

**Non- Fatal Officer Involved Shooting of Eric Watts
Los Angeles Police Department**

Officer Victor Aguayo, #42826

J.S.I.D. File #22-0230



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 30, 2023

MEMORANDUM

TO: CAPTAIN OMAR BAZULTO
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, California 90012

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Eric Watts
J.S.I.D. File #22-0230
L.A.P.D. File #F036-22

DATE: August 30, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 14, 2022, non-fatal shooting of Eric Watts by Los Angeles Police Department (LAPD) Officer Victor Aguayo. We have concluded that Officer Aguayo acted in lawful self-defense and defense of others at the time he fired his service weapon, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting on July 14, 2022, at 8:51 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by LAPD Lieutenant Alicia Jordan.

The following analysis is based on radio calls, body worn camera video (BWV), investigative reports, audio recordings and transcripts of witness interviews, crime scene diagrams and photographs, medical records, and surveillance video submitted to this office by LAPD Force Investigation Division (FID) Detective David Bunch and provided to the District Attorney's Office on July 6, 2023.

Officer Aguayo and his partner Ambyr Burrus provided compelled statements to investigators. Those statements were not considered as part of this analysis.

FACTUAL ANALYSIS

The Robberies

Since May of 2021, detectives from the LAPD Robbery Homicide Division have been investigating a series of armed robberies during which the suspects targeted victims driving high-end vehicles and wearing expensive jewelry, such as Rolex watches. These crimes have been referred to as "Follow Home Robberies" or "Follow Away Robberies." During interviews with

the victims in these cases, detectives learned many had been at, or near high end restaurants, shops, or night clubs. Since May of 2021, detectives at Robbery Homicide Division have Investigated over 150 robbery cases with similar methods of operation and similar suspect descriptions.

In particular, on May 21, 2022, two armed gunmen robbed a man at gunpoint at a gas station. One day later, the same men robbed two people in a car in a parking lot in a restaurant. On May 24, 2022, the same armed men robbed two people dining in a restaurant. On July 5, 2022, the same armed men robbed two people who were shopping in a jewelry store. On July 14, 2022, the same robbers, both armed with handguns, followed a man into a clothing store on Melrose Avenue, robbed him, and fled. That robbery led to an officer involved shooting, which is detailed below. The robbers were later captured and identified as Eric Watts and Torrison Hart. Watts was charged in case number BA508898 with six counts of armed robbery and was sentenced to six years in state prison. Hart was charged separately in case number BA510043 with six counts of robbery. That case is pending preliminary hearing.

The Shooting

On July 14, 2022, at approximately 6:38 p.m., the owner of the store on Melrose Avenue, referenced above, witnessed Watts and Hart robbing his customer. The owner fled the store and flagged down LAPD Officers Victor Aguayo and Ambyr Burrus, who were in a marked patrol vehicle and stopped in traffic while on patrol on Melrose Avenue. The owner yelled at the officers, "Help! Help! Help! Please help! There's two people in the store right now robbing! They have guns! Please help! Please come now! Fast!" Aguayo and Burrus radioed "...can I get a backup Fairfax and Melrose on 211 suspects armed with guns."

Aguayo and Burrus exited their patrol car, drew their service weapons, and ran quickly toward the front door of the store. As they approached the door, both gunmen rushed out the door and toward the officers in an attempt to flee. Watts, the first gunman who exited, had a gun in his right hand and raised it as he was exiting. Hart, the second gunman, followed closely behind Watts and, when he exited and saw the officers, started to draw a gun from his left side waistband. Aguayo fired a single round at Watts, possibly striking him. Watts and Hart ran to a vehicle parked nearby and fled. The moment of the shooting was recorded on Aguayo's BWV and is shown below:

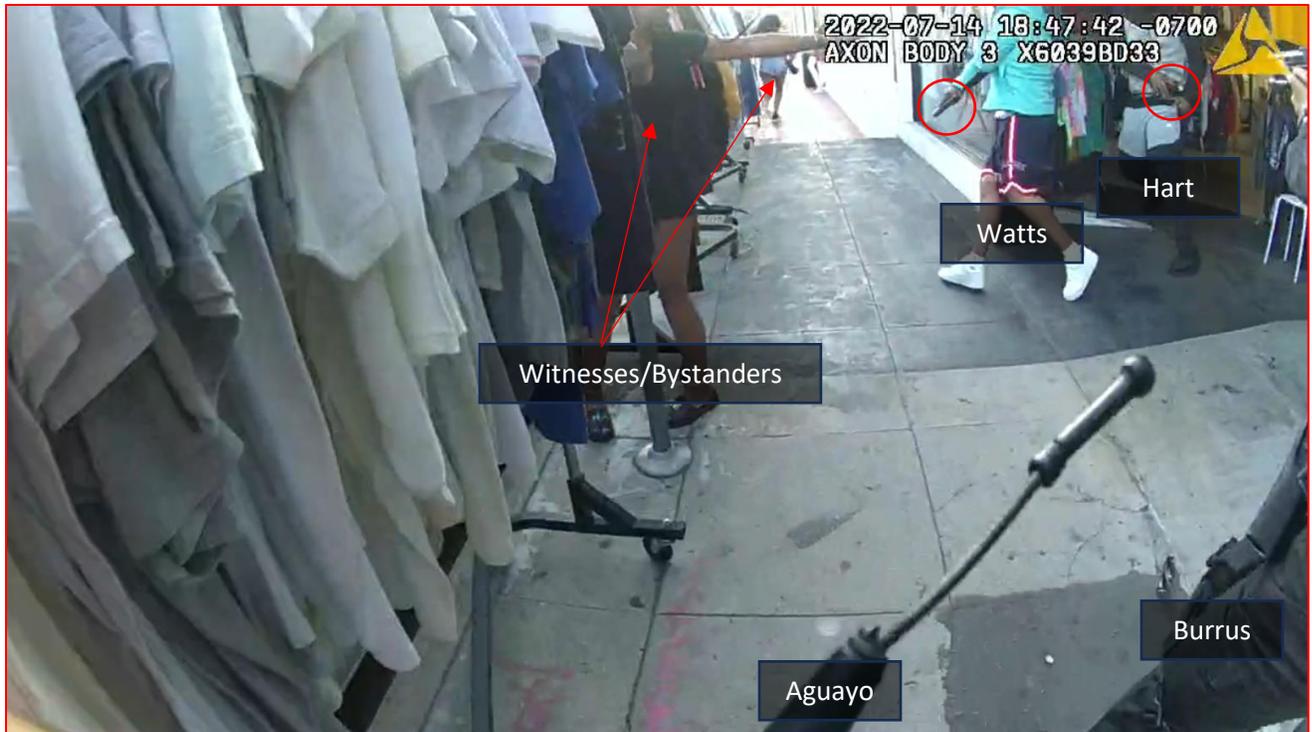


Figure 1 – Photo from Aguayo’s BWV Showing Watts Exiting with a Gun in His Right Hand and Hart Exiting and Starting to Draw a Gun From His Waistband.

Firearms Evidence

One 9mm shell casing was recovered from the scene and matched to Aguayo’s service weapon, which is consistent with him firing one round in the incident.

Watts was armed with a loaded and operable .45 caliber Glock semiautomatic handgun, which he dropped as he was fleeing. The gun was recovered, DNA testing was conducted, and it was determined that Watts was a major contributor of DNA on the gun.

Watts’ Injury

On September 10, 2022, after Watts was arrested for the series of robberies, he was examined by jail medical staff. He stated he was shot approximately one-and-a-half months prior, which is consistent with the time frame of the robbery and shooting on Melrose Avenue on July 14, 2022. Watt’s medical records also indicate he had a well-healed gunshot wound to the upper back with a retained bullet and/or bullet fragments. His cellular telephone records during the relevant timeframe also showed a text from Watts’ phone that said, “Bitch ass police shot me ‘bra’(sic) in my back.” This evidence supports the conclusion that Aguayo’s round struck Watts in the back.

LEGAL ANALYSIS

The Law

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(1) to defend against an imminent threat of death or serious bodily injury to the officer or another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) &(B).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer’s decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

Analysis

Aguayo and Burris were on patrol and were flagged down by a frantic witness who reported that there was an armed robbery in progress. The officers radioed that they needed backup, exited their vehicle, drew their service weapons, and moved quickly in the direction of the robbery. The officers were immediately confronted by two armed suspects, at very close range, who turned a blind corner and were rushing in their direction. The first suspect, Watts, had a gun in his right hand and brought the gun up as he was running. The second suspect, Hart, had a gun in his waistband and appeared to be attempting to draw the gun as he saw the officers. There was a bystander/witness within feet of where Watts and Hart were running, and another bystander running away in the direction Watts and Hart ultimately fled. Any reasonable officer under these rapidly unfolding circumstances, confronting two armed and desperate suspects, would have perceived Watts and Hart as being a deadly threat to the officers and to the bystanders in the immediate vicinity.

CONCLUSION

Based on a review of the evidence presented, there is compelling evidence that Watts and Hart presented an immediate and deadly threat to Officer Aguayo, his partner officer, the two bystanders nearby, and to the general public. It was reasonable for Aguayo to fire his service weapon at Watts, in self-defense and defense of others.