

Police Involved Shooting

Date: 6-27-2017

Location of Shooting: 1600 block of Filbert Street

Investigated by: Baltimore Police Department

Factual Scenario:

On June 27, 2017 in the 1600 block of Filbert, LEO#1 and #2 were on routine foot patrol near Hazel and Filbert Streets. As they were walking they encountered a male whom they would describe as having the characteristic of an armed person. They approached the male and he ran. As the male was running, he grabbed the front of his pants. Once he reached the parking lot at the recreational center, he turned and pointed his gun at the officers. LEO#1, who was leading the chase, tripped and fell backwards as the male was pointing his weapon at the officer. LEO#1 discharged his weapon at the male. LEO#2 fired and continued chasing the male. LEO#1 got up and continued the chase. As LEO#2 approaches another alley, shots are heard and LEO#2 says "shots fired, shots fired." Almost simultaneously, gun fire between the male and LEO#2 occurs. LEO#2 goes to the ground. After gun fire stops, LEO#2 jumps up and continues to chase the male in the alley. LEO#1 turns the corner of the alley and fires in the direction of the male. The male continues to run in the alley and turns left into another alley. LEO#1 is heard saying "I think he is on the ground...he is getting up."

The male, who was wounded and bleeding, flagged down a passing car. The occupants of the car did not see the incident and drove the male to Harbor Hospital. All three occupants of the vehicle have been cleared of any wrong doing. The male survived his injuries.

Law Enforcement Witness Statement Summary:

LEO#1:

LEO #1 provided a force report as a result of the incident. He stated “while on duty a male discharged a handgun at me. In fear of my life, I discharged my service weapon.”

LEO #2:

LEO #2 provided a force report as a result of the incident. He stated “while on duty a male discharged a handgun at me. In fear of my life, I discharged my service weapon.”

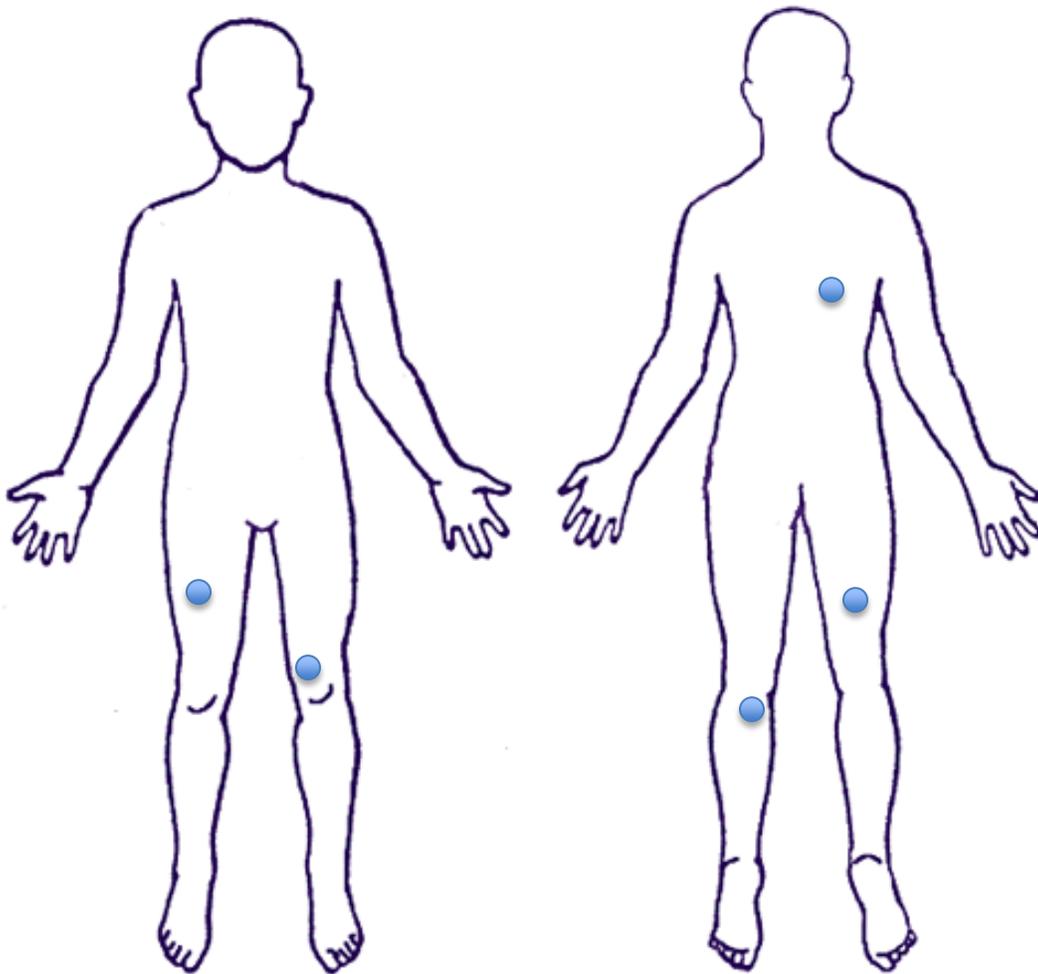
BODY WORN CAMERA (BWC) VIDEO:

LEO #1 and #2 had on BWC during the chase. Their BWC were not operating at the initial stop of the male. LEO#1 BWC footage shows him running after a black male wearing a t-shirt, grey pants and dark shirt hanging out. In the parking lot of the recreation center, the male turns towards LEO#1 and extends his right arm toward LEO#1. In his right hand is a gun. The male points it toward LEO#1 and two shots are fired from LEO#1. Almost simultaneous to the shots, LEO#1 falls backwards. LEO#2 runs by LEO#1 shooting at the male. LEO#1 gets up and resumes the chase. As LEO#2 approaches another alley, shots are heard and LEO#2 says “shots fired, shots fired.” Almost simultaneously, gun fire between the male and LEO#2 occurs. LEO#2 goes to the ground. After gun fire stops, LEO#2 jumps up and continues to chase the male in the alley. LEO#1 turns the corner of the alley and fires in the direction of the male. The male continues to run in the alley and turns left into another alley. LEO#1 is heard saying “I think he is on the ground...he is getting up.”

AREA VIDEO

Two cameras offer video of the incident. The Recreation Center shows the male and the officers starting the chase at the intersection of Hazel and Pennington, then heading north through the park to the parking area. The male places his hands to the front of his pants while he is running. The other video only shows the male coming out of an alley, turning left onto Elmtree Street.

Male's Injuries (approximate)



Ballistics' Evidence:

LEO#1 was in possession of a Glock 22. Upon inspection, he had (1) round in his chamber, and 12 rounds in his magazine. His primary magazine was empty and his secondary magazine had 14 rounds. He fired 15 rounds.

LEO#2 was in possession of a Glock 22. Upon inspection, he had (1) round in his chamber, and 3 rounds in his magazine. His primary magazine had 14 rounds and his secondary magazine had 14 rounds. He fired 10 rounds.

Holman's weapon was not recovered; however, still photographs from the Body Worn Camera Footage depict the firearm in his hand and in the alley. Additionally there were two nine millimeter shell casings recovered behind 1619-1623 Filbert Street.



BWC Footage showing male turning toward LEO#1 with gun in right hand



BWC footage showing male pointing his weapon at LEO#1 and 2.

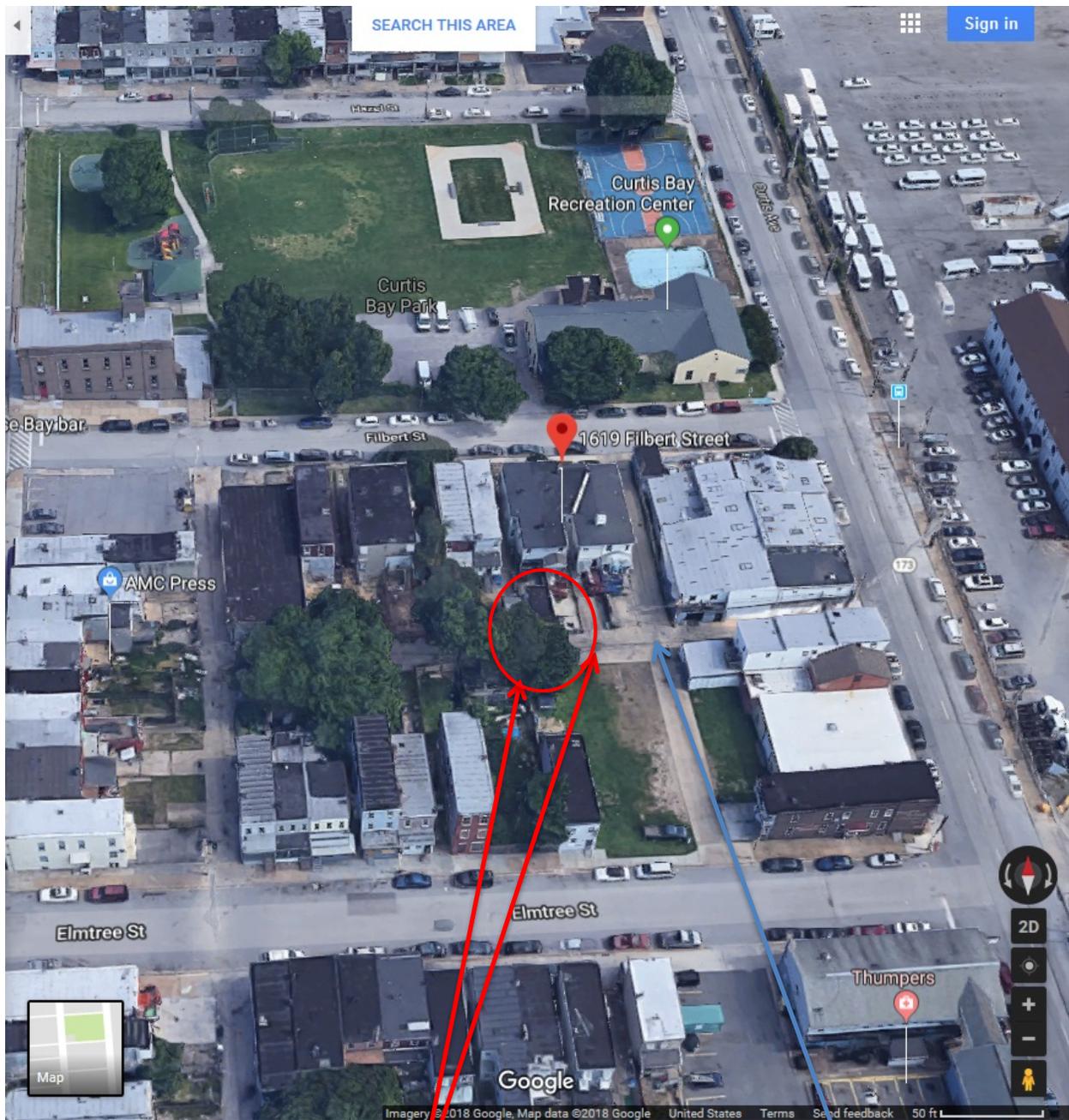
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BWC footage showing male pointing his weapon at LEO#1 and 2



Sequence of photographs showing male pointing gun at LEO#1 and LEO#1 falling backwards. These photographs are at a different angle than the previous ones.



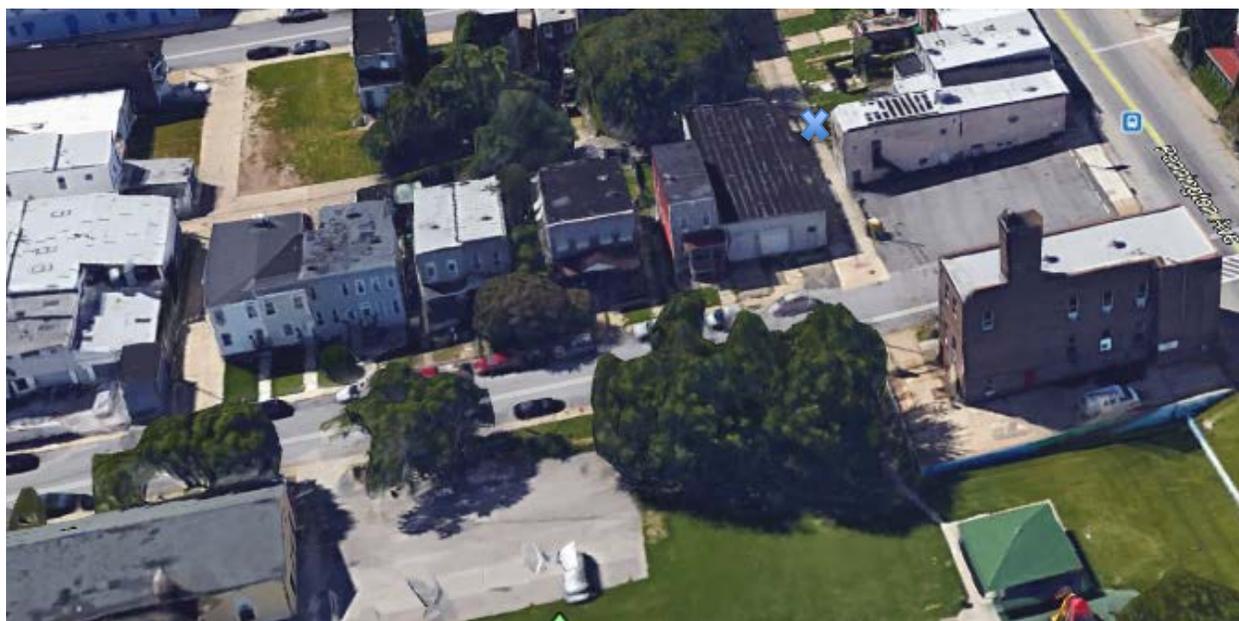
Two nine millimeter shell casings found in the grass and alley around 1623-1619 Filbert Street.

Approx. Location of second exchange of fire between male and LEO#2

Route: (approximate)



Location of Gun (approximate)

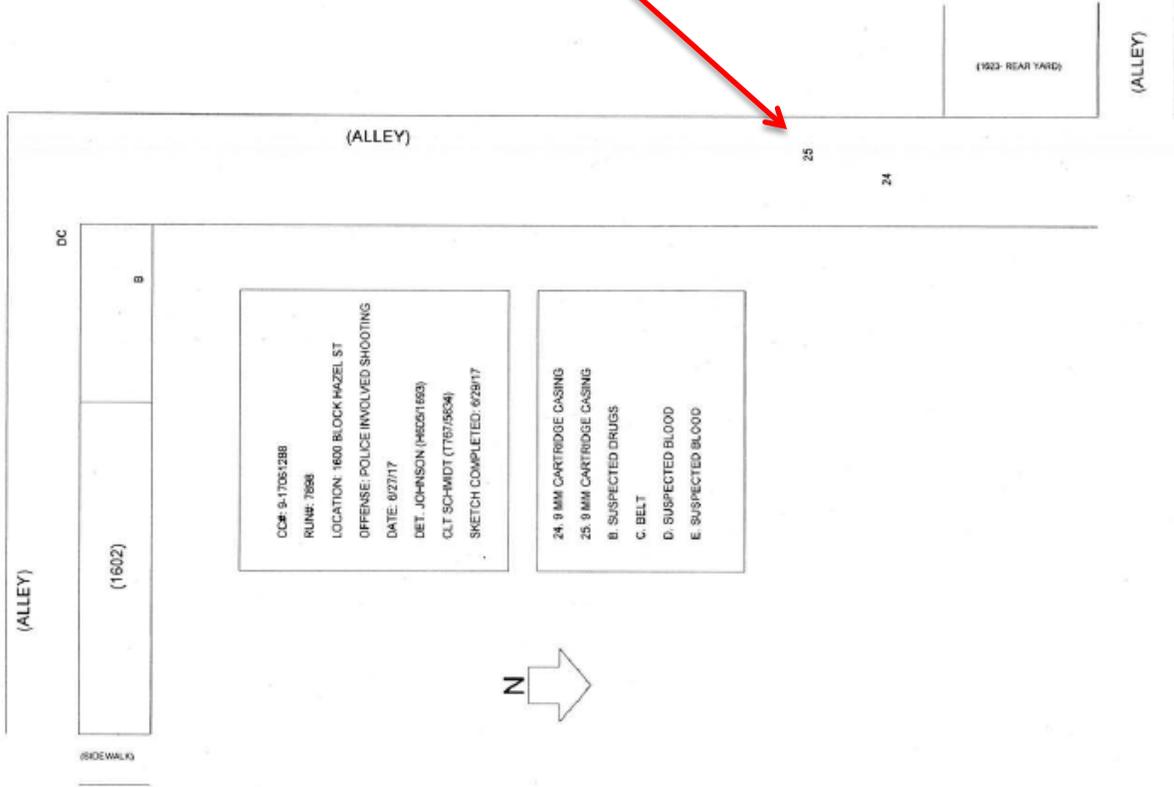


Location of Gun from BWC





Crime Lab Sketch:
#24 and 25 are the 9 millimeter cartridge casings.



Other Evidence Recovered

Evidence recovered from the male included currency in the amount of Fifty-Seven Dollars and a baggie containing a white rock substance.

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.

LEO #1 and 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 male turning toward LEO#1 with a gun in his hand and pointing the gun at the officer. LEO#2 was slightly behind and to the side of LEO#1. Both officers were clearly in immediate and imminent danger of being shot.

A discharge of weapons between LEO#2 and the male occurred at the top of where two alleys intersect. LEO#2 took cover by falling to the ground. Two nine millimeter casings

were located close to the intersection of the two alleys. Knowing that the male had a weapon, had discharged the weapon attempting to strike LEO#2 at the top of the alley, the officers continued to pursue the male as he posed an immediate threat to the safety of the community, the safety of the officers, was committing an on-going crime and was attempting to escape.

As the Supreme Court concluded in *Tennessee v. Gardner*,

Where the officer has probable cause to believe that the male poses a threat of serious physical harm, either to the officers or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the male threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious bodily harm, deadly force may be used if necessary to prevent escape...

Id., at 11-12

Conclusion

Given that BWC video shows: (1) the male with a gun, (2) the male pointing the gun at both LEO#1 and 2, (3) the male was committing an on-going crime while trying to escape, and (4) the male fired his weapon at LEO#2 who was approaching the top of the alley, it would be objectively reasonable for the officers to conclude that their safety and the community's safety was at risk leading them to protect themselves by utilizing force. Having observed the male point a gun at them just seconds before he fled, the officers had an objectively reasonable belief that the male was armed and dangerous. Additionally, the BWC captures LEO#2 yelling "shots fired" while in the alley where the two shell casings were located. 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 officers' actions in this case did not rise to a level of criminal culpability. Therefore, the State declines to prosecute the officers.