

REPORT BY OFFICE OF THE BALTIMORE CITY STATE'S ATTORNEY ON THE
CITIZEN FATALITY LOCATED IN 1700 BLOCK OF N. WOLFE STREET



MARILYN MOSBY, STATE'S ATTORNEY FOR BALTIMORE CITY

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INTRODUCTION

The Baltimore City States Attorney's Office (BCSAO) completed its review of the civilian fatality in the 1700 block of N. Wolf Street. The BCSAO review was conducted by the office's Public Trust and Police Integrity Division 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, 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. This report should not be interpreted as expressing any opinions on non-criminal matters.

In brief, on August 28, 2019 at around 10:55 PM, Officer #1 and Officer #2 responded to the 1400 block E. Fayette St. to assist with a citizen in distress. While attempting to provide assistance to the citizen, Officer #1 saw a silver colored Toyota Rav 4 traveling eastbound on E. Fayette St. This vehicle matched the description of a silver Toyota Rav 4, MD tag 9DB9424 that was distributed on a BOLO flyer to members of BPD.

The flyer contained information stating that the driver of the vehicle, believed to be the Involved Citizen, was wanted for aggravated assault by shooting at a police officer in the Western District as well as an aggravated assault by pointing a gun at an officer in the Southeast District the previous day. As officers investigated the Rav 4, the Involved Citizen got out of the Toyota Rav 4 and pointed a handgun at the officers. The Involved Citizen then re-entered the vehicle and drove away and officers pursued the vehicle. Officer #1 called for aerial support and the Foxtrot helicopter assisted in tracking the silver Toyota Rav 4.

The silver Toyota Rav 4 eventually came to a stop on the corner of Caroline and E. Fayette Streets. The Involved Citizen then exited the vehicle with the handgun in his hand. As the Involved Citizen exited the vehicle, Officer #3 pulled his vehicle behind the silver Toyota Rav 4. Officer #3 then fired at the silver Toyota Rav 4 through the front window of his vehicle. The Involved Citizen re-entered the vehicle and initiated a left-hand turn, heading South on Caroline Street. Officers opened fire as he navigated through the intersection and proceeded down the street.

Officer #3's vehicle struck the silver Toyota Rav 4 in the rear. The vehicle eventually hit a tree causing the front and side air bags to deploy. While seated in the driver's side position, Foxtrot camera shows the Involved Citizen extending his arm outward, turning towards police officers and pointing a pistol. The Involved Citizen's arm jerks upward approximately 4-7 times. At this point in time, there is no visible movement of the Involved Citizen from the perspective of the Foxtrot camera. Throughout this time frame, sparks can be seen around the vehicle, indicating incoming gunfire from officers. Officers approached the vehicle and called for medical assistance. The Involved Citizen was transported to Johns Hopkins Hospital where he was pronounced deceased.

As detailed below, when all available evidence is considered, the Involved Officers' 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 Wednesday, August 28, 2019 at around 10:55 PM, Officer #1 and Officer #2 responded to the 1400 block E. Fayette St. to assist with a citizen in distress. While attempting to provide assistance to the citizen, Officer #1 saw a silver colored Toyota Rav 4 traveling eastbound on E. Fayette St. This vehicle matched the description of a silver Toyota Rav 4, MD tag 9DB9424 that was distributed on a BOLO flyer to members of BPD.

The flyer contained information stating that the driver of the vehicle, believed to be the Involved Citizen, was wanted for aggravated assault by shooting at a police officer in the Western District as well as an aggravated assault by pointing a gun at an officer in the Southeast District the previous day. The flyer also stated that the Involved Citizen was to be considered armed and dangerous and that he might also be suicidal.

Officer #1 requested that Sgt. #1 investigate the silver Toyota Rav 4. The Involved Citizen got out of the Toyota Rav 4 and pointed a handgun at the officers. The Involved Citizen then re-entered the vehicle and drove away. Officer #1 called for aerial support and the Foxtrot helicopter assisted in tracking the silver Toyota Rav 4. The officers pursued the vehicle.

The silver Toyota Rav 4 eventually came to a stop at the left-hand turn lane located on the corner of Caroline St. and E. Fayette St. The Involved Citizen then exited the vehicle with the handgun in his hand (**Position 1 see below**). The silver Toyota Rav 4 was in the vicinity of vehicles and pedestrians at that point in time. As the Involved Citizen exited the vehicle, Officer #3 pulled his vehicle behind the silver Toyota Rav 4. Officer #3 then fired at the silver Toyota Rav 4 through the front window of his vehicle. The Involved Citizen re-entered the vehicle and initiated a left-hand turn, heading South on Caroline St (**Position 2 see below**). Officers opened fire as he navigated through the intersection and proceeded down the street.

Officer #3's vehicle struck the silver Toyota Rav 4 in the rear (**Position 3 see below**). The silver Toyota Rav 4 continued southbound driving on the east sidewalk and nearly colliding with a lamp post (**Position 4**). The vehicle eventually hit a tree causing the front and side air bags to deploy (**Position 5**). While seated in the driver's side position, Foxtrot camera shows the Involved Citizen extending his arm outward, turning towards police officers and pointing a pistol. The Involved Citizen's arm jerks upward approximately 4-7 times. The windshield wipers then come on. At this point in time, there is no visible movement of the Involved Citizen from the perspective of the Foxtrot camera. Throughout this time frame, sparks can be seen around the vehicle, indicating incoming gunfire from officers.

Officers then began to position themselves tactically to approach the vehicle. Officers removed the Involved Citizen from the vehicle and began to render aid. The Involved Citizen was taken to Johns Hopkins medical center where he was pronounced deceased. Officers found a 9mm

Luger pistol with a 9mm cartridge casing jammed in the chamber of the weapon in a stove-pipe position. The casing failed to eject from the firearm rendering it inoperable.

During this incident a civilian was struck by gunfire. She suffered wounds to her neck, chest and her right arm. She was stopped at the eastbound lane of the 1400 block of E. Fayette St, near a Baltimore City Fire Department fire truck. She was driving a white Ford Focus.

Officer #4 sustained a gunshot wound to his upper leg and was transported to the University of Maryland Shock Trauma Center. Officer #4 was discharged within a couple of hours after receiving treatment for his wound.

Prior Day: Incident #1:

On August 27, 2019 at around 12:10 AM, Officer #5 was conducting a traffic stop at the 400 block of S. Highland Ave. Officer #5 was running the information on the driver when he observed a vehicle slowly driving beside him. As soon as the vehicle passed, he noticed another vehicle driving by his police cruiser. Officer #5 watched as an unknown black male threw a bottle at his vehicle. Officer #5 said to the unknown male, "What's wrong with you?" The unknown male opened the door and pointed a black handgun at Officer #5. Officer #5 told the unknown male to get back in the car. The unknown male got back into the drivers' seat and sped off on Eastern Ave. Officer #5 attempted to follow the vehicle but lost the vehicle in an alley. Officer #5 described the suspect's vehicle as a silver SUV minivan type. The vehicle is visible from the BWC footage.

Prior Day: Incident #2

Later that morning, Officer #6 was responding to a firearm discharge incident near the 900 block of Monroe St. As he was responding, a silver vehicle fled from the scene where they were. Officer #6 saw the vehicle sitting in the intersection at the 1500 block of Pennsylvania Ave. At first Officer #6 saw a green reflection on the side of the vehicle and initially mistook it for a BGE work car. He turned his vehicle around and when he was 40-50 feet away from the silver vehicle, the driver came out of the vehicle and fired 1-3 shots at Officer #6. Officer #6 was able to see the muzzle flash. The driver then jumped back in the vehicle, performed a U-turn and went southbound.

Officer #6 lost sight of the vehicle and was paralleling other police vehicles as they continued pursuit. The pursuit was eventually called off as the vehicle entered the highway near I-295. Officer #6 and other officers returned to 1500 Pennsylvania Ave. Officers found a fired 9mm shell casing in the area where the discharge occurred. Officers were able to obtain the license plate for the silver vehicle. Based off the footage at 1500 Pennsylvania Ave., officers believed it to be a rental car. BWC of the pursuit was captured. However, the shots fired at Officer #6 were not captured because his BWC was not activated at the time.

A Be on the Look Out (BOLO) flyer was distributed by Detective #1, describing a silver Toyota Rav4 MD tag 9DB9424. A picture of the vehicle was shown. The profile matches the features of the vehicle captured on Officer #5's BWC. The BOLO also contained information on the Involved Citizen. It contained a picture of him and described that he was wanted for an aggravated assault by shooting at a police officer in the western district as well as an aggravated assault by pointing a gun at a police officer in the southeast district. It stated that the Involved

Citizen was to be considered armed and dangerous and that the Involved Citizen may also be suicidal.

According to Detective #2 of the SIRT Unit, the Involved Citizen's girlfriend had been contacted by BPD detectives and an interview had been conducted. She told Detective #2 that she had informed the detectives that the Involved Citizen may have been attempting to commit suicide by cop.

SUMMARY OF THE EVIDENCE
BALLISTICS ANALYSIS

Involved Citizen:

Weapon: Luger P08
Projectile Size: 9mm
Magazine Capacity: Unknown [based on the next 3 sentences, why is this "unknown?"]
When the Luger was recovered, there was one stove-piped 9mm cartridge casing jammed in the chamber. There were 5 9mm rounds found in the magazine. There were no additional magazines or unspent rounds found.

BPD ISSUED SERVICE PISTOLS

Sgt. #1

Weapon: Glock 22
Projectile Size: .40 Caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
6 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: 7 rounds

P/O #1

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
1 magazine (14 rounds) in the magazine pouch

Expended Rounds: 1 magazine (14 rounds)

P/O #7

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
9 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: 4 rounds

P/O #3

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
1 magazine (14 rounds) in the magazine pouch

Expended Rounds: 1 magazine (14 rounds)

P/O #5

Weapon 1: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: None

Weapon 2: Colt Model 6920 M4 Carbine Rifle
Projectile Size: .223 caliber
Magazine Capacity: 25 rounds

Remaining Rounds: 0 rounds in the chamber
Magazine empty
3 magazines (25 rounds each) in the magazine pouches

Expended Rounds: 1 magazine (25 rounds)

P/O #2

Weapon 1: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: None

Weapon 2: Colt Model 6920 M4 Carbine Rifle
Projectile Size: .223 caliber
Magazine Capacity: 25 rounds

Remaining Rounds: 1 round in the chamber
15 rounds in the magazine
3 magazines (25 rounds each) in the magazine pouches

Expended Rounds: 9 rounds

P/O #8

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine

Expended Rounds: 1 magazine (14 rounds)
1 magazine (14 rounds)

P/O #9

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
11 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: 2 rounds

P/O #10

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
10 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: 3 rounds

P/O #11

Weapon 1: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
1 magazine (14 rounds each) in the magazine pouch

Expended Rounds: 1 magazine empty (14 rounds)

Weapon 2: Colt Model 6920 M4 Carbine Rifle
Projectile Size: .223 caliber
Magazine Capacity: 25 rounds

Remaining Rounds: 1 round in the chamber
24 rounds in the magazine
3 magazines (25 rounds each) in the magazine pouches

Expended Rounds: None

P/O #12

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
7 rounds in the magazine
2 magazines (14 rounds each) in the magazine pouches

Expended Rounds: 6 rounds

P/O #4

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
13 rounds in the magazine
1 magazine (14 rounds each) in the magazine pouch

Expended Rounds: 1 empty magazine (14 rounds)

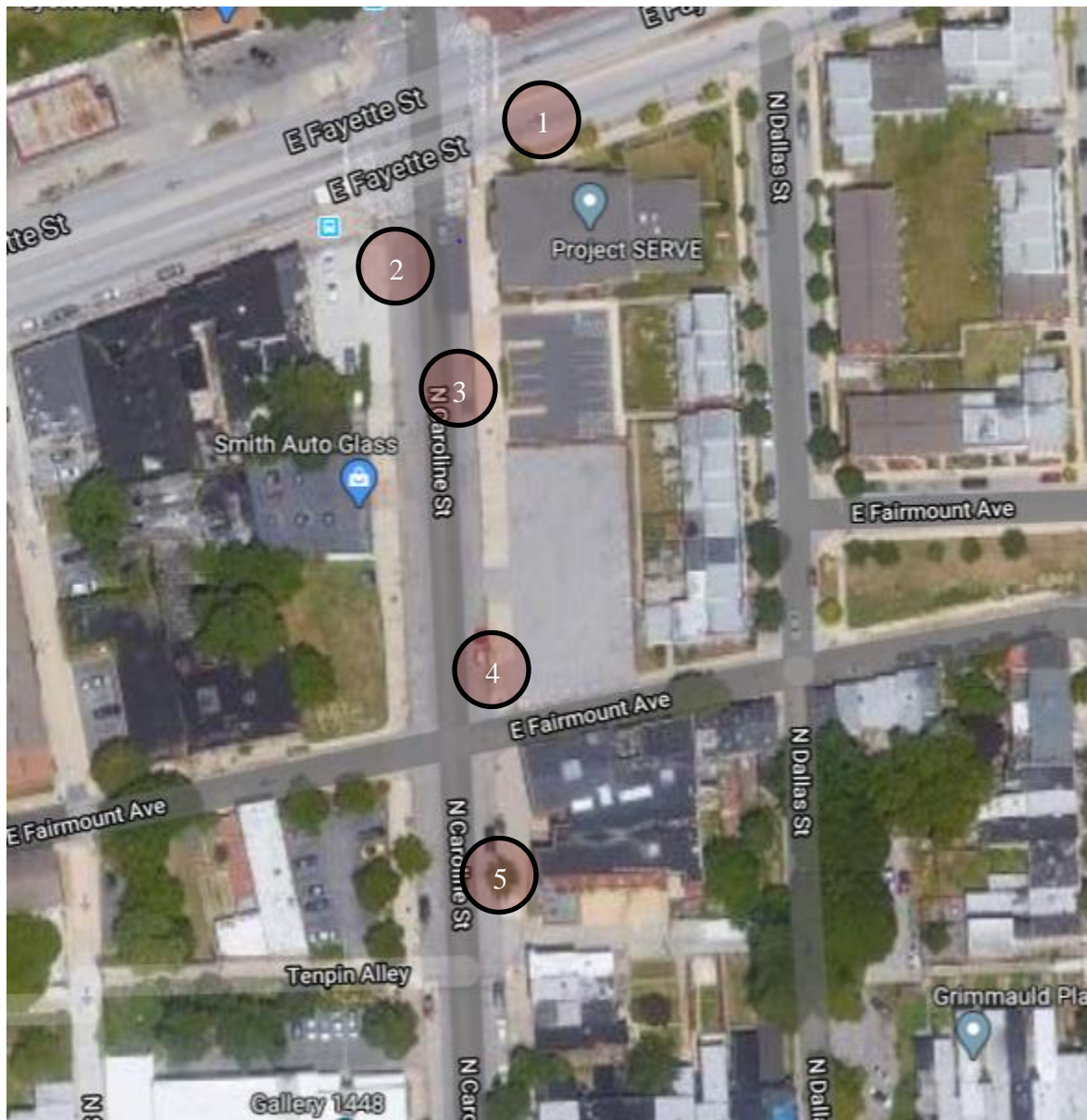
P/O #13

Weapon: Glock 22
Projectile Size: .40 caliber
Magazine Capacity: 14 rounds

Remaining Rounds: 1 round in the chamber
6 rounds in the magazine
1 magazines (14 rounds) in the magazine pouch

Expended Rounds: 1 magazine (14 rounds)
7 rounds
Total - 21 rounds

AERIAL PHOTOGRAPH OF THE AREA WITH 5 POSITIONS



There are 5 positions where the Involved Citizen's silver Toyota Rav 4 makes distinct maneuvers that are visible in the Foxtrot video footage (hereinafter referred to as "FT"). These positions give us a comparative time and location based off of the Foxtrot and officer radio calls. When viewed together with the individual officer BWC footage, we can determine where and when an officer arrived on the scene as well as at what point in time they fired their weapon. Below is a screenshot of the vehicle on Foxtrot cameras for each "position" as well as a timestamp.



POSITION 1

Silver Rav 4 Stops at the corner of Caroline and Fayette
FT 23:02:05



POSITION 2

Silver Rav 4 Turns on to Caroline St.
FT 23:02:18



POSITION 3

P/O #3 attempts to hit the Silver Rav 4 with his patrol car.
FT 23:02:22



POSITION 4

The Involved Citizen drives the vehicle on the sidewalk.
FT 23:02:27



POSITION 5

The Involved Citizen collides with the tree. The vehicle is no longer mobile
FT 23:02:35

Approximate Locations of Bystanders



A. Victim #1



Based off of an analysis of Google Maps, the FT video and the scene photos, Victim #1's white Ford Focus was located in the 2nd eastbound lane of E. Fayette St. At some point her vehicle moved forward and was parked at the stop line. The Baltimore City fire engine was also moved from the original position. The white Ford Focus is seen between Position 1 and Position 2, as the Involved Citizen turned the car left onto Caroline St. Bullet jacket fragments were taken from the white Ford Focus. Ballistic analysis revealed that the fragment contained polygonal rifling commonly associated with Glock Firearms.

B. Social Media Video



The silver Toyota Rav 4 can be seen executing a left hand turn as it enters the field of view. The video shows the edge of a fence line. This video shows the left-hand turn of the Involved Citizen's vehicle onto N. Caroline St. as it moved from Position 1 to Position 2. Gunfire is heard as the vehicle goes through the turn.

INVOLVED OFFICERS' BWC

P/O #1 _____ Weapon(s) Fired: Glock 22

Start: T:02:53:45 P/O #1 is the driver of a BPD patrol vehicle. He responds to the initial call for service to aid the citizen in distress. He initiates contact with a citizen and is standing in front of the 7 Mart entrance. P/O #2 is standing on the southeast corner of E. Fayette and N. Spring Streets. They offer the citizen water and inform him that he's not in any trouble.



T:02:57:00 P/O #2 is seen looking out into the street, tracking an object. P/O #1 asks P/O #2, "Is that the Toyota?"

T:02:57:06 P/O #1 radios to Sgt. #1 to "whip around" his vehicle to look at that Toyota. Sgt. #1 is seen heading eastbound on Fayette St. Sgt. #1 turns his patrol

vehicle around to follow the vehicle as P/O #1 indicates that it doesn't have any tags.

T:02:57:12



Down the street by the light, there are two crossover style vehicles visible on P/O #1's BWC. The vehicle to the left appears to be silver in color.

T:02:57:15

P/O #1 shouts "Heads up! Heads up!" as he runs towards the police SUV. He shouts, "He's got a gun!" "He pointed at me."

T:2:57:38

P/O #1 goes to the rear passenger side of the patrol vehicle and removes a M4 carbine. He radios "Get Foxtrot." "He's in the car. He pointed a gun at us. He's taken off. He's heading eastbound on Fayette St. going up towards Hopkins and Broadway."



P/O #2 is seen taking cover behind a white van, with an M4 Carbine in his hand. P/O #1 gets back in the driver's side of the vehicle and begins pursuit

T:02:58:16

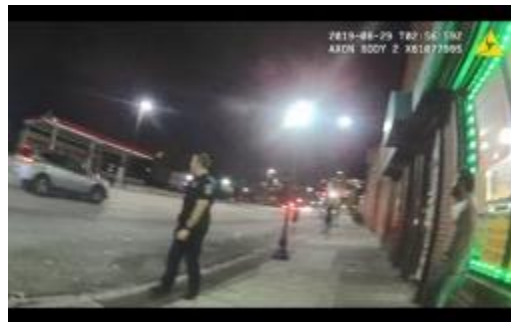
P/O #1 places his hands by his BWC. At this point in time his BWC goes inactive.



P/O #2 Weapon(s) Fired: M4 Carbine

Start: T:02:53:46 P/O #2 is in the passenger side of the patrol vehicle with P/O #1.

T:02:56:59 The silver Toyota Rav 4 is visible on P/O #2's BWC.



T:02:57:07 P/O #2 points to the silver Toyota Rav 4 now stopped near the intersection. "That Toyota right there guys, turn around."



T:02:57:15 P/O #2's BWC shows the Involved Citizen step out of the vehicle. P/O #1 turned his attention to the Involved Citizen and placed his hand on his service pistol. He did not draw it. P/O #2 states "Watch out. He's got a gun. He's got a gun." before taking cover in the alleyway. P/O #2 orders citizen in distress to get behind him. He then orders P/O #1 to get his rifle.

T:02:57:43 P/O #2 takes the M4 Carbine from P/O #1 before adjusting the sights and stock. P/O #2 gets into the patrol vehicle along with P/O #1 and they begin pursuit.

T03:02:07 The patrol vehicle stops and P/O #2 attempts to step out of the vehicle. He says, "There he is. There he is."

POS. 1T:03:02:09 FT: "He's stopped. He's pointing. He's getting out of the car."
(FT is Foxtrot)



Based off of BWC footage, P/O #2 and P/O #1's vehicle was parked in front of Living Classrooms building located on the southeast corner of E. Lafayette St. and N. Caroline St.

POS. 2T:03:02:19 FT: "He's turning left."



P/O #2 aims his M4 Carbine at the silver Toyota Rav 4 as it makes the left hand turn onto N. Caroline St. Directly in front of P/O #2 is a patrol car facing northbound on N. Caroline St. Across the street are other police vehicles with lights and sirens engaged.

Based off of audio, there were approximately 3-4 shots fired at this point.

POS. 3T:03:02:22 When P/O #3 hits the silver Toyota Rav 4, P/O #2 is facing south with his weapon aimed at the vehicle. He fires 3 shots as the vehicle continues fleeing southbound.

POS. 4T:03:02:27 P/O #2 runs south down the sidewalk on foot.

POS. 5T:03:02:36 FT: "Alright guys, he's hit a tree."
P/O #2 is running down the street. He does not fire at this point in time.

T:03:02:43 FT: "He's pointing a gun. He's pointing a gun."

P/O #2 is still making his way southbound. A rapid succession of gunfire is heard on his BWC.

T:03:02:51 Gunfire stops. There is approximately 7 seconds of rapid and continuous gunfire.

T:03:02:58 P/O #2 stops behind a patrol vehicle. Another officer comes into his BWC frame. Both officers move behind the patrol vehicle for cover.



T:03:03:06 P/O #2 falls back then pushes forward again, behind the cover of a patrol vehicle. He takes a kneeling stance before firing 3 rounds at the silver Toyota Rav 4. Smoke appears to be coming from the vehicle.



T:03:03:43 P/O #2 stacks up behind an officer behind a riot shield.

T:03:03:58 P/O #2 approaches the driver's side of the silver Toyota Rav 4. An officer opens the door to the vehicle. The Involved Citizen is in the front passenger seat with no sign of movement. The Involved Citizen is pulled out of the vehicle and falls to the sidewalk.



Officers then push aside the airbags to briefly check the vehicle.

T:03:04:20 BWC footage shows the passenger side window obscured by the airbag. There are several indentations that appear to be bullet holes along the passenger side door. P/O #2 pushes the airbag aside to look inside.



T:03:04:54 P/O #2 checks another officer for injuries before standing by and assisting officers to render aid to the Involved Citizen.



Sgt. #1 Weapon(s) Fired: Glock 22

- Start: T:02:57:18 Sgt. #1 was the driver of a BPD cruiser.
- T:02:57:39 Sgt. #1 exits the police cruiser with his service pistol in his right hand. He takes a position behind the door and aims his weapon. He then activates his BWC and returns to pursuit.
- T:02:57:54 Audible through the radio is an officer saying “He’s getting in the car. He pointed a gun at us.” Sgt. #1 begins pursuit.
- T:02:58:10 Sgt. #1 calls for air support. He calls in a description of a silver Toyota Midsize approaching Washington St.
- T:02:58:58 Sgt. #1 radios that The Involved Citizen is heading the wrong way on Monument St.
- T:02:59:08 Sgt. #1 radios, “He’s got a gun. He’s armed. Watch him.”
- T:03:00:19 Sgt. #1 radios, “I lost him. I’m on Baltimore and Central.”

- T:03:00:26 Sgt. #1 radios, “He’s got a gun. He got out. He pointed it at me.”
- POS. 1**T:03:02:05 FT: “He’s stopped. He’s pointing. He’s getting out of the car.”
#1 is still in the vehicle in pursuit.
- POS. 2**T:03:02:18 FT: “He’s turning left.”
Sgt. #1 is still in the vehicle in pursuit.
- POS. 3**T:03:02:22 Sgt. #1 is still in the vehicle in pursuit.
- POS. 4**T:03:02:27 Sgt. #1 is still in the vehicle in pursuit.
- POS. 5**T:03:02:35 FT: “Alright guys, he’s hit a tree.”

T:03:02:39 Sgt. #1 exits the vehicle as FT airs “He’s pointing a gun. He’s pointing a gun.”
Several gun shots are heard at this time causing audio distortion. Sgt. #1 fires his pistol from behind a black BPD SUV.

T:03:02:42



Several firearms discharges are heard at this point in time. The silver Toyota Rav 4 is visible on Sgt. #1’s BWC. Sgt. #1 lowers his service pistol, fires a few more rounds and moves to the front of the black BPD SUV. It appears as if the air bags have been deployed, obscuring the passenger side windows of the vehicle.

T03:02:50 Sgt. #1 points his service pistol at the silver Toyota Rav 4. The front and rear passenger windows are noticeably obscured by the deployed airbags. The Involved Citizen is unable to be seen moving. Although gunshots are audible, it does not appear that Sgt. #1 fires his weapon again.



T:03:03:27 Sgt. #1 goes into the trunk of his patrol vehicle and obtains a riot shield. Other officers stack behind Sgt. #1 and they circle around to the silver Toyota Rav 4.

T:03:03:56



Officers approach the driver's side door of the silver Toyota Rav 4 with their weapons drawn. No shots were fired as they cleared the vehicle. The air bags appear to be deployed, obscuring the rear driver's side passenger window.

T:03:04:18



The rear window appears to have been shot out. There is a clear view through the center area, unobscured by the airbags. Sgt. #1 then returns the riot shield to the trunk of the patrol vehicle and takes command of the scene, ordering officers to call for a medic. Sgt.#1 is informed that P/O #4 was on the way to the hospital. He orders the other officers to check themselves for wounds.

P/O #3 Weapon(s) Fired: Glock 22

T2:57:08 P/O #3 is the driver of a BPD Patrol Vehicle. He is stopped at a Royal Farms when he enters the vehicle and begins pursuit.

T2:57:36 P/O #3 activates his BWC.

POS. 1T:03:02:07 FT: “He’s stopped. He’s pointing. He’s getting out of the car.”
P/O #3 takes out his service pistol, yells “Shots fired!” over the radio and opens fire at the silver Toyota Rav 4. He fires through the front windshield of the patrol vehicle.



POS. 2T:03:02:18 FT: “He’s turning left.”
P/O #3 navigates through the intersection and follows the silver Toyota Rav 4.

POS. 3T:03:02:22 P/O #3 hits the silver Toyota Rav 4.

POS. 4T:03:02:31 P/O #3 continues pursuit.

POS. 5T:03:02:36 FT: “Alright guys, he’s hit a tree.”
P/O #3 parks the patrol vehicle.

T:03:02:43 FT: “He’s pointing a gun. He’s pointing a gun.”
P/O #3 fires out of the front window and empties his magazine.



P/O #3 reloads and continues to fire.

T:03:03:40 The hood of P/O #3’s vehicle begins to smoke. P/O #3 then exits the vehicle to clear the silver Toyota Rav 4. P/O #3’s vehicle is located directly behind the Toyota Rav 4 with a view inside the back window.

P/O #13 _____ Weapon(s) Fired: Glock 22

- T:02:57:48 P/O #13 is the driver of a BPD patrol vehicle.
- T:02:58:49 FT: "North on Washington. North on Washington."
- T:03:00:26 P/O #13: "You see we're paralleling."
- T:03:01:40 P/O #13: "He's going to come out right over here, buddy."
- POS. 1**T:03:02:08 FT: "He's stopped. He's pointing. He's getting out of the car."
P/O #13 is still in pursuit.
- POS. 2**T:03:02:18 FT: "He's turning left." P/O #13 is still in pursuit.
- POS. 3**T:03:02:22 P/O #13 still in pursuit.
- POS. 4**T:03:02:31 "He's up on the sidewalk." P/O #13 still in pursuit.
- POS. 5**T:03:02:36 FT: "Alright guys, he's hit a tree."
- T:03:02:43 P/O #13 takes a cover position behind a patrol vehicle. Smoke is emanating in front of the hood of the patrol vehicle.



Several gunshots are heard on BWC in rapid succession.

- T:03:02:48 P/O #13's service pistol appears on BWC. The slide is locked backwards, indicating that the magazine has been emptied. P/O #13 reloads.



T:03:03:08 P/O #13 retreats behind the trunk of the patrol vehicle.

T:03:03:19 P/O #13's field of view is completely obscured by smoke. P/O #13 sweeps back around and makes his way to the sidewalk, pushing forward towards the driver's side of the silver Toyota Rav 4.



T:03:03:40 BWC footage shows there appears to be no motion from the vehicle.



T:03:03:49 The Involved Citizen's head is positioned between the deployed driver's side front door airbag and the window. There does not appear to be any motion by the Involved Citizen at this time. Several bullet impact holes are visible on the rear passenger door.



T:03:03:53 The Involved Citizen is pulled from the car by P/O #13 as other officers gather to secure the area. The Involved Citizen is handcuffed by P/O #13. P/O #13 then directs other officers to cut the sirens.



P/O #11 _____ Weapon(s) Fired: Glock 22

T:02:58:15 P/O #11 is the driver of a BPD patrol vehicle.

POS. 1 T:03:02:10 FT: "He's stopped. He's pointing. He's getting out of the car."
P/O #11 is still in pursuit.

T:03:02:17 P/O #11 gets out of the patrol vehicle. Then gets back inside and restarts the car.



POS. 2T:03:02:18 FT: “He’s turning left.” P/O #11 gets back in the car and drives past a bus.

POS. 3T:03:02:29 “Southbound on Caroline.” P/O #13 still in pursuit. He drives past the fire engine on the left eastbound lane of E. Fayette St.

POS. 4T:03:02:32 “He’s up on the sidewalk.” P/O #13 makes a left onto N. Caroline St.

POS. 5T:03:02:36 FT: “Alright guys, he’s hit a tree.”

T:03:02:42 P/O #11 gets out of the vehicle. He is parked by the east sidewalk of N. Caroline St. There is another police cruiser in front of him. P/O #11 takes out his service pistol and begins firing.

T:03:02:51 P/O #11 removes a magazine and reloads his service pistol. The slide is locked back, indicating that the weapon had expended the entire magazine.



T:03:03:07 P/O #11 removes an M4 Carbine from the trunk of his patrol vehicle. He takes a cover position by the door of his vehicle.

T:03:03:46 Officers are seen stacking to P/O #11’s right. Another officer proceeds forward up the sidewalk towards the driver’s side of the silver Toyota Rav



P/O #11 covers the driver's door as The Involved Citizen is removed from the vehicle.

P/O #4 Weapon(s) Fired: Glock 22

T:02:58:46 P/O #4 is the driver of a BPD patrol vehicle.

POS. 1T:03:02:07 FT: "He's stopped. He's pointing. He's getting out of the car."
P/O #4 is still in pursuit.

T:03:02:12 P/O #4 gets out of the patrol vehicle and aims his service pistol at the silver Toyota Rav 4 as it enters the intersection of E.Fayette St. to begin the left hand turn. It does not appear that P/O #4 fired at the silver Toyota Rav 4.



POS. 2T:03:02:18 FT: "He's turning left."
P/O #4 watches the police vehicles pursue the Involved Citizen as they turn left on N. Caroline St. P/O #4's BWC shows the fire engine and the Ford Focus in position at the stop light eastbound on E. Fayette St. Three gun shots are audible.



POS. 3T:03:02:29 “Southbound on Caroline.”
P/O #4 proceeds southbound on N. Caroline St. on the east sidewalk.

POS. 4T:03:02:31 “He’s up on the sidewalk.”

POS. 5T:03:02:36 FT: “Alright guys, he’s hit a tree.”

T:03:02:39 P/O #4 raises his gun and fires at the silver Toyota Rav 4. Immediately behind the silver Toyota Rav 4 are two police vehicles.



T:03:02:48 P/O #4’s service pistol is visible on BWC. The slide is locked back indicating that he has spent a full magazine. P/O #4 reloads the service pistol.



T:03:02:52 As he is reloading the magazine. P/O #4 turns around and takes cover at the intersection of N. Caroline St. and Fairmount. He clutches his leg as he says, "A bullet hit me."



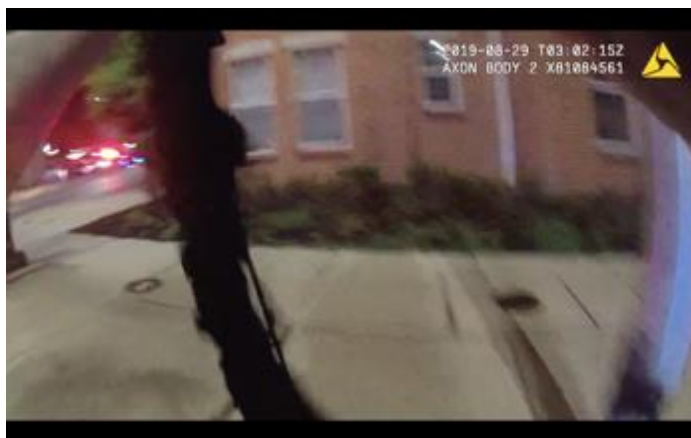
P/O #4 was located near the southeast corner of Fairmount Ave. and N. Caroline St. The southeast corner has a manhole cover. It appears that the officers South of the manhole cover, forward of the patrol vehicle are engaged with the silver Toyota Rav 4.



P/O #5 Weapon(s) Fired: M4 Carbine

T:02:57:12 P/O #5 is the passenger of a BPD patrol vehicle. He has a service rifle in his hand.

POS. 1 T:03:02:09 FT: "He's stopped. He's pointing. He's getting out of the car."
P/O #5 exits the patrol vehicle. The patrol vehicle stopped on the southeast corner of E. Fayette St. and N. Caroline St. It is parked, facing northbound.



POS. 2T:03:02:18 FT: "He's turning left." This radio call is inaudible as there is gunfire and background noise. P/O #5 engages the silver Toyota Rav 4 as it makes the left turn onto N. Caroline St. He fires his first shot as the silver Toyota Rav 4 comes in front of the fire engine and the white Ford Focus. P/O #5 fires approximately five rounds before turning left and running down the street.



POS. 3T:03:02:29 "Southbound on Caroline."
P/O #4 proceeds southbound on N. Caroline St. on the east sidewalk.

POS. 4T:03:02:31 "He's up on the sidewalk."

T:03:02:39 An officer runs into P/O #5's field of fire. P/O #5 was not firing at the time. P/O #5 warns the officer to watch out. The officer then pulls tight to the wall of the building before multiple gunshots are heard. There is no visible movement from the driver's side door of the silver Toyota Rav 4.



T:03:02:52 P/O #5 fires at the silver Toyota Rav 4 as other officers make their way towards the vehicle. P/O #5 fires from behind the corner of the building, taking cover. P/O #4 runs back to safety after being shot.



After firing a few rounds, P/O #5 turns around and radios that there was an officer that was hit. He assists in giving first aid to P/O #4 and applying a tourniquet.

T:03:04:20 P/O #5 informs other officers that he unloaded his entire rifle.

T:03:04:48 A civilian in her vehicle is in view of the BWC. The bystander is parked on E. Fairmount.



- T:03:05:25 P/O #5 states “A bullet went by the building where I was. I don’t think it hit me. I think it bounced off and hit #4.”
- T:03:06:55 P/O #3 tells P/O #5 that he unloaded an entire magazine as well.
- T:03:08:02 P/O #5 has a conversation with P/O #5 who said “That’s the guy” from the night before.

P/O #8 Weapon(s) Fired: Glock 22

- T:02:57:49 P/O #8 is the driver of a BPD patrol vehicle. BWC shows that the vehicle is next to a Royal Farms when he begins pursuit.
- POS. 1**T:03:02:08 FT: “He’s stopped. He’s pointing. He’s getting out of the car.”
Still in pursuit.
- POS. 2**T:03:02:18 FT: “He’s turning left.”
Still in pursuit. Shots audible.
- POS. 3**T:03:02:29 “Southbound on Caroline.”
Still in pursuit.
- POS. 4**T:03:02:31 “He’s up on the sidewalk.”
P/O #8 lets go of the steering wheel. Puts both hands on his service pistol and fires approximately 6 rounds.



POS. 5 T:03:02:36 FT: "Alright guys, he's hit a tree."

T:03:02:41 P/O #8 is aiming his service pistol behind the silver Toyota Rav 4 and firing.



T:03:02:46 P/O #8 puts the patrol vehicle in park.

T:03:02:50 P/O #8 changes the magazine of his service pistol. P/O #8 continues to fire into the silver Toyota Rav 4. The passenger side airbags are deployed, obscuring the view into the vehicle.

T:03:03:37 P/O #8 gets out of the patrol vehicle and joins other officers as they stack and clear the driver's side of the silver Toyota Rav 4.

T:03:06:52 P/O #8 states that "I think I got hit or my car got hit." He also points to his expended magazine on the ground.

P/O #12 Weapon(s) Fired: Glock 22

T:03:02:22 P/O #12 is the driver of a BPD patrol vehicle.

POS. 1 T:03:02:07 FT: "He's stopped. He's pointing. He's getting out of the car."
Not captured on BWC

- POS. 2**T:03:02:18 FT: “He’s turning left.”
Not Captured on BWC
- POS. 3**T:03:02:29 “Southbound on Caroline.”
Not Captured on BWC
- POS. 4**T:03:02:31 “He’s up on the sidewalk.”
Not Captured on BWC
- POS. 5**T:03:02:36 FT: “Alright guys, he’s hit a tree.”
Not Captured on BWC

T:03:02:53 P/O #12 activates his BWC after firing a single shot. The patrol vehicle is parked south of the silver Toyota Rav 4. His position places other officers deployed to the north in his field of fire. He fires several rounds towards the silver Toyota Rav 4.



T:03:04:51 P/O #12 gets out of the vehicle and moves north on foot to join officers as they secure the scene.



P/O #9 Weapon(s) Fired: Glock 22

- T:2:47:08 P/O #9 is the passenger of a BPD Patrol vehicle.
- POS. 1**T:03:02:07 FT: "He's stopped. He's pointing. He's getting out of the car."
In pursuit.
- POS. 2**T:03:02:18 FT: "He's turning left."
In pursuit.
- POS. 3**T:03:02:29 "Southbound on Caroline."
In pursuit.
- POS. 4**T:03:02:31 "He's up on the sidewalk."
In pursuit.
- POS. 5**T:03:02:35 FT: "Alright guys, he's hit a tree."
P/O #9 exits the patrol vehicle.
- T:03:02:46 P/O #9 fires towards the silver Toyota Rav 4 from behind the front passenger door. He takes cover behind the engine block and wheels.
- T:03:03:43 P/O #9 follows other officers to clear the driver's side door.

P/O #7 Weapon(s) Fired: Glock 22

- T:02:57:15 P/O #7 is the driver of a BPD Patrol vehicle.
- POS. 1**T:03:02:12 FT: "He's stopped. He's pointing. He's getting out of the car."
In pursuit.
- POS. 2**T:03:02:19 FT: "He's turning left."
In pursuit.
- T:03:02:27 P/O #7 parks the vehicle and proceeds south on N. Caroline St. on foot.
- POS. 3**T:03:02:30 "Southbound on Caroline."
In pursuit.
- POS. 4**T:03:02:31 "He's up on the sidewalk."
In pursuit.
- POS. 5**T:03:02:36 FT: "Alright guys, he's hit a tree."
- T:03:02:42 FT: "He's pointing a gun. He's pointing a gun."
P/O #7 takes out her service pistol and fires down the sidewalk of N. Caroline St. She has not crossed Fairmount at this point in time.

T:03:02:52 P/O #7 takes cover behind a patrol cruiser; an officer takes out a M4 Carbine from the trunk of the vehicle.

T:03:04:17 P/O #7 assists in rendering aid to P/O #

LEGAL ANALYSIS

The focus of the State's Attorney's inquiry is whether the Involved Officers committed any crime when they shot the Involved Citizen. The inquiry ultimately focused on three legal principles: 1) the "Reasonable Officer" standard, and 2) Self-defense / Defense of Others. In the Supreme Court case of Graham v. Connor, the Court expressed concern about "bright line rules," and while implementing standards, cautioned that a police officer use-of-force case "...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..."

Shooting at someone is, in legal terms, an effort to seize them. The reasonableness of any seizure has long been governed by Terry, which notes: "*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.*"

Graham and Terry both require consideration of what the officer reasonably believed at the moment he pulled the trigger. It makes no difference under the law whether the "facts" were erroneous or not—it only matters what the officer "reasonably believed" at the time he pulled the trigger, and whether or not a "reasonable officer" with the same perceptions and/or beliefs would have acted the same way.

POSITION 1 GUNFIRE:

Based on the reports, BWC footage and the BOLO flyer, it is apparent that officers were looking for a silver Toyota Rav 4. The Involved Citizen was considered armed and dangerous. Police officers were aware that the Involved Citizen had shot at an officer and aimed a pistol at another officer the night before. Sgt. #1, P/O #2 and P/O #1 had sufficient belief that there was probable cause to arrest the Involved Citizen, based on the BOLO flyer and their identification of the vehicle described in the BOLO flyer.

BWC Footage showed that Sgt. #1, P/O #2 and P/O #1 had seen the Involved Citizen point a weapon at officers. Though not captured on BWC, based on the reaction of bystanders and officers captured on BWC, there is sufficient evidence to conclude that officers reasonably believed that the Involved Citizen was armed with a firearm and had pointed his weapon at officers. At this time, officers had sufficient probable cause to arrest the Involved Citizen for a felony.

From the BWC footage and Foxtrot footage, it is apparent that officers were operating under the reasonable belief that the Involved Citizen was armed. When P/O #3 first engaged the Involved Citizen, Foxtrot footage confirmed that the Involved Citizen stepped out of the silver Toyota Rav 4 with a pistol in his right hand. It can be reasonably proven that at Position 1, the Involved Citizen presented a credible threat to officers and to civilians.

P/O #3 discharged his firearm through his window. At that point in time P/O #3 was reacting to both the Foxtrot call that he's getting out of the vehicle and pointing a gun, prior information that the Involved Citizen was armed and dangerous, as well as the prior radio transmissions stating that he pointed a gun at officers. There is sufficient evidence to conclude that P/O #3 reasonably believed that he and others were at risk of life or serious bodily injury because the Involved Citizen stepped out of the vehicle with a gun in his hand.

POSITION 2 GUNFIRE:

Several officers fired rounds as the silver Toyota Rav 4 made a turn down N. Caroline St. In addition to P/O #3 firing in that vicinity, P/O #5, P/O #2 and P/O #4 all fired their weapons on BWC. P/O #1's BWC was not on at the time. P/O #5 and P/O #2 were firing M4 carbines with .223 caliber rounds. Officers' BWC videos show that radio calls broadcasted to the officers, stated that the Involved Citizen stepped out of his vehicle and had a gun in his hand. There is sufficient evidence to conclude that a reasonable officer would fire at a fleeing felon that posed an imminent danger to life or serious physical injury.

POSITION 3-4 GUNFIRE:

As the Involved Citizen made his way down N. Caroline St., the Involved Citizen' driving became erratic and he ended up on the sidewalk, dropping speed as he crossed Fairmount Ave. Given the erratic driving and the prior conduct of the Involved Citizen, officer weapons discharge at this point in time could be considered reasonable given his continued flight risk.

POSITION 5 GUNFIRE:

The Involved Citizen eventually crashes into a tree, rendering the vehicle undrivable. The airbags are deployed, covering all passenger windows as well as the steering column. The Involved Citizen is seen on Foxtrot footage with his head and torso out the window and with a gun in his hand. He appears to point the gun towards officers and makes gestures that conform with a person's arm pulled upwards as a result of a firearms discharge or recoil. It is reasonable to conclude that the Involved Citizen was actively firing his weapon at this point in time. There appears to be a single flash appearing from the front window near this time.

At this point in time, it would be reasonable to conclude that officers were still under the belief that the Involved Citizen was armed and had recently fired at officers. It could be reasonably argued that during this point in time, officers were firing to eliminate an imminent threat to life and serious bodily injury.

CONCLUSION

Given the following: (1) on August 27, the Involved Citizen threw a bottle at Officer #5, exited his vehicle, pointed a gun at the officer, returned to his car and drove away; (2) several hours later, Officer #6 saw the vehicle at 1500 Pennsylvania Avenue where the Involved Citizen exited his vehicle and fired 1-3 shots at the officer; (3) on August 28, after a BOLO had been issued describing the Involved Citizen and his vehicle and indicating that he was armed and dangerous, Sgt. #1 observed the vehicle, exited his vehicle to investigate when the Involved Citizen exited his vehicle, pointed a gun at Sgt. #1, then returned to his vehicle and drove off; (4) a pursuit of the Involved Citizen's vehicle occurred in which the Involved Citizen stopped his vehicle at Caroline and E. Fayette Street, exited the vehicle with a handgun in his hand, returned to his vehicle and continued on Caroline Street; (5) the Involved Citizen drove up on the sidewalk, crashed in to a tree, stuck his arm out of the window and appeared to discharge a gun, it would be objectively reasonable for the officers to conclude that their safety was at risk. The decision to use force was justified under the Maryland law of self-defense and the defense of others, and the standard put forth by the Supreme Court in *Graham v. Connor*.

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