

Police Involved Shooting

Date: 3-24-17

Location of Shooting: 1027 N. Fulton Avenue

Factual Scenario:

On March 24, at approximately 7:00 a.m., in the 1000 block of Fulton Road, three Baltimore Police Department (BPD) Officers (hereinafter referred to as LEO #1, LEO#2 and LEO#3) responded to a call for an armed person with a knife at 1027 N. Fulton Avenue. The officers approached the front of the residence. As LEO #2 knocked on the front door, LEO#1 looked through a window and saw a female running toward the front door and a male chasing her with a knife. The female ran out of the front door of the residence and the male slammed the door behind her. LEO #1 spoke to the female who advised her that the male had a knife and her two children were still in the residence. LEO#1 immediately notified her supervisor of the situation.

Additional units responded to the scene. LEOS #3, 4, 5, 6, 7 and 8 entered the residence. They secured the first floor then proceeded to the second floor, front bedroom where they observed the male waving a knife and two children asleep in the bed. As LEO#3 entered the bedroom, the male grabbed the female child, and stated "I'll kill her," while moving the knife between the child's neck and ribs. While holding the knife and the child, the male repeatedly said "I'll do it, I'll do it." LEO#3 remained calm and began a conversation with the male trying to engage him. The second child, a male, woke up and started crying. The male grabbed the boy and placed him on his right thigh and the girl on his left thigh. LEO#3 continued to speak with the male who was speaking incoherently and requesting to see the children's father.

Shortly afterwards, the BPD SWAT Team arrived at the location. SWAT #1 responded to the scene and went directly into the house. He was briefed by the officers in the house concerning the location of the male and the children as well as the design of the room. SWAT#1 made eye contact with the male who immediately became agitated and requested to see the children's father. According to SWAT#1 the male was holding the knife to the girl's throat. Having made an initial assessment of the situation, SWAT#1 left the residence to speak with the rest of his team. SWAT #1 informed his team that his assessment of the situation was that the children were in extreme danger of being harmed. He informed SWAT#3, he would have to "go in and kill this guy."

SWAT #1 and #3 returned to the bedroom. SWAT#1 and 3 attempted to speak with the male. The male threatened the girl's life again. SWAT#3 shot the male.

The male was transported to University of Maryland Shock Trauma Center by the Baltimore City Fire Department. The armed male succumbed to his injuries at the hospital and was pronounced deceased by the medical staff.

LEO (Law Enforcement Officer) Witness Statement Summary:

LEO Witness #1:

LEO#1 was on patrol in the area of Calvert and Lexington when a call came out for an armed male with a knife. She arrived at the residence, stepped out of her car and activated her BWC. She was met at the location by LEO #2 and #3. LEO#1 approached the door with LEO#2. They knocked on the door and she looked through the front window. She saw a female running toward the front door being chased by a male with a knife in his hand. The female ran out the front door and the male slammed the door behind her but remained in the house. She spoke to the female who informed her that her two children were still in the house. She called her supervisor. She went to the back of the residence and secured the back entrance in case the male ran out the back door.

LEO Witness #3:

LEO#3 responded as back up to North Fulton Avenue for an armed person call. When he arrived, LEO#1 and LEO#2 were in front of the house. LEO#3 observed a female come running out of the house saying “he has a knife.” LEO#3 was part of a team of officers who entered the house, with a bunker. They cleared the first floor and went up to the second floor where LEO#3 observed the male in a bedroom, with a large butcher knife. There were two children sleeping on the bed beside the male. LEO#3 observed the male waiving the knife in the air and yelling. When LEO#3, who was holding the bunker, stepped into the room, the male grabbed the girl and put the knife to her neck, while repeatedly saying that he would kill her. LEO#3 attempted to talk to the male, telling him not to hurt the little girl. While the team waited for additional SWAT officers to arrive, LEO#3 continued to talk to the male, and attempt to get him to calm down. When the boy woke up and began to cry, the male grabbed the little boy. LEO#3 advised that, at one point, the male stepped towards the officers while holding the kids, but he went back to the bed. LEO#3 continued to talk with the male until SWAT arrived.

When SWAT arrived, LEO#3 told an officer where the male was located in the bedroom. LEO#3 stood in the door of the bedroom, observing the male, until the SWAT

team came upstairs. At that point, LEO#3 moved aside and the SWAT officer shot the male.

According to LEO#3, he made several attempts to try to calm the male down, but the male remained agitated, waving the knife, putting it against the girl's neck and making threats to harm the child.

LEO Witness #4

LEO#4 responded to North Fulton Street after the responding officers called requesting a supervisor. LEO#4 was informed that officers had received a call for service about a male armed with a knife. LEO#4 arrived on the scene at approximately 06:57 a.m. Upon arriving he grabbed the necessary equipment and was part of the team making entry into the house.

Once in the house, LEO#4 encountered a juvenile female, who was approximately 12-13 years old. She pointed to where the male was on the second floor. LEO#4 instructed his officers to take the youth to a safe location and continued to the second floor. LEO#4 observed the male sitting in the bedroom, with his back to the window, and facing the door. He observed the male holding a butcher knife in his hand, at a ready position. LEO#4 asked the man if he was ok, if there was anything he could do for him. At this point, the male showed him the knife. LEO#4 observed two young children on the queen bed. The male gestured to the officers with the knife as he said "Come on inside." LEO#3 stepped into the room.

LEO#4 then stepped out of the house to make notifications and to request negotiators, SWAT and a medic to be on standby. Upon returning upstairs, to where the male was holding the children, LEO#4 saw that the male was holding the young girl on his lap and moving the knife around, positioning it on her body around her abdomen, neck and chest area. When additional officers arrived, LEO#4 went outside to brief them, including the SWAT team.

He observed the SWAT team assess the situation, and waited outside to keep the scene secured. LEO#4 heard the shot fired and told the responding medics to go upstairs to help the male and bring him down. LEO#4 continued to monitor and control the outside part of the scene, directing medics to assist the juveniles and making the appropriate notifications.

It was LEO#4's opinion that the male was highly agitated, and according to the male's family, high on drugs. The male showed signs of aggression and paranoia. In his opinion, any further action toward the male would incite him and harm the children.

LEO Witness #5

LEO#5 responded to the scene as an “all person” back up. When he arrived, he was informed that there was a male inside the home, who was carrying a butcher knife and was on drugs. LEO#5 was also informed that there were children inside. He, along with the other officers, grabbed a bunker, went inside to make sure everyone was safe. LEO#5 proceeded up the stairs, directly behind LEO#4. He observed LEO#4 attempt to talk with the male. LEO#5 observed that the children were in the bedroom, right beside the male, close enough that they could be in danger. The children were awake and they were screaming. The male sounded very agitated and threatening.

The male continued to say that he was going to hurt the children and LEO#4 continued to try to talk him down. LEO#5 observed the male grab the kids. LEO#5 remained directly behind LEO#4, with his taser out. Right away, LEO#5 knew that there was no reasonable way for him to use his taser, because of the kids in the room.

LEO#5 believed that the male was going to kill the children, and there was no doubt in his mind that he was under the influence of drugs. LEO#5 stated that the male kept grabbing the knife and putting it to the kids’ throat area and chest. LEO#5 attempted to ask the younger child if he could climb over and out the door, but this agitated the male, who grabbed the child and continued to wave the knife around. The male continually asked for the children’s father, but LEO#5 believed that if they brought him up, that the male would hurt the children in front of him.

LEO#5 stated that he did not feel comfortable taking a shot, because the children were too close to him and that he didn’t

have the expertise to take such a shot. He was also concerned that using the taser would cause a sound that would further agitate the male. LEO#5 believed that they needed experts.

LEO#5 was present when the SWAT officer came upstairs, and took the shot. LEO#5 believed that this was the only way to resolve the situation, given the demeanor of the male and how close he was to the children.

LEO Witness #6

LEO#6 was one of several officers who initially entered the home. He entered along with LEO#5, another officer and LEO#3. He saw the male run upstairs. They proceeded upstairs and observed the male in the bedroom with two kids, who were on the bed. LEO#6 saw the male with a knife, which was a kitchen knife, silver with a black handle. The male already had the knife when they arrived upstairs.

The male grabbed the children and said, "Don't come inside, I will kill them." He also demanded to see the children's father. The officers could not get any closer or go inside the room because the male was saying that if they got closer, he was going to kill the kids. LEO#6 had his weapon in his hand, as did LEO#3. They had their weapons down, pointed at the floor.

LEO#6 described the male as very agitated and aggressive. He observed LEO#3 attempting to speak with the male and try to calm him down. They stayed in that posture for approximately half an hour, and at no time did LEO#6 observe the male make any attempt to drop the weapon. Instead, he put the knife at the girl's neck, causing him concern that she would be wounded or killed.

LEO#6 believed it was nearly impossible to use their weapons, because the male was holding the children at his chest, and they could only see his head. When the shot was fired, LEO#6 went into the bedroom and took the young girl out and to her family member.

LEO#6 explained that he did not shoot because SWAT officers were on the way, and they have better training to make that kind of shot.

SWAT#1 Witness

SWAT#1 arrived at the scene as the ranking officer, and participated in the SWAT assessment. SWAT#2 did the initial assessment and the team began to set up a command post. SWAT#2 is a team leader, and his role is to assess the situation. SWAT#1's role is to man the command post and facilitate the team.

When SWAT#2 came out of the house, he reported that he believed that the male inside was going to harm the children, with a large kitchen knife which he had in his hand. SWAT#1 explained that SWAT#2 believed that the incident would escalate to harm at any moment. SWAT#2 believed the officers needed to get in there and kill the male.

SWAT#1 has approximately 16 years in tactical situations. SWAT#2, as near as SWAT#1 could recall, had been working in the SWAT unit for a long time and they both had significant training, including training for hostage situations.

While waiting for SWAT#2 to complete his assessment, SWAT#1 asked SWAT#3 to get equipped with a rifle and meet up with SWAT#2 inside the house. Before SWAT#3 was able to enter the home, SWAT#2 came out and they discussed options and next steps. SWAT#1 was part of the team discussing options, which included less lethal force, if possible. SWAT#1 reported that SWAT#2 told SWAT#3 to calm down, relax and go into the home and kill the male. SWAT#1 reported that SWAT#3 was carrying an M-4 Colt .223 Rifle, which is a long gun and one of the most accurate weapons the police use. SWAT#2 briefed the team on the layout of the home, and what the room would look like. SWAT#1 discussed with the team members alternative levels of force (other than deadly).

SWAT#1 observed SWAT#2, SWAT#3, another SWAT team member enter the home in a “stack.” SWAT#1 went to brief the individuals at the command post, including a negotiator who had just arrived, but at that moment he heard a shot which he correctly believed to be a shot at the male.

SWAT#1 concluded his recorded interview by explaining that what level of force to use is based on an individual officer’s assessment of the situation and that there is no protocol for receiving permission to use deadly force. He, as the ranking officer, wanted to ensure that all options were considered, but ultimately, it is the determination of the officer, in this case, SWAT#2, who does the assessment, to make the call.

SWAT#2 Witness

SWAT#2 was informed by his Lieutenant that there was a situation at 1027 N. Fulton where a guy was holding two children at knife point inside a bedroom. SWAT#2 responded to the scene, and went directly into the house. The officers who had been there explained where the male was, and told SWAT#2 what he would see when he got up there. Upon ascending the stairs, he observed the male, who was immediately aggressive. SWAT#2 recalls saying something to the male, along the lines of not wanting anyone to get hurt. The male responded with aggressive profanity, demanding to see the children's father. While SWAT#2 was observing the male, he was agitated and had a knife to the young girl's throat. The girl was sitting on one of the male's leg and the young boy was sitting on his other leg. The male kept the children very close to him, such that his own head was rarely exposed; SWAT#2 recalls maybe seeing half of the male's face while they spoke. SWAT#2 explained that the male was holding his knife in an extremely aggressive manner towards the girl's throat.

SWAT#2 provided that on his way to the scene, he had requested that his officers meet him at the house with an M-4 rifle, as well as a magnifier, for the most precise shot, if such a shot would be necessary. Because of how the male was positioned, with his head covered and holding two children, SWAT#2 proceeded to explain to SWAT#3 what he would see and then they went upstairs, together. Both SWAT members observed the male holding the two children and the knife. SWAT#3 positioned his rifle and shortly thereafter took his shot. SWAT#2 observed officers take the children out of the bedroom. SWAT#2 explained that he was very concerned that

the male would kill the children, as he was extremely agitated, upset and “out of his mind,” all the while holding the knife so close to the girl.

KGa RADIO TRANSMISSION SUMMARY

- 0641 hours: 911 call, civilian stated cousin was inside armed and refusing to leave
- 0645 hours: Call for service was dispatched as armed person
- 0649 hours: Officers on scene, knocked on door
- 0650 hours: civilian ran outside
- 0651 hours: Supervisor was requested
- 0653 hours: 7A09 (LEO#4) arrived on scene
- 0653 hours: Medic was requested to be on stand-by
- 0654 hours: First police verbal contact with male
- 0656 hours: 7811 requested as male takes children hostage
- 0724 hours: Negotiators were requested
- 0726 hours: 7811 arrived on scene
- 0729 hours: SWAT #2 on scene
- 0741 hours: One shot fired, male down and children safe

BODY WORN CAMERA (BWC) VIDEO:

Among all the officers, there is continuous footage from the initial response through when the medics respond to the injured male. Upon arrival, the first responding officers knocked on the door and wait a few seconds. You can hear an officer say “he has a knife,” seconds before a woman can be seen running out of the front door of the home, and down the outside steps. The woman yells that he has a knife, and that he has her sister and her kids in there. The woman is on the phone, telling someone to come around front with the keys so the police can get in. LEO#1 runs around to the back of the home. Another officer approaches and LEO#1 demonstrates the size of the knife with her hands. A female can be seen opening the door for the officers. She explains that the male was coming at her and charging at her with a knife. Officers can be seen and heard speaking to her about the male. She provides his name and age to the officers. The female tells the officers that her sister is still inside. She describes the layout of the residence to the officers. Several officers go inside, in a line. A woman yells that she is upstairs, and tells the officers where the male is located. Officers go upstairs in a single file line. The first officer begins to speak with the male. The other occupants, who are on the third floor of the home, can be seen exiting the residence.

The male is in the bedroom on the second floor. Inside the bedroom, you can see a man sitting either near or on the bed with two young children, a boy and a girl. The girl is visibly scared. The officers back out of the room but continue to talk with the male. Officers attempt to engage with him, telling him

to drop the knife and explaining that they want to get him help. Audio captures the male yelling and demanding to see the children's father. The male continues to demand to see the children's father and says that he will only drop the knife if he comes to get his children.

There are times during the recording where none of the BWC equipped officers have their cameras trained on the inside of the room, however, the audio from that time period is continuous, and it appears that officers are standing around the doorframe, rather than directly inside it. After a lull of approximately 10 minutes, one of the children can be heard screaming and the male then yells out "let me see your hands." The video shows inside the bedroom, where the male is still sitting near the bed, holding the knife and the children. LEO#3 responds that if the male puts his knife down, he will put the gun down. The male can be heard yelling and laughing. The video shows the knife glinting in the hand of the male.

For the next approximately 20 minutes, the officers do not engage with the male. LEO#1 leaves to go downstairs where he collects identifying information. LEO#1 shouts up that they are going to get the father. SWAT#2 enters the house to assess the situation and observes the male inside the bedroom, holding the children and the knife. He goes downstairs where he calls the SWAT team over and explains that he needs SWAT#3 to be calm, walk in and kill the male. SWAT#2 explains to the team that the male is highly agitated and that there is no way to talk to him. He explains that the male has the knife right to the kids' throats and that the only way he sees fit to save the kids is to be calm and shoot precisely. SWAT#2 explains the layout of the location and some details about the male. SWAT#1 suggests that

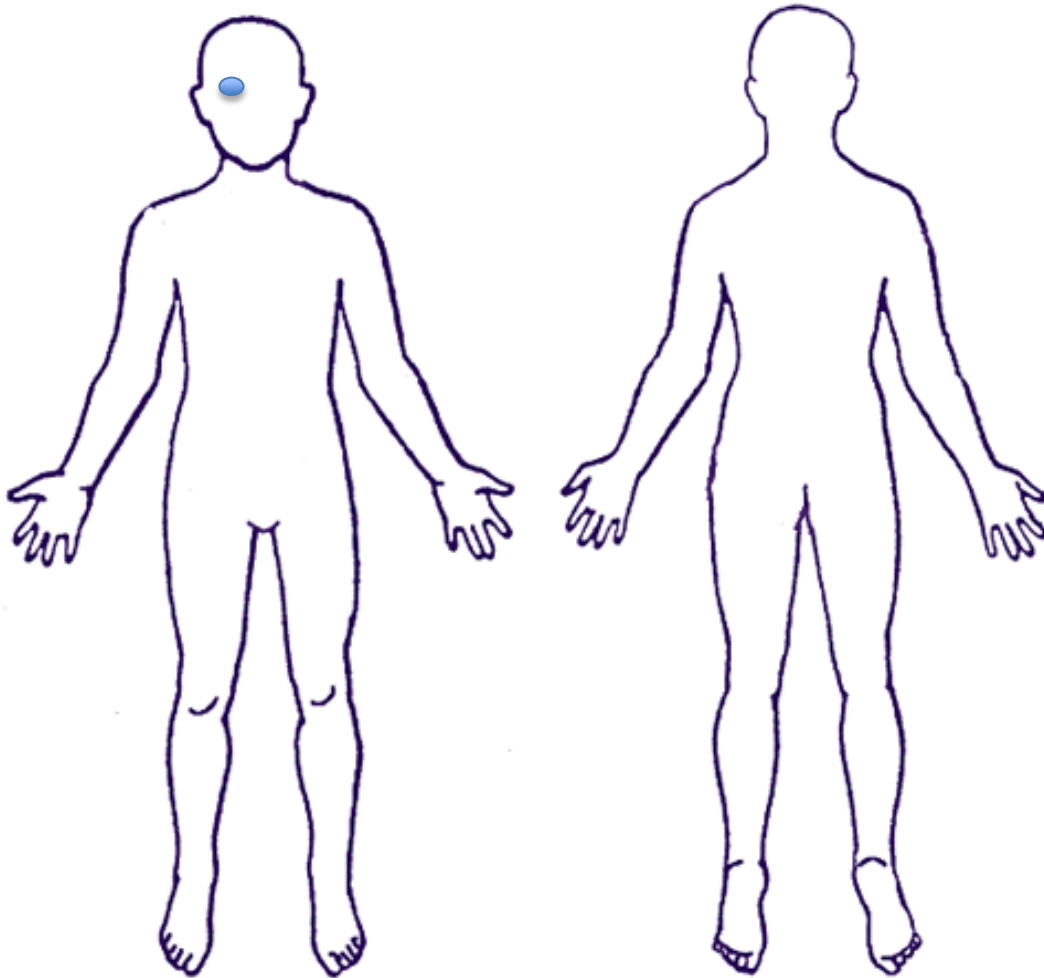
officers continue to try to talk to him, and SWAT#2 explains that they are and have been trying.

The SWAT team enters the home and proceeds upstairs. You can hear an officer say “I just want to talk to you,” and we “don’t want to hurt anybody,” and you can hear a child crying. You can hear the male’s voice raise and his speech quicken. SWAT#3 raises his rifle and fires one shot. After he fires the shot, other officers run inside the bedroom. Officers can be seen taking the children and carrying them out. A medic is requested and SWAT#2 orders all officers “off the air.”

SWAT#3 has his camera on from the time he and SWAT#2 assess the situation, through the moments after the shooting until he receives permission to leave the scene.

Male's Injuries (approximate)

The male was shot one time in the inner canthus of the right eye.¹



¹The male's blood and urine indicated the presence of N-Ehtylpenylone , a chemical used in "molly."

Ballistics Report:

SWAT#3's weapon was a Colt M4 .223 caliber rifle. Upon inspection, the weapon had been fired one time.

Legal Analysis

In Graham v. Connor, 490 U.S. 386 (1989), the Supreme Court set the standard for when a police officer's use of force is justified. If the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting the officer, without regard to their underlying intent or motivation, the force is justified. See *Graham v. Connor*.

Maryland law also recognizes defense of others as a complete defense to a crime. An officer acts in defense of others if all of the following factors are present:

1. The officer actually believed that the person he was defending was in immediate and imminent danger of bodily harm;
2. The officer's belief was reasonable;
3. The officer used no more force than was reasonably necessary in light of the threatened or actual force; and
4. The officer's purpose in using force was to aid the person he was defending.

SWAT#3 meets the four legal factors listed above to justify the shooting of the armed male as well as the standard set forth by the Supreme Court. BWC footage shows the male forcibly holding a young girl while threatening to harm her with a large kitchen knife. SWAT#2 assessed the situation by speaking with other law enforcement officers who had attempted to negotiate with the male for over thirty minutes. Prior to taking the shot,

SWAT#3 attempted to speak with the male. From the audio in BWC, the male is heard saying he was ready to die and he would not give up. In order to save the children from imminent harm, SWAT#3 discharged his weapon striking the male. The shooting by SWAT#3 was in defense of others.

Conclusion

Given that BWC video shows the male with a knife holding two children hostage, threatening the female child with the knife by holding it to her throat and body, it would be objectively reasonable for the officer to conclude that the children's safety was at risk leading him to protect them by utilizing force. Furthermore, the decision to use force was justified under the Maryland law of defense of others and the standard put forth by the Supreme Court in *Graham v. Connor*.

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

SWAT Team Members getting ready to enter the house



SWAT#3 speaking with the male



SWAT #3 raising his rifle



The knife

