

# Police Involved Shooting

Date: 4-27-16

Location of Shooting: Aisquith Street

Investigated by: Baltimore Police Department

## Factual Scenario:

Two (2) BPD Officers were traveling eastbound on Baltimore Street towards Central Avenue operating an unmarked vehicle and wearing plainclothes with police identifiers on their vests. As the Officers were stopped in traffic, they observed three juveniles, on the sidewalk, one of whom was holding a gun. One officer got out of the vehicle and approached the juveniles. The juveniles ran. The juvenile with the gun ran across Baltimore Street and continued northbound onto Aisquith Street. Both officers chased the juvenile yelling to the juvenile to “drop the gun.” The juvenile stopped and turned toward the officers with the gun in his hand. One officer discharged his weapon shooting the juvenile in the shoulder and leg.

## LE (Law Enforcement) Witness Statement Summary:

### **LE Witness #2:**

My partner and myself were driving eastbound on Baltimore Street towards Central Avenue. We were stopped in traffic. I was the passenger and my partner was the driver. I looked to my right and stepping off the curb are three individuals and the front individual was holding a gun. I got out of the car saying to my partner "he has a gun." I saw the juvenile with a gun and he runs. The juvenile runs on the street, crosses the lanes of traffic and I follow. The juvenile runs onto the sidewalk on the north side of the street and runs westbound towards Aisquith. I follow the juvenile. As I come around the corner and my partner comes around the corner, my partner gets in front of me, not physically in front of me but parallels me and a little ahead of me. The juvenile has a gun in his hand the entire time he is running. The juvenile stops and still has the gun in his hand. I said, "drop the gun." The juvenile doesn't drop the gun. We both have our guns out. The juvenile turns and pulls the gun up and my partner pulls the trigger and shoots him.

## Civilian Witness Statement Summaries

### **CW#1:**

Yesterday I was driving on Baltimore Street and I had stopped at a light. I looked to my right and there was a group of three boys and one had a gun in his hand. It was in plain view and I could see he was holding a gun in his hand. Two people jumped out of the car in front of me with guns drawn and chased the boy. They were undercover cops. I didn't see him actually get shot. I just saw them jump out and they yelled something at him. As soon as I could go, I wanted to get out of there. I was slumped down in my car cause I was scared that there was going to be shots fired cause I thought he actually had a gun.

## **CW #2:**

When they made the corner, they ran another 30 feet, the young man stopped first and the officer stopped and the young man turned around toward the officers with the gun in his left hand kinda palming it, against his palm, faced toward the building, in the air towards the buildings, and that time I heard the one officer say “police drop the gun.” It looked to me that the young man was trying to say something about the gun. The officer fired after the police said “drop the gun and he didn’t drop the gun.” I never saw him kneel down at all, he was standing straight up with his gun in his left hand against his palm when he got shot.

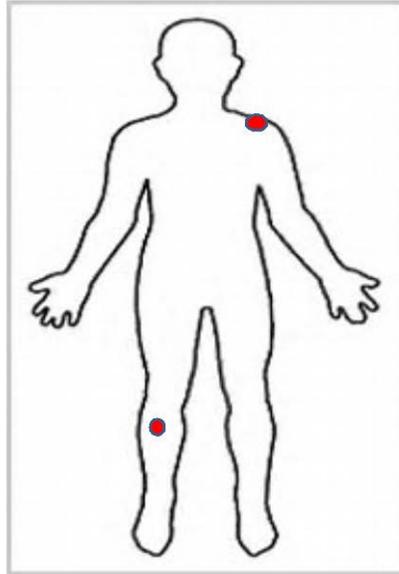
### **CW#3:**

My vehicle was sitting still at Baltimore and Aisquith waiting for the light. I see this young kid running to my left side. He had two people behind him. I see them in plain clothes but I see something around their necks like a lanyard or something. At the same moment, he throws the basketball down, I see a gun in his hand. They have guns in their hand and are saying "drop the weapon, drop the weapon". The juvenile turns right in front of me but goes up Aisquith. One officer was in the lead but the other officer comes up and goes around that officer. The kid stops and turns with the gun still in his hand. He hadn't dropped it yet. He didn't point it at the officers. The gun was chest high. He had already brought it up when he spun. I couldn't be positive but I heard him say it isn't real but he never dropped it.

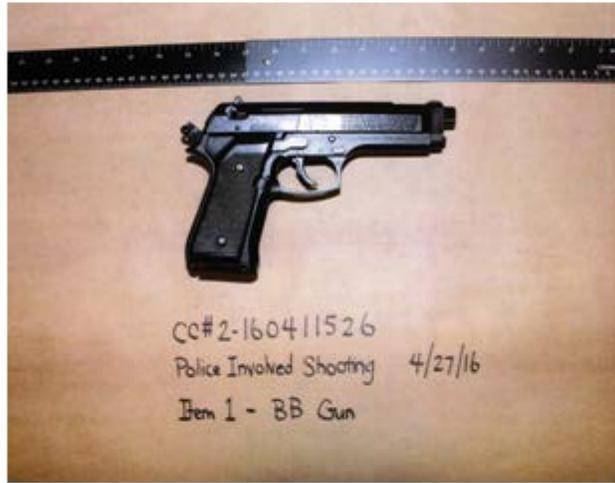
#### **CW#4:**

I am sitting on Baltimore waiting in traffic. I see a kid coming down Baltimore, heading westbound. He caught my attention because I saw that he had a gun in his hand. As soon as I saw him running there were two people running behind him and they had on plain clothes. They didn't have on officer gear and they were also running behind him with their guns out. As he is running, he turns off onto the side street. He turns right and he comes out of one of his shoes. He stopped and turned around with the gun like this (the witness makes a triangle with the witnesses' hands). It's like this (holding the gun further in toward her chest). He turned and faced them with the gun in his hands and they put their guns out towards him. I couldn't hear what was being said cause my window was up. Then the juvenile raises his hands with the gun in his hands like this upward. The barrel of the gun is facing them and they put their guns out to him with their arms straight and they were saying something. Then the next thing I saw was the boy started (she indicates the motion as going down with his hands toward the ground) going toward the ground and he drops the gun on the ground. As he dropped the gun on the ground, he is turning sideways to face the two officers and that's when he got shot.

# Injuries of Juvenile



## FORENSIC EVIDENCE



The weapon held by the juvenile

# Maps



Path run by police and the juvenile

# MAPS

CW# 2 and 3=1<sup>st</sup> x and CW#4 = 2<sup>nd</sup> x



Location of several civilian witnesses is marked by an "x"

# MAPS

Star represents LE#1's position, Circle represents the juvenile's position when he turned and the triangle represents LE#2's position



## Legal Standard and Analysis

The reasonableness of a particular use of force by an officer must be judged from the perspective of a reasonable officer on the scene. When calculating the reasonableness of the use of force, the analysis must include the fact that police officers are often forced to make split second judgments. The "reasonableness" inquiry in a use of force case is an objective one. The question is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386 (1989).

In this case, the video recorded interviews of three civilian witnesses and one law enforcement officer indicated that the juvenile turned towards the officers with the gun in his hands. CW#4 indicated that the barrel of the gun was pointed in the direction of LE#2. LE#2 stated that the juvenile stopped, turned with the gun in his hand and started pulling the gun up. CW#2 indicated that when the juvenile turned toward the police, the juvenile had the gun handle against his palm. CW#3 indicated the juvenile turned toward the officers with the gun chest high. The officers were faced with making a split second decision based on the following facts: (1) A juvenile with a gun, (2) who had not complied with the order to drop the gun, and (3) who turned toward the police with the gun in his hand in a raised position. In order to protect LE#2, the shooting officer had to make a split second judgment as to whether the juvenile was going to shoot LE#2. As the juvenile

turned toward LE#2 with a raised gun, the shooting officer shot the juvenile.

## Conclusion

Given that: (1) there is no dispute that the weapon, as seen in a photograph, appeared to be a real gun; (2) that the juvenile was repeatedly told to drop it; (3) when the juvenile stopped running, he turned to face the pursuing officers with what appeared to be a real gun in hand pointed in the direction of the officers, it would be objectively reasonable for the officers to conclude that their safety was at risk leading them to make a split second decision to protect themselves by utilizing force.

While there are three witness statements that support that the juvenile turned towards the officers with a raised weapon in his hand, we also acknowledge the existence of one statement that alleges that the juvenile was shot after he dropped the weapon he was carrying. Medical experts were consulted by the Office of the State's Attorney for Baltimore City; however, the experts were unable to determine the sequence of the wounds suffered by the juvenile and were unable to conclude which injury the juvenile suffered first.

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