



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved
Death in Baltimore County on January 9, 2024

September 10, 2024

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Declination Report Concerning the Police -Involved Death of Sha-Kim Akil Webley on January 9, 2024

The Independent Investigations Division of the Maryland Office of the Attorney General (the “IID”) is charged with investigating “police-involved incidents that result in the death of individuals or injuries likely to result in death.” Md. Code, State Gov’t § 6-602 (c)(1). For incidents that occur after October 1, 2023, if the Attorney General determines that the investigation provides sufficient grounds for prosecution, then the IID “shall have exclusive authority to prosecute the offense.” State Gov’t § 6-604 (a)(1).

I. Introduction

On January 9, 2024, at approximately 11:40 a.m., officers with the Baltimore County Police Department (“BCPD”) responded to a motel on Reisterstown Road in Pikesville, Maryland, after receiving a call for service about an armed man, later identified as Sha-Kim Webley. Mr. Webley left the motel on foot before the police arrived, and the subject officers located him at a nearby convenience store. Mr. Webley pointed a gun at the subject officers who found him and when they retreated, he barricaded himself in the convenience store with two civilians inside. After several minutes, Mr. Webley fired a shot at subject officers from within the convenience store, then opened the door and moved toward the subject officers with the gun aimed at them. The subject officers fired their weapons in response, striking Mr. Webley. Mr. Webley was treated at the scene and then transported to a local hospital, where he was pronounced dead.

After completing its investigation and evaluating all the available evidence, the Office of the Attorney General has determined that the subject officers did not commit a crime under Maryland law. Accordingly, the Attorney General has declined to prosecute any of the subject officers in this case.

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officers’ conduct. By statute, the IID only has jurisdiction to investigate the actions of police officers, not those of any other individuals involved in the incident. Moreover, the IID’s analysis does not consider issues of civil liability or the department’s administrative review of the subject officers’ conduct. Certain information—specifically, compelled statements by subject officers—may be considered in civil or administrative processes but may not be considered in criminal investigations or prosecutions due to the subject officers’ Fifth Amendment rights. If any compelled statements exist in this case, they have not been considered in the IID’s investigation. The subject officers in this case chose not to make statements to the IID, which had no impact on the prosecutorial decision.

This report is composed of a factual narrative followed by a legal analysis. Every fact in the narrative is supported by the evidence obtained in this investigation, including forensic and autopsy reports, police radio transmissions, police agency policies, dispatch records, police and EMS reports, police body-worn camera footage, photographs, and interviews with civilian and law

enforcement witnesses.¹ The legal analysis explains why the IID will not bring charges under the relevant Maryland statutes.

This investigation involved one decedent and three subject officers:²

- A. The decedent, Sha-Kim Akil Webley, was 29 years old at the time of the incident. He was a Black male who lived in Windsor Mill, Maryland.
- B. Officer Paul Fleck has been employed by BCPD since January 2021. He is a White male, and at the time of the incident was 30 years old.
- C. Officer Andrew Helphenstine has been employed by BCPD since May 2019. He is a White male, and at the time of this incident was 24 years old.
- D. Officer Tony Taylor has been employed by BCPD since July 2020. He is a Black male, and at the time of the incident was 27 years old.

The IID reviewed all available departmental disciplinary records and criminal histories of the involved parties and where they existed, determined that none were relevant to this investigation.

II. Factual Summary

On January 9, 2024, at 11:22 a.m., Baltimore County 911 received a phone call reporting a domestic disturbance at a motel on Reisterstown Road, in Pikesville, Maryland. The person who made the 911 call (the “911 Caller”) reported that a man, later identified as Sha-Kim Webley, had “put his hands on her,” then left the motel in a “tan and yellow hoodie”, and was carrying a gun in a “little black bag”. BCPD officers were dispatched to the motel. Subject officers Paul Fleck, Andrew Helphenstine, and Tony Taylor responded, and arrived between 11:34 a.m. and 11:40 a.m. Some officers, including Officer Taylor, went to the 911 Caller’s room and spoke with her, while Officers Fleck, Helphenstine, and others canvassed the motel and its surrounding area looking for Mr. Webley.³

The 911 Caller’s statements to Officer Taylor were consistent with what she reported to dispatchers during the 911 call. The 911 Caller informed Officer Taylor that she and Mr. Webley were domestic partners that had an argument, and that Mr. Webley had left the motel carrying a gun. The 911 Caller stated that Mr. Webley did not point the gun at her during the argument, but that he “always” had it with him. The 911 Caller also provided Mr. Webley’s name, his picture, and told the subject officers that Mr. Webley was wearing a tan hoodie and blue jeans. The 911 Caller also stated that Mr. Webley had likely gone to a certain nearby convenience store or a bus

¹ BCPD Field Manual 2023-01, Policies 11-10.0 “Barricade/ Hostage Incidents” and 12-1.0 “Use of Force Incidents” were reviewed during this investigation, but ultimately did not impact the legal analysis of this incident.

² BCPD Officer William Bergeron was present during the incident and while he is named within this report, Officer Bergeron is not a subject of this investigation.

³ BCPD radio traffic indicates that department Detectives were familiar with Mr. Webley and his history of carrying a firearm, but there is no evidence that any of the subject officers personally knew Mr. Webley.

stop. Private surveillance footage revealed that Mr. Webley had entered the convenience store mentioned by the 911 Caller at 11:31 a.m. At 11:38 a.m., Officer Taylor and Officer Bergeron left the motel, got into their patrol cruisers, and began canvassing the area trying to locate Mr. Webley.

At 11:41 a.m., while Officers Fleck and Helphenstine were still canvassing the motel, Officer Taylor and Officer Bergeron pulled into the parking lot of the convenience store that the 911 Caller had mentioned—approximately 0.1 miles from the motel—and walked inside.⁴ When the officers entered the convenience store, Mr. Webley, wearing a tan and yellow “hoodie” as described by the victim, was near the store’s counter, standing in front of one of two clerks working that day.

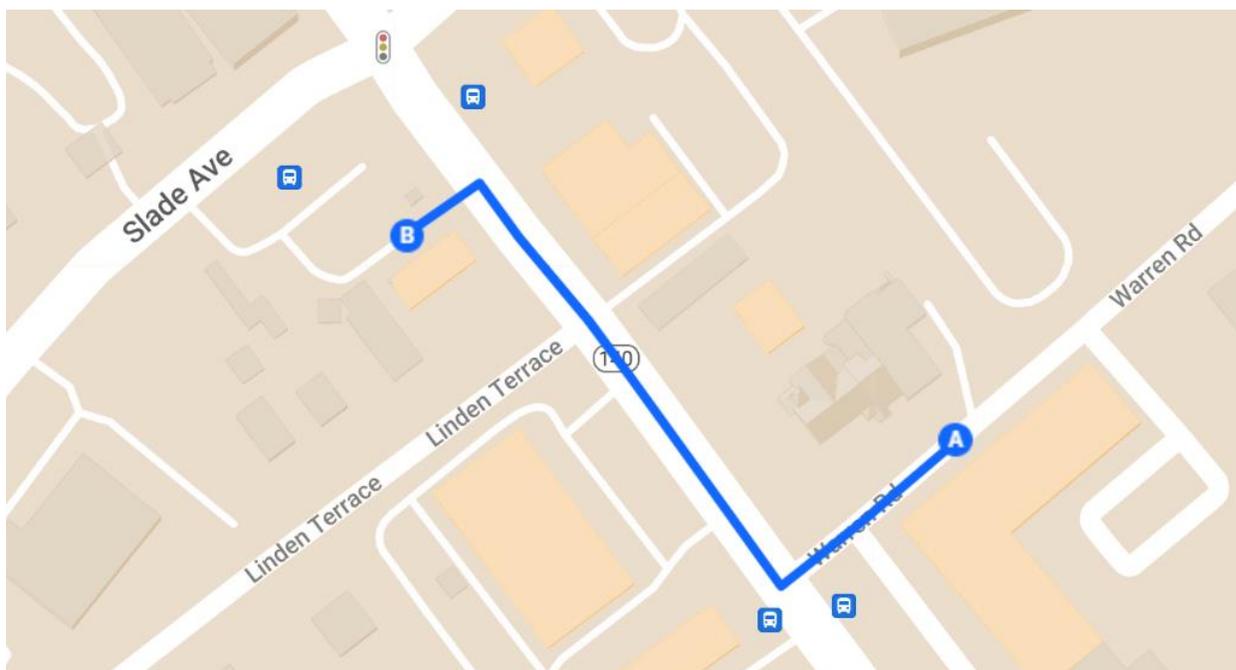


Image 1: A map depicting the 0.1 miles between the location of the 911 caller (Point A) and the convenience store where officers encountered Mr. Webley (Point B).

According to Officer Bergeron during his interview with investigators after the incident, when the officers approached Mr. Webley a few seconds after entering the convenience store, Mr. Webley told the officers “don’t come any closer,” said that there would be a shootout, then drew a handgun from his waistband and pointed it at the officers.

⁴ The store clerks were interviewed by IID investigators and their statements were consistent with surveillance footage. The store clerks reported that Mr. Webley entered the convenience store, purchased a cigar, and then began “circling” the inside of the store while talking on his cellphone.



Images 2 & 3: Still photos from Officer Taylor's body-worn camera footage seconds after entering the convenience store.

Left Photo: Mr. Webley, wearing a tan and yellow hoodie, is seen drawing a gun (circled in red) from his right pocket.

Right Photo: two seconds later, Mr. Webley is seen aiming the gun at Officer Taylor. A store clerk (circled in green) is standing behind Mr. Webley; their face has been blurred to protect their privacy. The time stamp on the body-worn camera footage is in Coordinated Universal Time (UTC), the default setting on Axon camera systems; 16:41 UTC is 11:41 a.m. ET.

Officers Taylor and Bergeron backed out of the convenience store and radioed that they had located Mr. Webley and needed more officers on scene. Officers Fleck, Helphenstine and several additional officers headed towards the convenience store in their patrol cruisers. By 11:43 a.m., multiple BCPD officers had arrived on scene and surrounded the convenience store. At that point, Officer Taylor, armed with his service handgun, was positioned behind a patrol cruiser to the left of the convenience store's front door. Officer Fleck was armed with a shotgun and took cover behind a van to the right of the door. Officer Helphenstine was armed with his service handgun, and was positioned between Officers Taylor and Fleck, using a patrol cruiser for cover.



Image 4: Still photo from Officer Taylor's body-worn camera footage showing his position when the stand-off began.

For the next eight minutes, Mr. Webley and the officers were in a stand-off. None of the officers attempted to enter the building or communicate with Mr. Webley during this time; they took cover behind their cars and aimed their guns toward the convenience store. The officers on scene also requested that additional officers come to the location, including those with rifles, experienced hostage negotiators, and officers positioned to block traffic in front of the convenience store. Body-worn camera footage shows that the officers also reported Mr. Webley's movements out loud to each other and over the radio. However, other than the reported movements, there is no evidence that the officers were aware of what Mr. Webley was doing inside the convenience store.

Inside the convenience store, Mr. Webley had locked the front entry door, and paced around the store holding his handgun with his finger on the trigger. As the officers exited the convenience store, private video footage showed Mr. Webley aiming his handgun at the officers through the door and saying, "I ain't scared of y'all bitch ass. Y'all [...] better back up, what's up."

For the next few minutes, the two convenience store clerks urged Mr. Webley to leave through a side door or surrender. Mr. Webley refused, stating "They got this place surrounded bro, I'm not going like that. Fuck that." The store clerks continued trying to talk Mr. Webley down, and offered to help him, but he rejected their offers and demanded that they give him "wraps" because he wanted to "smoke a blunt before I die bro." After a few moments, the store clerks gave Mr. Webley the items he requested.⁵

⁵ Though Mr. Webley's words can be clearly heard on the cellphone footage inside the convenience store, there is no evidence that the officers could hear him outside.



Images 5, 6, and 7: Still photos—in chronological order from left to right—taken from a 7-minute-long private cellphone video that was recording inside of the convenience store during the stand-off. Mr. Webley’s handgun is circled in red in each photo.

Left Photo: Mr. Webley is pointing his handgun at the subject officers as they initially retreated from the convenience store.

Center Photo: Mr. Webley is pacing the convenience store two minutes into the standoff.

Right Photo: Mr. Webley is holding the handgun just before dialing 911.

At 11:47 a.m., about six minutes into the stand-off, Mr. Webley called 911 and had the following conversation with a dispatcher:⁶

⁶ This conversation was recorded on 911 audio logs and on private cellphone video footage. The private footage also captured Mr. Webley’s actions.

DISPATCHER: Baltimore County 911, what's the address of your emergency?

MR. WEBLEY: Yo, I got hostages in this bitch!

DISPATCHER: What's the address of your emergency sir?

MR. WEBLEY: It's a [convenience store]. Tell these motherfuckers I'm not going without a fight.

DISPATCHER: Okay, what is the address you're calling from?

STORE CLERK: [Address] Reisterstown Road.

MR. WEBLEY: I'm [address] Reisterstown Road. Fuck this. I want my kids... I want my sons to know I love 'em. I want my sons to know that I love 'em, I'm sorry.

DISPATCHER: Okay, what's your name? What's your name?

MR. WEBLEY: I tried, I tried to make it... I tried to make it big for y'all, I tried to do what I could do.

DISPATCHER: Okay what's going on there? What's going on there?

MR. WEBLEY: This world is fucked up. Don't end up like me, kids. Don't end up like me. Do not end up like me, I love y'all.

DISPATCHER: Okay, so what is going on where you're at right now?

MR. WEBLEY: I love y'all.

DISPATCHER: What's going on where you at now? What's your name sir? You said you're at [address] Reisterstown Road?

STORE CLERK: Give her your name... [address].

MR. WEBLEY: My name is Sha-Kim Webley, a.k.a. Crime Infested Trauma, and these is... this my last days. I want my family to know that my Instagram password is [...].

DISPATCHER: What's your name sir? What's your name?

MR. WEBLEY: My...my... I want my family to know that's what my Instagram password is.

DISPATCHER: Okay, well what is your name? Is there someone in the background there? Is it [address] Main Street? What street are you on?

STORE CLERK: [Address]. Tell her [address] Reisterstown Road. [Address].

Mr. Webley disconnected the call as the dispatcher attempted to ask a question. The private surveillance camera located inside of the convenience store showed that shortly after Mr. Webley disconnected the call, a store clerk said, “Buddy...uh, tell me what’s the issue, I might be able to help you. Tell me, what’s the problem?” Mr. Webley did not respond.

Remaining outside of the convenience store, the subject officers and assisting BCPD officers continued to watch Mr. Webley through the store’s windows, calling out his location and activities to one another while aiming their service weapons toward the convenience store. There is no evidence that dispatchers told the officers on scene about Mr. Webley’s 911 call.

Closest to the convenience store’s front door, subject officers Taylor and Helphenstine established a plan of action for Mr. Webley’s anticipated exit from the store. They agreed that Officer Helphenstine would “take point on [giving] commands” to Mr. Webley. At 11:51 a.m., ten minutes after the standoff began, Officer Helphenstine called out, “He’s moving to the front. He’s still got the gun in his hand. He’s still raising it.”

Seconds later, Mr. Webley fired a single shot at the convenience store’s front door; in response, multiple officers called out—audibly to each other and over the radio—that Mr. Webley had just fired his gun, but none of them had been struck.⁷ In concert with other officers, Officer Taylor radioed, “He just fired the shot. He just fired the shot,” and Officer Helphenstine said, “Yep.



Image 8: Still photo from Officer Taylor’s body-worn camera footage seconds after Mr. Webley fired a shot while standing inside the convenience store. The photo shows Mr. Webley (circled in green) with his arms extended and handgun aimed at officers (circled in red).

⁷ A single sharp pop is audible on the body-worn cameras of all officer’s present at the scene during this time. However, the cameras did not capture any visual evidence of a gunshot.

He just shot it. He just fired a shot... It sounded like a blank, and he shot it right at the glass, and the glass didn't break.”

Approximately five seconds later, Mr. Webley opened the door and moved toward the officers while aiming and firing his handgun. Officers Fleck, Helphenstine, and Taylor fired back at Mr. Webley, striking him multiple times. The exchange of gunfire lasted for three seconds, and Mr. Webley fell to the ground during the exchange. The gunfire ceased within a second of Mr. Webley falling to the ground, and Officer Taylor shouted “Cease fire! Cease fire!”, then radioed to dispatch “Shots fired, subject down.”



Image 9: Evidentiary photograph of the handgun officers recovered from Mr. Webley’s hand after the shooting—a .22 caliber revolver.

For the next several minutes, Mr. Webley laid on his back in front of the convenience store with the gun still in his right hand while multiple officers shouted, “Drop the gun”. Although not evident on body-worn camera footage, Officers Taylor and Helphenstine are heard yelling that Mr. Webley was still moving. They also called out to Mr. Webley, saying multiple variations of “Webley, drop the gun so we can help you man,” or “Drop the gun so we can help you, please.” In the meantime, some of the officers requested a ballistic shield to approach Mr. Webley and retrieve the gun so they could begin treating Mr. Webley’s injuries. Around the same time, other officers radioed for fire department medics to be dispatched to treat Mr. Webley. Additionally, Officer Fleck retrieved a trauma kit from his patrol cruiser and informed other officers that he was ready to provide medical aid as soon as it was safe to do so.

At 11:58 a.m., approximately seven minutes after the shooting, a team of BCPD officers—led by one officer holding a ballistic shield—approached Mr. Webley and removed the handgun from his hand. Almost immediately afterward, Officer Fleck and other officers began rendering medical aid to Mr. Webley. Mr. Webley did not move or speak while the officers were providing medical care. Fire department medics arrived on the scene within three minutes and took over medical treatment. They placed Mr. Webley into an ambulance and transported him to a local hospital, where he was pronounced dead approximately thirty minutes later.

III. Supplemental Information

A. Firearms Recovery and Ballistics Information

Evidence recovered at the scene indicates that during the exchange of fire, Mr. Webley fired four rounds from his handgun, later identified as a .22 caliber revolver. Officer Fleck fired two rounds from a shotgun, Officer Helphenstine fired ten rounds from his service pistol, and Officer Taylor fired nine rounds from his service pistol.

B. Autopsy

An autopsy of Mr. Webley was performed by the Maryland Office of the Chief Medical Examiner (the “OCME”) on January 10, 2024. The autopsy report concluded that gunshot and shotgun wounds caused Mr. Webley’s death and determined that the manner of his death was homicide.^{8,9} Mr. Webley suffered fifteen gunshot wounds throughout his body. Due to the fact that a single bullet can create multiple wounds, the number of wounds is not necessarily indicative of the number of times a person was struck.

There was no evidence of soot deposition or gunpowder stippling associated with any of Mr. Webley’s gunshot wounds, which indicates that Mr. Webley was not shot at close range.

C. Department Policies

The BCPD Field Manual contains two written policies relevant to this investigation: Section 12-1.0, “Use of Force Incidents,” and Section 11-10.0 “Barricade/ Hostage Incidents.”

1. Section 12-1.0

Under Section 12-1.0, officers must, if reasonable and feasible, try to communicate with a subject and de-escalate a conflict without resorting to using force. Additionally, officers are directed to use “the least amount of force necessary and proportional to safely control a situation” and may not use force against a person unless that force is necessary and proportional to “prevent an imminent threat of physical injury to a person” or to “carry out the duties and responsibilities of a law enforcement officer.” The policy provides that force is “not necessary unless there is no reasonable alternative to using force that, under the totality of the circumstances, would safely and effectively achieve the same legitimate ends.” Further, officers may not use deadly force unless it is necessary and proportional to protect a person from imminent death or serious harm, and all other alternatives have either been exhausted or are unreasonable given the circumstances.

After using force, as soon as it is safe and feasible to do so, officers are responsible for rendering “basic first aid to persons injured as a result of police action” that is consistent with their training and promptly requesting appropriate medical assistance. The policy does not elaborate on what metrics officers use to determine the safety or feasibility of rendering aid in any given situation, nor does it provide an overview of the sort of first aid training that officers receive.

⁸ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The OCME uses five categories of manner of death: natural, accident, suicide, homicide, and undetermined. “Homicide” applies when death results from a volitional act committed by another person to cause fear, harm, or death. This term is not considered a legal determination; rather, they are largely used to assist in the collection of public health statistics. *A Guide for Manner of Death Classification*, First Edition, National Association of Medical Examiners, February 2002.

⁹ Mr. Webley’s family members commissioned Dr. Nemanja Rodic to perform a private autopsy following the OCME examination. Dr. Rodic’s findings were consistent with the OCME autopsy.

2. Section 11-10.0

Section 11-10.0 defines a barricaded suspect as “a criminal suspect who has taken a position in a physical location, most often a structure or vehicle, that does not allow immediate police access (whether fortified or not), and who is refusing police orders to exit.” In these situations, officers’ primary objective is “to preserve life of all parties involved including the law enforcement personnel on scene,” and their secondary objective is “to apprehend suspects and recover evidence.”

The first officers on scene are responsible for assuming control of the scene until a supervisor arrives, evaluating the danger of the situation, and retreating to a safe position that allows them to observe and contain the barricaded suspect. They are also responsible for providing critical information about the barricaded suspect, the barricade location, and any potential hostages to dispatchers. Once a supervisor arrives, that person assumes control over the incident and is responsible for establishing a perimeter to keep bystanders away from the scene and prevent the suspect from escaping. Supervisors are also responsible for coordinating many of the operational and logistical functions that may be necessary to resolve a barricade—requesting SWAT officers, emergency medical services, crisis negotiators, and other tactical units as necessary, preparing a staging area for those responders, and detaining nearby witnesses for debriefing.

IV. Legal Analysis

After a criminal investigation, prosecutors must determine whether to bring criminal charges against a person to hold them accountable pursuant to Maryland law. When making that determination, prosecutors have a legal and ethical duty to only charge a person with a crime when they can meet the State’s burden of proof; that is -when the available evidence can prove each element of that crime beyond a reasonable doubt. Prosecutors must also determine whether the accused person could raise an affirmative defense. In those cases, prosecutors not only need to prove the crime, but they also need to determine whether the evidence could *disprove* the defense beyond a reasonable doubt. Ultimately, the decision to bring any charges rests on whether the available evidence is sufficient for prosecutors to meet those standards.

Based on the evidence, three relevant offenses were considered in this case. First is the violation of Maryland’s Use of Force Statute, which makes it a crime for officers to intentionally use excessive force.¹⁰ The second offense and third offenses are homicide related charges due to the intentional killing of a person.

The evidence in this case shows that the subject officers did not violate any of the aforementioned statutes. Accordingly, the IID will not pursue criminal charges against any of the subject officers. This report explains in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that any officer committed a crime.

¹⁰ See Md Statutes, Public Safety §3-524(d)(1).

A. Maryland Use of Force Statute

Proving a violation of the Use of Force Statute requires a prosecutor to establish beyond a reasonable doubt that a subject officer:

- (1) used force that was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective;
- (2) intended to use force that was excessive, *i.e.* not necessary and proportional under the circumstances; and
- (3) the use of excessive force resulted in serious bodily injury or death;¹¹

First, prosecutors would need to establish that one or more of the officers used force that was not necessary and proportional under the circumstances. Second, prosecutors would need to establish that the officers intended to use the force that was excessive. Finally, prosecutors would need to establish that the excessive force used by the subject officers resulted in Mr. Webley's death. As it is undisputed that the subject officers fired their weapons and shot Mr. Webley, which resulted in his death, we are left with the two remaining elements pursuant to the Use of Force statute. More specifically, we must assess 1) whether the shooting of Mr. Webley was necessary and proportional under the circumstances to prevent imminent threat to those on scene, or to accomplish a legitimate law enforcement objective, and 2) whether the subject officers intended to use the force that killed Mr. Webley.

Determining whether an officer's use of force is "necessary and proportional" to prevent an imminent threat of physical injury to someone or accomplish a legitimate law enforcement objective is a fact-specific inquiry. Generally speaking, a use of force is considered "necessary and proportional" when an officer had no reasonable alternative available to the officer under the circumstances, the kind and degree of force was appropriate in light of the officer's legitimate law enforcement objective, and it was not likely to result in harm that was out of proportion or too severe in relation to the officer's law enforcement objective, given the context in which it was used.¹² When a factfinder—either a judge or a jury—conducts this analysis, they must consider the totality of the circumstances, including, but not limited to, the nature of the call for service, what occurred in the moments before force was used, what the subject officers knew at the time force was used, and the time and distances involved.¹³

In this case, there is no evidence that the subject officers intended to use force that exceeded that which was necessary and proportional to prevent Mr. Webley from being a danger to themselves or others. With respect to whether the use of force was necessary, Mr. Webley's behavior posed a threat to the safety of the initial responding officers and the civilian employees working in the convenience store. When Officer Taylor found Mr. Webley in the convenience store, within seconds, Mr. Webley pointed a handgun at him and Officer Bergeron, and told them that there would be a shootout. Mr. Webley did so while standing in front of one of the convenience

¹¹ MPJI-Cr 4:36.

¹² For a more detailed discussion of the "necessary and proportional" standard, see [this opinion](#) written by the Office of the Attorney General. 107 Op. Atty. Gen. Md. 33

¹³ *Id.*

store's employees. After the officers retreated in response to Mr. Webley's actions, Mr. Webley locked the convenience store's door, then called 911 and reported he had "hostages." Throughout the course of the 8-minute incident, the subject officers observed Mr. Webley holding a handgun, and before he exited the convenience store, Mr. Webley fired one round - seemingly in the direction of the subject officers. Shortly thereafter, Mr. Webley pointed his handgun at the subject officers and shot at them while exiting the store. In short, Mr. Webley's behavior required that the subject officers fire their guns at him, both for their own safety and the safety of others.

With respect to whether the kind and degree of force used by the subject officers was proportional to the imminent threat of harm presented by Mr. Webley, video evidence shows that the force used by Officers Taylor, Helphenstine, and Fleck was appropriate. After Mr. Webley pointed a gun at Officers Taylor and Bergeron, they immediately withdrew from the convenience store and refrained from engaging with him until after he began shooting at them. The evidence also shows that Mr. Webley, unbeknownst to the officers, expressed to the convenience store clerks and a 911 operator that he did not intend to peacefully surrender to the officers. Even after Mr. Webley shot at the officers from within the gas station, none of the officers on scene fired a weapon until Mr. Webley opened the convenience store door and exited the building while aiming and firing his handgun at the officers.

Based on the evidence, a prosecutor could not prove beyond a reasonable doubt that the subject officers' use of force was not necessary and proportional to prevent an imminent threat of physical injury to themselves or another person, or to accomplish a legitimate law enforcement objective. Accordingly, the Office of the Attorney General will not charge the subject officers with a violation of the Use of Force Statute in this case.

B. Homicide Offenses

When a person is killed, there are four homicide charges that a prosecutor may consider in the State of Maryland:

- First Degree Murder: the willful, deliberate, and premeditated killing of another.¹⁴
- Second Degree Murder: when the defendant intended to kill or inflict such serious injury that death would be the likely result and there was no justification or mitigating circumstances.¹⁵
- Voluntary Manslaughter: an intentional killing that is not murder because the defendant acted in partial self-defense.¹⁶
- Involuntary Manslaughter: when the defendant acted with gross negligence and that conduct caused the death of another.¹⁷

As the shooting of Mr. Webley was intentional, but not premeditated, Second-Degree Murder and Voluntary Manslaughter are the homicide offenses that remain for consideration.

¹⁴ MPJI-Cr. 4:17.

¹⁵ MPJI-Cr. 4:17.

¹⁶ MPJI-Cr 4:17.2.

¹⁷ MPJI-Cr. 4:17.8.

If the evidence indicates that there is a legal justification or certain mitigating circumstances involved, such as self-defense, then a prosecutor could not prove the remaining homicide offenses against the subject officers. A police officer's use of deadly force is legally justified if it is in complete self-defense, defense of others, or in furtherance of law enforcement related duties.¹⁸

Complete self-defense, also known as perfect self-defense, exists when the accused: (1) was not the initial aggressor (or did not raise the level of force to deadly force); (2) believed that they were in immediate or imminent danger of serious harm or death; (3) had a reasonable belief; and (4) used force that was not more than what was reasonably necessary in light of the threat or actual force.¹⁹ Complete self-defense is an affirmative defense, which means that a prosecutor must prove beyond a reasonable doubt that one of the elements of self-defense is not applicable.

When an officer has sufficient probable cause to believe that a person poses a "threat of serious physical harm," then the officer may use deadly force,²⁰ and the reasonableness of that decision must be viewed from "the perspective of a reasonable police officer similarly situated."²¹ In practice, this means that a factfinder must consider that police officers often work under rapidly changing circumstances and that what constitutes a reasonable use of force may change from moment to moment.²²

The evidence shows that Mr. Webley was the aggressor. He was armed, pointed a handgun at the subject officers, shot toward them, and initiated the exchange of gunfire with the subject officers. Those facts provide a basis for the subject officers to believe that their lives, and the lives of other officers and other people on scene were in danger and that such a belief was reasonable. Since the subject officers faced a threat of deadly force from Mr. Webley, then their use of deadly force against him was reasonably necessary and in furtherance of their law enforcement duties.

Based on the investigation, the actions of the subject officers do not constitute the crime of Second-Degree Murder. Prosecutors are unable to overcome any of the elements of complete self-defense. Moreover, because complete self-defense also applies to Voluntary Manslaughter²³, a prosecutor would be unable to prove any homicide offense in this matter. Accordingly, the Office of the Attorney General will not charge the subject officers with a homicide offense.

VI. Conclusion

This report has presented factual findings, legal analysis, and conclusions relevant to the January 9, 2024, police-involved death of Sha-Kim Akil Webley in Pikesville, Maryland. The Office of the Attorney General has declined to pursue charges in this case because, based on the evidence obtained in its investigation, the subject officers did not commit a crime.

¹⁸ *Id.*; MPJI-Cr 4:17.3.

¹⁹ *Porter v. State*, 455 Md. 220, 234-36 (2017); MPJI-Cr 4:17.2.

²⁰ *Estate of Blair*, 469 Md. at 23-24 (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985)).

²¹ *State v. Albrecht*, 336 Md. 475, 501 (1994); *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham*, 490 U.S. at 397).

²² *Id.*

²³ *State v. Faulkner*, 301 Md. 482, 485 (1984).