

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE POLICE INVOLVED SHOOTING LOCATED IN THE 2500 BLOCK OF EDMONDSON AVE



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## INTRODUCTION

The Baltimore City States Attorney's Office ("BCSAO") completed its review of the non-fatal police-involved shooting in the 2500 block of Edmondson Avenue. The BCSAO review was conducted by the office's Public Trust and Police Integrity Division ("PTPIU") 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 policies and procedures, 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. The posting of the instant report is entirely within the sole discretion of the BCSAO and is not posted pursuant to any statutorily mandated obligation. The intended purpose of posting this report is to provide insight into the investigation and conclusion reached by the BCSAO regarding the police involved incident as described herein. The investigation and conclusion reached should not be interpreted as expressing any opinions on non-criminal matters. Rarely, there may be supplemental information or corrections needed requiring an update to the report.

In brief, on August 24, 2020 at approximately 2040 hours Involved Officer #1 ("IO1") and Involved Officer #2 ("IO2") responded to a Shot Spotter alert in the 2500 block of Edmondson Avenue. Upon arrival at the scene, they heard additional gunshots and observed a silver sedan fleeing the area at a high rate of speed. IO2 was operating an unmarked silver Hyundai Sonata and IO1 was in the passenger seat.

The officers pursued the sedan to the 2000 block of W. Lafayette Street. The sedan stopped ahead of them. At least one occupant left the car and opened fire at the police vehicle using a rifle with .223 caliber rounds. IO2 slammed on his breaks and brought the car to a rapid stop. Both officers took cover inside their car and returned fire, shooting through the windshield. After a brief continued pursuit, IO2, fearing he might have been hit during the exchange, drove to the Shock Trauma Unit at the University of Maryland Hospital. No injuries were reported related to this incident.

## SUMMARY OF THE EVIDENCE

On August 24, 2020, at approximately 2040 hours (8:40pm), IO1 and IO2 responded to a Shot Spotter alert in the 2500 block of Edmondson Avenue. Upon arrival at the scene, they heard additional gunshots and observed a silver sedan driving at a high rate of speed fleeing the area. IO2 was operating an unmarked silver Hyundai Sonata and IO1 was in the passenger seat. The car was equipped with emergency lights and sirens.

With emergency lights activated, the officers pursued the sedan to the 2000 block of W. Lafayette Street. As they crossed a bridge, the sedan stopped ahead of them. At least one occupant left the car and fired a rifle with .223 caliber rounds at police. IO2 slammed on his breaks and brought the car to a stop. Both officers took cover inside their car and returned fire, shooting through the windshield. After a brief continuation of the automotive pursuit, IO2, fearing he might have been hit during the exchange, drove to the Shock Trauma Unit at the University of Maryland Hospital, where he was found to be uninjured. There is no evidence that any person in the suspect vehicle or other civilians were injured during the shooting.

### **Incident Report**

**Authored by:** Police Officer #3 (reported verbatim except for identification shielding, typographical errors are included)

“On 24 August 2020 at approximately 2040 hours, Officer #3 responded to 2500 Block of Edmondson Ave to investigate a shot-spotter alert call. Upon arrival, Officer #3 started conducting an area canvas from the 2500 block through the 2400 block of Edmondson Avenue looking for a possible crime scene. During the area canvas, Officer #3 spoke to an adult black female who advised that “it was a gray car that was shooting, and it was a female driver.” Also, during the area canvas, Officer #3 was standing in the area of Edmondson Ave. Right after crossing into the 2500 block of Edmondson Ave. Officer #3 observed a gray color sedan driving westbound into the 2500 block of Edmondson Ave. Right after crossing into the 2500 block of Edmondson Ave. Officer #3 observed the same gray sedan stopped abruptly behind the police vehicles that were parked in the 2500 block of Edmondson Ave. facing westbound. After the gray sedan stopped abruptly, Officer #3 observed the same gray sedan made a U-Turn in the 2500 Block of Edmondson ave and made a quick right turn into the 500 block of N Warwick Ave. Officer #3 was joined in the 2500 block

of Edmondson Ave for the initial area canvas for the shot-spotter alert call by #4 7C22, the NERT Unit, Officer #5 and Officer #6 and two state troopers who advised they heard the shot-spotter alert while they were on a detail in the Northwest District in the area of Edmondson Ave. and Poplar Grove.

Few moments after the gray sedan made that quick right turn into the 500 block of N Warwick Ave. Officer #3, Officer #4, the two State Troopers and the NERT Units heard multiple gunshots coming from the 500 block of N. Warwick Ave. Officer #3, Officer #4 and, the two State Troopers and the NERT Units run southbound into the 500 block of Doswell to investigate. During the investigation of the gunshots from the 500 block of N. Warwick, Officer #3 heard the dispatch of a gray sedan driving northbound in the 500 block of N. Warwick Ave and making a right turn into the 2300 block of Calverton Heights Ave. Officer #3 got into his marked patrol vehicle and drove in the direction of travel of the gray sedan and that was when the police involved shooting call came through the radio for the 2000 block of W. Lafayette Ave.

It was mentioned on the radio that the gray sedan continued driving eastbound in the 2000 block of W. Lafayette Ave, made a right turn into the 800 block of N. Monroe St. and continued into N. Fulton and Edmondson Ave. Officer #3 drove to scene on Edmondson Ave and N. Fulton Ave, however, Officer #3 could not locate a crime, so Officer #3 returned to the 2500 block of Edmondson Ave to help with the initial crime scene.

After completing an area canvas in the 2500 block of Edmondson Ave. and the 500 block of N. Warwick Ave, Officer #3 responded to the 2000 block of W. Lafayette Ave. In the 2000 block of Edmondson Ave, Officer #3 was responsible of completing the crime scene log and completing the crime scene investigation at the direction of CERT Unit commands. Officer #3 was not involved in the Police Involved incident initially. Officer #3 was advised that a 2019 silver in color Hyundai Sonata with a MD Tag of [redacted] driven was damaged during the police involved shooting. Officer #3 was advised that the vehicle had bullet holes in the front windshield after an unknown suspect shot at the officers on the bridge in the 2000 block of W. Lafayette Ave. Also Officer #3 was advised that Crime-lab Tech [redacted] responded and processed the scene. Detective Lieutenant #1 responded to scene and took command of the scene. The gray silver sedan was later identified via an LPR camera system located at the intersection of W. Lafayette Ave and N. Monroe st as a 2019 Nissan Altima 4 door sedan with a MD tag of [redacted] belonging

Enterprise and being driven by a female driver. The Officers involved in the Police Involved Shooting were [IO1 and IO2.]”

### **Body Worn Camera Footage**

#### **Involved Officer #1’s BWC:**

IO1 is in the passenger seat of the unmarked vehicle as it pursued the silver sedan. The vehicle stops. At the T00:45:23Z mark, shots are fired at the unmarked vehicle. At T00:45:26Z, IO1 radios that shots had been fired. The officers briefly continue to pursue the suspect vehicle until IO2 voices his concern that he had been shot. IO1 tells IO2 to pull over so that he could drive to the hospital. IO2 declines and continues to drive to the hospital. At the T00:47:05Z mark, IO2 activates the vehicles emergency sirens. The officers arrive at Shock Trauma shortly thereafter.

#### **Involved Officer #2’s BWC:**

IO2’s BWC footage shows him and IO1 in pursuit of a sedan that was involved in a shooting. IO2 operated his unmarked vehicle with his firearm drawn in his right hand. The vehicle’s emergency lights appear to have been activated. Based on the audible screeching of the tires when turning corners, the police vehicle is traveling at a high rate of speed. At the T20:45:17 mark, IO2 slams on the breaks. At the T20:45:18 mark, involved citizen(s) fire(s) shots in the direction on the unmarked car, but the BWC captures neither the citizen nor the vehicle in the available footage. The officers take cover inside their vehicle while returning fire, shooting through the windshield of their car.

At T20:46:00, IO2 remarks, “I’m hit.” Unsure if he had been shot, IO2 drives to the University of Maryland’s Shock Trauma unit. Upon his arrival, IO2 removes his bulletproof vest and shirt for inspection. Baltimore City Fire Services members conduct an examination and, at T20:49:18, determine that the officer was not injured. A Baltimore City Services member inspects IO2’s bulletproof vest at T20:49:50 and determines that the vest had not been struck.

### **Weapons Inspection**

#### **Involved Officer #1:**

A weapons inspection of IO1’s departmentally issued Glock 22 .40 caliber serial #HZT944 was conducted: IO1 was issued 3 magazines, each with a capacity to hold 14 rounds. IO1’s service

weapon contained 1 chambered round with 9 rounds in the magazine. His primary and secondary magazines each contained 14 rounds. IO1 fired his weapon 4 times.

### **Involved Officer #2:**

A weapons inspection of IO2's departmentally issued Glock 22 .40 Caliber serial #HVR522 was conducted: IO2 had been issued 3 magazines, each with a capacity to hold 14 rounds. IO2 fired his weapon 5 times. The magazine retrieved from the firearm had 13 rounds and 1 round in the chamber. A magazine retrieved from within the vehicle contained 8 rounds, another magazine recovered from inside the vehicle contained 14 rounds. IO2's primary and secondary magazines each contained 14 rounds. One live round was found within the vehicle and determined to have been ejected by IO2 during tactical reload.

### **CCTV Footage**

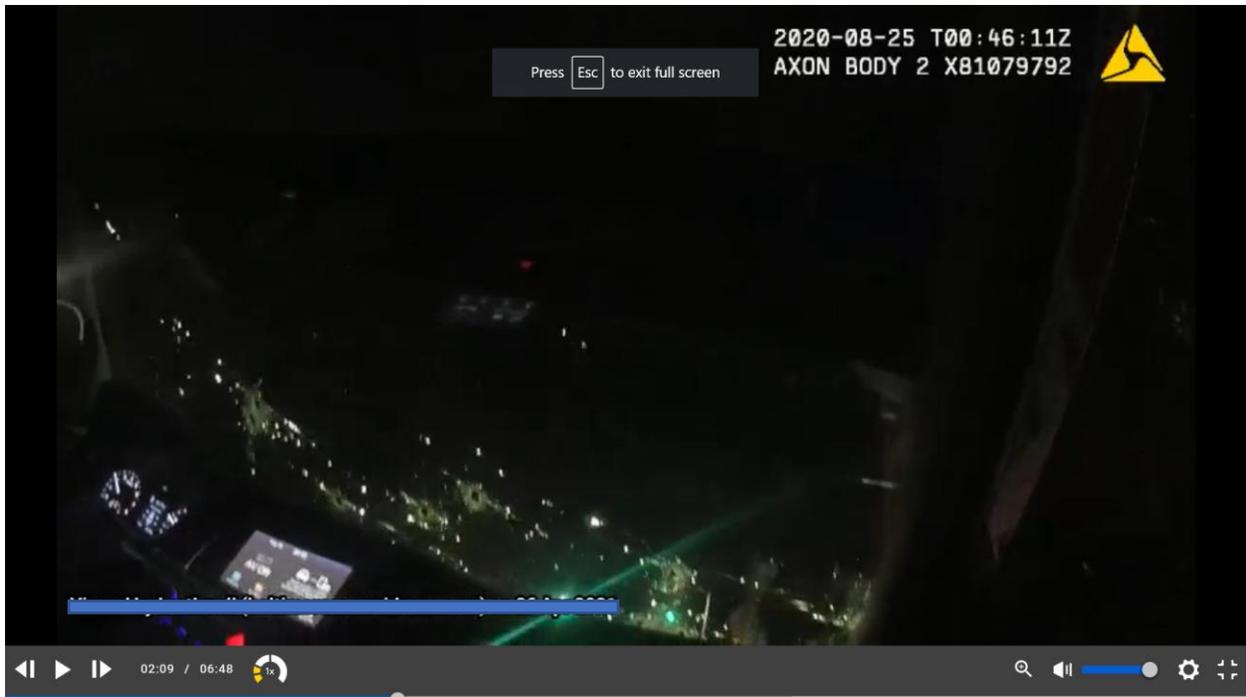
BPD detectives contacted City Watch. A City Watch operator advised that the closest CCTV camera in the area of the shooting is located on the Western District parking lot. It did not capture the incident.

### **Search and Seizure Warrant**

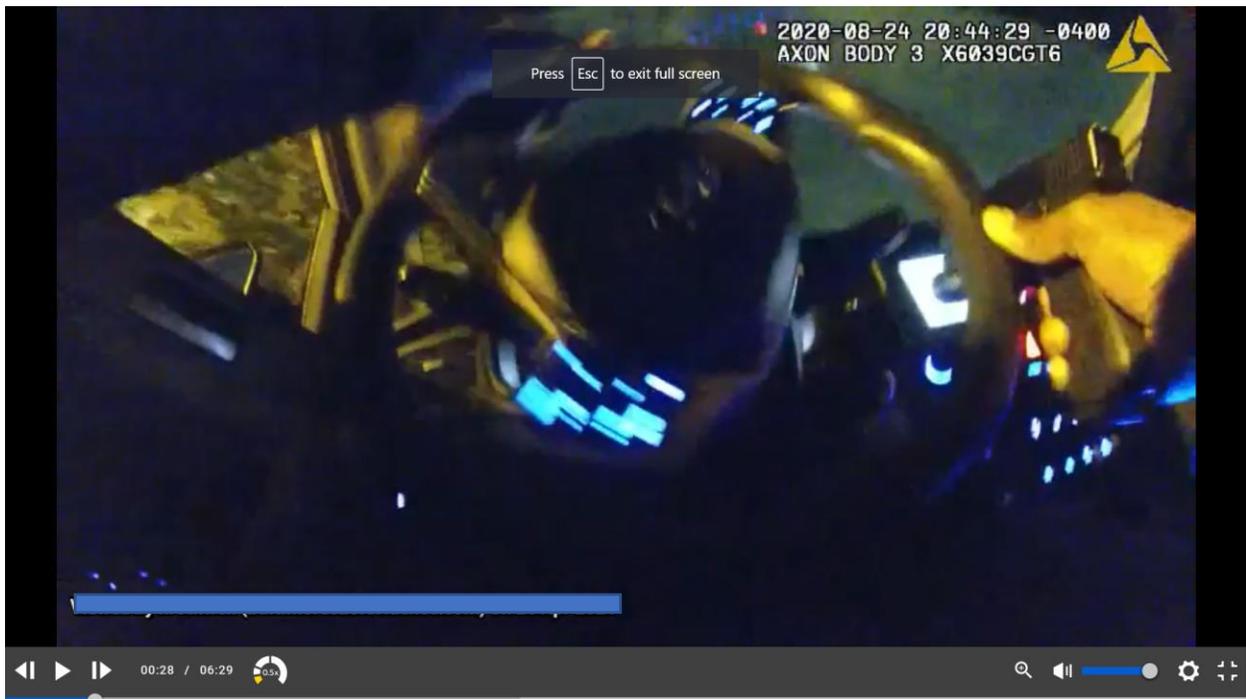
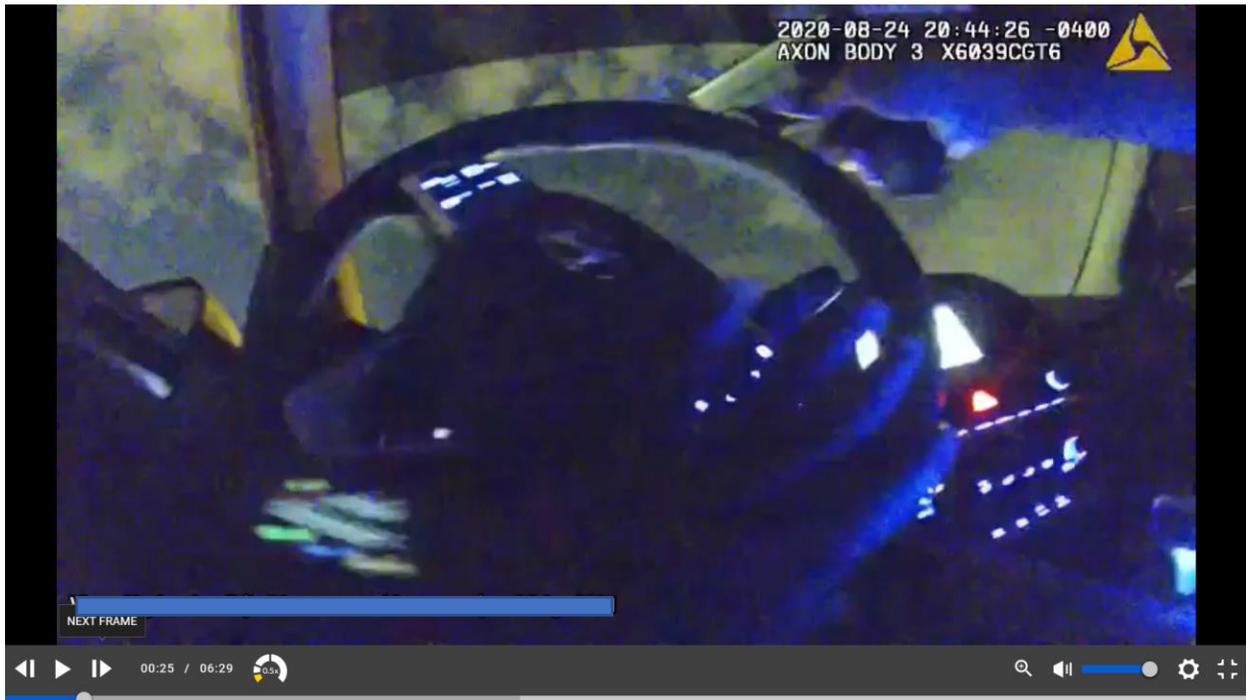
Investigation revealed that the silver 2019 Nissan Altima was a rental vehicle registered to Enterprise Rent-a-Car. The current listed renter was Involved Citizen #3, who was located and transported to BPD Headquarters. Involved Citizen #3 advised that the vehicle had been in the custody of her brother, Involved Citizen #2 since approximately 8/5/20 when the vehicle was rented. She testified that Involved Citizen #1 had contacted her on the morning after the incident (08/25/20) and told her that he wanted her to report the car stolen.

On the morning of 8/26/20, the vehicle was located in the 4200 block of Ethland Avenue. It was transported to the BPD headquarters mobile crime lab bay pending a search and seizure warrant. Police canvassed the area attempting to find witnesses. Video footage of the block was recovered. A confidential source advised that a very distinctive black and pink tow truck. Video footage revealed that vehicle to be located traveling in the 200 block of McCurley Street. The driver was identified as Involved Citizen #4 who was transported to the Homicide Section. He advised he did in fact tow the vehicle to the location of the 4200 block of Ethland Avenue. A warrant was issued by the Judge.

Stills from Involved Officer #1's BWC:



Stills from Involved Officer #2's BWC:





## LEGAL ANALYSIS

Both involved officers reported that they pursued the fleeing silver sedan over a bridge in the 2000 block of W. Lafayette Street. The CAD report, at 20:44:21, revealed a call out for a silver vehicle going up Warwick Avenue. At 20:44:33, the involved officers appeared to follow the vehicle from a safe distance, with emergency lights on. They did not attempt to stop, ram, or otherwise hinder the suspect vehicle. The suspect vehicle, however, stopped and waited for the police vehicle to approach and, without provocation, one or several occupants of the suspect vehicle fired numerous shots at the unmarked vehicle occupied by the officers. There were fourteen (14) .223 casings in the 2000 block of W. Lafayette, along with one (1) fragment, and one (1) .223 caliber live round. While the officers' discharge of their firearms is unquestionably a use of force, the evidence supports that the involved citizen(s) fired at the officers in an attempt to cause serious bodily injury thereby constituting a first degree assault. At issue is whether the officers' use of force was lawful.

The U.S. Supreme Court has held that “*all* claims that law enforcement officers have used excessive force – deadly or not – in the course of an arrest, investigatory stop, or other ‘seizure’ of a free citizen should be analyzed under the *Fourth Amendment* and its ‘reasonableness’ standard.” *Graham v. Connor*, 490 U.S. 386, 395 (1989) (emphasis in the original). The Court has further pointed out that it’s “*Fourth Amendment* jurisprudence law has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.” *Id.* at 396 (citing *Terry v. Ohio*, 392 U.S. 1, 22-17 (1968)).

The reasonableness of a particular use of force by a police officer is judged from the perspective of a reasonable officer on the scene. The “reasonableness” inquiry in a use of force case is an objective one. The question is whether the police officer’s actions are “objectively reasonable” in light of the facts and circumstances confronting the police officer, without regard to the officer’s underlying intent or motivation. *Id.* at 397.

The video footage capturing the incident depicts the officers in pursuit of the sedan. The suspect vehicle, in part due to the location of the chest-mounted BWC, is not visible in the footage. The involved citizen(s) begin shooting at the officers. After bringing their pursuit car to a rapid

stop, the involved officers return fire, shooting through the windshield of their unmarked vehicle. Both officers appear to duck down to avoid being struck. Gunshots are heard clearly and spots of fire can be seen through the windshield accompanying the sounds. The police vehicle was riddled with bullet holes. It cannot be clearly determined which holes were created by the suspects and which were created by the officers themselves.

It is unknown whether the occupants were aware that the pursuit vehicle was occupied by law enforcement officers. However, multiple officers were in the area looking for a shooter. The unmarked police vehicle was following the suspect vehicle at an elevated rate of speed. While the siren was not activated, the emergency lights appeared to have been on during the pursuit. Given these facts, it is likely the occupants knew that the vehicle was in pursuit of them and operated by police.

The officers fired their service weapons in response to being fired upon. There is no indication that they attempted to use their vehicle as a weapon during this pursuit. The available footage showed that shots from the suspect's rifle appeared to be hitting the unmarked vehicle while occupied by the officers. Gunshots can be heard during the encounter. Both officers appeared concerned about being struck by gunfire. That belief was reasonable. Both officers stopped firing when the gunfire from the suspect vehicle ceased. They called off further pursuit believing that IO2 had been shot. The officers did not use any additional force towards the suspect or their vehicle. The force used in this incident was no more than necessary to defend themselves.

The officers clearly were in danger of serious bodily harm, their belief was reasonable, no more force was used than what was necessary, and the officers stopped shooting once the unidentified person(s) ceased firing, demonstrating that each officer's purpose in discharging their firearm was to defend the other officer.

The officers fired their weapons in the direction of the suspect vehicle. There were seven (7) .40 caliber casings and one (1) live round found inside the unmarked vehicle. There was one (1) casing on the ground next to the vehicle. The officers did not appear to have a clear and unobstructed view of their targets as they were taking cover inside their car to avoid being hit. The location was a roadway lit by streetlights leading to a bridge. Though the actions of the police might have created a risk to others - there is no evidence that there were any civilians in the area

during the shooting as there are no residential or commercial structures in the immediate area. However, this is difficult to confirm using the available footage.

### **CONCLUSION**

At all times during this encounter, both involved officers were sworn BPD officers acting in their official law enforcement capacity. They responded in accordance with BPD policy and the laws of the State of Maryland: They were in pursuit of someone they reasonably believed had fired a weapon in the area. The officers had no opportunity to announce or identify themselves to the occupants of the suspect vehicle, nor did they have an opportunity to deescalate any tensions that may have existed. The involved citizen(s) acted without provocation and used aggravated and potentially lethal aggression against these officers when firing a rifle at the stopped unmarked vehicle. When confronted with deadly force while sitting in a stationary vehicle, the officers responded with potentially deadly force which, given the totality of all circumstances, was reasonable, proportional, and necessary for their survival and/or escape. The involved officers acted in self-defense when they returned fire.

Given these circumstances, the Office of the State's Attorney for Baltimore City declines to pursue criminal charges.