



INDEPENDENT INVESTIGATIONS DIVISION

Report Concerning the Police-Involved
Death in Prince George's County on February 1, 2024

October 10, 2024

Public Release: 10/15/2024

Declination Report Concerning the Police-Involved Death of Melvin Jay on February 1, 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.”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.”²

I. Introduction

On February 1, 2024, at approximately 5:25 p.m., officers with the Prince George’s County Police Department (“PGPD”) were dispatched to an apartment in the 5100 block of Suitland Road in Suitland, Maryland after receiving a 911 call from a resident for a report of a breaking and entering in-progress at their home. The 911 caller reported that they were not at the apartment, and that the unknown intruder was taking items from his home. Upon arriving on scene, one subject officer entered the apartment through the unlocked and open door where he encountered an adult man, later identified as Melvin Jay, and began giving him verbal orders to show his hands and come toward the subject officer. During the encounter, Mr. Jay moved away from the subject officer and reached his hand into the apartment’s kitchen sink. As Mr. Jay withdrew his hand from the sink and began turning toward the subject officer, the subject officer discharged his service weapon, striking Mr. Jay once. The subject officer and responding officers rendered medical aid. Mr. Jay was pronounced dead on scene.

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

The IID’s investigation focused exclusively on potential criminal culpability relating to the subject officer’s 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 officer’s 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 officer completed a voluntary interview with IID investigators.

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

¹ Md. Code Ann., State Gov’t § 6-602 (c)(1).

² Md. Code Ann., State Gov’t § 6-604 (a)(1).

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

This investigation involved one decedent and one subject officer:

- A. The decedent, Melvin Kenneth Jay, was 31 years old at the time of the incident. He was a Black male who lived in Suitland, Maryland.
- B. Officer Braxton Shelton has been employed by PGPD since September 2022. He was previously employed with the Charles County Sheriff's Office from March 2020 to September 2022. He is a Black male, and at the time of the incident was 33 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

A. The 911 Calls

On February 1, 2024, Resident³ and Intruder⁴ exchanged a series of communications that included Intruder threatening to go to Resident's apartment and take his belongings. At 5:02 p.m., following the exchange, Resident left his home and traveled to a nearby fire station in Washington, DC to tend to a minor injury. The decedent, Melvin Jay, and his brother⁵ remained in the apartment. While Resident was inside the fire station, Mr. Jay called Resident and informed him that Intruder was in the apartment removing items from the apartment. Both Resident and Mr. Jay knew Intruder prior to this incident. Resident then dialed 911 three times between 5:20 and 5:23 p.m. and due to his Washington, DC location, his calls were routed to D.C. emergency services. During the first two calls, Resident hung up before a call-taker⁶ could answer the phone. At 5:22:55 p.m., Resident had the following conversation with a call-taker:

D.C. CALL-TAKER: DC 911. What is the location of your emergency?

RESIDENT: Aye, I need the police right now I got and breaking and entering somebody breaking in my house, [ADDRESS].

D.C.: In Maryland?

RESIDENT: Yea. Apartment [ADDRESS], he got dreads and he's short.

D.C.: Hold on, hold on, stay on the, stay on...

³ For privacy purposes, Mr. Jay's roommate, who was the leaseholder of the apartment and the 911 caller, will be referred to as "Resident."

⁴ For privacy purposes, the person that Resident communicated with will be referred to as "Intruder." The Office of the State's Attorney for Prince George's County subsequently indicted Intruder for Burglary based on this incident. Intruder exercised his Fifth Amendment rights and declined to speak with IID investigators.

⁵ For privacy purposes, Mr. Jay's brother, who also lived in the apartment, will be referred to as "Brother."

⁶ Washington D.C. and Prince George's County, Maryland 911 systems utilize "call-takers" and "dispatchers" in tandem. A call-taker answers the phone, records initial information from a caller, and sends it to a dispatcher so that they can begin deploying first responders as soon as possible, sometimes before the call-taker has finished speaking to a caller.

RESIDENT: I'm not even in my house right now, I'm at the fire house.

D.C.: Stay on the line let me transfer you over to PG County. Stay on the line, okay?

RESIDENT: Alright.

Resident was placed on hold for fifteen seconds. He then had the following exchange with a Prince George's County, Maryland 911 call-taker:

P.G.C.: Prince George's County 911 Center, what is the location of your emergency?

RESIDENT: [ADDRESS].

P.G.C.: You said D.C.?

RESIDENT: Maryland, [ADDRESS]. Maryland, [ADDRESS].

P.G.C.: Okay. Alright. Repeat the address for verification.

RESIDENT: Huh?

P.G.C.: Is that a house or an apartment sir?

RESIDENT: It's an apartment, I got somebody, um, breaking and entering in my house. They taking shit out my house right now.

P.G.C.: Are you at this location?

RESIDENT: [ADDRESS]. Nah, I'm inside a firehouse getting taken care of. I just got a phone call. I need the police there right now. They breaking in my house.

P.G.C.: [ADDRESS] Suitland Road?

RESIDENT: Yeah. [ADDRESS].

P.G.C.: Do you know who this... Do you know...Can you see who the person is?

RESIDENT: No, I can't, I'm in the firehouse. My neighbor just called me.

P.G.C.: Alright, what's your phone numbers sir?

RESIDENT: (Inaudible) [PHONE NUMBER].

P.G.C.: Uh-huh. And your name?

RESIDENT: [NAME].

P.G.C.: And your neighbors said somebody was going into your residence. Which door...where were they going in at?

RESIDENT: Yes. Uh, I don't know, they're right there now. They're breaking in my house right now. [ADDRESS].

P.G.C.: Yea, they didn't tell you what the person looks like?

RESIDENT: Um, they said he got dreads or something, I don't know. They said he's taking shit out my house. I'm about to shoot right there right now. I'm literally right here at the firehouse. My [INJURY] was busted open. I'm getting my [INJURY] taken care of. I'm about to shoot right there, right now.

P.G.C.: Alright, I'll send someone over there.

RESIDENT: (Inaudible)

P.G.C.: Alright.

RESIDENT: Alright.

Resident's 911 call ended at 5:25:13 p.m., two minutes and eighteen seconds after he called 911 for the third time. Private surveillance camera footage shows that during and after the 911 call, Intruder made several trips to and from Resident's building and appeared to be loading Resident's items into a vehicle. Between 5:26:32-45 p.m., Intruder loaded a final item into his vehicle and then began to exit the apartment complex. At the same time, cell phone records show that beginning at 5:26:32 p.m., Resident called Mr. Jay and informed him that he called the police.

At 5:26:49 p.m., PGPD dispatchers radioed, "Henry 3, Henry 7, possible [burglary in progress], [ADDRESS] Suitland Road. Caller saying he's been told by a neighbor that someone is breaking into his apartment, no [description of suspect]. Caller's not on scene right now." Officer Braxton Shelton was already in the apartment complex for an unrelated service call, and according to his interview with IID investigators, when he realized he was approximately 600 feet away from the burglary, he informed dispatchers that he was responding. At 5:27:06 p.m., surveillance camera footage shows that Intruder left the apartment complex. Five seconds later, at 5:27:11 p.m., the same footage captured Officer Shelton's patrol cruiser parking near the space recently vacated by Intruder.



Images 1-2: Still photographs of video surveillance footage showing the five seconds between Intruder's departure (circled in yellow) and Officer Shelton's arrival (circled in green).

Officer Shelton did not receive any additional information from dispatch after the initial report and apartment number verification. Officer Shelton arrived on scene twenty-two seconds after the call was dispatched.

B. Officer Shelton's Apartment Entry and the Shooting of Mr. Jay

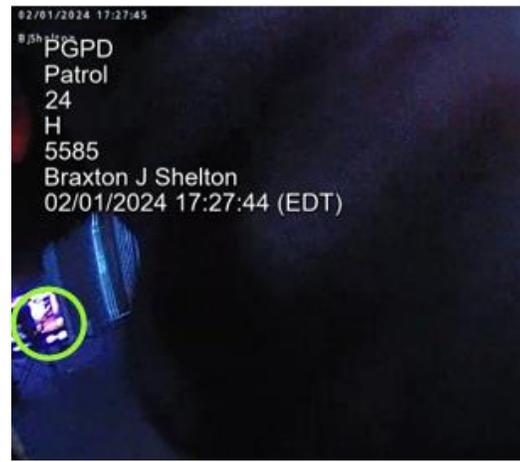
Officer Shelton got out of his patrol cruiser and began walking to the apartment seconds after he parked and drew his service pistol as he advanced up the stairs. He arrived at the apartment's front door at 5:27:41 p.m.

At 5:27:44 p.m., Officer Shelton kicked the door of the apartment open and encountered a man later identified as Mr. Jay. Mr. Jay was facing away from Officer Shelton wearing a dark green jacket with its hood pulled up, blue jeans, and a pair of black and white shoes. According to cell phone records, Mr. Jay had just started a phone call with Resident at approximately the same time that Officer Shelton kicked the door open.

Once the door was open, the events leading up to the shooting unfolded over approximately six seconds. During the first two seconds, Officer Shelton shouted "Show me your hands", and Mr. Jay turned slightly to his right toward Officer Shelton, then began walking toward the kitchen. About a second later, Officer Shelton gave Mr. Jay a second command, yelling "Show me your hands, bring your ass over here." By that point, Mr. Jay had passed the corner of the wall between the front door and the kitchen and was out of view of Officer Shelton's body-worn camera lens. At 5:27:49 p.m., five seconds after the door was kicked open, Officer Shelton gave Mr. Jay a third command by shouting "Show me your motherfucking hands!". This verbal command was given approximately the same time that Mr. Jay reached the kitchen sink.

According to Officer Shelton's body-worn camera footage, the following events, to include the shooting itself, occurred at 5:27:50 p.m., in less than a second:

- Mr. Jay reached into the sink with his right hand, and an object⁷ made an audible "clunk" as it struck the interior of the sink.
- Officer Shelton began giving Mr. Jay a fourth command, yelling "Show me your...". Before Officer Shelton could finish his sentence, Mr. Jay turned to his right toward Officer Shelton with his arms at chest level.
- Officer Shelton fired his service pistol one time. Mr. Jay was mid-turn, and the bullet Officer Shelton fired struck Mr. Jay in his right temple.



Images 3-4: Still photographs from Officer Shelton's body-worn camera footage that show his approach to the apartment's front door. In the top image, a small point of a light visible through a gap in the door is circled in green. In the bottom image, the likely source of the light is also circled in green. Due to the limits of the technology, the images in body-worn camera footage are generally smaller and less clear than they would appear to the person wearing the camera in real time.

⁷ IID investigators later discovered that this object was a loaded Glock nine-millimeter handgun.

- Officer Shelton stepped to his right, appearing to take cover behind the wall between himself and Mr. Jay.
- Mr. Jay continued turning until he was facing Officer Shelton with both of his hands raised near his head, holding an object⁸ in his left hand, then collapsed to the floor.

At 5:27:52 p.m., Officer Shelton yelled into his radio “Shots fired! H 5 I got one down, shots fired!”

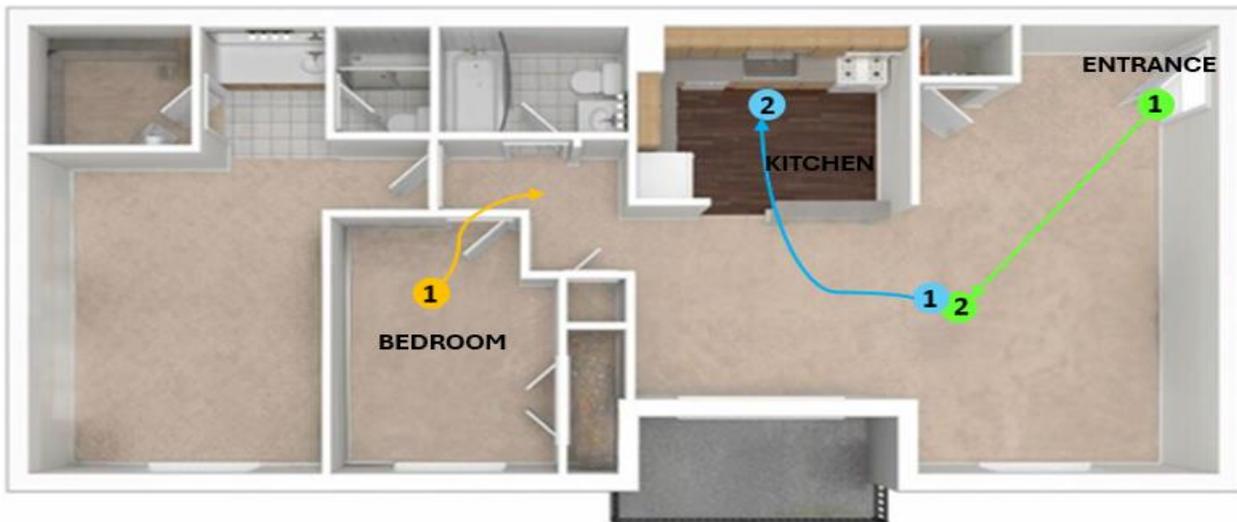


Image 5: A diagram of the apartment interior showing the positions of Officer Shelton (green), Mr. Jay (blue), and Brother (yellow) during the incident. Point 1 indicates where each person was when Officer Shelton entered and Point 2 indicates where they were when Officer Shelton fired his weapon.

C. Post-Shooting

About five seconds after the shooting, Brother poked his head around the door of one of the apartment’s bedrooms. Officer Shelton pointed his service pistol at Brother and shouted “Show me your hands! Show me your hands! Who are you?” Brother immediately lifted both of his hands into the air, began walking toward Officer Shelton, and said “I’m a visitor.” At that point, between 5:28:04 and 5:29:10 p.m., Officer Shelton questioned Brother to obtain Brother’s identity, learn how he had gotten into the apartment, and whether he lived in the apartment.

At 5:29:11 p.m., PGPD Cpl. Gordon Harris and Officer Emilie Kellogg arrived and entered the apartment, providing backup to Officer Shelton. Officer Shelton told the two officers that he was going to clear the apartment while they secured Brother. Officer Shelton then briefly walked through the apartment and searched each room before returning to Officers Harris and Kellogg at 5:29:41. At that point, Officer Shelton told the other officers “Let’s get a trauma kit in here. It’s clear. Let me check him,” while gesturing toward Mr. Jay. Officer Shelton then bent down and turned Mr. Jay over and began to assess his injuries while saying “What’d you go in there and get man?” and telling Cpl. Harris, “I don’t know what the hell he ran in [the kitchen] and... he ran from me and went in [the kitchen] and he grabbed something.”

⁸ IID investigators later discovered that the object was a cellphone.

Over the next several minutes, additional officers arrived, and they, alongside Officer Shelton, provided Mr. Jay with medical aid. While one officer was treating Mr. Jay's injuries, Officer Shelton began searching Mr. Jay for weapons or other items. At 5:31:31 p.m., Officer Shelton found a handgun in Mr. Jay's right jacket pocket. He removed the handgun, ejected its loaded magazine, and racked its slide; a single shell casing from a previously fired round was ejected from the handgun's chamber. Medics from PGFD arrived at 5:40 p.m. and attempted to treat Mr. Jay's injuries, but he was pronounced dead at the scene at 5:49 p.m. Once medics arrived and began rendering medical care to Mr. Jay, Officer Shelton was taken to PGPD headquarters. Other officers remained on scene to secure the apartment until the IID was notified and present.



Image 6: A crime scene photograph of the handgun that Officer Shelton recovered from Mr. Jay's right jacket pocket.

A few hours later, when IID and Maryland State Police ("MSP") investigators assumed control of the crime scene, IID investigators discovered a second handgun in the kitchen sink. This second gun was loaded with one live round in the chamber and nine rounds in its magazine. A review of the subject and responding officer's body-worn camera footage shows that no one searched the kitchen or looked in the kitchen sink.

III. Supplemental Information

A. Firearms Recovery and Ballistics Information

There were two nine-millimeter handguns recovered at the scene. The first was a privately manufactured firearm⁹ recovered from Mr. Jay's pocket by Officer Shelton. The second was a Glock handgun recovered from the kitchen sink where Mr. Jay was standing at the time he was shot by Officer Shelton. This was discovered by IID investigators when the crime scene was being processed by MSP.



Image 7: A crime scene photograph of the Glock nine-millimeter handgun that IID investigators recovered from the kitchen sink.

MSP forensic testing confirmed that both handguns were operable, and further investigation revealed that the Glock was reported stolen in December 2023.

⁹ A privately manufactured firearm, sometimes known as a "ghost gun," is a firearm assembled by an individual using unfinished frame or receiver components from a non-federally licensed firearms dealer, manufacturer, or importer. In Maryland, those components include any parts that "may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm." See Md. Pub. Safety § 5-701(h). Notably, ghost guns lack a serial number, and the State of Maryland prohibits their possession. See Md. Pub. Safety §§ 5-701, 5-702, and 5-703.

B. Autopsy

The Maryland Office of the Chief Medical Examiner performed an autopsy of Mr. Jay on February 2, 2024. The autopsy report concluded that a single gunshot wound caused Mr. Jay's death and determined that the manner of his death was homicide.¹⁰ Mr. Jay suffered a gunshot wound to his right temple, and the projectile was recovered from his head. The direction of the bullet's wound path was front to back, right to left, and downward, indicating that Mr. Jay's injuries were consistent with Officer Shelton's body-worn camera footage, and that Mr. Jay was not facing front toward Officer Shelton when he was shot.

There was no evidence of soot deposition or gunpowder stippling associated with Mr. Jay's gunshot wound, indicating that Mr. Jay was not shot at close range.

C. Department Policies

PGPD provides officers with written policies and procedures, as well as practical training, on the use of force, response to priority calls, and how to make tactical decisions in high-risk situations.

1. General Order Manual

According to PGPD General Order Manual Vol. II, Chapter 11, "[a]ll life-threatening calls will receive a priority response classification and a primary dispatch status." A breaking and entering is authorized for a priority response "[w]hen the incident is in progress, has recently occurred, or when the suspects may be in the immediate vicinity." Because of the high-risk nature of these incidents, two officers are dispatched to priority calls. However, there is no PGPD document or practical training curriculum that states that an officer *must* wait for backup before responding to a priority call. The first officer on scene is responsible for assessing the call and notifying a dispatcher if "changes in response classification or additional units are necessary."

Under the PGPD General Order Manual Vol. II, Chapter 58, "[o]fficers are permitted to use only the amount of force that is necessary and proportional, under the totality of the circumstances, to effectuate a legitimate law enforcement objective...and, in the case of lethal force, protect themselves and others from an imminent threat of death or serious bodily injury." However, "when time, circumstances and safety allow, officers shall take steps to gain compliance and de-escalate conflict without using physical force." Even so, PGPD officers are told that they "must maintain tactical advantage" throughout an incident, taking into account "that high-risk incidents are fluid and continually changing." Further, "[a]n officer should look for indicators of imminent assault."

¹⁰ Manner of death is a classification used to define whether a death is from intentional causes, unintentional causes, natural causes, or undetermined causes. The Office of the Chief Medical Examiner of Maryland 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.

The 2023 Use of Force Training Guide & Curriculum that Officer Shelton received as part of his training mirrors the PGPD General Order Manual. It also provides officers with guidance regarding several factors to take into consideration when assessing a threat and determining whether to use force. Those factors include but are not limited to the subject's proximity to weapons; the availability of options other than force; the seriousness of the offense; the actions of the officer; and actions of the suspect. The training guide also provides examples of the types of subject actions that an officer could encounter, relevantly: passive resistance (when a person fails to respond to verbal commands); and active resistance (when a subject makes physically evasive movements to defeat an officer's attempt at control).

2. PGPD Practical and Training Related Interviews

Since the General Order Manual does not provide a step-by-step procedure for every call response and possible encounter, it is the practice of PGPD to have their sworn officers rely on scenario based practical training to supplement the written curriculum. Designated PGPD trainers and Field Training Officers ("FTOs") are responsible for providing new officers with practical scenarios and on-the-job training to manage different types of calls. The PGPD training program pairs each new officer with three different FTOs as part of their initial assignments in order to ensure that the new officer is exposed to multiple tactics and methods for addressing common scenarios and problems. There is no specific protocol to follow in any given scenario. FTOs aim to provide new officers with a flexible range of options that they may choose from based on each situation that they encounter, rather than a rigid set of protocols to follow that may not always be feasible. IID investigators interviewed all of Officer Shelton's FTOs and a PGPD lead training officer ("the trainer") to learn about the common practices and expectations of an officer's response to burglary in progress calls, evaluation of threats, and use of force. Their statements were consistent with one another and with PGPD written policies and training documents.

The trainer and FTOs stated that on their way to priority burglaries in progress scenes, PGPD officers generally anticipate looking for signs of forced entry, or a person leaving the area that matches a suspect description. However, based on the information that an officer receives on the way to the call, their plans might change. For instance, if the suspect of the break-in is known to the caller, officers will prepare to encounter a different scenario, like a domestic incident or some sort of misunderstanding. They further stated that though waiting for backup on priority calls is encouraged, doing so is not always feasible or practical. Some officers are also comfortable with proceeding alone on these calls and allowing backup officers to catch up; they respond to burglary in progress calls on their own, either through necessity or on their own initiative, and encountering and/or apprehending suspects (in rare instances).

The trainer and FTOs also told investigators that when they assess threats at priority calls, the control of unknown people is one of their foremost concerns for safety reasons. Officers are taught to look for a subject's hands as the primary source of threats, since guns, knives, and other deadly weapons are typically handheld. Officers are also trained that a person's torso—particularly near their chest or waistband—is a high-risk area that they should be aware of, because it is a common area to store a firearm or knife. Additionally, officers receive instruction that a person's body language—trying to keep their body facing away from the officer, ignoring and trying to move away from an officer who is giving them commands, or keeping their hands hidden—may

indicate that they are concealing a weapon. Officers are also taught that in certain situations, different body motions, particularly those that are furtive, bend the arms or shoulders, and/or put the hands near the aforementioned high-risk areas, may be a sign that a subject is reaching for a weapon. To search for “elevated threats” or “signs of imminent assault,” officers must be aware of all these behaviors and put them in context based on their rapidly evolving situation.

D. Subject Officer’s Statement

Officer Shelton completed a voluntary interview with IID investigators and provided his recollections and perceptions of this incident.¹¹ In sum and substance, Officer Shelton stated:¹²

- On the way to the apartment, he formed a loose plan based on previous experiences that he’d had with similar calls. He planned to “get over there just to see what I had. Pretty much just to check the area,” for unusual things like open doors. PGPD officers “run these calls all the time, and [...] a lot of times it could be, you know, a family member” or “something that’s not actually an actual break in, it could be a misunderstanding,” or the doors are locked and there is no sign of entry, which “happens all the time.” Officer Shelton kept in mind that “if someone’s actually in [the apartment] for a breaking and entering, me being here so fast, if they were there, they’re probably still going to be there.”
- As an officer, he has run into suspects on previous burglary in progress calls, but it is uncommon, and what made this call unique was the fact that he was already in the apartment complex, because usually it takes officers more time to arrive at these sorts of calls.
- Dispatchers radioed a “breaking and entering call” but there was no description of a suspect, which is not unusual, because the details officers receive “depends on who’s calling it in and if someone’s seen the person.”
- When Officer Shelton walked up the stairs and neared the apartment’s front door, he noticed that it was ajar, which was a “red flag.” Officer Shelton also heard footsteps from inside the apartment, and through a crack in the door, saw a silhouette passing in front of a source of light, which made him realize that “somebody’s right inside that door.” At that point, he “wanted to make contact with whatever was on the other side of that door”; being able to see a person through the door played a direct role in his decision to enter the apartment.
- When he kicked the door open and began giving orders, Officer Shelton planned to “stop right there and call him out to me, hopefully he’d comply, but it definitely didn’t go that way ...the only thing I knew was open door, gentleman inside. At that point, I’m still treating everything as what it was as the call came out to me, as a breaking and entering. That’s all that I knew for it to be.”

¹¹Officer Shelton participated in a “proffer” session. A Proffer Agreement is a written contract between the government and an individual wherein the individual agrees to provide the government with information in an off-the-record interview with certain conditions attached to both parties.

¹² While proffer sessions are normally confidential, Officer Shelton consented to the disclosure of this interview.

- Once the door was open, he saw Mr. Jay facing away from him holding his arms at a “ninety-degree angle,” and yelled for Mr. Jay to show his hands. Next, Officer Shelton saw Mr. Jay briefly look toward him then almost immediately begin walking away without showing his hands. Officer Shelton believed Mr. Jay was “a suspect breaking into the apartment” who “could be in possession of some kind of weapon...concealing some kind of weapon” because of his body language and actions. He repeatedly ordered Mr. Jay to show his hands and felt compelled to “keep his eyes” on Mr. Jay because he did not know who Mr. Jay was or what he might do, like move toward a gun and then shoot through the wall between the kitchen and the door.
- Mr. Jay’s pace started as a nonchalant walk, but “sped up” as he got closer to the kitchen area; he briefly lost sight of Mr. Jay around the corner of the wall between the kitchen and the door. When he saw Mr. Jay again, Mr. Jay was reaching into the kitchen sink and he heard a “ding” that sounded like “metal on metal,” which Officer Shelton said he believed was “some kind of firearm, something metal, hitting the sink.” Around the same time, he saw Mr. Jay begin to make a rapid turn to the right with his arms at chest level. Officer Shelton fired his service pistol as Mr. Jay turned, and “at the same time trying to avoid, getting out of the way as if he was trying to shoot at me.”

When investigators asked Officer Shelton to specify what about Mr. Jay’s body language and actions made him believe that Mr. Jay was a threat, Officer Shelton responded that he based his conclusions on his prior training and experience in combination with the circumstances of the call. Officer Shelton stated that in his mind, he was responding to a break-in in progress, and did not expect to encounter anyone who was not a burglary suspect. Additionally, Officer Shelton said that according to his training, people often conceal weapons in their pockets or waistband area and in order to reach those weapons they need to bend their arms. Officer Shelton conveyed that in the context of a break-in in progress, Mr. Jay’s “ninety-degree angle” arm position, along with “giving him orders he’s totally ignoring [me]” and moving away made him think that Mr. Jay was “avoiding” him. Officer Shelton said he thought Mr. Jay “doesn’t want to comply with [me], like he has a plan in his head. Like he wants to do something before he even acknowledges that [I’m] actually there.” Officer Shelton said in this context, “whatever destination he was trying to get to” is “hardly ever good.” Officer Shelton stated that all those factors compounded when Mr. Jay reached into the sink, and he heard the “metal on metal” sound; Officer Shelton said that he believed Mr. Jay was “trying to get a shot off” at him.

Officer Shelton said that his immediate concerns after he shot Mr. Jay were making sure that the rest of the apartment was clear and providing medical aid to Mr. Jay. Officer Shelton told investigators that while the officers provided Mr. Jay with aid, he searched Mr. Jay to make sure that “EMS is safe to come in here and actually work on him,” which is a normal procedure. Officer Shelton stated that when he found the handgun in Mr. Jay’s jacket pocket, he believed he had found the reason that Mr. Jay had been “holding his hands at a ninety-degree angle.”

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.¹³ The second offense and third offense are homicide related charges due to the intentional killing of a person.

The evidence in this case shows that Officer Shelton did not violate any of the aforementioned statutes. Accordingly, the IID will not be pursuing charges against him. This report explains in further detail why, based on the evidence, a prosecutor could not prove beyond a reasonable doubt that Officer Shelton committed a crime.

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.¹⁴

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

¹³ See Md. Code Ann., Public Safety §3-524(d)(1).

¹⁴ MPJI-Cr 4:36 Unlawful Use of Force by a Police Officer, MPJI-Cr 4:36 (2d ed. 2022).

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 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.¹⁵ 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 officer knew at the time force was used, the time and distances involved.¹⁶

Based on the totality of the circumstances, there is no evidence in this investigation that Officer Shelton intended to use force that exceeded that which was necessary and proportional to prevent Mr. Jay from being a danger to Officer Shelton or to accomplish a legitimate law enforcement objective. Before any further analysis of this incident begins, it is worth noting that the evidence shows that one of the most significant factors in the outcome of this incident was the inaccurate information that Resident provided to PGPD dispatchers,¹⁷ who in turn, provided that information to Officer Shelton.¹⁸ Because of that information, Officer Shelton's perception was different from what was actually occurring in the apartment at the time he entered.

Officer Shelton had a legitimate law enforcement objective to achieve when he approached the apartment: to investigate a break-in in progress, and to apprehend the suspect if they were present. Since Officer Shelton had arrived at the front door of the apartment less than a minute after the call was dispatched, he had reason to believe that he might encounter a suspect. However, based on the information he had received from dispatchers, Officer Shelton had no reason to believe anyone, other than a suspect, was present in the apartment.

Per training, priority calls are generally considered high risk situations by PGPD officers; officers are expected to have their handguns drawn and taught that they "must maintain tactical advantage" throughout the incident. Upon arriving to the apartment, Officer Shelton saw what he believed was a burglary suspect who he had a tactical advantage over, based on where he thought the suspect was located in the apartment. So, Officer Shelton entered the apartment with the legitimate objective of arresting a burglary suspect and securing the scene, consistent with the training he had received.

With respect to whether the use of force was necessary and proportional here, once inside, Officer Shelton's body-worn camera footage showed Mr. Jay: (1) began moving away from Officer Shelton toward the kitchen; (2) ignored Officer Shelton's repeated commands to show his hands; (3) kept his hands near his torso; (4) reached into a sink and created a metallic "clunk"; and (5) began rapidly turning toward Officer Shelton with his arms at chest level. In the moment, based

¹⁵ For a more detailed discussion of the "necessary and proportional" standard, see [this opinion](#) written by the Office of the Attorney General.

¹⁶ *Id.*

¹⁷ Information that Resident provided to DC 911 call-takers was not provided to PG 911 call-takers.

¹⁸ It is also important to note that the information PGPD dispatchers gave Officer Shelton was limited to the information that Resident disclosed to PG 911 call-takers, regardless of its accuracy or veracity.

on what Officer Shelton observed, his training, and the information provided by the dispatcher, Officer Shelton was reacting to an active threat. Given the factual evidence and context of the situation Officer Shelton had no reasonable alternative to deadly force, even though with the benefit of perfect hindsight, we know that Mr. Jay went to the sink to discard one of the two handguns in his possession and was turning toward Officer Shelton with his hands up.

The evidence also shows that Officer Shelton demonstrated no intent to use excessive force. As mentioned, the footage clearly shows that as Officer Shelton fired his weapon, he simultaneously tried to take cover from possible return gunfire by moving behind a wall to his right, demonstrating that Officer Shelton had a fear of imminent harm to himself. The footage was also consistent with Officer Shelton's statement that his decision to use force was a reaction to behavior that he believed was a threat. In contrast, the interaction between Officer Shelton and Brother, which took place mere seconds after the shooting, shows a different interaction, which resulted in a different outcome. Like Mr. Jay, Brother was an unknown person, and presumably a suspect, at the scene of a high-risk call. As soon as he noticed Brother, Officer Shelton immediately ordered Brother to show his hands, and Brother instantly complied, which led Officer Shelton to begin questioning him to ascertain who Brother was, whether he was a resident, and how he got into the apartment. This interaction offers proof that Officer Shelton did not fire his weapon merely out of surprise.

Based on the evidence, a prosecutor could not prove beyond a reasonable doubt that Officer Shelton's use of force was not necessary and proportional to prevent an imminent threat of physical injury to himself, or to accomplish a legitimate law enforcement objective. Accordingly, the Office of the Attorney General will not charge him 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.¹⁹
- 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.²⁰
- Voluntary Manslaughter: an intentional killing that is not murder because the defendant acted in partial self-defense.²¹
- Involuntary Manslaughter: when the defendant acted with gross negligence and that conduct caused the death of another.²²

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

¹⁹ MPJI-Cr. 4:17.

²⁰ MPJI-Cr. 4:17.

²¹ MPJI-Cr 4:17.2.

²² MPJI-Cr. 4:17.8.

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.²³

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.²⁴ 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,²⁵ and the reasonableness of that decision must be viewed from "the perspective of a reasonable police officer similarly situated."²⁶ 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.²⁷

Officer Shelton's use of a handgun was reasonably necessary to protect himself. Officer Shelton was not the aggressor and reasonably believed that his life was in danger. At the time of the shooting, Officer Shelton believed that Mr. Jay was the suspect of an ongoing burglary; thereafter, Mr. Jay's failure to comply with his commands, and then turning towards Officer Shelton after hearing the "metal on metal" of the handgun in the sink provided a basis for Officer Shelton to believe that his life was in danger.

Based on the investigation, Officer Shelton's actions 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 Manslaughter,²⁸ a prosecutor would be unable to prove any homicide offense in this matter. Accordingly, the Office of the Attorney General will not charge Officer Shelton with a homicide offense.

VI. Conclusion

This report has presented factual findings, legal analysis, and conclusions relevant to the February 1, 2024, police-involved death of Melvin Jay in Suitland, Maryland. The Office of the Attorney General has declined to pursue charges in this case because, based on the evidence obtained in its investigation, Officer Shelton did not commit a crime.

²³ *Id.*; MPJI-Cr 4:17.3.

²⁴ *Porter v. State*, 455 Md. 220, 234-36 (2017); MPJI-Cr 4:17.2.

²⁵ *Estate of Blair*, 469 Md. at 23-24 (quoting *Tennessee v. Garner*, 471 U.S. 1, 11 (1985))

²⁶ *State v. Albrecht*, 336 Md. 475, 501 (1994); *State v. Pagotto*, 361 Md. 528, 555 (2000) (quoting *Graham*, 490 U.S. at 397).

²⁷ *Id.*

²⁸ *State v. Faulkner*, 301 Md. 482, 485 (1984) ("Self defense operates as a complete defense to either murder or manslaughter.").