

Police Involved Shooting

Date: 10-16-2017

Location of Shooting: 6001 Harford Road

Investigated by: Baltimore Police Department

FACTUAL SCENARIO

On October 16, 2017, at around 2:50 AM, Law Enforcement Officer (LEO) #1 arrived at the 7-11 located at 6001 Harford Rd. He pulled into a parking spot that had a clear view of the cash register area. He observed a robbery in progress. The suspect, wearing a mask, was armed with a Winchester Model 1200 .12 gauge shotgun that was pointed at the store clerk. One of the customers, Civilian Witness #1, exited the store from the front door and began running. LEO #1 then saw the suspect exit the front door with the shotgun in his hand. LEO #1 exited his vehicle, drew his weapon and fired eight shots. The suspect fell to the ground immediately. LEO#1 waited for backup to arrive before securing the weapon and rendering aid to the suspect. The incident is captured on Body Worn Camera and the 7-11, Closed Circuit Television. The suspect was taken to Bayview hospital for treatment. He was pronounced deceased from his wounds at 3:49 AM.

TIMELINE

Time	Action
02:49:44	The suspect enters store.
02:49:55	LEO #1's BWC buffer begins.
02:50:03	LEO #1 drives into the lot
02:50:09	The suspect peeks to the right.
02:50:13	Civilian Witness #1 runs from store.
02:50:16	The suspect exits with gun / shots fired.
02:50:21	LEO #1 Notifies KGA
02:50:26	LEO #1 activates his BWC.
02:50:46	LEO #1 reports "suspect's down."
02:51:52	LEO #1 signals "10-38."
02:52:44	Gun is removed from the suspect.
02:52:49	"We need to render some aid"
02:53:53	First Aid begins
02:54:31	LEO #2 requests the Medic to step it up, they have a pulse.
02:54:38	Mask removed
02:56:05	CPR begins
02:58:00	EMT arrives

CIVILIAN WITNESS INTERVIEWS

CW#1

CW#1 was picked up from her work at a club downtown and was taken to the 7-11. When she entered the store, it was empty. She picked up some items and went to pay for them. She turned around briefly when she noticed the suspect inside the store with a long gun. She then backed up because it appeared as if he was about to shoot the attendant. The suspect then said "Shorty, here. Grab your stuff," referring to the items on the counter. The suspect took money from her as she grabbed her bag. The suspect then noticed the police officer pull up. CW#1 believed that the officer didn't notice what was going on until he pulled up into the parking spot. The suspect then audibly cocked his gun and told her, "You better get out of here."

CW#1 ran outside of the door. Her friends told her that it looked as if he was using me as a shield. She stated that it appeared that he was going to shoot her or shoot the police. She then heard shots. She was afraid for her life. She believed that if the Officer didn't shoot that man, he probably would have shot her. She heard the police officer say "Put it down, don't move! Put it down, don't move!" prior to opening fire. This statement is not on BWC, because the shooting occurs during the buffering period.

CW#2

CW#2 was working at the register of the 7-11. He was helping a lady at the register, when he saw someone come into the store wearing a hoodie and with his face covered up. The person pointed a gun at him and handed him a paper bag. He was then ordered to open the register and give him the money. The person took the money from the register as well as from the lady in the store. He noticed that the person was holding a long gun in two hands. The person then looked up and said "Oh my god." The person noticed the police officer on the other side of the window. He did not see if the officer actually saw the gun. He stated that the girl left before him. The person then ran away. CW#2 heard gunshots and saw the person fall to the ground. CW#2 believed that there were three shots. After the

shots were fired, he saw other police officers rendering first aid. He recollected that they performed CPR.

CW#2 never saw that person in the store before. He didn't see a car drop off the individual. He also stated that there was a homeless man outside of the store, who is a usual customer.

CW#3

CW#3 was in a Pontiac GT with her boyfriend and his friend, CW#1. They pulled up to the 7-11 with CW#1 and parked the vehicle. She recalled seeing people coming in and out of the store. She also noticed a person walking behind her car. CW#1 then went into the store to buy some items while they waited in the car. She said "That man went inside, and talked to the person at the register". Her windows were up. She could not hear any conversation. She then saw another person come from around the corner on the right and enter the store. The person went into the store quickly. This person was not the person she identified as the person who committed the robbery. She then looked away and was not able to see events until the police car pulled up on her right hand side. There was a space between her and the police officer. She saw CW#1 rush out and move past her car. The officer then began shooting. She was unable to hear anything. CW#3 saw the weapon on the ground before they moved it. She noticed a metal barrel. She stated that the officer looked around his surroundings. Shortly after, a second officer came. The person on the ground was still shaking and twitching. She did not see that person go into the store at all (19:22). CW#3 also stated that the person had a mask and a black hoodie on.

CW#4

CW#4 and his girlfriend, CW#3 drove from his home to pick up his friend "CW#1". After they picked her up, they stopped at the 7-11 at around 2:30am. CW#4 pulled in front of the door and parked his car. He did not remember any other cars in the parking lot. He recalled that there might have been one or two other people in the store. CW#4's view was not obstructed. He did not really think that anything was going on. He didn't know that the store was being robbed. He

observed that CW#1 had grabbed a soda and some laundry detergent. He had seen her come to the counter.

He then noticed someone come from around the corner of the store. The man came out really fast, within 30 seconds of being in the store and turned to that person's left. The man was wearing a dark grey jacket, in his early to mid-thirties and about 200 lbs. His hair was close cut and did not have facial hair. This person was not the one who robbed the 7-11.

CW#4 could see the police officer pull up to the 7-11 calmly, while CW#1 was at the counter. The officer got out of the car and started shooting. He did not see the suspect enter the store. He described the suspect carrying a big sawed-off shotgun. CW#4 didn't see the gun until after he got out of the store and fell on the floor. To CW#4, it didn't look like the store was being robbed. He didn't see the gun being pointed at the attendant. The suspect was standing like someone giving privacy at the ATM. It appeared like he was waiting for her to finish her transaction.

It appeared to CW#4 that when CW#1 pulled her money out the suspect tried to snatch her money. CW#1 then fled from the store. The suspect made her get out of the store first. CW#1 told CW#4 that the suspect cocked the gun and said, "You better get out of here." CW#1 then ducked and ran out the door and past the car. It appeared as if the suspect was trying to use her to get away. The suspect attempted to go around the corner and run. The officer fired at the suspect while he was in front of the cigarette ash tray. The officer did not give any verbal commands to stop. CW#4 believed that if the officer tried to give a verbal command, he could have been shot.

LEO (Law Enforcement Officer) WITNESS STATEMENT SUMMARY¹

LEO #2

LEO #2 responded to a report of shots fired. He was 13 blocks away from the location. After hearing the call, he went code 1 and activated his BWC. When he arrived on the scene, he approached with his sidearm drawn. He then holstered his weapon and secured the shotgun. When asked to describe the weapon, he reported that it was a sawed off shotgun, about 28 inches in length, taped at the handle with white duct tape. When he arrived on the scene, the suspect was practically lying on top of the shotgun.

LEO #2 looked for gloves to render aid because of the large amount of blood and the risk of blood-borne pathogens. He then rendered aid to the suspect and positioned him on his back to see where he was shot. LEO #2 noted that the suspect still had a strong pulse. He was coughing, alive, but not able to communicate. LEO #2 then requested that the medic to "step it up." Two other officers arrived on the scene and took over the responsibility of rendering aid. They gave the suspect CPR. These officers continued their care until the medics arrived.

LEO #2 remembered seeing two people in a red car, possibly a Pontiac. He attempted to get a recorded statement from the male and female sitting in the Pontiac. The witnesses told him that it happened quickly. The guy walked up with a gun and the Officer pulled up and shot him. There was a female who LEO #2 believed was a victim of the robbery. He also spoke to the clerk to get to his ID. LEO #2 transported the two witnesses to the station to be interviewed but later, returned to the scene as the primary officer. LEO #2 did not speak with LEO #1. He recovered \$26 in U.S. currency from the suspect and submitted it to ECU.

¹ LEO#1 did not provide a statement.

LEO #3

LEO #3 reported that he was at the District taking care of some paperwork, when heard a call from an Officer asking for more units. LEO #3 and LEO #4 responded to the scene. When he arrived, he activated his BWC. He observed a black male lying on the ground in front of the store. He cut the suspect's shirt off and tried to find bullet holes on his body. LEO #3 noted that the suspect did not have a pulse. LEO #4 started chest compressions and LEO #3 started giving breaths. The suspect was not conscious when they began treatment. LEO #3 had attempted to control the bleeding and keep what little cardiac rhythm he had until the ambulance came. LEO #3 saw a shotgun lying a foot or two in front of the suspect's body, in front of the police car. LEO #3 was a paramedic for six years in Baltimore County.

LEO #4

LEO #4 reported that he was at the station charging his body worn camera when he heard LEO #1 call out that shots had been fired and that there was a person armed at the 7-11. LEO #4 was the third or fourth Officer on the scene. He arrived just after his shift commander. LEO #1 and LEO #2 were already on the scene. Upon arrival, he observed that the suspect was laid out with two gunshot wounds that he could see. He also observed the shotgun located in front of the police cruiser. LEO #4 applied a chest seal on the suspect. Other officers had placed gauze on the suspect's head. LEO #4 then began chest compressions while LEO #3 gave breath. Because of his prior medical training, he ordered LEO #1 to move out of the way so that they could continue treatment. While he was rendering aid, the suspect was not coherent. He had no pulse and was in agonal breathing, which he described as the body's way to jump-start itself. He had one bullet wound to the head, above the left eyebrow as well as one bullet wound to the chest. LEO #4 rendered aid until the paramedics arrived.

He reported that he did not speak with LEO #1 about the incident. LEO #4 drew a diagram that showed the location of the shotgun. He observed a red sedan a few spots over and perhaps another vehicle on the scene. LEO #4's body worn camera was turned with the assistance of another officer sometime after LEO #4 began chest compressions. LEO #4 had prior medical training through the military and he

was a firefighter for 5 to 6 years in New Jersey. He had prior experience with rendering medical aid with shootings.

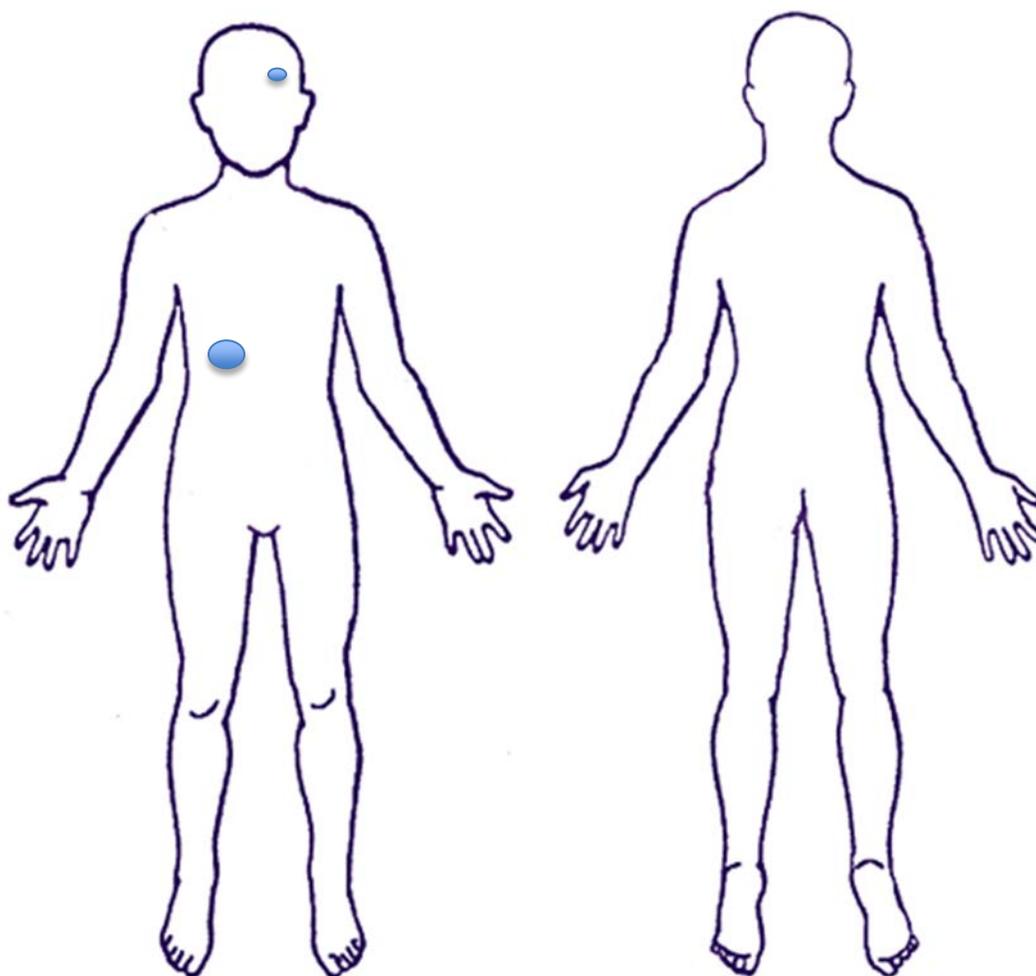
He stated that rendering aid was a moot point with a gunshot wound going directly to the head. In his opinion, he was pretty much preserving the person to be an organ donor and that you don't come back from that. He spoke with the medics and they did not think they were not going to transport, but the medics had not completed the requisite amount of chest compressions and treatment cycles before they could stop treatment.

BALLISTICS REPORT

LEO #5 inspected LEO #1's weapon on October 16, 2017 at 04:35. He found it chambered with 1 round. There were 5 rounds recovered from the magazine in the weapon. The magazine had a 14 round capacity. LEO #1 likely fired 8 shots from his weapon.

POST-MORTEM EXAMINATION

The suspect's body was examined on October 17, 2017. Dr. Fowler made the diagnosis that the suspect received the following injuries: tangential gunshot wound of the head and torso. The tangential gunshot wound of the head injured the skull and resulted in bleeding and bruising of the brain. The gunshot wound of the chest injured the diaphragm, liver, mesenteric soft tissue, and bowel resulting in significant blood loss to into the abdominal cavity.



VIDEO EVIDENCE

BWC Submitted

LEO#1 activated his BWC after the shooting but the buffer captures the shooting. It is clear from the video that the time it took for the suspect to exit the 7-11 to when shots are fired was less than a second. The video begins with the officer in his patrol vehicle. He enters the 7-11 parking lot and parks in the front of the store at approximately 2:50:03 a.m. He exits his vehicle but remains behind his vehicle's door with his weapon drawn at approximately 2:50:14 (prior to the suspect exiting the store). Because the shooting happened quickly, it is difficult to provide still photographs as when the BWC film is put into slow motion, the film becomes too blurred to see the shooting. See below picture.

7-11 Video Surveillance

The suspect enters the store with the firearm at approximately 2:49:44 a.m. Civilian Witness #1 exits the store running at 2:50:13. The suspect exits the store at 2:50:15.

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*. As the Court explained in *Tennessee v. Garner*, 471 U.S. 1, 12 (1985), "where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not unconstitutionally unreasonable to prevent escape by using deadly force."

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 meets the four legal factors listed above to justify the shooting of the suspect as well as the standard set forth by the Supreme Court. LEO #1 was clearly in immediate and imminent danger of being shot. The suspect exited the 7-11 with the shotgun cocked and in his hand. LEO#1 was positioned behind the front door of his vehicle but directly in front of the door to the store. As the suspect exits the store with the weapon in his right hand, which is parallel to the ground, LEO#1 fires his weapon striking the suspect.

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

1. The officer actually believed that the person he was defending was in immediate and imminent danger of bodily harm;
2. The officer's belief was reasonable;
3. The officer used no more force than was reasonably necessary in light of the threatened or actual force; and

4. The officer's purpose in using force was to aid the person he was defending.

The officer's purpose in using force was to aid the person he was defending. The video footage (BWC and 7-11) shows the suspect exiting the store, with his shotgun in his right hand, and two civilians within close range. Civilian Witness #1 stated in her interview she felt that the suspect was "using her as a human shield." It was reasonable for LEO#1 to believe that both civilians were in imminent danger of bodily harm.

CONCLUSION

Given that (1) the suspect was committing an armed robbery, (2) the suspect was armed with a shotgun, (3) when the suspect exited the 7-11, he was armed with a weapon in his right hand and two civilians were within close proximity to him, and (4) upon exiting the 7-11 door, and based on the position of his right shoulder and arm, it appears the suspect exits the store with the firearm in his right hand which is pointing toward the officer, it would be objectively reasonable for the officer to conclude that his safety and the safety of the two other civilians were imminently at risk of death or serious bodily injury leading him to protect himself and the civilians by utilizing force. Furthermore, the decision to use force was likely justified under the Maryland law of self-defense and the standard put forth by the Supreme Court in *Graham v. Connor*.

LEO#1's actions in this case did not rise to a level of criminal culpability. Therefore, the State declines to prosecute him.

7-11 store video

The suspect, wearing a mask, entering the store and pointing the weapon at the store clerk



The suspect with two hands on the weapon pointing the weapon at the clerk.

7-11 Store Video 360° view



7-11 360° video

The suspect turns toward the officer whose vehicle is parking at the front of the store



7-11 Video 360°

The suspect is taking the money from the clerk while pointing the weapon at him. The suspect keeps the bag in his left hand and the weapon in his right hand. Leo #1 has his vehicle parked at the front of the store.

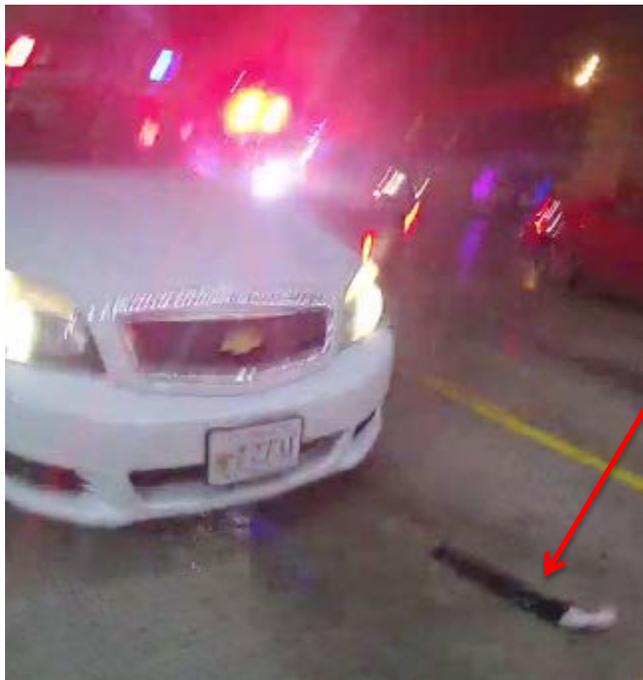


7-11 Store video 360°

The suspect exits the store. The weapon is in his right hand.



BWC Video LEO#1



The weapon after it was removed from the suspect's hands