

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S
ATTORNEY ON THE CITIZEN FATALITY LOCATED IN 1833 N.
CHESTER STREET



MARILYN MOSBY, STATE'S ATTORNEY FOR BALTIMORE
CITY

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INTRODUCTION

The Baltimore City State's Attorney's Office (BCSAO) completed its review of the civilian fatality at 1833 N. Chester Street. The BCSAO review was conducted by the office's Public Trust and Police Integrity Unit and focused exclusively on determining whether criminal charges relating to the officers' conduct was warranted. PTPIU's review did not examine issues such as the officers' compliance with internal policies and procedures, his 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 officers' conduct. This report should not be interpreted as expressing any opinions on non-criminal matters.

As detailed below, when all available evidence is considered, the Involved Officer's actions did not rise to the level of criminal conduct. The Baltimore City State's Attorney, therefore, declines to pursue criminal charges in this matter.

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

On March 30, 2020, at approximately 1804h, Detectives 1, 2 & 3 were in an unmarked vehicle driving towards N. Chester Street when they heard what they believed to be gun shots. They drove towards the sounds. The officers arrived during what they believed was a continuing gun-fight when they observed the Involved Citizen running towards them (the officers) while armed with a handgun. Detectives got out of their vehicle, gave verbal commands of “drop the gun,” while running towards the Involved Citizen – they then discharged their firearms at him. They struck the Involved Citizen several times, and he collapsed on the front stoop of his residence. Medics were called and the Involved Citizen was transported to Johns Hopkins Hospital, where he was pronounced dead at 1826h.

Subsequent investigations revealed that in the moments prior to the officers’ arrival on the scene that there was an exchange of gun-fire between the Involved Citizen and Citizen #1, and a pair of unknown males approximately 1 block north of the Involved Citizen’s residence. Detectives located seven .380 caliber shell casings, nine 9mm shell casings, and twenty-three .40 caliber shell casings (possibly those of BPD officers) all in a one-block area where the Involved Citizen, Citizen #1, and the two unknown males had exchanged gun-fire. Citizen #1 was shot but survived, and was found incapacitated and unarmed on the ground near the Involved Citizen’s residence.

When the officers arrived, the Involved Citizen appeared to have been running from that gun-fire exchange and towards his residence. A blue SCCY Industries 9mm handgun was found within inches of where the Involved Citizen collapsed. The handgun appeared to be the same object officers saw the Involved Citizen running with then they discharged their firearms at him.

SUMMARY OF THE EVIDENCE

FIREARMS ANALYSIS

All three officers’ service weapons were inspected. Each officer was equipped with a BPD departmentally issued Glock 22 .40 caliber firearm with 3 magazines. Each officer was required to begin his shift with 42 rounds.

Detective #1: firearm inspection revealed 40 unspent rounds, suggesting discharge of 2 rounds.

Detective #2: firearm inspection revealed 30 unspent rounds, suggesting discharge of 12 rounds.

Detective #3: firearm inspection revealed 32 unspent rounds, suggesting discharge of 10 rounds.

The total number of rounds believed to have been discharged by these three officers is 24.

IC’s firearm was tested. It was operable.

AUTOPSY OF THE INVOLVED CITIZEN

An Assistant Medical Examiner conducted the autopsy of the Involved Citizen, and reached the following conclusion(s):

The Involved Citizen was shot 16 times. The direction of the wound path, where it could be determined, was mostly “front to back.” There were 3 wound paths that were described as “back to front” or “slightly back to front” on the right side of the body – the neck and hip areas. This is consistent with the Involved Citizen turning to his left at the stoop to his house as the officer’s guns were still being fired.

TIMELINE OF THE INCIDENT

The following time line is based on the BWC time stamp, which is 4h off from the actual time

22:04 (aprox)	IOs hear gunshots in the distance and get shot spotter alert
22:04:44	IOs turn onto N. Chester Street
22:04:53	IOs see shooting, “he’s still shooting...”
22:04:59	IOs pull up on the shooting scene, two officer jump out of the police cruiser and aim their firearm towards the IC, while the driver of the cruiser yells, “right here, in the gray, get him, get him, get him...”
22:05:02	IO yells “drop it” towards the IC
22:05:03	IOs open fire on the IC
22:05:07	Gunshots cease

CADS/KGA

The KGA radio transmissions were reviewed for this legal review and the KGA appears consistent with the CAD report. There are no inconsistencies between KGA/CAD and what is visibly seen on BWCs.

CAD shows several entries between the 18:05:01 and 18:33:29. The following are the only relevant CAD entries:

18:05:01	Location 1800 N. Chester St
18:07:53	Need Medic for person shot; Male fled eastbound on Colling
18:07:53	Need 2 nd medic for 2 nd suspect
18:29:23	2 males shot, 1 in gave condition; Going inside 1833 N. Chester, hold air
18:08:42	Called out shots fired
18:40:26	Adult male shot to leg, non life threatening

CITIWATCH CAMERAS/CCTV's

There were 5 cameras that captured portions of this incident.

North/Chester streets—

-1753 hrs, block is primarily clear aside from 2 people walking NB from Lafayette on west side of the street, 3 males walking EB on North avenue are turning SB on Chester from the west

-1754 hrs, group of 5 people is seen in front of 1833 N. Chester Street

-1756 hrs, group in front of 1833 N. Chester Street has dispersed, one male walks into east side alley (where .380 shells were later found)

-1746:48 a male in ski mask walking WB on north side of E. North Avenue approaching N. Chester Street

-1757 hrs, 2 people sitting in front of 1833 N. Chester Street, while 2 are on SW corner of North & Chester Streets

-1759 hrs, now 3 people on SW corner of North & Chester streets, joined by additional males, one with medical face mask on

-1804:38 people start running. Male in grey (likely the IC) attempts to help a man collapsed in the middle of the street. Another male runs over and attempts to help. Man in gray runs to 1833 N. Chester street, then to the alley way

-1804:52 DAT team is seen approaching in unmarked car from south of Lafayette, heading NB

-1805:07 the three on the corner of North & Chester start watching but then walk away as shooting is occurring

-camera is then manually controlled and focuses in on 1800 block of N. Chester Street, DAT is seen securing the initial scene

NORTH/COLLINGTON streets—

-1755 hrs, man in black jacket with grey sweats (suspected IC) is seen on SE corner of North & Collington streets, hanging out in front of China Kitchen

-1757 hrs, male in grey shirt is seen in same area

-1800 hrs, 2 people are the mouth of the alley, one walks back and forth

-1801 hrs, male on corner

-1804:46 man runs SB on west side of N. Collington Avenue to a trash can and grabs something from under it, camera pans as he begins to run towards big alley next to Pharoah's

-1805 hrs, marked patrol vehicle arrives in area, no one is seen running at this point

WOLFE/LAFAYETTE streets—

-1804:17 person in all black is seen coming SB but appears to be from Castle and not from Chester, is too far to make out who/characteristics

-1805 hrs, male in all black and white sneakers with backpack crossing Lafayette, appears to stop and speak with people on steps on N. Washington Street. Male in light blue puffy jacket appears to come from Castle Street to look up towards Chester Street, and is later joined by 2 others.

RANDY'S LIQUORS—

-Two exterior cameras show the west side of N. Collington Avenue to the rear of East 1800 N. Chester Street. No one is observed fleeing NB through the community garden area, nor seen fleeing in the alley way

-A male in a shiny jacket, wearing a black beanie, is hanging out in front of China Kitchen for a while before the shooting. Something causes him to run SB on the east side of North Collington Avenue to 1859 N. Collington Avenue, where he tipped over a trash can and grabbed something from under it. This is close to where the .380 rounds were located.

CHINA KITCHEN—

-Camera shows the eastern sidewalk alongside China Kitchen into the 1800 block of N. Collington Avenue. A male in black jacket with grey sweat suit combo is seen running SB, then NB to E. North Avenue where he turns west towards N. Chester Street

BODY WORN CAMERA (“BWC”) VIDEO

1. Det. 1#

Detective #1 was the driver of the unmarked squad car. He activated his BWC as he turned the vehicle onto N. Chester Street. He is heard discussing where the gunshots are coming from. He says, “he’s still shooting” and then pulls up in the area of 1826 N. Chester as the other two officers are exiting the cruiser (before it comes to a complete stop). He yells “right here, in the gray, get him, get him, get him,” to the other officers. The other two officers get out, give one order to “drop it,” and then open fire. Detective #1 then exits the vehicle and also fires shots at the IC who can be seen on the stoop of #1833 N. Chester. After all shooting stops, Detective #1 speaks with witnesses on scene who advise that other shooters had scattered. Detective #1 then gives radio descriptions and then goes into the alley way himself, looking for additional suspects.

2. Det. #2

Det. #2 was the front seat passenger of the unmarked squad car. He activated his BWC as the officers turned onto N. Chester Street. He and other officers are heard discussing active gunfire. As the officers arrive near 1826 N. Chester Street, Det. #1 can be heard yelling, “he’s still shooting.” As the car slows down, Det. #2 gets out of the vehicle, gun drawn, as Det. #1 can be heard yelling, “right here, in the gray, get him, get him, get him.” Det. #2 yells “drop it” and then less than a second later opens fire, shooting towards the IC.

3. Det. #3

Det. #3 was the backseat passenger of the unmarked squad car. He activated his BWC as the officers turned onto N. Chester Street. He and the other officer are heard discussing active gunfire. As the officers arrive near 1826 N. Chester Street, Det. #1 can be heard yelling, “he’s still shooting.” As the car slows down, Det. #3 gets out of the vehicle, gun drawn, along with Det. #2, who yelled, “gun down,” and one second later both detectives opened fire. After the shooting stopped, Det. #3 approached the incapacitated IC and removed a firearm from the stoop where the IC had come to rest.

WITNESSES STATEMENT SUMMARIES.

CIVILIAN WITNESSES

1. Citizen #1

Citizen #1 was interviewed by SIRT detectives on March 30, 2020, in his hospital recovery room at JHU, just a few hours after the incident occurred. Citizen #1 gave the following description of what he remembered happening earlier that day— Citizen #1 had been sitting on his sister’s steps located at 1833 N. Chester Street when we decided to walk to a local store to buy a cigar. While walking back from the store, he observed a heavy-set black male wearing all black, with a hoodie and ski mask, standing in the alley on the east side of the street. The male said something— but he doesn’t know what was said. At the time of this incident, he didn’t have any ongoing altercations with anyone. He stated that the unidentified man opened fire and struck him (Citizen #1) in the leg, causing him to collapse in the street. He attempted to crawl to safety and did not see if anyone else was involved. He then heard two distinct instances of gunfire, the first when he was shot and then the second when the police opened fire on his cousin—Involved Citizen. He curled up in a ball on the street because he was afraid of getting shot again.

LEGAL ANALYSIS

At issue is whether the Involved Officers’ discharge of their firearms against the Involved Citizen was a lawful use of force.

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 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 justify[es] a particular sort of . . . seizure”)).*Id.* at pg 3.

The three Involved Officers were members of a proactive team of police officers who found themselves in a neighborhood where a shooting took place *as it was happening*. The officers heard the gunshots and drove towards the shots. When they arrived, as shown from the BWC of Det. #3, the officers saw a man in the street who appeared to be shot, another man who was running with a gun in his hand at the location of the shot man and a woman trying to get into her house. What the officers knew as they arrived was 1) that there were shots being fired nearby; 2) that shots were still being fired as they approached; 3) that there was someone running towards them with a firearm clearly visible in his hand and 4) one of the Involved Officers ordered the armed man to drop the gun. The Involved Officers did not have sufficient information to immediately determine 1) whether the Involved Citizen they saw running towards them had personally been involved in the shooting – though a reasonable person would assume that he was; 2) whether the Involved Citizen had been lawfully in possession of, or even lawfully using, the firearm – by example, to defend himself or his cousin who had just been shot; and, 3) whether the Involved Citizen had any intent to use the firearm against the officers, or others (4) whether the Involved Citizen was involved in the shooting of the man in the street.

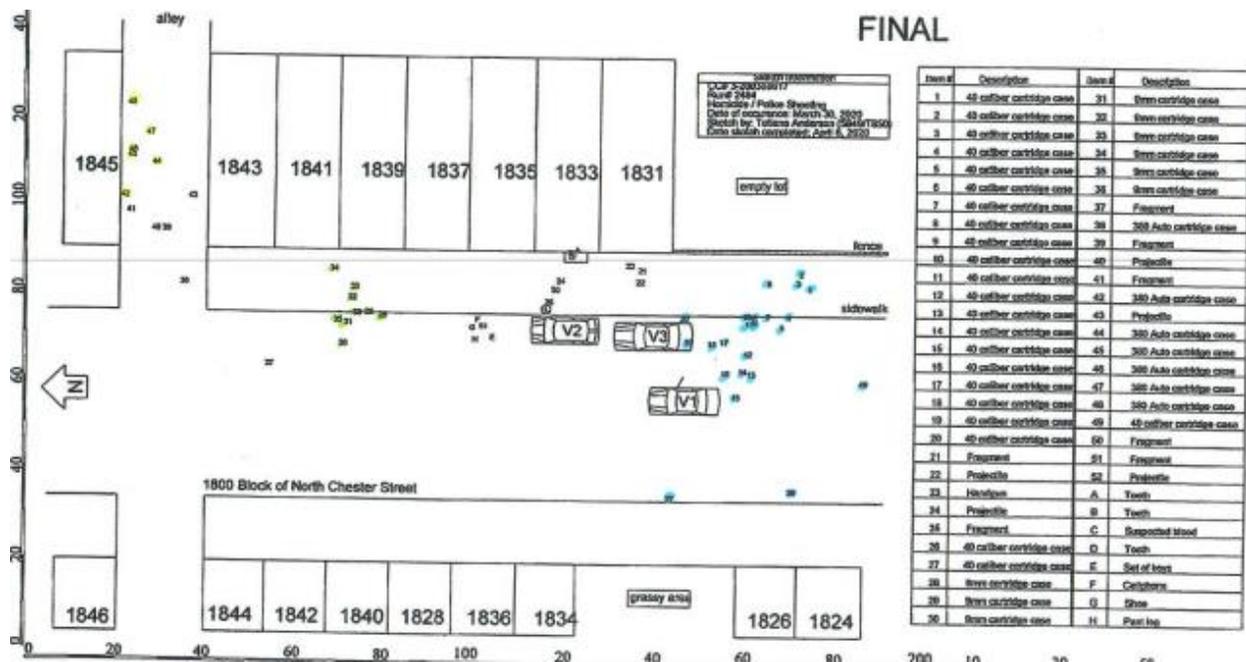
The “objectively reasonable officer” standard focuses on, to wit: what the officers actually knew when they pulled up on the scene— that they knew a shooting had taken place, that they believed they arrived as the shooting was still actively taking place, that there was an armed individual who was located next to someone who appeared to be shot and was laying in the street, the armed individual was running towards them and *could be* an immediate threat to them if they didn’t take immediate action and there was a woman trying to get into her house as the armed man was running toward her.

CONCLUSION

Given the following facts when the officers arrived at the shooting scene: (1) the Involved Citizen was armed, (2) the Involved Citizen was next to a man who was laying in the street and appeared to be shot, (3) the Involved Citizen was running toward the officers, (4) the Involved Citizen was running toward a woman who was trying to get into a house and (5) one of the Involved Officers ordered the Involved Citizen to drop his gun, it would be objectively reasonable for the officers to conclude that their safety and the safety of others was at risk. The decision to use force was justified under the standard put forth by the Supreme Court in *Graham v. Connor*.

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

OVERVIEW OF THE VIDEO/PHOTO EVIDENCE OF THE INCIDENT



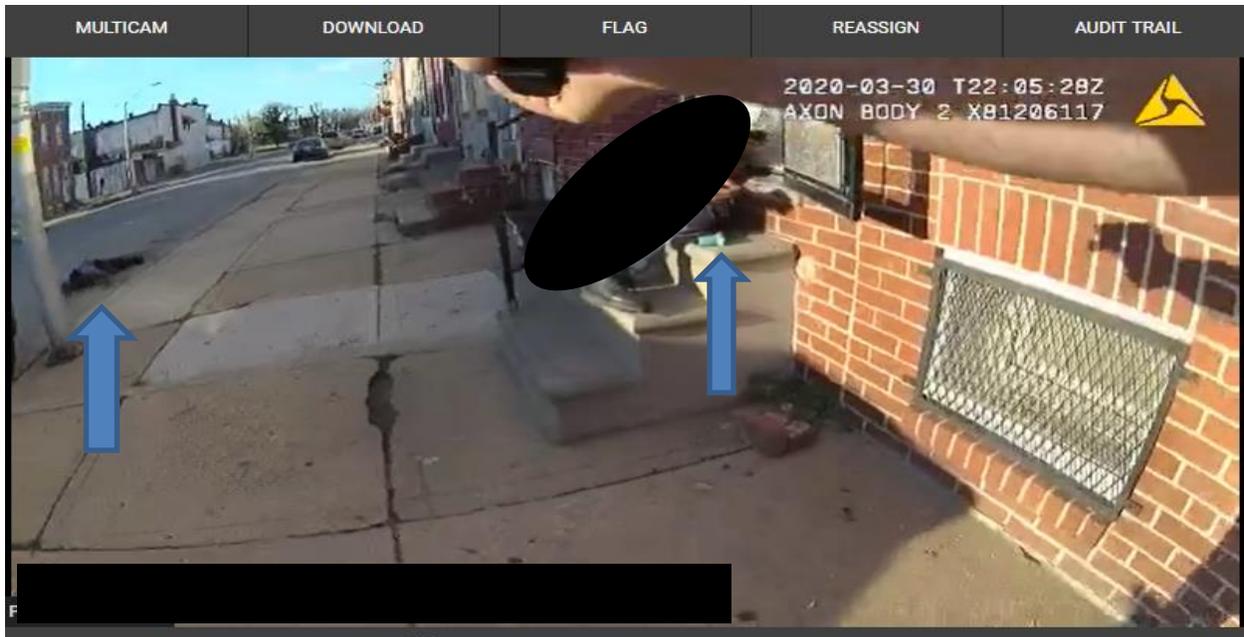
The IC is believed to have found his cousin shot in the leg, returned to his house (presumably to arm himself), then left his residence at #1833 and went to the alley area between #1843 and #1845, wherein more shots were fired. As the IC was heading home / retreating, heading South (to the right on this picture), the IO's were travelling North (to the left on this picture) and pulled their vehicle (V1) up between #1831 and #1826

Det. #3 getting out of the police vehicle, sees a man with a gun, standing over someone who appears to be shot. A woman is trying to get into her house.





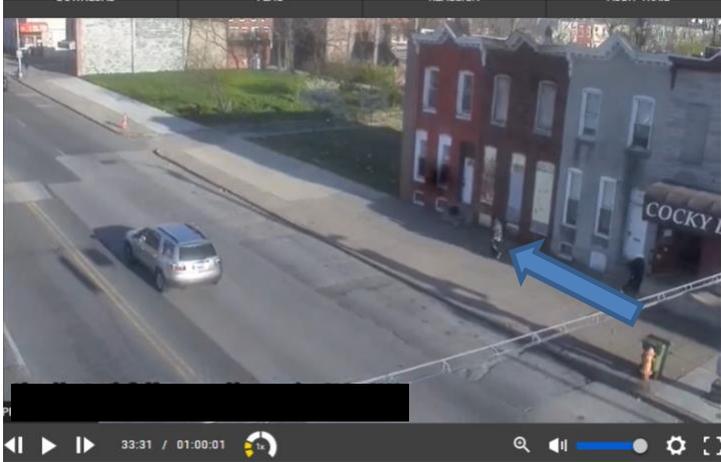
Above, this is the first relatively clear view of the IC on anyone's BWC. He is close to the front stoop at his residence, #1833. His mother is in the yellow, entering the front door which she closed behind herself. A small object appears to be in the IC's right hand – it is presumed that this is the firearm that officers claim they saw the IC running with.



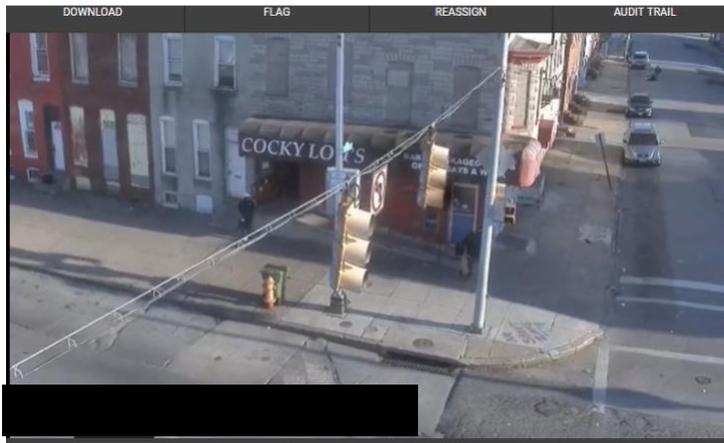
Above, the IC is suffering from several gunshot wounds and is barely moving. This IO approaches him to retrieve the blue gun that is on the stoop, just under the IC's hand. Another citizen, the IC's cousin, is laying on the road (to the left) suffering from a gunshot wound to the leg that he suffered prior to the officers' arrival.

Below is a closer look at the firearm that was removed from the IC and the stoop.

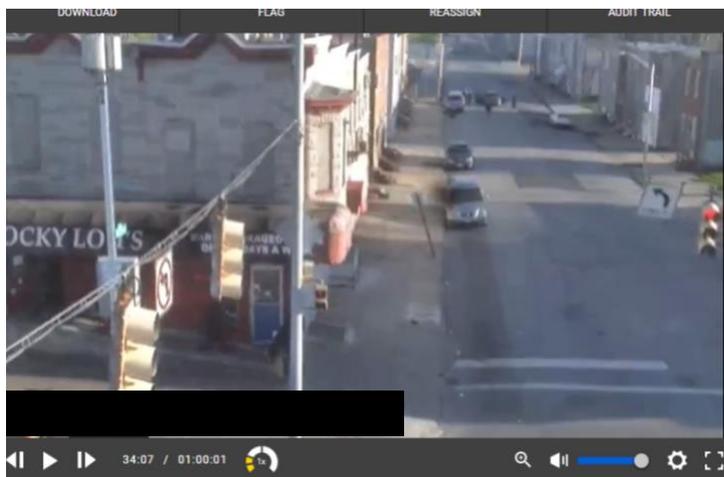




This is the CCTV camera that will best capture parts of the incident. The arrow points at a male who can be seen fleeing from the scene – this is the first moment that is captured that suggests there is a confrontation erupting. This male is not believed to be involved in the initial incident, he is believed to just be seeking cover as he runs away.



The Involved Citizen's cousin can be seen laying in the roadway. He has presumably already been shot in the leg. There are two other individuals who attend to him – it is unknown who they are. The IC may or may not be one of them.



This is the first time that the CCTV operator manually controls the CCTV camera and seeks to zoom in on the incident once the Involved Officers arrive. Unfortunately, the shooting appears to be complete and the Involved Citizen is already collapsed on his front stoop prior to the camera being put into position to catch the officers' shooting.