

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S
ATTORNEY ON THE OFFICER INVOLVED-SHOOTING
LOCATED AT 100 N. FREEMONT STREET



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CITY

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INTRODUCTION

The Baltimore City States Attorney's Office (BCSAO) completed its review of the officer involved shooting. 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 INVOLVED OFFICERS 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. This report should not be interpreted as expressing any opinions on non-criminal matters.

In brief, on September 23, 2018, Baltimore Police Officers were working uniformed patrol in the area of the 100 block of North Fremont Avenue when they encountered the Involved Citizen. The Involved Citizen ran and a chase ensued. When the officers located the Involved Citizen, he was in a prone position on the sidewalk in the rear of 104 North Fremont armed with a 9mm handgun equipped with a laser sight. As one of the officers approached him, the Involved Citizen activated the laser sight and starting firing at the officer. The officer was struck three times but was not seriously injured. His partner returned fire while the officer who was shot retreated and took cover. The Involved Citizen was shot multiple times and did not survive.

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

OVERVIEW OF THE INCIDENT

At approximately 6:30 p.m. on September 23, 2018, BPD Officers #1 and #2 (hereinafter referred to as “the Involved Officers”) were working uniformed patrol¹ in the area of the 100 Block of North Fremont Avenue when they encountered a citizen (hereinafter as “Involved Citizen”). Officer #1 was operating the cruiser and Officer #2 was the front seat passenger.

The Involved Citizen took flight from the Involved Officers, and the officers gave chase. The Involved Citizen cut through an opening off of the 800 Block of Vine Street, and came to a prone position on the sidewalk to the rear of 104 North Fremont Street. The Involved Officers entered a driveway adjacent to where the Involved Citizen was lying on the ground, and Officer #1 brought the vehicle to a stop as Officer #2 jumped out of the car and started giving verbal commands to the Involved Citizen. The vehicle was “pointed” towards the Involved Citizen—the front bumper being approximately 10 feet from the Involved Citizen, as he was lying on the ground.

The Involved Citizen was armed with a 9mm handgun, equipped with a laser sight. As he laid on the ground Officer #2 approached him with his (Officer #2’s) left hand pointing at the Involved Citizen and his right hand on his holster. The Involved Citizen activated the laser sight and started firing on Officer #2. Officer #2 was struck 3 times— one bullet striking him center-mass, which destroyed his BWC and deflected, one bullet striking him in the upper right torso, which penetrated his vest but did not penetrate his skin, and a third bullet that grazed his left elbow.²

The first return fire at the Involved Citizen occurred as Officer #1 was getting out of the driver’s side door. He immediately fired his gun at the Involved Citizen, as Officer #2 retreated and sought cover behind a utility pole. After firing an undetermined number of rounds³, Officer #1 retreated and sought cover behind his cruiser as Officer #2 started exchanging fire with the Involved Citizen from approximately 20 feet away. Officer #1 then actively began shooting again before retreating into the alley and calling out “shots fired” to KGA. After doing a tactical reload of his service pistol, he returned to the front of his cruiser and fired one more shot at the Involved Citizen. Recognizing that the Involved Citizen was no longer shooting and was no longer moving, Officer #1 and Officer #2 started communicating with each other, while still giving verbal commands to the Involved Citizen. No more shots were fired.

The Involved Citizen had been shot 20 times. Officer #1 first tends to Officer #2, then approached the Involved Citizen and kicked the gun, which was within reach of the Involved Citizen, approximately 5 feet away. He then returned to tending to Officer #2’s well-being as back-up officers started to arrive and covered the Involved Citizen. The first back-up officers checked for a pulse from the Involved Citizen, and finding none they did not actively engage in life saving procedures, other than to prepare him in the proper position for medics. Medics did, however, detect a pulse, and began life saving procedures while delivering the Involved Citizen to the hospital.

¹ Uniformed and a marked cruiser.

² Detectives have theorized that the bullet that struck Officer #2’s BWC is also the bullet that, after deflection, grazed Officer #2’s arm. There’s evidence that supports a stronger theory that Officer #2’s elbow was hit by a 3rd bullet.

³ Estimated to be four.

Approximately 2 minutes after the shooting, Officer #2 was transported to Shock Trauma by police cruiser⁴. Approximately 7 minutes after the shooting, medics transported the Involved Citizen to Shock Trauma. The Involved Citizen died the next day. His sister was present.

A review of the crime scene determined that the Involved Citizen fired 12 rounds⁵, Officer #2 fired 28 rounds⁶, and Officer #1 fired 9 rounds⁷. All departmentally issued ammunition was accounted for.

The Medical Examiner determined that the Involved Citizen was shot 20 times and died from internal bleeding and organ failure from shrapnel. Officer #2 suffered a major contusion above his right nipple from the impact of the bullet that struck his vest in the same area, as well as torn flesh to his left arm. Officer #1 suffered no injuries.

SUMMARY OF THE EVIDENCE

The following is a summary of the evidence available to SAO for review and preparation of this memo:

- Firearms analysis
- 90+ body worn cameras
- written statements of on-scene officers and detectives
- 1 CitiWatch camera
- 2 private property cameras
- 1 civilian statement
- 400+ photographs
- criminal history of the Involved Citizen
- IA records of the Involved Officers
- OCME report on the death of the Involved Citizen
- KGA

FIREARMS ANALYSIS

The Baltimore Police Forensic Firearms Laboratory conducted a forensic examination of the Involved Citizens' 9mm SCCY Industries Model CPX-2 semi-automatic handgun, with the serial number obliterated. Forensic Scientists found the weapon to be operable, outfitted with one laser sight and one empty magazine. The magazine was designed to hold 10 cartridges, but was capable of holding an 11th. When added to one in the chamber, the firearm is capable of holding

⁴Officer #1 was with him at all times, including in the back of the cruiser that took Officer #2 to the hospital, and had his BWC on until Officer #2 was being treated by the medical staff.

⁵ The Involved Citizen emptied his magazine—no live bullets remained in his firearm.

⁶ Officer #2 emptied two magazines—he had a 3rd magazine and had reloaded, but did not fire any shots from it.

⁷ Officer #1 fired 8 shots from one magazine, reloaded, and fired off one more shot from his second magazine.

a maximum of 12 rounds—the same number of 9mm shell casings found near the Involved Citizen’s body at the scene. Those shell casings were analyzed, and found to have been fired from the SCCY 9mm firearm described herein.



(This is a stock photo from the manufacturer.)

SERVICE WEAPON INSPECTION

Both Officers’ department issued .40 firearms were seized and evaluated, and found to be in operational condition. Departmental issued rounds were counted, and all rounds, either live or shell casings, were accounted for from each Officer. It was determined that Officer #2 fired 28 shots from two 14-round magazines, while Officer #1 fired 9 shots, 8 from his first magazine, and 1 from his second magazine.

AUTOPSY OF THE INVOLVED CITIZEN

OCME opined that the Involved Citizen died of multiple (20) gunshot wounds of the torso (7), upper (5) and lower (8) extremities including (1) tangential gunshot wound and three (3) graze gunshot wounds as he was shot by police...the...wounds injured soft tissues and contributed to death through blood loss. The manner of death is HOMICIDE.” The report went

on to rule out any intoxicants (alcohol/CDS) in the Involved Citizen's body at the time of autopsy.⁸

CADS/KGA

The KGA radio transmissions were reviewed for this legal review and the KGA appears consistent with the CAD report and those dispatch communications that could be heard on multiple BWCs. The following are relevant CADS entries:

18:25:51	"Shots Fired, Shots Fired" called out by Officer #1.
18:26:07	Citywide calls out Signal 13, Shots Fired
18:26:08	First civilian 911 call comes in, first of 7

BODY WORN CAMERA ("BWC") VIDEO²

1. Officer #1: Body Worn Camera Video, September 23, 2018

(File name: "* 7180908500")

Officer #1's BWC is turned on just prior to the shooting. The 30 second buffer starts at 18:25:16, and captures 25 seconds of driving (the pursuit).

The cruiser comes to a stop at 18:25:37, and Officer #1 (the driver) is already opening his car door to get out. Officer #2, the passenger, cannot be seen yet.

As Officer #1 is getting out of the cruiser, you can first see the Involved Citizen on the ground at 18:25:38. He is already armed, as can be deciphered by the fact that you can see the red laser beam activated.

At 18:25:40, Officer #2 (on the passenger's side of the cruiser—which is closer to the Involved Citizen) starts to approach the Involved Citizen. Officer #2's left hand is pointing at the Involved Citizen, his right hand is on his holster at his hip, and though there's no audio yet, it appears that he's giving verbal orders to the Involved Citizen.

Again without the benefit of audio, it appears that the Involved Citizen first fires his gun at Officer #2 at 18:25:41. At that same moment, Officer #1 raises his firearm and fires what appears to be four shots at the Involved Citizen.

Both officers immediately retreat. Officer #1 seeks cover behind the cruiser, while Officer #2, who is more exposed, starts backing up and tries to take cover behind a utility pole. Officer #2 begins firing on the Involved Citizen at 18:25:43, just a quick moment before he gets cover behind the utility pole.

⁸ It is worth noting that none of the 20 gunshot wounds were identified as "exit" wounds. Ignoring what are classified as "graze" wounds, this difficult to reconcile, as there were not enough projectiles found inside the Involved Citizen's body to explain how some of the wounds were not exit wounds.

⁹ 52 BWCs of more than 90 were reviewed in their entirety. Several of the 52, along with another 40+ BWCs, were cameras on officers who were tasked with scene/perimeter security (several shifts). The vast majority of the relevant BWC video in this case can be found on Officer #1's BWC; an additional 10-15 BWCs offer minimal additional evidence, most of which would be relevant in a criminal prosecution against the Involved Citizen—but offer nothing.

At 18:25:47, as Officer #2 is unloading his first magazine, Officer #1 re-approaches and fires 4 shots at the Involved Citizen before retreating again, this time further back and into the alley where he calls out “shots fired” at 18:25:51 while Officer #2 is still firing on the Involved Citizen. Officer #1 also does a tactical reload, dropping the magazine that still has 6 rounds in it, and choosing instead to go back towards the Involved Citizen with a full magazine.

At 16:26:00, Officer #2 has unloaded his second magazine and is reloading his third. Officer #1 approaches the front of his cruiser, sets himself, and takes one more shot at the Involved Citizen at 16:26:01. This is the last shot fired.

At 16:26:11, Officer #1 starts attending to his wounded partner, Officer #2, who has been shot at least 2 times, possibly 3 times. The Involved Citizen is no longer moving and appears to be incapacitated, though at 16:28:09, Officer #1 approaches the Involved Citizen and with his foot sweeps the Involved Citizen’s firearm out of the reach of the Involved Citizen.

At 16:28:04, the first back-ups arrive and start taking control of the scene, including 1) getting Officer #2 to a cruiser for a ride to Shock Trauma, and 2) getting the Involved Citizen in a ready-position for medics to attend to him as soon as they arrived.

WITNESSES STATEMENT SUMMARIES

LAW ENFORCEMENT WITNESSES

Officer #1 and Officer #2 did briefly discuss what had just happened while heading to Shock Trauma, as captured by Officer #1’s BWC. While Officer #2 was being treated, Officer #1 started making phone calls to loved ones, both his and Officer #2’s. Officer #1’s only relevant statements were “we just killed some dude,” which was followed by “he pointed a gun at us, so we shot him.”

All other officers who responded to the scene, and there were as many as 100, offered no statements except to the extent that they handled scene security and started crime scene evidence collection. There were ultimately no other law enforcement witnesses who witnessed the shooting, nor was any shooting reconstruction completed such that a report could be identified in this section.

CIVILIAN WITNESSES¹⁰

1. Unidentified civilian witness (she refused to give her name).

The police canvassed the entire neighborhood looking for anyone who could aid in the investigation. Multiple BWCs capture the exhaustive effort. Several people said they didn’t hear anything, while several others said they heard something but that they wouldn’t cooperate with law enforcement.

¹⁰ Absolutely no potential witnesses were willing to identify themselves.

Only one person would cooperate with the police, and she refused to give her name. She indicated that she heard the shooting and then went to her back window and saw the tail end of the shooting. She could not identify who shot first, but she expressed concerns over how many times the officers shot the man on the ground.

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.

Officers #1 and #2 meet the four legal factors listed above and the standard set forth by the Supreme Court to justify discharging their weapon at the Involved Citizen. While on the ground, the Involved Citizen armed himself, took aim, and then shot Officer #2 several times, shots that likely would have been fatal if not for Officer #2's vest. Both officers returned fire, striking the Involved Citizen.

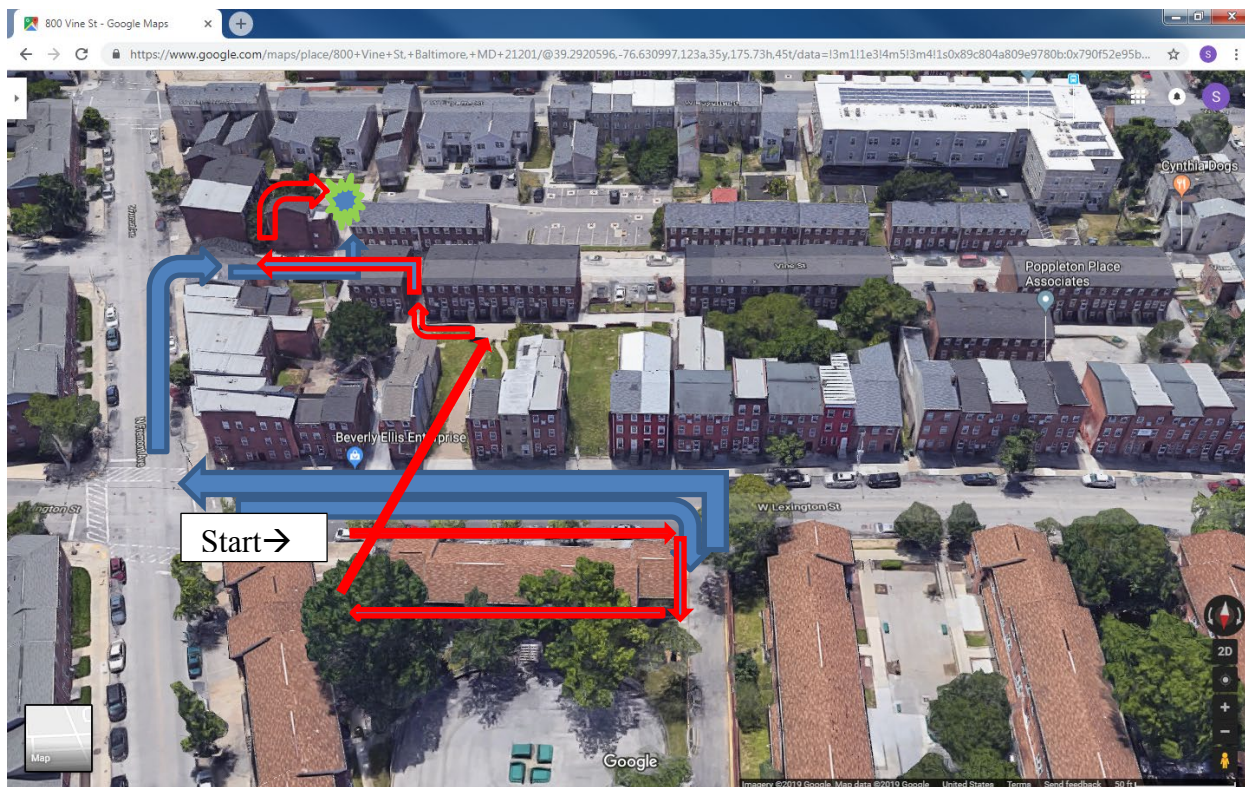
Under these circumstances, where the Involved Citizen was shooting at Officer #2, there is sufficient evidence to support a finding that Officers #1, and 2's use of deadly force towards the Involved Citizen was objectively reasonable to protect himself from the immediate and imminent danger of death or serious physical injury from the Involved Citizen.

CONCLUSION

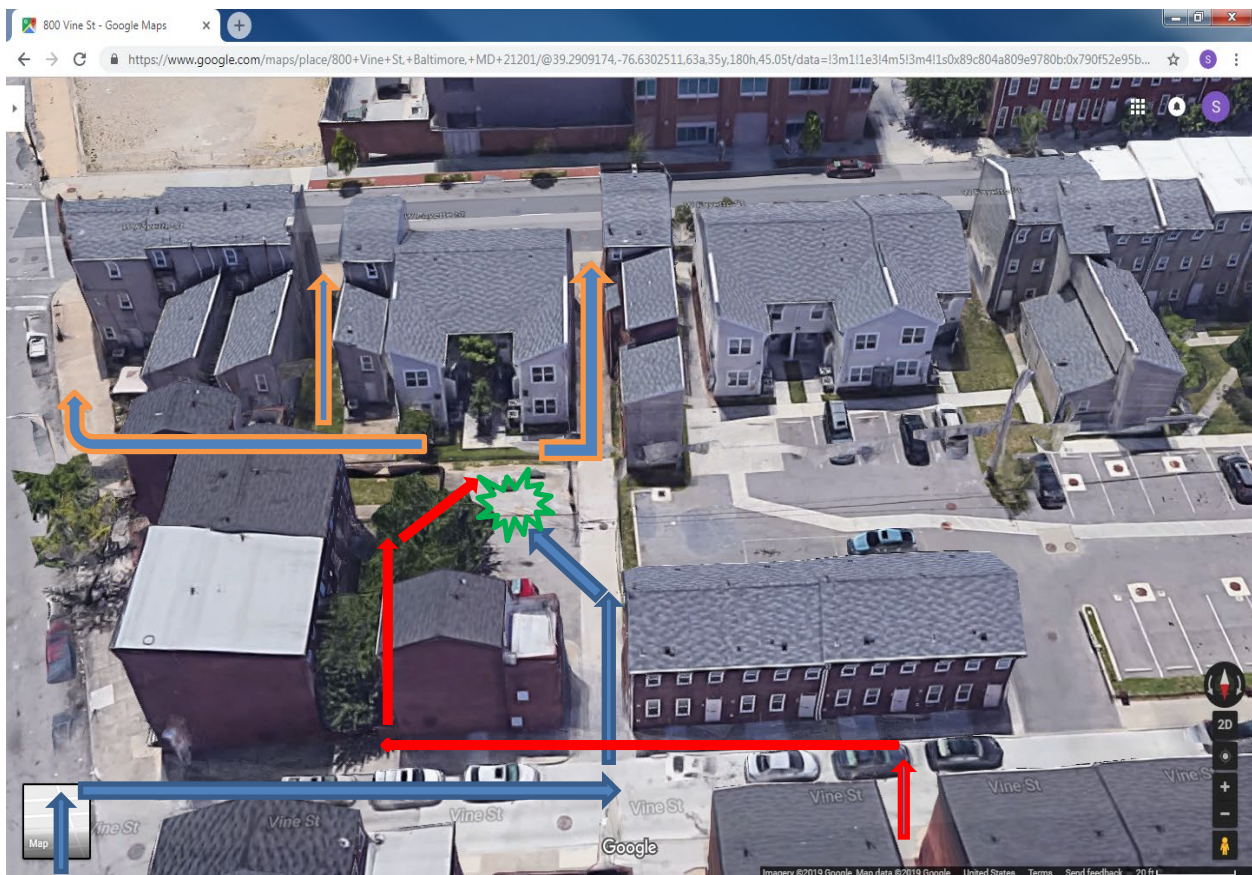
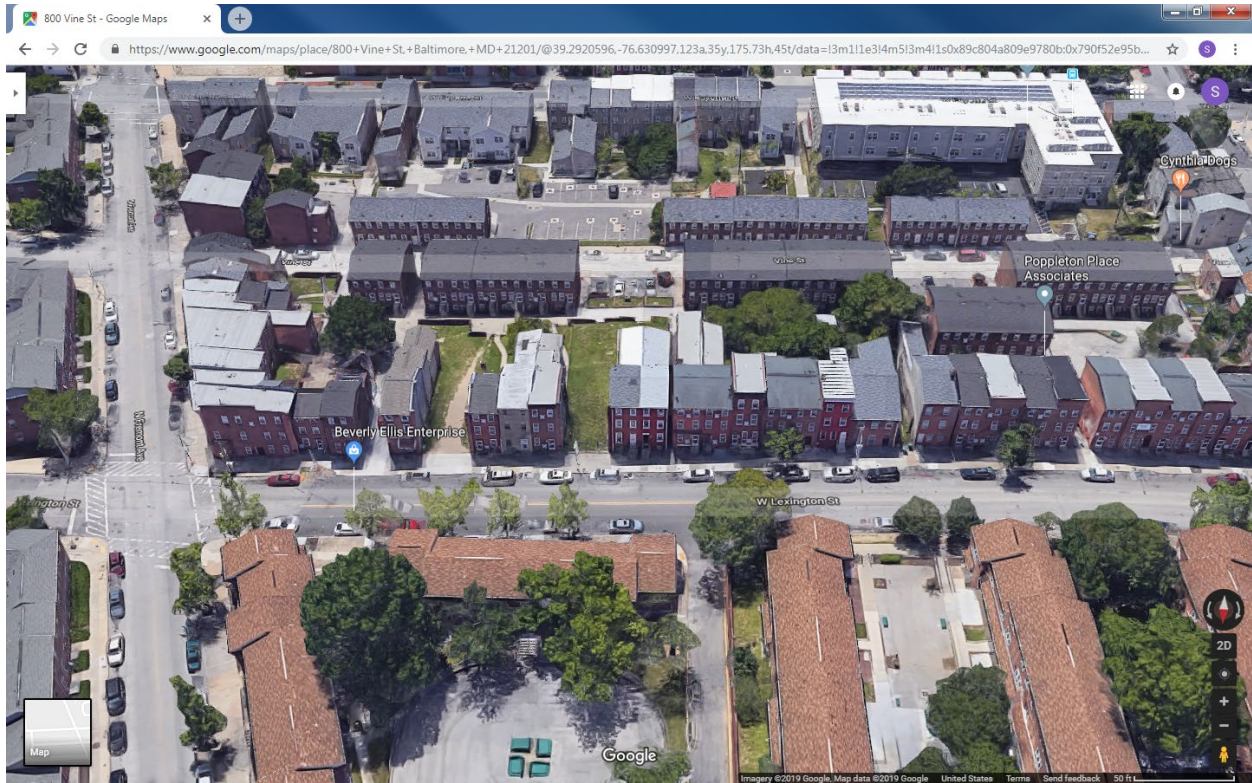
Given that BWC video shows: (1) the Involved Citizen pointing a laser sight at the officers, and (2) the Involved Citizen fired his gun at the officers, striking Officer #2 in the chest, it would be objectively reasonable for the officers to conclude that their safety was at risk. The decision to use 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.

OVERVIEW OF THE VIDEO/PHOTO EVIDENCE OF THE INCIDENT

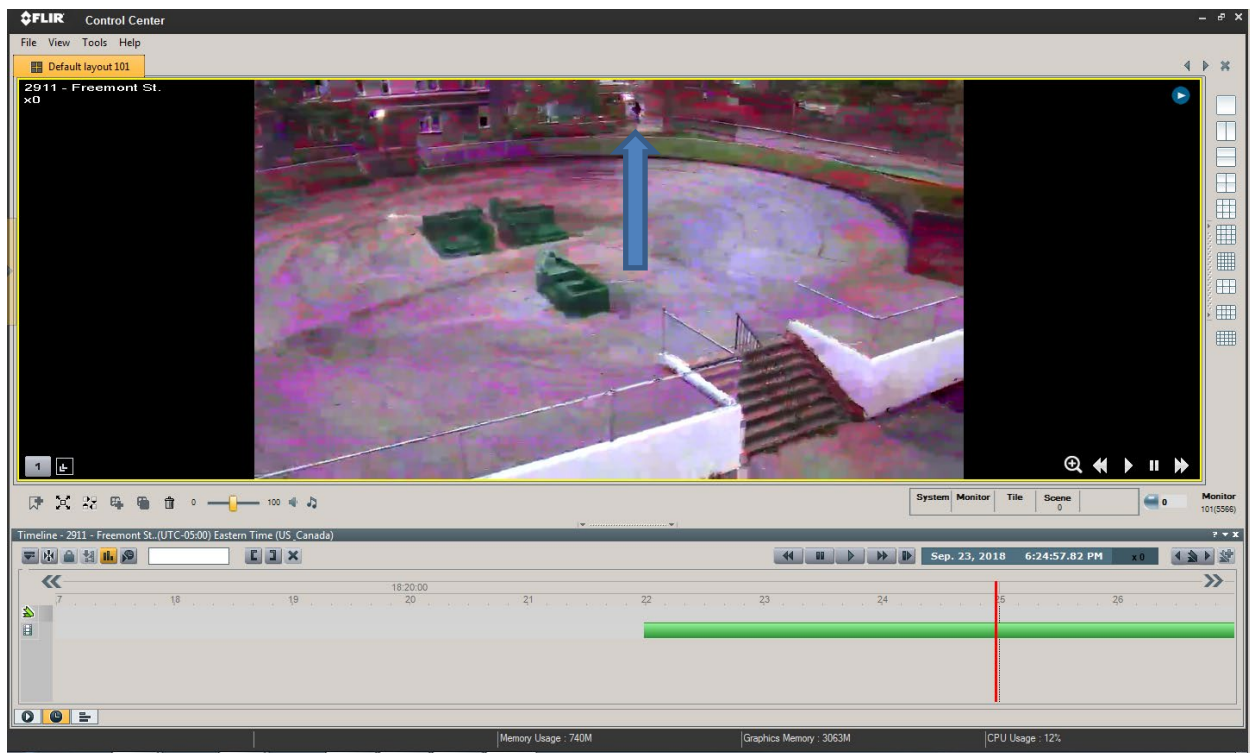


The pursuit routes, blue is the Involved Officers, Red is the Involved Citizen (clean map below)

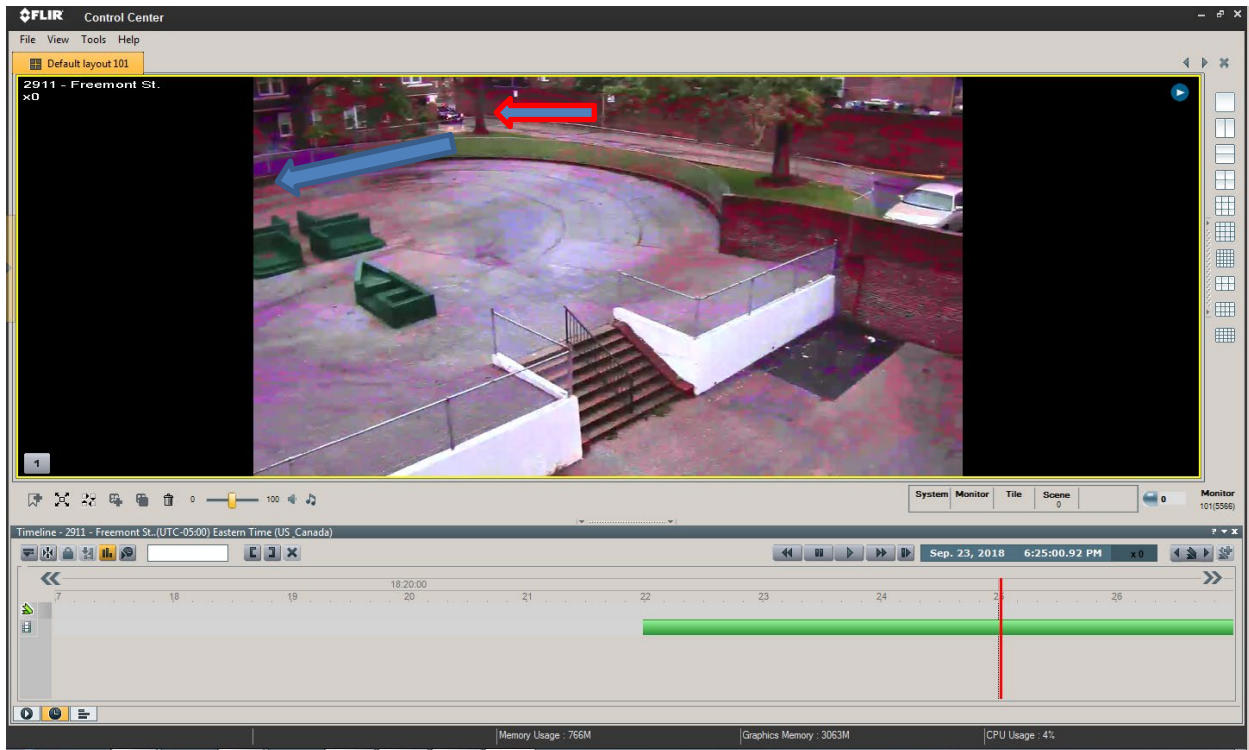


Zoomed in closer to the shootout scene... The Involved Officers turned right onto Vine, and left into an alley way. The Involved Citizen turned left onto Vine, passed the Officers, and turned right into the housing area/parking lot. The end of the blue arrows is where the cruiser came to a stop; the end of the red arrows is where the Involved Citizen was found lying on the ground before the shootout (the green starburst).

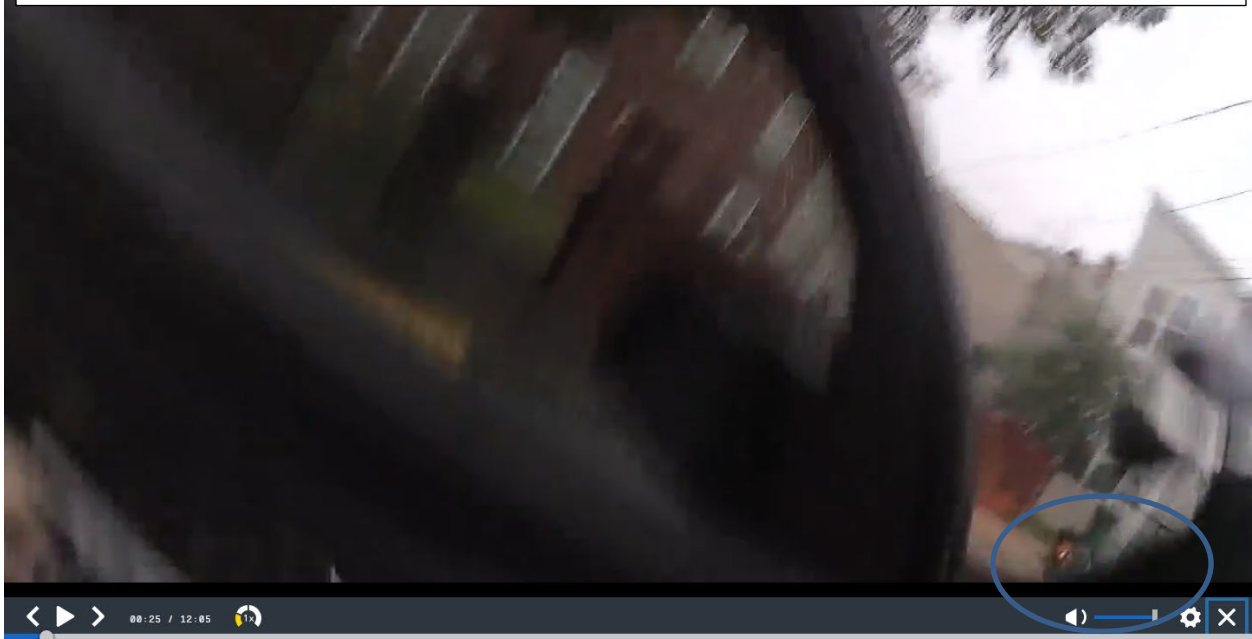
The Involved Citizen had three unobstructed paths that he could have escaped—the orange/blue arrows. He could have also turned and gone back and retraced path he took into



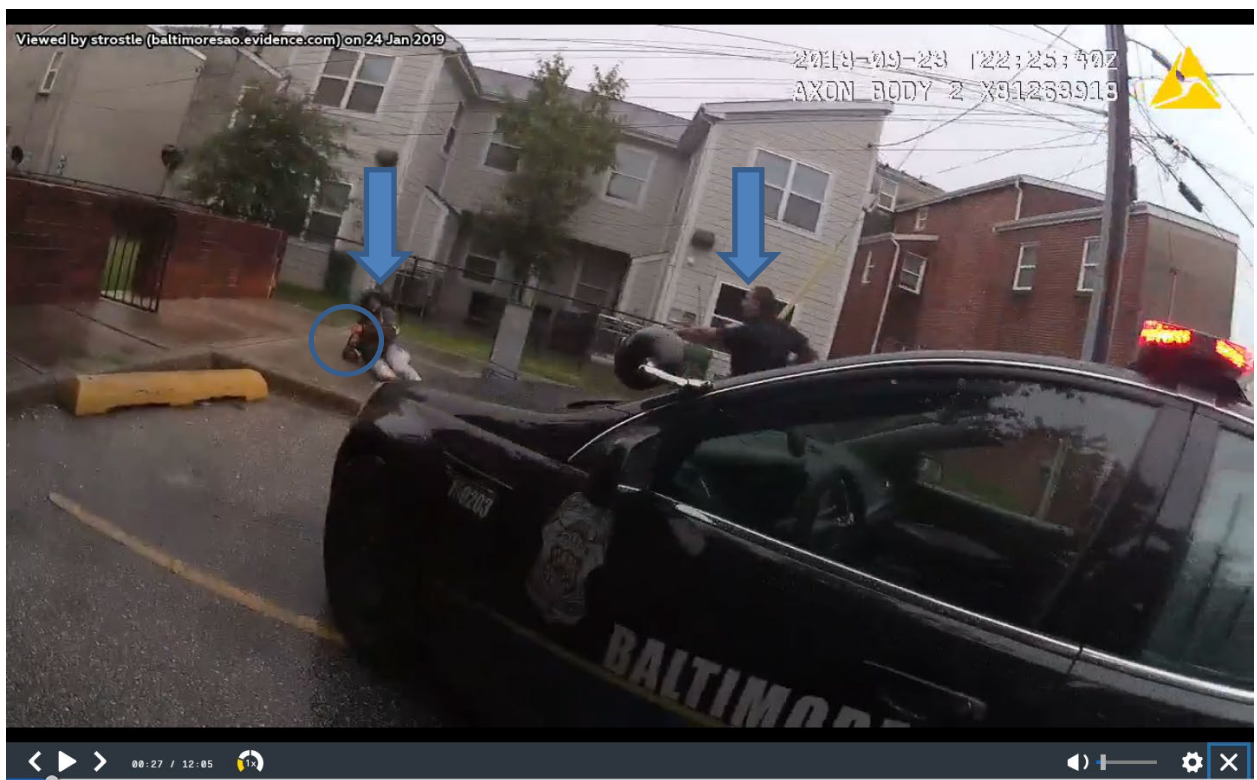
This is the Involved Citizen as he is first seen on any CitiWatch CCTV, running from the police, into a residential neighborhood. This is approximately 2-3 blocks away from where the incident ended, and approximately 45 seconds before the shooting started.



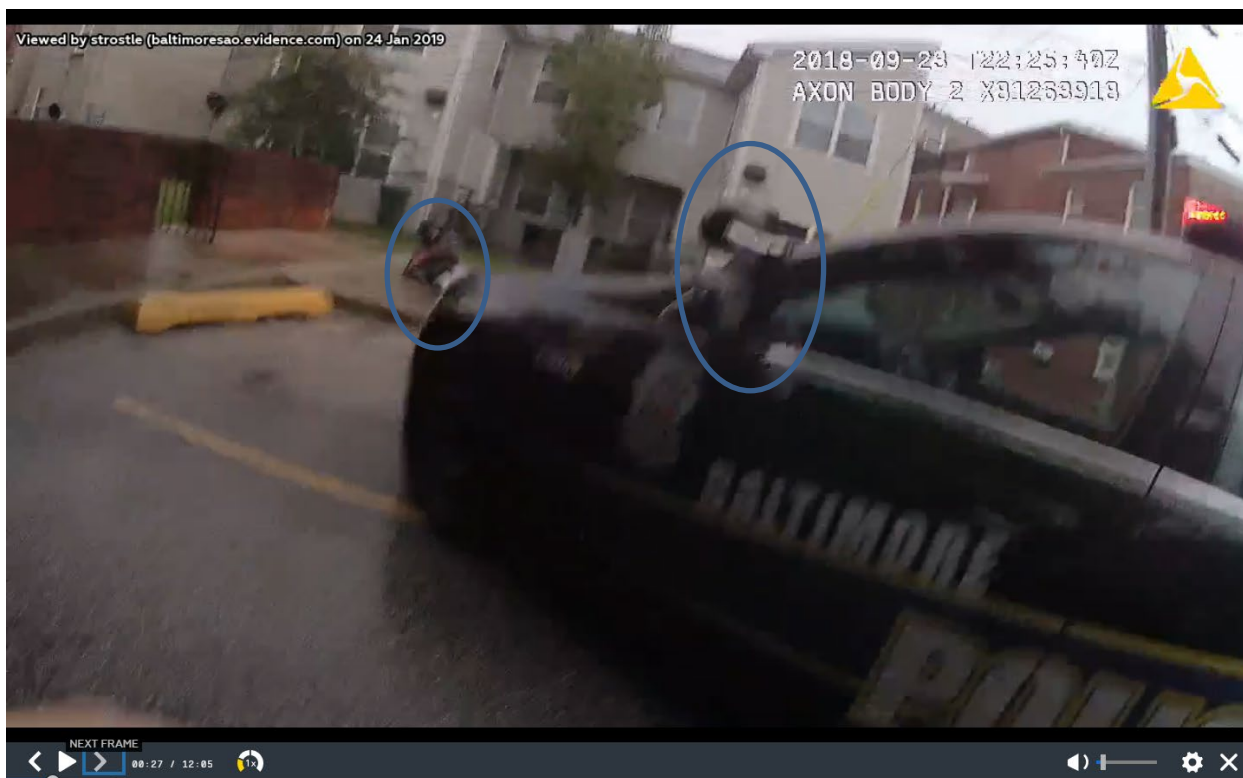
The blue arrow is pointing at the Involved Citizen (he is right at the edge of the screen) and is pointing in the direction that he is running. The red/blue arrow is Officer #1's and Officer #2's cruiser. It appears that the cruiser's headlights are on, and the two "on all the time" lights are on the roof-mounted light bar, but the vehicle's additional emergency lights are not activated. Officer #1 & Officer #2 do not get out and chase, choosing instead to pursue via an alternate route.



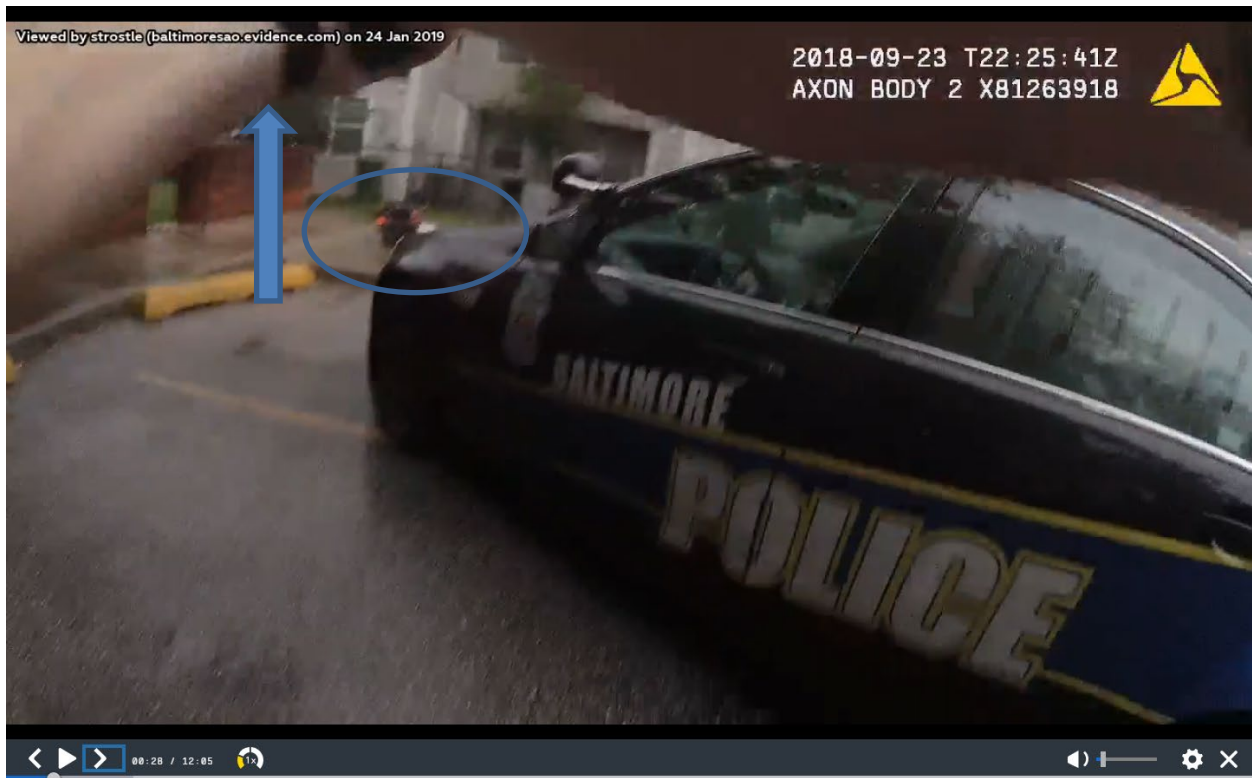
This is a shot of Officer #1 getting out of the driver's side door of the cruiser. Inside the blue oval is The Involved Citizen, lying on the ground, facing the two officers (Officer #2 cannot be seen, but at this moment he is getting out of the cruiser on the right hand side.). What is critical in the photo is that while you cannot see a gun in his hand in this still-shot, you can see the activated laser on the gun.



The Involved Citizen is lying on the ground, with gun in hand. Officer #2 is now pointing at the Involved Citizen with his left hand, it appears that he is giving verbal commands, and his right hand is on his gun/holster. Officer #1 has retreated just a few feet.



18:25:40, this is where the Involved Citizen opens fire. This still shot is not clear, but the oval on the right is where Officer #2's body is contorting, as his body is taking the energy and velocity of a gunshot to the chest.



Officer #2 has been shot 1 second earlier, and now Officer #1 has raised his firearm and begins shooting. You can again see the red laser attached to the gun is illuminated, which means the Involved Citizen is again taking active aim or is actually shooting. This is where Officer #1 fires his first 4 shots.



Officer #1 is retreating behind the cruiser, and his BWC captures Officer #2 as he too is retreating, back-peddling to seek cover behind the utility pole. The audio is now on, and it seems that this is when Officer #2 first starts firing back. He has already been shot once,



Officer #2 (far right oval) is now seeking cover and is unloading his first magazine. Officer #1's arms are out in front of him (upper left, blue arrow), as he approaches and fires four more shots at the Involved Citizen, who is in front of the cruiser and still on the ground (marked by the blue diamond). The Involved Citizen is still actively shooting.



Officer #1 retreated through the alleyway, called out “shots fired” and performed a tactical reload. This picture captures him as he’s running back into the theater. Officer #2 can be seen in a bladed, tactical position, firing upon the Involved Citizen. The Involved Citizen is still lying on the ground in front of the cruiser, below the blue arrow.



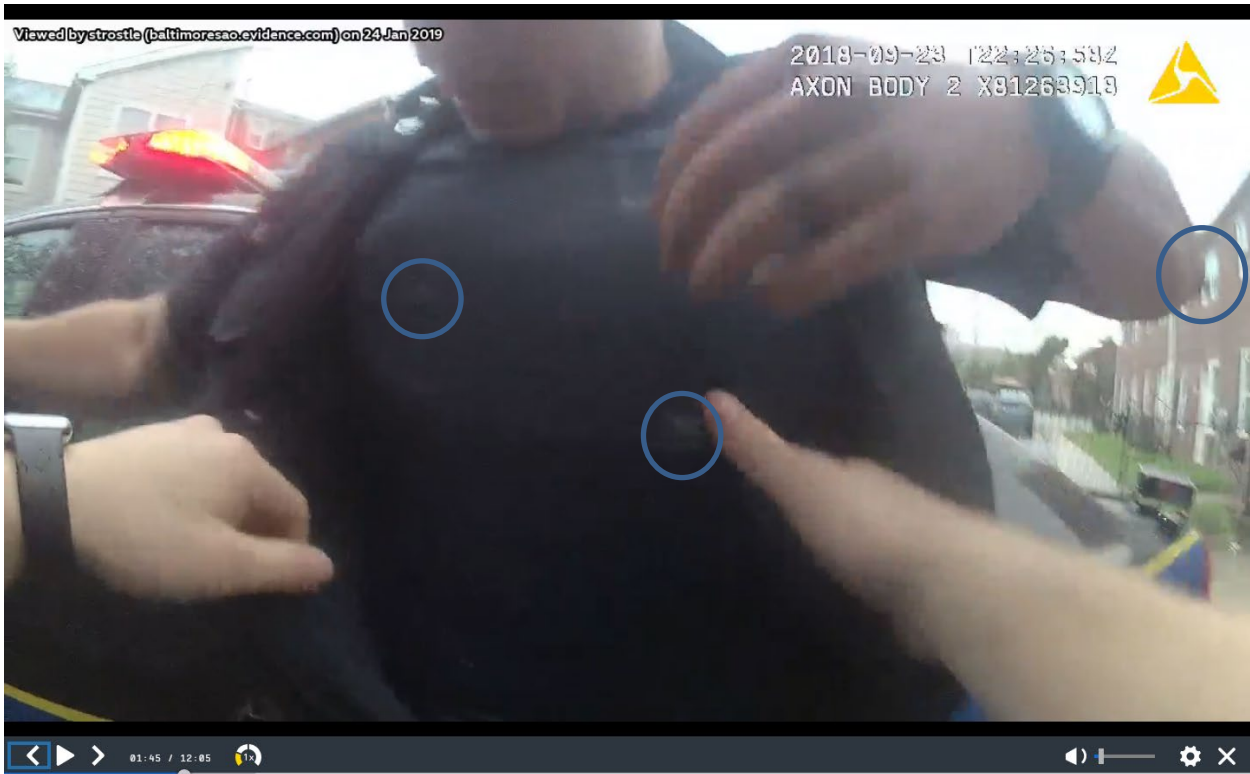
This is from a residential video camera. It depicts Officer #2 after he has retreated while under fire, and he has taken a cover position behind a utility pole and is seen here actively firing on the Involved Citizen. There is no other usable footage from this particular camera.



Officer #2 (far right) is out of bullets from his second magazine and is putting his third magazine in. Officer #1 approaches, raises his hands, and fires one last shot at the Involved Citizen. This is the end of the shooting.



Officer #2 is still in a ready position, as Officer #1 is approaching him and trying to tell him that the shooting is over—and to check on the well-being of Officer #2. On the left, the Involved Citizen is lying motionless, though his gun is within inches of his hands.



Before backup arrives, with the Involved Citizen lying motionless on the ground in front of the cruiser, Officer #1 checks on his partner's well-being. The BWC had been destroyed by a bullet, leaving a mark on Officer #2's vest (near Officer #1's right thumb, in the middle of this picture). Another bullet had penetrated Officer #2's vest, his upper right chest above his nipple (on left of this picture), leaving a deep contusion that could be seen when he arrived at Shock Trauma. The circle on the right side of this picture identifies where Officer #2's elbow was grazed by a bullet.

The bullet that struck Officer #2 in his upper right chest did fully penetrate his vest; however, the bullet did not penetrate his skin, and was found lodged between his vest and his skin once he arrived at the hospital and his vest was fully removed.