

**Officer Involved Shooting of Eric Bogart
Los Angeles Police Department**

Officer Wilson Wong, #26014

Officer Joseph Dominguez, #31216

J.S.I.D. File 17-0391



JACKIE LACEY

District Attorney

Justice System Integrity Division

November 15, 2018

MEMORANDUM

TO: COMMANDER ALAN HAMILTON
 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: Officer Involved Shooting of Eric Bogart
 J.S.I.D. File 17-0391
 F.I.D. File #F060-17

DATE: November 15, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 10, 2017, fatal shooting of Eric Bogart by Los Angeles Police Department (LAPD) Officers Wilson Wong and Joseph Dominguez. It is our conclusion that Officers Wong and Dominguez acted in lawful self-defense and in lawful defense of another.

The District Attorney's Command Center was notified of the shooting on August 10, 2017, at approximately 5:35 a.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on various reports submitted by the LAPD Force Investigation Division. The compelled statements of Officers Wong and Dominguez were considered in this analysis.

FACTUAL ANALYSIS

On August 9, 2017, Tamme M. and her boyfriend Eric Bogart were residing together at Tamme's home located at [REDACTED] Alta Mura Road.¹ Tamme and Bogart had been arguing into the late evening regarding the fact that Bogart had been drinking heavily and had become increasingly intoxicated, angry and belligerent. Tamme had also observed Bogart smoking a cigarette which, she suspected contained narcotics based upon its smell and appearance. Tamme grabbed the cigarette when Bogart put it down, tore it open to examine it and then tossed it into a sink.

¹ The home at [REDACTED] Alta Mura Road consists of a two story, 9,300 square foot single family residence with three wings laid out in a "Y" pattern. The property features a short inclined driveway which leads to an enclosed central courtyard that is used for parking vehicles and which provides access to the front entryway of the residence. The courtyard is overlooked by the second story of the home. Entry to the courtyard of the property is made either through a gated pedestrian entry or through a gated car portal, both of which face Alta Mura Drive. The entire property is surrounded by a combination of walls and privacy landscaping.

Bogart became enraged. He placed his hand on Tamme's throat and threw her down on the table in the upstairs sitting room where they were arguing. Bogart choked Tamme with his hands and stated, "Don't touch my cigarette. Fucking bitch! Fucking bitch! I'm going to kill you!" Tamme began to lose consciousness and struck Bogart in the head with a metal doorstop lying within her reach. Bogart released Tamme and she ran down the hallway into an adjacent "safe room" containing two Glock pistols (one in .40 caliber and the other in 9mm) and a shotgun.

Afraid that Bogart would kill her, Tamme armed herself with one of the Glock pistols and began to walk towards the safe room exit.² At the same time, Bogart entered the safe room and saw that Tamme was armed. Bogart wrestled Tamme to the floor, disarmed her and straddled her. Bogart then placed the Glock he had taken from her against her head as she pleaded with him to put the gun down. Bogart continued to point the Glock at Tamme as he backed away toward the entry to the safe room.

Tamme attempted to disarm Bogart before he could exit the room but failed. Tamme then picked up the second Glock from a bag on the safe room floor, but was quickly overpowered by Bogart who took the gun away from her as he held her at gunpoint with the other Glock. According to Tamme, Bogart randomly fired one of the Glocks several times in the safe room as she sat helpless on the floor.³ After several seconds, Bogart dropped both Glocks on the floor of the safe room.

Bogart turned his attention to a shotgun in the corner of the safe room, Tamme pushed past him and ran down the hallway to a staircase leading to the first floor. Bogart, armed with the shotgun, briefly followed Tamme. Tamme heard Bogart manipulating the shotgun action, possibly chambering a round. She fled from the house to the home of a neighbor and over an intercom told her neighbor what had occurred. Tamme's neighbor notified a local, private security company which in turn called 9-1-1 at approximately 10:50 p.m.

² The home at [REDACTED] Alta Mura was equipped with multiple indoor and outdoor video cameras including a camera which is located inside a "safe room" on the second floor. At approximately 10:23 p.m., the safe room camera captured Tamme as she ran into the room and armed herself with the first Glock before being overpowered by Bogart. However, not every room in the home was covered by cameras, including the sitting room where Bogart initially attacked Tamme. During the barricade situation with Bogart, LAPD investigators could not access the video surveillance system. Later, LAPD investigators obtained the video surveillance and determined that the time stamps for the interior cameras were approximately 28 minutes fast and the exterior cameras were 38 minutes fast. Finally, it should be noted that the term "safe room" refers to a fortified room within a residence built to provide protection during a home invasion robbery or from a natural disaster.

³ LAPD investigators who searched Tamme's home after the officer involved shooting located multiple bullet impacts and 9mm spent casings in the safe room and in other portions of the residence. Although video from August 9, 2017, and August 10, 2017, captured Bogart in the safe room pointing a Glock gun either at Tamme or randomly in the empty room, the video quality is insufficient to discern precisely when Bogart discharged any Glock. In addition, the video lacks an audio track which would have caught the sound of gunshots.



Residence at [REDACTED] Alta Mura Road

At approximately 10:54 p.m., an LAPD dispatcher broadcast that a shooting had just occurred at [REDACTED] Alta Mura Road and that the suspect, a white male, was still at the residence armed with two handguns and a shotgun.

A few minutes later, at approximately 11 p.m., Sergeant Robin Briggs arrived at the scene and contacted Tamme to obtain further information regarding what had occurred. Tamme informed Briggs that Bogart wanted to commit "suicide by cop." Other LAPD officers arrived to provide back up. Tamme was taken to a safe location away from the residence.

A perimeter was established around Tamme's home. After multiple failed attempts, Briggs reached Bogart who told her to "Fuck off" and leave him "the fuck alone." Bogart hung up the phone each time that LAPD officers tried to re-contact him.

On August 10, 2017, at approximately 12:10 a.m., Briggs spoke to Metropolitan Division Special Weapons and Tactics (SWAT) Lieutenant Chester McMillion and briefed him regarding the information provided by Tamme. Briggs also briefed McMillion regarding Bogart's lack of cooperation and his refusal to surrender.

At approximately 1:50 a.m., SWAT officers arrived at the Alta Mura residence. The SWAT officers were briefed about the situation and set up a containment perimeter around the property.⁴ Due to the large size of the lot at [REDACTED] Alta Mura, the SWAT team spent more than two hours establishing the containment perimeter. During this time, Bogart remained inside the Alta Mura residence and moved from room to room.⁵

At approximately 3:30 a.m., SWAT crisis negotiation team officers made multiple attempts to contact Bogart by phone.⁶ Bogart did not answer.

Thirty-five minutes later, at approximately 4:05 a.m., SWAT Sergeant Timothy Colomey made attempts to contact Bogart by bullhorn. Colomey called out to Bogart by name and advised him that the LAPD was trying to contact him telephonically. Colomey asked Bogart to pick up the phone. Bogart did not respond.

A plan was then devised to enter the gated courtyard area of the property with two armored vehicles in order to provide cover for advancing officers, to get a better view of the residence, and to make contact with Bogart.⁷ Four SWAT officers were assigned to enter the property in the first armored vehicle (known as Rescue-4). Officer Wilson Wong was assigned to take the turret position in Rescue-4 and provide rifle cover. Officer James Brown was assigned to drive a second armored vehicle (known as Rescue-2) into the courtyard behind Rescue-4.

At approximately 4:35 a.m., Rescue-4 entered the courtyard followed by a K-9 unit and other SWAT officers who entered through the pedestrian gate. The other officers conducted a sweep of the courtyard and set up positions in the courtyard behind Rescue-4 and two other privately owned sport utility vehicles that were already parked in the courtyard. Officer Enrique Anzaldo was seated in the right front passenger seat of Rescue-4. Officer Joseph Dominguez, armed with a rifle, took up a position in the archway of the pedestrian gate, with a clear view of the second story of the residence.

After entering the courtyard, at approximately 4:44 a.m., SWAT personnel shot a 40 millimeter non-lethal projectile into an upper floor window in the rear of the house.⁸ A short time later, Bogart stepped out to a second story balcony overseeing the rear yard of the property. Officers positioned in the area ordered Bogart to show his hands. Bogart did not comply and stepped back into the house. Colomey continued to try to contact Bogart via bullhorn, along with LAPD crisis negotiators who called Bogart via telephone.

⁴ The SWAT officers, including Joseph Dominguez and Wilson Wong, were briefed regarding the danger presented by Bogart, including that he was armed with two handguns and had shot at Tamme before she fled the residence.

⁵ Bogart was caught by video surveillance moving from place to place within the home.

⁶ Lieutenant McMillion indicated that six or more attempts were made to contact Bogart starting at approximately 3:30 a.m.

⁷ The armored vehicles, known as the BEARCAT and MEDCAT, are often used by the LAPD in barricade situations to position SWAT officers and simultaneously protect them from gunfire and other threats. These armored vehicles feature a rotating turret with a hatch that can be used by officers to take an elevated position for rifle cover while being protected by bullet resistant steel armor.

⁸ According to the evidence reviewed, SWAT officers shot the projectile into the home with the hope that it would catch Bogart's attention and help them pinpoint his exact location within the home if he responded to the noise of the projectile breaking glass.

At approximately 4:55 a.m., Bogart answered the phone and stated, “You’re going to have to come get me, you motherfuckers!” and then hung up. The other SWAT officers at the location were advised of Bogart’s response.

At approximately 5:00 a.m., Rescue-4 was repositioned facing north along the west portion of the courtyard, directly opposite but in full view of the first and second story of the residence. Officer James Brown then drove Rescue-2 into the courtyard and stopped in the middle of the courtyard. Officer Wong remained in the turret of Rescue-4 providing cover.



Rescue-2, Rescue-4 and the BATCAT in the courtyard of [REDACTED] Alta Mura Road

At approximately 5:02 a.m., Bogart was captured by interior video surveillance cameras as he entered the safe room and picked up one of the Glock guns from the floor. Bogart removed the magazine from the Glock and, after several attempts, reinserted the magazine. Bogart pointed the gun inside the safe room and towards the safe room entryway. At approximately the same time, several LAPD officers, including Wong, heard muffled popping noises coming from within the home.⁹

⁹ LAPD investigators who later examined the crime scene learned that the windows of the home were made with thick, apparently sound reducing glass that likely insulated most noise, including gunshots, coming from within the home. It is unclear from the video surveillance in the safe room whether Bogart was firing the Glock or merely pointing it; however, given Bogart’s movements and the fact that SWAT officers reported hearing muffled popping noises outside at approximately the same time, it appears that Bogart discharged the Glock at this time.

At approximately 5:03 a.m., Bogart walked down the main, second floor hallway lined with several windows overlooking the courtyard area where SWAT personnel were positioned. Bogart stopped directly in front of one of the windows, pulled the curtains back and raised the Glock towards the LAPD officers in the courtyard. Officer Anzaldo, who was seated in the passenger seat of Rescue-4, spotted Bogart at the window and pointed a spotlight at him. As Bogart stood in the window, he fired the Glock through the glass window pane in the direction of the LAPD officers below.¹⁰

Bogart immediately moved to an adjacent hallway window. He raised the Glock in a two handed grip and again fired through the glass window pane towards the officers in the courtyard. After firing, Bogart pivoted slightly to the right and turned the left portion of his upper body slightly towards the window.¹¹ [REDACTED], Officers Wong and Dominguez fired almost simultaneously at Bogart.¹² Bogart was struck twice on his left shoulder and immediately collapsed out of view.

Not knowing if Bogart had been hit or disabled, SWAT officers fired multiple rounds of tear gas into the house between approximately 5:20 a.m. and 7:10 a.m. SWAT officers also made arrangements to procure specialized equipment from the LAPD Bomb Squad, including a camera equipped Andros bomb disposal robot, to remotely search the interior of the residence.

At approximately 10:30 a.m., after successfully inserting the Andros into the home, Bogart was located dead on the floor of the upstairs hallway, next to the windows where he had collapsed after being shot.¹³ The .40 caliber Glock used by Bogart to fire at SWAT officers was located under his body. One spent 9mm casing was found jammed in the Glock's ejection port and another spent 9mm casing was found in the hallway close to Bogart's body. The Glock

¹⁰ Several officers, including Anzaldo, K-9 officer Steven Carnevale, Dominguez, Wong and Eduardo Perez, saw Bogart fire the Glock towards LAPD officers in the courtyard.

¹¹ Video surveillance captured Bogart standing at each window raising the Glock and pointing it downwards towards the courtyard at LAPD officers. An enhanced and slowed version of this video surveillance depicts Bogart pivoting slightly to the right immediately before he was shot. Bogart's reasons for pivoting, however, are unknown.

¹² Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. Wong and Dominguez, like any other individuals, possess a right under the Fifth Amendment of the United States Constitution to be free from being compelled to provide self-incriminating testimony. *Uniformed Sanitation v. City of New York, supra*, at 284-285. Because the LAPD ordered Wong and Dominguez to answer questions which might expose them to criminal liability, the LAPD compelled Wong and Dominguez to participate in an interview. The effect of this legal compulsion is that Wong and Dominguez's statements cannot be used against them in a criminal proceeding, nor can any material derived from their compelled statements be used against them. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal. 4th 704, 715. Further, because these compelled statements are part of Wong and Dominguez's police personnel files, the statements are confidential and may not be disclosed absent an evidentiary showing and court order. Penal Code section 832.7.

¹³ Prior to using the Andros robot, SWAT officers utilized a remote operated crane called the BATCAT to break through an upstairs window frame and look for Bogart with an attached camera. Due to the limited viewing angle of the BATCAT's camera, SWAT officers were unable to see Bogart lying on the ground near where he had been shot. The Andros robot was subsequently used to locate Bogart. The transportation and mobilization of the BATCAT and Andros robot required several hours.

contained one live, unfired 9mm cartridge in the action and four other unfired 9mm rounds in the magazine. An additional, unfired 9mm cartridge was found near Bogart's body.¹⁴

A total of nine additional spent 9mm cartridge casings were recovered from the second story master bedroom, the safe room and the safe room entrance. Multiple fired bullets and bullet fragments were found in the safe room, safe room entrance and second story hallway.

On August 12, 2017, Deputy Medical Examiner Timothy Dutra conducted an autopsy of Bogart's body and determined that Bogart suffered three gunshot wounds which caused his death. Dutra found that two bullets entered Bogart's left shoulder and exited through the left portion of his chest.

Dutra also determined that a bullet had entered Bogart's left inner forearm and had exited through the outer portion of his left forearm. Dutra noted that the gunshot entrance wound on Bogart's left inner forearm could have been inflicted by the bullets exiting Bogart's left chest if Bogart's left forearm was bent and raised to his chest at the time he was shot through the left shoulder.

Blood samples taken from Bogart's body tested positive for the presence of Fluoxetine, Fluoxetine metabolites, Ethanol, and morphine.¹⁵

Gunshot residue was detected on samples taken from Bogart's hands.

LEGAL ANALYSIS

The use of deadly force in self-defense or in the defense of another is justifiable if the person claiming the right actually and reasonably believed the following: (1) that he or someone else was in imminent danger of being killed or suffering great bodily injury; (2) that the immediate use of force was necessary to defend against that danger; and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505*.

The test for whether an officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102.

In California, the evaluation of the reasonableness of a police officer's use of deadly force is determined by applying a reasonable person acting as a police officer standard. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (holding that California law "follows the objective

¹⁴ The evidence reviewed indicates that the .40 caliber Glock fired by Bogart at LAPD officers was loaded with 9mm cartridges. The 9mm cartridge is not compatible with a .40 caliber weapon. Nonetheless, the 9mm bullet is sufficiently small in diameter to be fired, however unsafely, by a .40 caliber (approximately 10.1 mm) firearm. However, the larger bore of the .40 caliber will allow an overexpansion of a spent 9mm casing and therefore malfunctions will likely occur. Based on the evidence reviewed, it appears that the .40 caliber Glock used by Bogart malfunctioned immediately before he was shot due to a 9mm casing that jammed in the ejection port of the firearm.

¹⁵ Fluoxetine is a selective serotonin reuptake inhibitor (SSRI) used to treat mental health conditions such as depression and obsessive compulsive disorder.

‘reasonable person’ standard—the trier of fact is required to evaluate the conduct of a reasonable person in the defendant’s position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant’s conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special ‘reasonable police officer’ standard.”)

Though not binding in California courts, federal case law pertaining to excessive police force claims brought under section 1983 of Title 42 of the United States Code provides legal guidance regarding the criteria that should be considered in determining whether a use of police force is reasonable. Specifically, the United States Supreme Court has held that the reasonableness of force used by an officer depends on the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Graham v. Connor* (1989) 490 U.S. 386, 396. “The reasonableness of the particular force used must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” *Id.* “The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Id.* at 396-97.

CONCLUSION

The evidence reviewed in the present case points to the conclusion that Eric Bogart engaged in a violent course of conduct which led Officers Joseph Dominguez and Wilson Wong to reasonably believe that they, along with their colleagues, were in grave danger of being severely injured or killed by him.

LAPD officers first responded to the Alta Mura property after receiving a radio broadcast indicating that a shooting had occurred at the location and that the shooter (Bogart) was still present. The broadcast further specified that the shooter was armed with two handguns and a shotgun.

LAPD Sergeant Briggs was the first to arrive at the location and she met with Tamme, the victim of Bogart’s attack, in order to obtain further information regarding the incident. During her conversation with Tamme, Tamme told Briggs that Bogart wanted to commit suicide by cop. Briggs subsequently attempted to contact Bogart telephonically in order to negotiate his surrender. When Bogart eventually answered the phone, he made it clear that he had no intention of surrendering peacefully by telling Briggs to “Fuck off” and to leave him “the fuck alone.”

Due to Bogart’s refusal to surrender, his violent conduct and access to multiple firearms, SWAT officers responded to the location and were briefed regarding the situation and the threat posed by Bogart. Based on this information, the SWAT officers approached the Alta Mura property with great caution and ultimately deployed two armored vehicles for the safety of the officers.

Bogart did not respond to the SWAT officers who attempted to contact him via telephone and a bullhorn in an effort to de-escalate the situation. Notwithstanding Bogart's lack of response, the SWAT officers at the location continued to call him. When Bogart finally answered the telephone at approximately 4:55 a.m., he reiterated that he would not surrender peacefully. He stated, "You're going to have to come get me, you motherfuckers!" before hanging up. Bogart subsequently armed himself with one of the Glock pistols and fired it inside the residence.

At approximately 5:03 a.m., Bogart walked to the second story hallway windows overlooking the courtyard where several officers had stationed themselves. Bogart fired the Glock pistol at SWAT officers in the courtyard from two separate windows along the hallway. Several officers, including Wong and Dominguez, saw Bogart firing the Glock through the window.

In order to stop the deadly threat presented by Bogart, Dominguez fired his rifle once and Wong fired at Bogart two times. Bogart was struck by gunfire, collapsed and died due to multiple gunshot wounds.

Given the abundance of evidence demonstrating that Bogart presented a deadly threat to Officer Dominguez, Officer Wong and the other LAPD SWAT officers in the courtyard at the Alta Mura property, it is clear that Dominguez and Wong acted in lawful self-defense and in the lawful defense of others. We are therefore closing our file and will take no further action in this matter.