and the radio transmissions from Foxtrot following the Involved Citizen can be heard. The officers continue driving for the next few minutes.
01:18:55	The officers see the Involved Citizen and Citizen #2.
01:19:05	Officer #2 gets out of the patrol car and orders them to "get on the ground." The foot chase begins. During the foot chase Officer #2 is heard repeatedly ordering the

[3] Surveillance video from a resident's home in the area of the shooting is consistent with all the other video and does not show any additional materially relevant aspects of the incident.

	Involved Citizen to get on the ground.
01:19:46	Officer #2 says, "get on the ground, drop it" right before he begins shooting.
01:19:49	Officer #2 stops firing.
01:19:55	Officer #5 approaches and begins handcuffing the Involved Citizen and Officer #2 says, "Get back, Get back, he's got a gun."
01:20:31	Medic called and First Aid is began
01:24:05	Sgt. #1 checks to make sure Officer #2 is ok. Sgt. #1 says, "let me check, he shot right at you," or words to that effect.
01:25:00	Officer #2 administers CPR and First Aid on the Involved Citizen.
01:30:42	Sgt. #1 can be heard saying "I came around the corner [unintelligible] saw him turn and shoot right at you."
01:34:19	Officer #2 turns BWC off.

3. Officer #3, Body Worn Camera Video, January 29, 2018

Officer #3 was Officer #2's partner and drove the patrol car during the pursuit of the Involved Citizen. The following is a timeline of the relevant events captured on Officer #3's BWC:

01:12:54	BWC begins video recording showing him driving a patrol car.
01:13:24	Audio begins and radio calls about the Involved Citizen's vehicle can be heard.
01:19:04	The patrol car stops and Officer #2 gets out and orders someone to, "get on the ground," twice.
01:19:09	Officer #2 runs out of view and Officer #3 begins to follow in the patrol car.
01:19:30	Officer #3 has driven down a drive way in pursuit of the Involved Citizen and now has begun backing up in reverse back down the driveway.
01:19:48	He gets out the car, and says "shots fired."
01:20:29	He runs across a residential lawn and up a front porch and calls for Officer #2. From the porch he can see the scene of the incident and starts running over to it.
01:20:39	Arrives at scene and calls for a medic and Signal 13.
01:20:51	Begins assisting with first aid, chest compressions, and control of the scene.
01:30:45	Sgt. #1 is heard saying, "I came around the corner, trying to figure out what was going on, I saw him turn and shoot right at you."
01:33:41	Officer #3 has walked to his patrol car and moves his vehicle from where he had left it.
01:34:50	A citizen approaches and says he had a residential surveillance camera that captured incident.
02:05:44	Recounts what happened to other Officers and then eventually turns off his BWC.

4. Officer #5: Body Worn Camera Video, January 28, 2018

Officer #5 was a passenger in the patrol car that Sgt. #1 was driving. They arrived in the vicinity of the scene in their patrol car just as the shooting was occurring. The following is a timeline of the relevant events captured on Officer #5's BWC:

01:19:18	BWC activated to record.
01:19:48	Audio begins.
01:19:53	Arrives on scene and gets out his vehicle.
01:19:55	As he approaches the Involved Citizen lying on the ground, another officer (likely Officer #2) yells, "He's got a gun."
01:20:01	Begins to handcuff the Involved Citizen who is lying face down.
01:20:15	Rolls over the Involved Citizen, finds handgun underneath him, and moves it a few feet away from him. While he does this he repeatedly says, "I got the gun, I got the gun."
01:20:28	Puts handgun in patrol vehicle.
01:20:36	Begins to handcuff and secure Citizen #2 who was with the Involved Citizen.
01:22:32	Opens the passenger door of the patrol car and looks at handgun.
01:25:00	Continues to secure the scene.
01:37:30	Gets the gun out of the patrol car and says that he "grabbed it out from under him."
01:37:39	Sgt. #1 tells him to render the Involved Citizen's gun safe.
01:38:10	Secures the gun and puts it in the trunk.
	The video continues and shows Officer #5 processing the scene, driving and doing other tasks until it ends.

WITNESSES STATEMENT SUMMARIES

LAW ENFORCEMENT WITNESSES

1. Sergeant #1, BPD SIRT Interview, January 29, 2018

Sgt. #1 was interviewed by BPD Detectives on January 29, 2018, and provided the following relevant information in his recorded interview:

Sgt. #1 was driving his patrol car when he heard Foxtrot calling out that it was following a vehicle. He heard one of his units respond (Officer #2). The officers were waiting for the vehicle to stop before they confronted the suspect. When the vehicle finally stopped he headed over to the area.

He heard Foxtrot say that the suspect was crossing Gwynn Falls. He looked up to the left and saw the suspect and the officer (who he later found out to be Officer #2), running through the median between the lanes of Gwynn Falls. The subject was running across the median and Sergeant #1 was driving the wrong way [he was driving eastbound in the westbound lane of Gwynn Falls].

Sergeant #1 stated that at this point, "I saw the subject turn towards [Officer #2] and fire one round off. [Officer #2] then pulled his firearm and discharged his firearm several times at the subject." Once that happened, Officer #5 pulled up next to the scene. Officer #5 went to the suspect and handcuffed him. There was a female on the side of the road and Sgt. #1 drew his

firearm and ordered her to the ground. Officer #5 then came over and put her into handcuffs. Then he started making notifications. He also checked Officer #2 for injuries. He told Officer #5 to retrieve the firearm and they secured it in the lockbox in the patrol car. A handgun replica was found in the backpack.

He saw the suspect fire at Officer #2 when Officer #2 was "in the median" (1:14:05). The subject was running across the median towards the "south" bound lane. He was right by a huge tree, subject turned right there and discharged his firearm and, "I saw the muzzle flash." (1:14:39) At the time, he was inside a patrol car driving the wrong way on a Gwynn Falls lane.

2. Police Officer #5, BPD SIRT Interview, January 29, 2018

Officer #5 was interviewed by BPD SIRT Detectives on January 29, 2018, and provided the following relevant information in his recorded interview:

He had his BWC activated during his involvement with the incident. He was in a patrol car with Sgt. #1, who was driving. They heard Foxtrot calling out that it was following a vehicle so they started making their way over to the area. Over the radio they heard that Officer #2 was following the car, Foxtrot was tracking the vehicle so that when the car stopped Officer #2 could approach the suspect. When they got to the area he saw Officer #2 chasing the guy on foot. He saw them crossing the road to the median. At that point, he looked down to make sure his BWC was on. They had turned off Elsinore Ave. towards Garrison Blvd. and were driving in the wrong lane of Gwynn Falls. Officer #2 and the suspect were to the front right of their position.

He had been looking down at his BWC to make sure it was on when he heard the gunshots. When he heard the gunshots he looked up. He heard a lot of gunshots, but didn't know exactly how many. He couldn't see if the suspect had anything in his hands, but he could see that the suspect was twisted around backwards to face Officer #2.

After the discharge, Officer #2 started backing up and the guy had gone down. Officer #5 got out of the patrol car and cuffed the suspect. Officer #2 came up and kind of rolled him over. Officer #5 "grabbed the gun out from under him and put it in the patrol car." Officer #2 made him aware that the suspect had a gun. When Officer #2 rolled the guy over the gun was right underneath him. When Officer #5 went to cuff him, the suspect's left arm was free and his right arm was underneath him, so Officer #5 had to pull his right arm from under him to get him in cuffs. The gun was right where his right arm would have been [underneath him in relation to his chest]

Later, Officer #5 identified the gun as a Hi-Point [model firearm] and it looked damaged. He first put the gun in the patrol car and locked the car, and then he went to help out the Sergeant, who was dealing with a female.

3. Police Officer #3, BPD SIRT Interview, January 29, 2018

Officer #3 was interviewed by BPD SIRT Detectives on January 29, 2018, and provided the following relevant information in his recorded interview:

He was working in full uniformed patrol with Officer #2. They heard on the radio that Foxtrot was tracking a vehicle. They saw Foxtrot in the air and so started driving towards the

area so they could help them out. When they got to Gwynn Falls the suspect's vehicle turned right into where they were. The officer activated his BWC. The description of the vehicle was a "red SUV." The SUV went into an ally way. They followed, or shadowed the vehicle until the suspects parked. Foxtrot radioed that the car had parked and the driver had gotten out. They drove to where they were and saw the guy walking with his arm around the woman. When the officers first confronted them the guy tried to pretend like he didn't know what was going on and asked why they were stopping them, but then he started to run.

Officer #2 chased him on foot while Officer #3 followed in the patrol car. Officer #3 was driving right next to the suspect when the suspect went up an alleyway. Officer #3 tried to pin him in, but he got away and jumped a fence and Officer #3 couldn't get any further because he was already in someone's back yard.

Officer #3 thought the suspect was going to circle around the block. He started backing up to get back on the street. That is when he heard a gunshot. It didn't sound like a .40, (a BPD service weapon). It sounded like two shots and then he heard a service weapon go off. He heard about 14 shots really fast. He bailed out of the patrol car and ran around the corner. He got up on a porch to see what was going on and saw that the suspect was down and that Officer #2, Officer #5, and his Sergeant were on the scene. He ran down to them, helped to secure the gun, and started first aid.

To him, the first gunfire didn't sound like a .40. The first shot was a lot quieter than the next shots. Officer #3 has shot a lot of guns and was in the military. The first shot was not like the next set of gunfire. The second set of gunshots seemed reactive. There was a space between the first shots and the next set of shots. Officer #3 came around the corner and saw the aftermath. He didn't see any shots.

CIVILIAN WITNESSES

1. Civilian Witness #1, BPD Interview, January 28, 2018

Civilian #1 was interviewed by BPD SIRT detectives in the early morning hours of January 28, 2018. Civilian #1 provided the following relevant information:

Civilian #1 and her daughter were picked up by the guy (the Involved Citizen) for a ride. The guy had said he was a sedan driver. They had driven about three blocks when the police came up with their lights on. The guy asked the officer what he did to get pulled over and the officer said he didn't stop at the sign. Then the guy said, "oh, not today," and took off. He drove really fast and was going through red lights. She was asking him, "Please let me out." He said he had a gun in there. When the car slowed down she kicked out her door, got out and went home.

The guy was driving a burgundy, jeep-type vehicle. Her daughter came out of the "EasyMart" and he was right outside and gave them a ride. She had never met him before, but he said he was a sedan driver. He was a "hack."

It was after he pulled away from the police traffic stop that he told them that he had a gun on him. After a few blocks he stopped for moment and she kicked the door open and got out. She thinks that the child-safety lock was engaged on the door. Her daughter tried to get out too.

Before she got out she heard him say that he had a gun. She had to walk for a distance, about six blocks, after she got out of the car before she got home. She walked home and let her family know what happened and they contacted the police. The officers gave her a ride downtown for this interview.

He said he had a gun. She thinks he was drinking and saw him drinking some kind of alcohol[4] while he was driving.

2. Civilian #2, BPD Interview, January 29, 2018

Civilian #2 was interviewed by BPD SIRT detectives in the early morning hours of January 29, 2018, and provided the following relevant information:

Civilian #2 was advised of her rights and agreed to talk to the detectives. That night she went to a bar and started drinking. She met the Involved Citizen outside of the bar. She knew him as "B". He was going to drive her to get some food. As they were driving he was pulled over by the police because he didn't stop at a stop sign. He took off and the police put their lights on, but he kept going.

After he got pulled over he just took off. They were trying to get out. Her mom was able to get out at one point, but she wasn't able to get out before he pulled off. He would not let her out and she couldn't get out because he was driving so fast. She was scared to jump out.

Once he stopped she got out of the car and that's when the police confronted them. He had stopped in the back of the alley and they both got out. She started walking home and he came up behind her. She didn't know why he was putting his arm around her. He told them he had to run from police because he had drugs on him. She didn't know he had gun on him, all she saw was a knife, he didn't tell them about a gun. When they were walking he was telling her that he was sorry to have gotten her involved. He had a book bag with him. She was walking towards her home. Then she saw the police lights and they were telling them to, "get down, get down." The police officer chased him around a house, and then they came back out where they started out.

She wasn't close enough to see if the Involved Citizen had anything in his hand at the time the gunshots were fired. She heard a police officer say, "gun" before the officer shot him. She was on the sidewalk when the shooting occurred. She heard 3-4 shots. She was really shocked.

She heard an officer say "gun" before he shot[5]. She didn't see the guy shoot at the officer. It looked like the Involved Citizen turned towards the officer before he was shot, but she is not sure if he raised his arm. She could see him turn because of the movement of the black book bag he was carrying. He fell fast once the officer shot at him. The police officer then did CPR on him and another officer put handcuffs on her.

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[4] The postmortem toxicology testing of the Involved Citizen was positive for alcohol, and negative for drugs.

[5] The BWC video from Officer #2 shows that while he was yelling at the Involved Citizen, he did not yell "gun" before he fired (though the word "gun" was heard repeatedly after the shooting). It's possible that under the stress of the events, Civilian #2 misperceived when she heard the word "gun."

LEGAL ANALYSIS

In Graham v. Connor, 490 U.S. 386 (1989), the Supreme Court set the standard for when a police officer's use of force is justified. If the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting the officer, without regard to their underlying intent or motivation, the force is justified. See Graham v. Connor.

Maryland law also recognizes self-defense as a complete defense to a crime. An officer acts in self-defense if all of the following factors are present:

1. The officer was not the aggressor;
2. The officer believed that he was in immediate and imminent danger of bodily harm;
3. The officer's belief was reasonable; and
4. The officer used no more force that reasonably necessary to defend himself.

Officer #2 meets the four legal factors listed above to justify the shooting of the male as well as the standard set forth by the Supreme Court. BWC video shows the muzzle flash from the Involved Citizen's weapon as he is turned toward Officer #2. There is also eyewitness evidence from two witnesses. Sergeant #1 states that he actually saw the Involved Citizen turn and fire at Officer #2. And Civilian #2 states that it looked to her like the Involved Citizen had turned towards Officer #2 before he was shot because of the movement of the black book bag he was carrying. Additionally, the 9mm spent shell casing recovered from the immediate vicinity of the shooting scene is evidence that the Involved Citizen discharged his handgun. The Firearms Analysis Unit found "sufficient agreement of individual characteristics" to confirm that the 9mm shell casing had been fired by the 9mm handgun found under the Involved Citizen's body. The Forensic Biology Report found the Involved Citizen's DNA on the loaded 9mm magazine that was dropped by a fence during the foot chase. This is evidence linking the 9mm magazine and, thus, the 9mm handgun, to the Involved Citizen.

Under these circumstances, where the Involved Citizen was fleeing from police, refused to comply with a police order and turned toward the police to discharge his firearm at the officer, there is sufficient evidence to support a finding that Officer #2's use of deadly force towards the Involved Citizen was objectively reasonable to protect himself from the immediate and imminent danger of death or serious physical injury from the Involved Citizen.

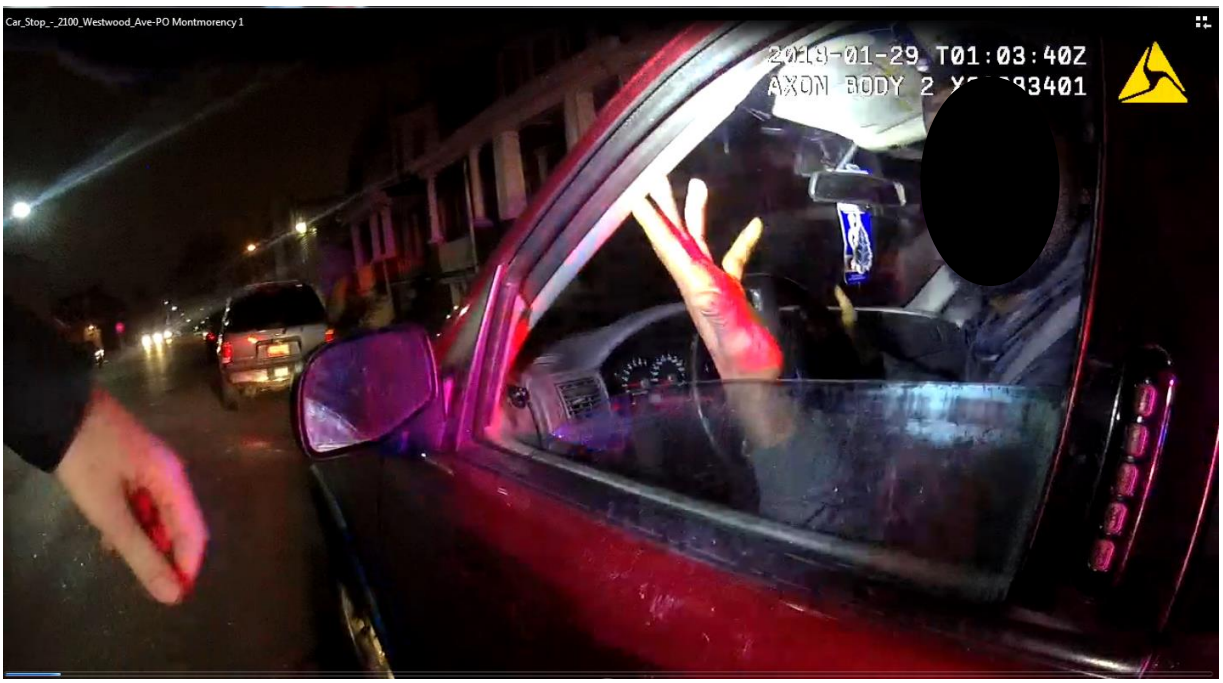
CONCLUSION

Given that BWC video shows: (1) the male with a gun, and (2) the male turning toward the officer and discharging his gun at the officer, it would be objectively reasonable for the officer to conclude that his safety was at risk leading him to protect himself by utilizing force. The decision to use force was justified under the Maryland law of self-defense and the standard put forth by the Supreme Court in *Graham v. Connor*.

The officer's action in this case did not rise to a level of criminal culpability. Therefore, the State declines to prosecute the officer.

EXHIBITS

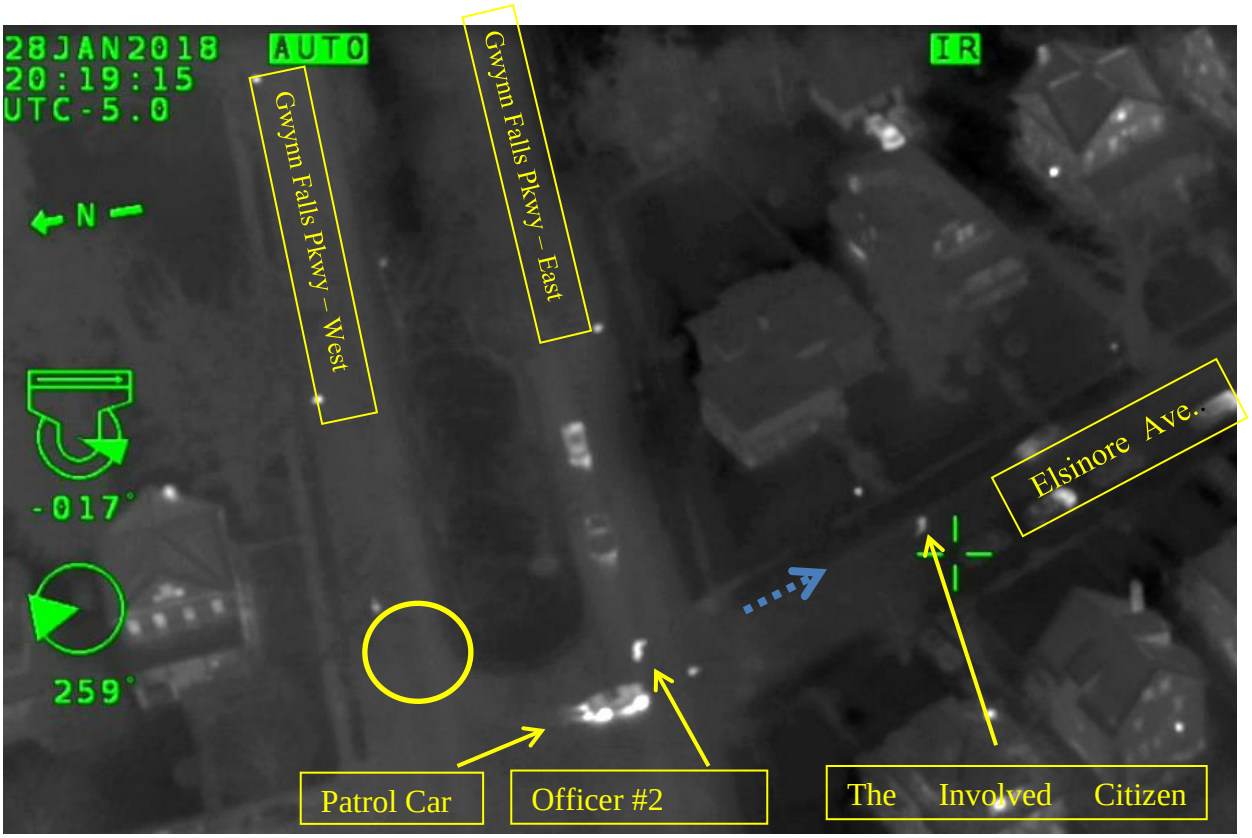
OVERVIEW OF THE VIDEO/PHOTO EVIDENCE OF THE INCIDENT



BWC, Officer #1: The BWC begins after the Involved Citizen has been pulled over. Officer #1 gets out of his patrol car, approaches the driver-side window, asks for the driver's license and registration, and advises the Involved Citizen that the reason for the traffic stop was because he didn't come to complete stop. The Involved Citizen complains briefly and then is seen putting his vehicle into gear and driving away. Officer #1 gets back into his patrol car and begins to try to pursue the Involved Citizen, but soon loses him.

GOOGLE MAPS:

The yellow circle shows the approximate location where Officer #2 confronted the Involved Citizen and the foot chase began. The yellow arrows indicate the approximate route of the chase with the blue line showing the approximate location of the fence where the Involved Citizen dropped his keys and the magazine from his gun. The red circle indicates the approximate location where the shots from both the Involved Citizen and Officer #2 occurred.

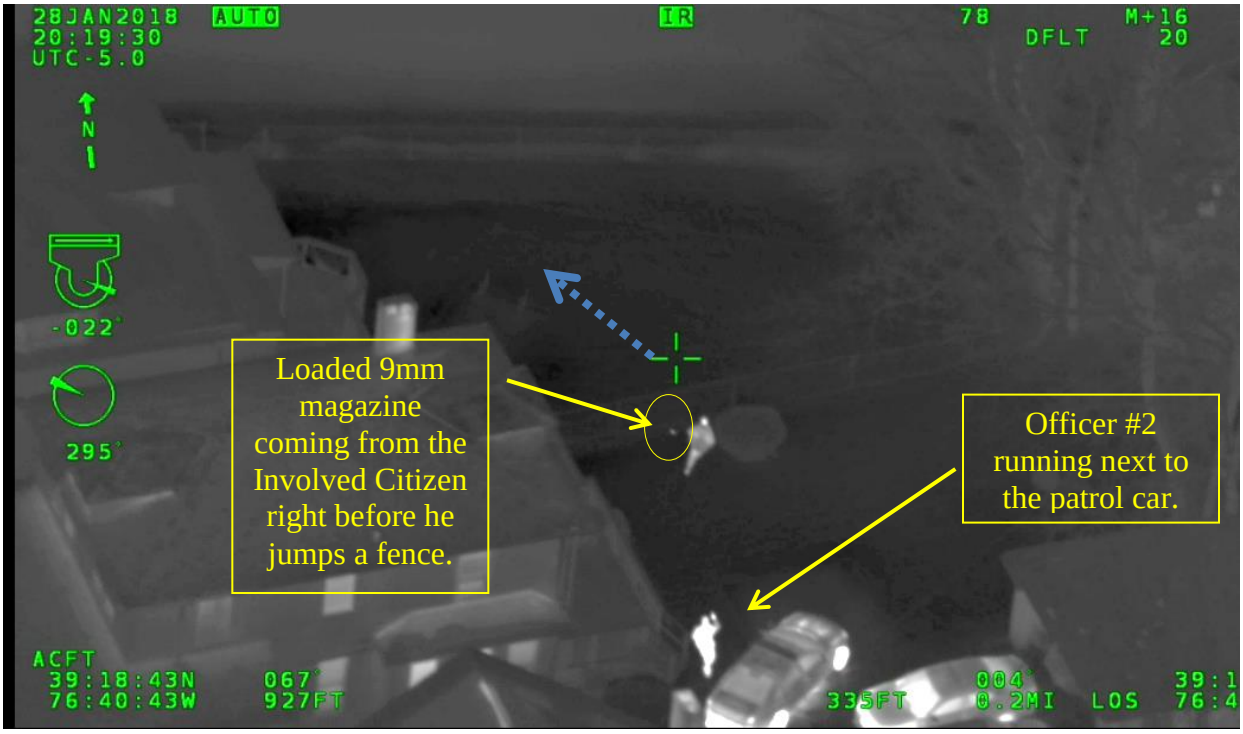


Foxtrot: Showing the foot chase of the Involved Citizen soon after it started (yellow circle). The blue arrow indicates the direction they are running towards.

Residential Surveillance Camera: Another view at about the same moment as the previous Foxtrot screenshot. This shows the foot chase as the Involved Citizen runs down the street.

Foxtrot: Showing the foot chase as the Involved Citizen runs down a drive way next to a residential house. The blue arrow indicates the direction they are going.

Residential Surveillance Camera: Another view at about the same moment as the previous Foxtrot screenshot. This shows the foot chase as the Involved Citizen runs down a drive way next to a residential house.



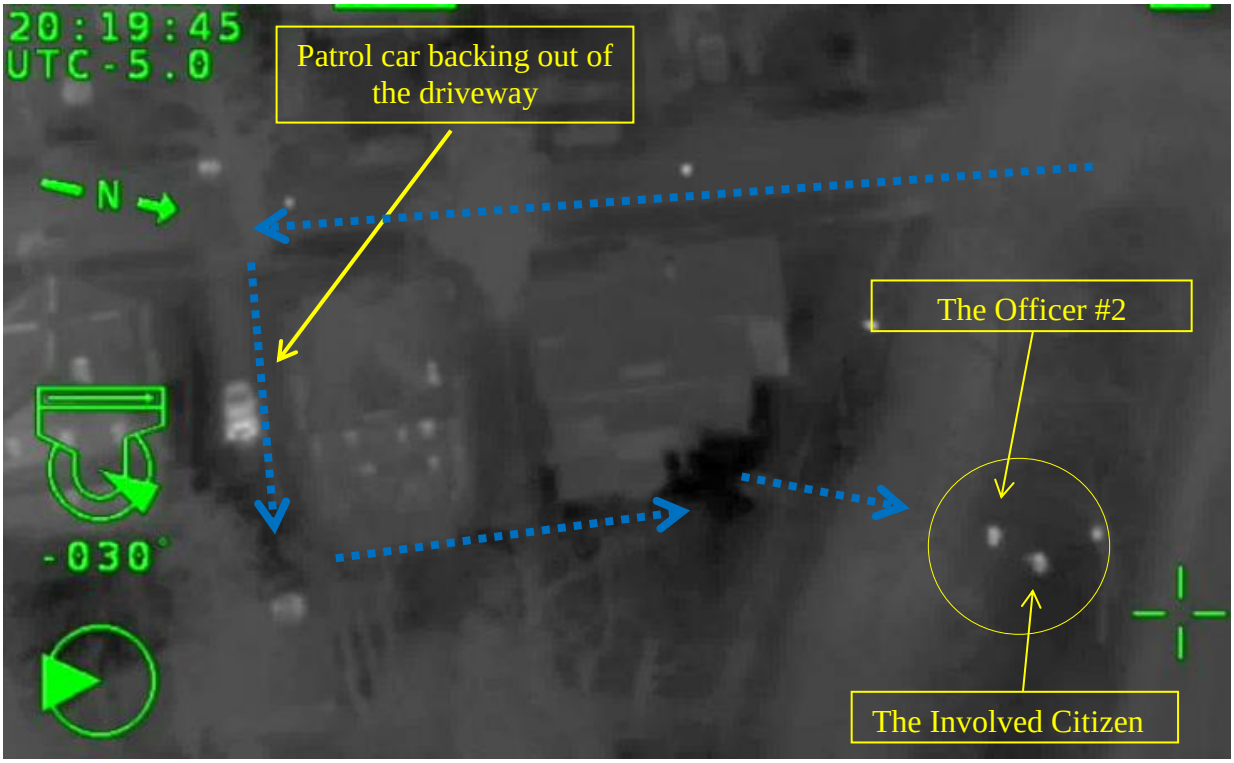
Foxtrot: Showing the foot chase as the Involved Citizen runs into a residential back yard and jumps a fence. The 9mm magazine is seen on infrared coming from him.

Foxtrot: Showing the foot chase as the Involved Citizen runs from the yard next door and out the gate onto the eastbound lane of Gwynn Falls Pkwy. Blue arrow indicates the direction they are going.

Officer #2 BWC: Approximately the same time as the previous Foxtrot screenshot. This shows the shape of a gun in the hand of the Involved Citizen.

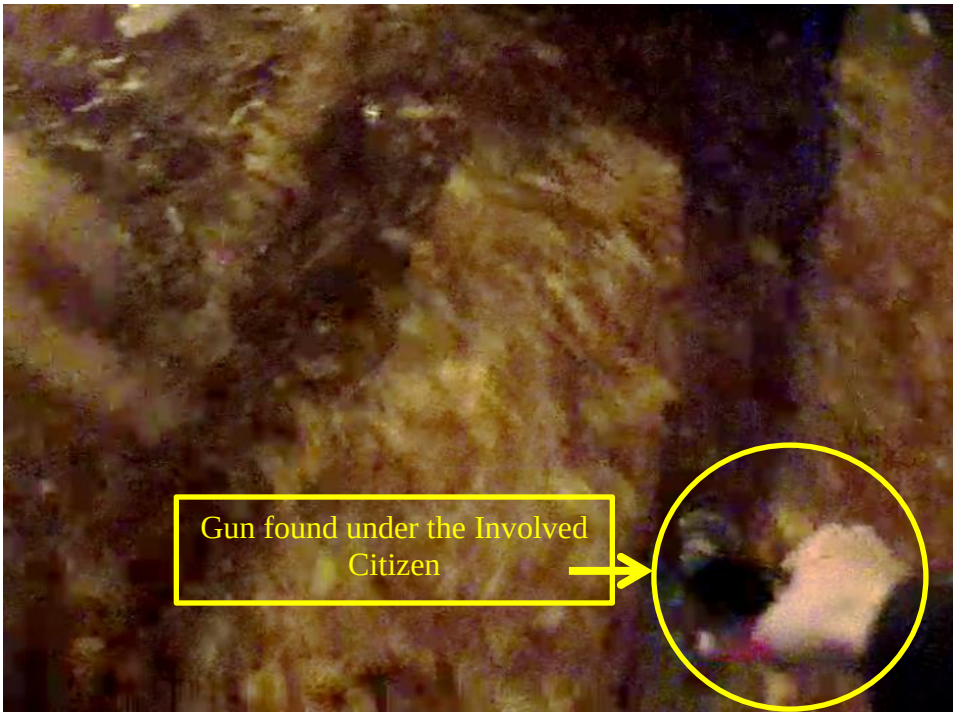
Foxtrot: Aerial view a few seconds after the previous image. This shows Officer #2 chasing the Involved Citizen across the eastbound lane of Gwynn Falls Pkwy

Officer #2 BWC: Approximately one second before the shooting begins. The shape of a handgun is seen in the Involved Citizen's hand.



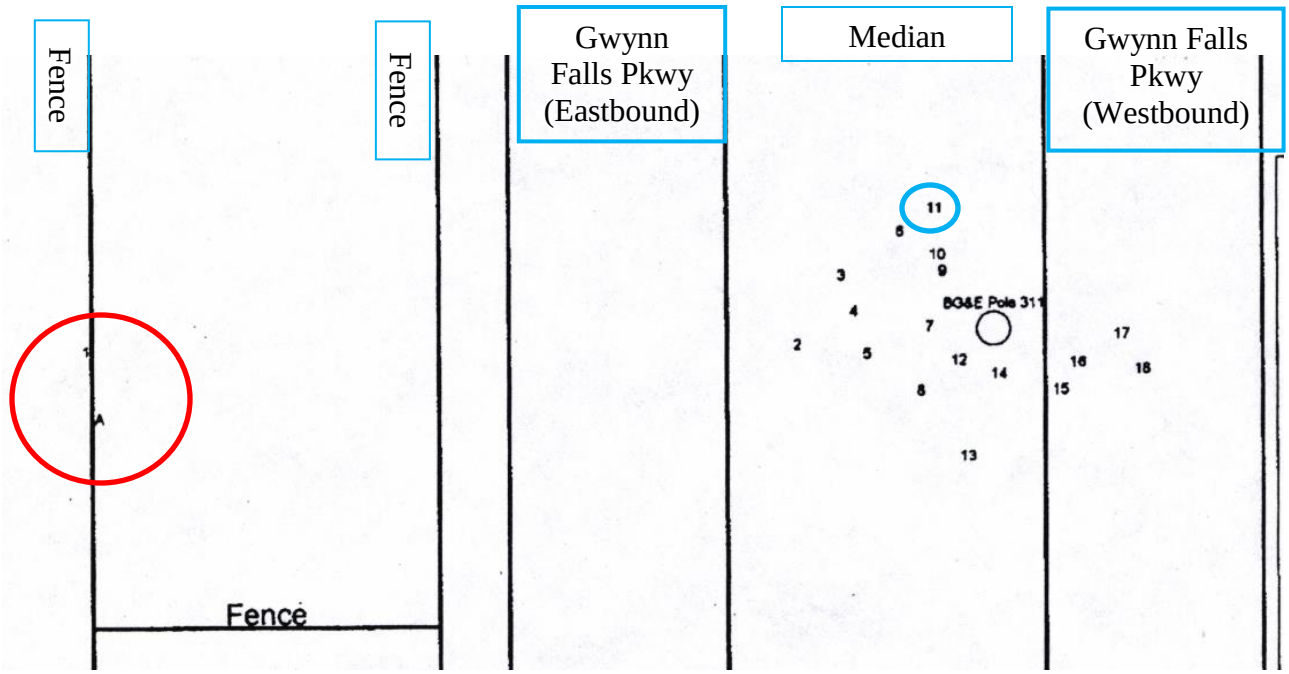
Foxtrot: At the approximate time the shooting begins. The blue arrows indicate the approximate path of the previous chase.

Officer #2 BWC: This screenshot shows the muzzle flash from the Involved Citizen's firearm. On the BWC, the muzzle flash from the gun comes right before Officer #2's firearm is heard discharging 14 times (the number of times that he fired his weapon).



BWC Officer #5: Officer #5's BWC video shows him getting out of his patrol car moments after the shooting. As he approaches the Involved Citizen lying on the ground, another officer (likely Officer #2) yells that he's got a gun. Officer #5 and Officer #2 handcuff the Involved Citizen and then roll him on his back. As he is rolled over, another officer says, "there it is, get it away from him." Officer #5 picks up the gun and, as shown in the image above, moves the gun several feet from the Involved Citizen.

The Highpoint C9 9mm handgun that was recovered from under the Involved Citizen. The yellow circle shows the damage that police believe was caused by the shot from the Officer #2.



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Key

CC#: 6-180110612
Run#: 938
Offense: Police Involved Shooting
Date of Incident: 1/28/2018
Primary Detective: Naylor/G894

Evidence:

A: Set of keys
B: One Ford Key
C: White shirt, red/white striped shirt, black jacket
D: Black face mask, black jacket
E: Black mesh book bag and contents
F: Black hat, tan shirt
G: Suspected blood
1: 9mm magazine with 6 cartridges
2-5: .40 caliber cartridge casings
6: Metal fragment
7-9: .40 caliber cartridge casings
10: Metal fragment
11: 9mm cartridge casing
12: .40 caliber cartridge casing
13: Magazine (empty)
14-18: .40 caliber cartridge casings

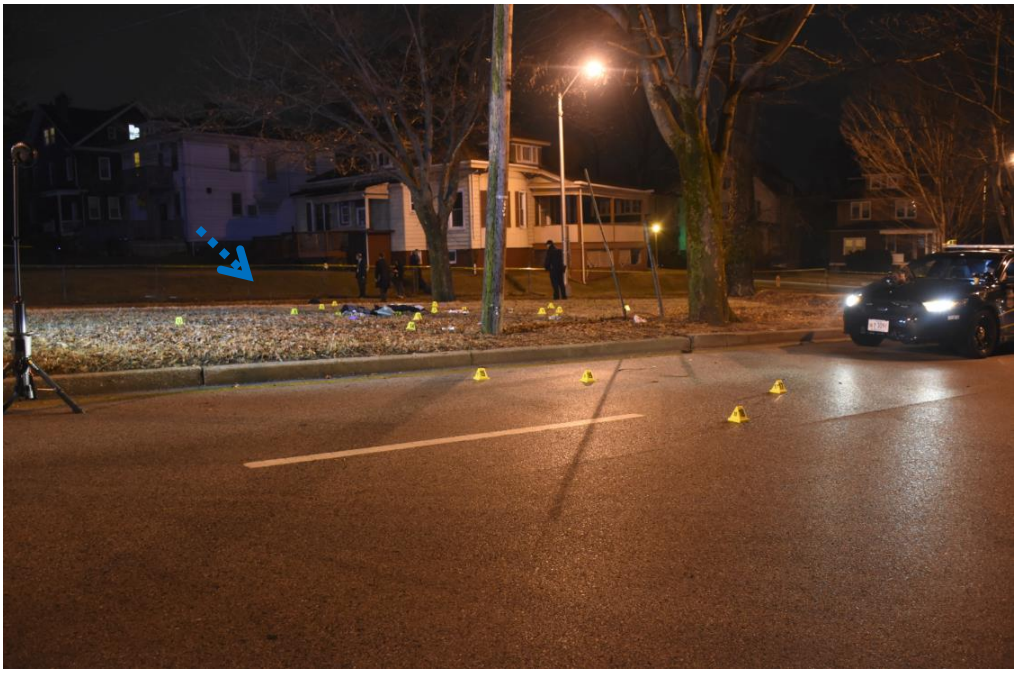
Final Sketch Completed By: R.Jackson/T668
Date Final Sketch Completed: 1/29/2018

The top is the diagram of the scene of the incident showing where the evidence was recovered. The bottom left is the key to the diagram.

The shooting occurred in the median between the east and west bound lanes of Gwynn Falls Pkwy. On the left side of the diagram in the red circle is the location where the Involved Citizen's keys (marked by the "A"), and a handgun magazine with six cartridges (marked by the number "1"), were found. (The blue circles and blue labels were added for this legal review).

The location where the 9mm cartridge casing was found is indicated by an "11" in the blue circle on the right side of the diagram.

The location of the 9mm cartridge casing, close to where the Involved Citizen was shot, is evidence that the Involved Citizen fired his weapon right before he was shot by the Officer #2.



Opposite view of the scene of the shooting. Blue arrows indicate the general direction of the foot pursuit to the scene of the shooting.