

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE FATAL  
POLICE-INVOLVED SHOOTING IN THE 5900 BLOCK OF RADECKE AVENUE



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## INTRODUCTION

The Baltimore City States Attorney's Office ("BCSAO") completed its review of the civilian fatality in the 5900 block of Radecke Avenue. The BCSAO review was conducted by the office's Public Trust and Police Integrity Unit ("PTPIU") and focused exclusively on determining whether criminal charges relating to the involved officers' conduct were warranted. PTPIU's review did not examine issues such as the officer's compliance with internal 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. 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 February 12, 2020, law enforcement officers from the Capital Area Regional Fugitive Task Force gathered near in the 5900 block of Radecke Avenue in an attempt to locate and arrest a fugitive ("Involved Citizen") on a warrant which had been obtained by the Lower Chichester Township Police Department in Pennsylvania for an attempted murder which occurred on February 11, 2020. Pennsylvania State Police notified Maryland State Police that the suspect, Involved Citizen, had fled to Maryland. Maryland State Police located him in an apartment on the 5900 block of Radecke Avenue in Baltimore, Maryland.

As they approached the entrance of the apartment building, the Involved Citizen confronted the officers holding a silver revolver, which he then pointed at one or several of the officers as he advanced toward them. Task force officers discharged their firearms at him, striking him multiple times. During the confrontation, one Baltimore Police Department ("BPD") officer assigned to the task force sustained a gunshot wound to the left calf. A Baltimore County Police officer sustained gunshot wounds to the left leg and lower abdomen. Both were transported to University of Maryland Shock Trauma.

The Involved Citizen was pronounced dead at the scene. Next to his body, investigators retrieved a .357 revolver containing six live rounds. It had not been fired during the incident.

## **OVERVIEW OF THE INCIDENT** **(Police-Involved Fatal Shooting)**

On February 12, 2020, law enforcement officers from the Capital Area Regional Fugitive Task Force<sup>1</sup> gathered near the 5900 block of Radecke Avenue in an attempt to locate and arrest the Involved Citizen. A warrant, obtained by the Lower Chichester Township Police Department in Pennsylvania, had been issued for an attempted murder that occurred on February 11, 2020. Pennsylvania State Police informed Maryland State Police that the Involved Citizen had fled to Maryland.

As a result of the Maryland State Police investigation, the Involved Citizen was located in an apartment in the 5900 block of Radecke Avenue in Baltimore, Maryland. Sixteen (16) agents and officers (collectively, “officers”) of the task force assembled at the Involved Citizen’s location to execute the arrest warrant.

When the officers approached the apartment building’s front door, the Involved Citizen emerged and confronted them holding a silver revolver. When the Involved Citizen raised and aimed the weapon at the officers, the officers fired at him, hitting him multiple times.

Baltimore City Communications received multiple calls for discharging and shooting at that location. BPD patrol officers responded to the scene along with Baltimore City Fire Department.

The Involved Citizen was pronounced dead at the scene by Baltimore City Fire Department EMS. Next to his body, investigators found a .357 revolver, which was loaded with six (6) live rounds and had not been fired during the incident. The weapon’s hammer was in the cocked position when found. Twenty-one (21) shell casings were located and recovered from the scene: nine (9) 9mm shell casings, five (5) .40 caliber shell casings, and seven (7) .223 caliber shell casings.

The Office of the Chief Medical Examiner removed the body for post-mortem examination. The results indicated that the Involved Citizen had seventeen (17) gunshot wounds.

During the incident, a BPD officer assigned to the task force sustained a gunshot wound to the left calf. A Baltimore County Police officer sustained gunshot wounds to the left leg and lower abdomen.

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<sup>1</sup> The Capital Area Regional Fugitive Task Force on that day consisted of law enforcement officers from the Baltimore Police Department, Baltimore County Police Department, Maryland State Police, Maryland Transportation Authority, the Maryland Attorney General’s Office, U.S. Marshalls Service, U.S. Customs, DEA, and ATF.

## SUMMARY OF THE EVIDENCE

### **FIREARMS ANALYSIS**

Once BPD's SIRT team took control of the scene, SIRT team members requested that all involved officers report to BPD's homicide division for weapons' inspections and interviews, advice of rights, and/or administrative reassignment(s).

Of the 16 law enforcement officers on scene, 6 fired their weapons. Of the 16, 10 submitted to SIRT and had their weapons inspected. The other 6 did not.

The following officers submitted to SIRT, their weapons were tested and results were as follows:

1. BPD Officer #1 did not fire any rounds.
2. Baltimore County Police Officer #2 fired five (5) rounds of 9mm ammunition.
3. Maryland State Police Trooper #1 fired two (2) rounds of .40 caliber ammunition.
4. Maryland State Police Trooper #2 fired nine (9) rounds of 9mm ammunition.
5. Maryland State Police Trooper #3 fired four (4) rounds of .40 caliber ammunition.
6. Maryland State Police Sgt. #1 did not fire any rounds.
7. Maryland Transportation Authority Officer #3 fired seven (7) rounds of .40 caliber ammunition.
8. DEA Agent #1 fired seven (7) rounds of .223 rifle ammunition.
9. DEA Agents #2 and #3 did not discharge their weapons.

The following officers did not submit to SIRT:

Maryland State Police Trooper #4, OIG/SSA Agent #1, ATF Agent #1, ATF Agent #2, U.S. Marshall's Deputy #1, and U.S. Customs and Border Protection Agent #1 advised that they did not fire their weapons. No inspections were performed.

### **CADS/KGA**

The Task Force operation was not communicating with CAD/KGA prior to the shooting. All communications by CAD/KGA were after the fact, when officers on scene called out for patrol officers to come to the scene.

## **BODY WORN CAMERA (“BWC”) VIDEO**

None of the involved officers were equipped with body-worn cameras at the time of the incident. As a part of the agreement between local and federal law enforcement agencies, task force officers are not permitted to wear body worn cameras during joint operations.

## **CIVILIAN VIDEO EVIDENCE**

Investigators were able to locate six (6) usable civilian videos, two (2) from a sandwich shop, two (2) from the apartment complex management company, one (1) from a civilian who video on social media, and another one from a civilian who captured part of the incident after the shooting.

Video evidence (*see* still frames below) clearly shows officers approaching the apartment unit. Before they reach the entrance, the Involved Citizen appears and pushes the door open. He has his .357 revolver pointed at the ground.

As officers scramble to retreat, one trips and falls to the ground. The Involved Citizen moves briskly forward, raises his arm, and points his gun at an officer. That officer and others open fire at this moment. Within a matter of seconds, the Involved Citizen is on the ground.

## **LAW ENFORCEMENT WITNESS STATEMENTS<sup>2</sup>**

All interviewees confirmed that they were on the scene to serve a warrant on the Involved Citizen for an attempted murder in Pennsylvania. The Involved Citizen had been located in an apartment building on the 5900 block of Radecke Avenue. Witnesses agree that the Involved Citizen was seen running up the steps inside the building, then coming back down with the revolver in his hand. Officers attempted to take cover. Several fired their weapons at the Involved Citizen. After firing had ceased, officers attended to the wounded officers and to the Involved Citizen.

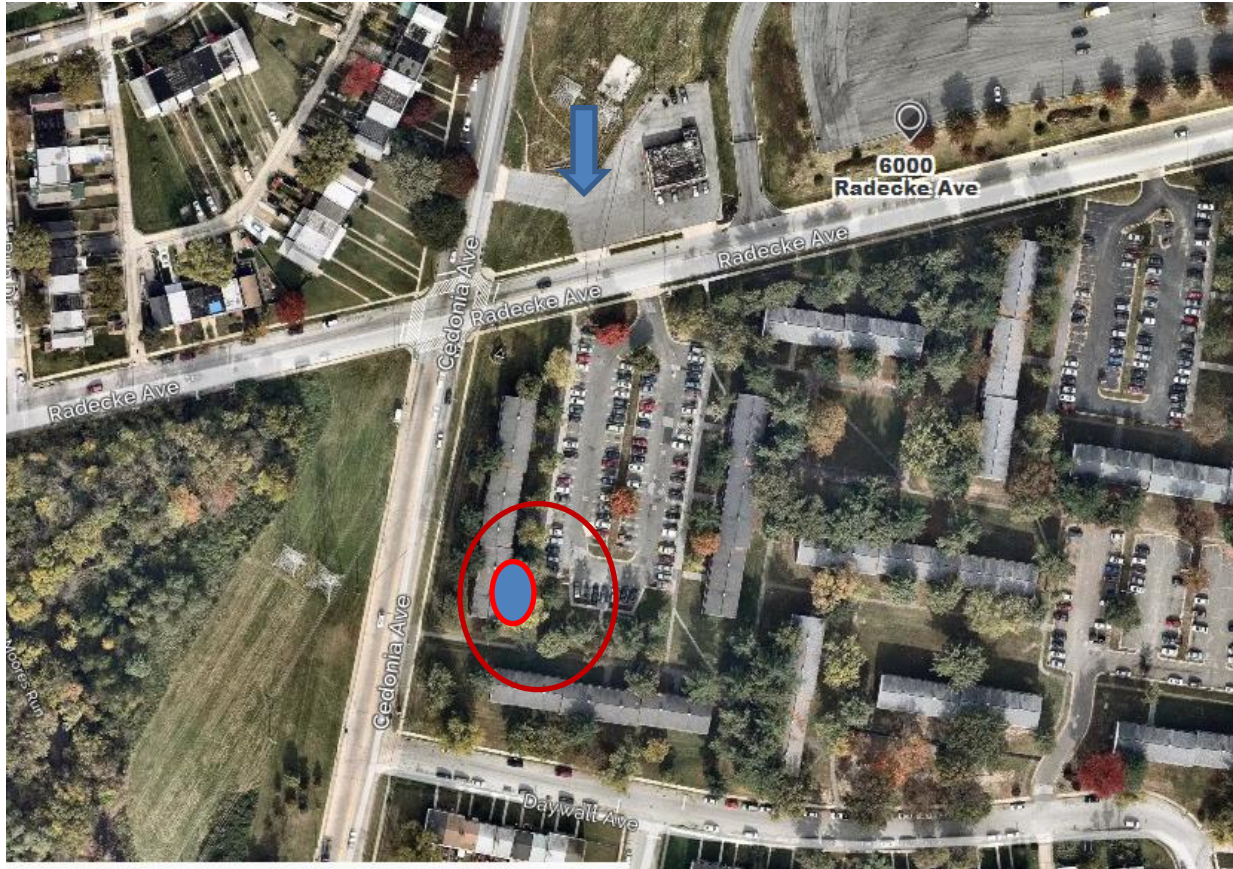
## **CIVILIAN WITNESS STATEMENTS**

Witness #1, a resident of the apartment complex, stated that she heard popping noises, looked outside and saw officers running. She could hear officers shouting “Get on the ground!” and voiced her belief that police “were trying to give the guy a chance to do what he was supposed to do.” She did not hear the Involved Citizen say anything, nor did she see him prior to the shooting.

Witness #2 heard officers yell “Come out, come out!” and “Get out of the building, get down!” and then saw officers draw their guns. He observed officers “scatter” and heard a gunshot, then 2 or 3 shots, then a lot of shots at once. He could not see the person that the officers were firing at. He then heard an officer exclaim, “I’m hit, I’m hit.”

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<sup>2</sup> All “non-shooters” were interviewed, with the exception of one, who was shot and is on long-term medical disability. Because of his medical leave, SIRT detectives were not permitted to interview him per BPD policy.



The red oval with blue fill is where the shooting took place. Several law enforcement officers (“LEOs”) were within that zone. The darker red oval is where the rest of the officers were located. At least one of the six shooting LEOs was located in this outer oval, in the parking lot. The blue arrow represents where the two civilians were, one with a cell phone camera.



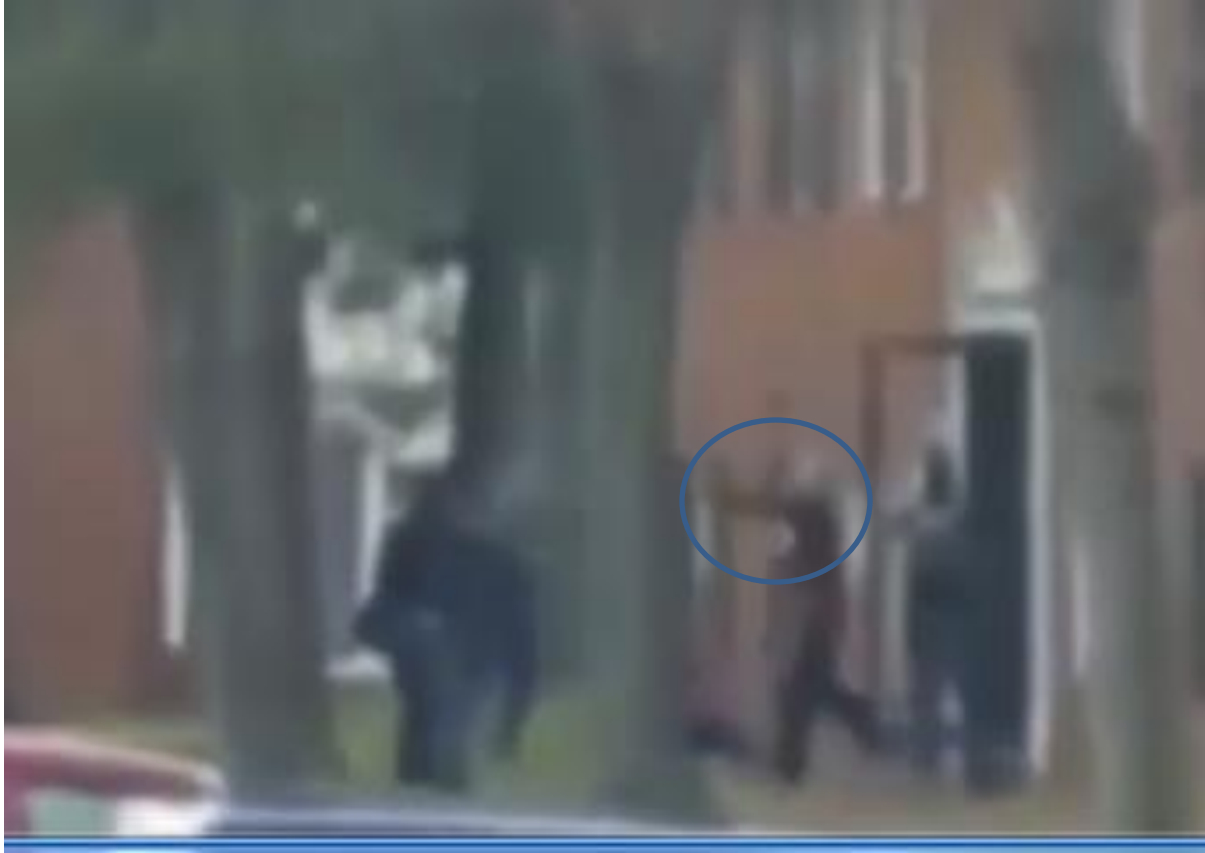
Before officers can open the door, the Involved Citizen (red arrow) has appeared and has pushed the door open. Retreating, the officer in the red jacket has fallen to the ground (red oval). Three other LEO's begin to retreat, but are still within 10 feet of the Involved Citizen.

At this time, the Involved Citizen has his .357 revolver pointed at the ground (red circle.) No shots have been fired yet.





Immediately after the prior image (above) was taken, the Involved Citizen can clearly be seen having raised his gun and pointing it at an officer (yellow arrow.) Only now does that officer, and others, begin shooting. The image does not reflect what the video shows, namely, that the Involved Citizen moves briskly towards the officers as he points his weapon at them.



The Involved Citizen is being fired on as he advances on officers, arm raised, gun pointed at them. Within 1 second after this image was captured, the Involved Citizen is on the ground, suffering from multiple gunshot wounds.



This picture is from a civilian's cell phone, taken after the shooting has ceased. The angle is from the side, somewhat behind, the Involved Citizen's building.

Two officers are tending to the officer in the red jacket who was previously seen approaching the door (blue arrow). He has been shot. Others are covering the Involved Citizen who lies still (red arrow). As soon as uniformed officers arrived, they attempt to provide medical assistance to the Involved Citizen.

## LEGAL ANALYSIS

The involved officers' shooting at the Involved Citizen is unquestionably a use of force. At issue is whether the use of force against the Involved Citizen was *lawful*. If not legally justified, the officers' use of lethal force against the Involved Citizen could potentially constitute a number of criminal offenses under Maryland law, including murder, manslaughter, and/or misconduct in office.

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.

In *Graham v. Conner*, the U.S. Supreme Court explained that the proper application of a reasonableness test under the Fourth Amendment, “requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Id.* at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985) (the question is “whether the totality of the circumstances [justifies] a particular sort of . . . seizure”)).

On February 11, 2020, an attempted murder was committed in Pennsylvania. The Involved Citizen was alleged to have perpetrated the attempted murder and an arrest warrant was issued for the Involved Citizen. On February 12, 2020, having secured legal authority to executive the out of jurisdiction warrant, the involved officers attempted to execute the arrest warrant. A team of sixteen (16) law enforcement officers drawn from local, state, and federal agencies conducted surveillance on the building. When they determined the moment was appropriate, they collectively moved in on the building that the Involved Citizen was believed to be, and was in fact, located.

The officers were wearing tactical gear, most of which had clearly identifiable agency identification and/or insignias. A reasonable person would be able to identify them as police or other law enforcement officers.

As the officers approached, prior to opening the front door to the apartment building, the Involved Citizen appeared, with a .357 revolver in his hand. The officers closest to the door began to retreat as the Involved Citizen continued out of the same door. According to civilian witnesses

located inside an adjacent apartment and on a parking lot nearby, officers can be clearly heard to loudly and repeatedly ask the Involved Citizen to “get down,” i.e., position himself in a way to mitigate danger to himself and to the officers. However, the Involved Citizen did not comply with repeated orders.

When the Involved Citizen exited the building, he was armed with a .357 revolver which was pointed at the ground.<sup>3</sup> At that instant, given the totality of the circumstances, reasonable officers could have employed deadly force, as reasonable officers could have concluded that the Involved Citizen was at that moment a threat to task force members, as well as civilians in the vicinity. But the officers did *not* open fire immediately. Indeed, most of them attempted to retreat and seek cover.

The Involved Citizen then raised the gun and pointed it at one or more officers as he advanced on them. It is not until then that several officers opened fire, striking and killing the Involved Citizen. The evidence is overwhelming that the Involved Citizen at that moment represented a clear and present threat of imminent harm to officers and civilians. There is no evidence to support that the use of force was excessive or unjustified.

### **CONCLUSION**

There is sufficient evidence that the Involved Officers’ use of force was objectively reasonable under the totality of the circumstances. The Involved Citizen emerged armed with a .357 revolver. Officers ordered the Involved Citizen to “Get down!” He did not comply. When confronted, the officers retreated. However, the Involved Citizen advanced on the officers. It was not until the Involved Citizen pointed his weapon directly at the officers, placing officers in reasonable anticipation of serious bodily harm or death, that the officers opened fire. There is sufficient evidence to establish that the officers were justified in the use of deadly force and as such the State’s Attorney’s Office for Baltimore City declines to pursue criminal charges.

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<sup>3</sup> The weapon was later found to be fully loaded. Given the speed of events unfolding and the condition of the weapon when it was retrieved, it is plausible that the hammer was already cocked at that time.