

**Officer-Involved Shooting of Peyton Dingman**

**El Camino Police Department**

**Officer Leroy Enriquez, #EC0816  
Officer Marcus Thompson, #EC0194**

**J.S.I.D. File #15-0038**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**March 10, 2016**

## MEMORANDUM

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

SUBJECT: Officer Involved Shooting of Peyton Dingman  
J.S.I.D. File #15-0038  
L.A.S.D File No. 015-00006-3199-055

DATE: March 10, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 22, 2015, non-fatal shooting of Peyton Dingman by El Camino Police Department (ECPD) Officers Leroy Enriquez and Marcus Thompson. It is our conclusion that Officers Enriquez and Thompson acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on January 22, 2015, at approximately 12:07 p.m. The District Attorney Response Team (DART) responded and was given a briefing and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports, dispatch recordings, surveillance videos, photographic evidence, and witness statements taken during the investigation by the Los Angeles County Sheriff's Department (LASD), and submitted to this office by Detectives Joe Espino and Robert Kenney. Voluntary statements of the officers involved were considered as part of this analysis.

### FACTUAL ANALYSIS

On January 22, 2015, at approximately 11:09 a.m., ECPD officers received a radio call of a hostage situation in Parking Lot F near Stairwell Eight of El Camino College in Torrance.<sup>1</sup>

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<sup>1</sup> Lot F is a large, two-story parking structure spanning the west side of El Camino College from Redondo Beach Boulevard to just south of Manhattan Beach Boulevard. Along the east side of Lot F are numbered stairwells. Lot F appears to be El Camino College's largest parking lot.

According to the radio call, Peyton Dingman called 9-1-1 and provided the following information: 1) his location; 2) that he had a hostage and possessed two guns; and 3) that he wanted \$10,000.

ECPD Officers Enriquez and Thompson, partners on that day, responded to the lower level of Lot F near Stairwell Eight, and saw Dingman (alone) with his right hand inside the pocket of his jacket and holding a cellphone to his ear with his left hand.<sup>2</sup> As ECPD Dispatcher Michael Martinez was on the telephone with Dingman, the following can be heard in the background of the 9-1-1 call:

Male voice: "Let me see your hands. Let me see your hands! Let me see your hands!"

Male voice: "He's got a gun!"

Thereafter, shots are fired. Approximately 13 seconds elapsed from the initial command to see Dingman's hands to the first shots fired, and approximately five seconds elapsed between the first sound of gunfire to its cessation.

El Camino College students Monica Ramirez and Jose Villegas were walking to Ramirez' vehicle parked in Lot F when they passed Dingman who was on his cellphone.<sup>3</sup> As they began to climb Stairwell Seven, they heard multiple commands to "Put your hands up," before shots were fired. The two then ran up Stairwell Seven. As they ascended to the top of the stairs and the shots ceased, Villegas heard someone say, "Put down the weapon." From the time the commands were first issued to the shots fired, Ramirez and Villegas were unable to see Dingman from their vantage point.

Shortly prior to the shooting, Enriquez and Thompson had separated from each other after getting out of their marked patrol vehicle at the lower level of Lot F. Thompson walked northbound in Lot F to scan the area.<sup>4</sup> Also scanning the area, Enriquez walked eastbound with a department-issued AR-15 45mm caliber semiautomatic rifle that he had retrieved from the patrol vehicle.<sup>5</sup> At Stairwell Eight, Enriquez spotted Dingman pacing back and forth, and ordered him to show his hands. Dingman stopped, looked in Enriquez' direction, and withdrew his right hand from his jacket pocket. Enriquez saw Dingman lift his right hand and point what appeared to be a black semiautomatic pistol in his direction. Fearing for his own safety, and the safety of his fellow officers, students, and other members of the public, Enriquez fired 14 shots at Dingman.<sup>6</sup> Simultaneously, Enriquez heard separate shots fired, but did not know who was shooting.

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<sup>2</sup> Enriquez was dressed in his department-issued, navy blue, class A uniform with a badge and name plate on the front, shoulder patches on both shoulders, and a Sam Browne gun belt. Thompson was dressed in his department-issued, navy blue, class B uniform with a badge and name plate on the front, shoulder patches on both shoulders, and a Sam Browne gun belt.

<sup>3</sup> Ramirez and Villegas were on a break in between classes and retrieving Villegas' wallet in order to purchase food.

<sup>4</sup> Thompson carried his service weapon, a Glock 22 .40 caliber semiautomatic pistol, with the maximum capacity of 15 rounds in the magazine and one in the chamber for a total of 16 rounds. The Glock was recovered with nine live rounds in the magazine and one in the chamber.

<sup>5</sup> The AR-15 was loaded with a 20-round magazine with no round chambered. Enriquez did not count the rounds in the magazine but presumed that it was full. The AR-15 was recovered with five live rounds in the magazine and one in the chamber.

<sup>6</sup> Enriquez fired the AR-15 in semi-automatic mode, i.e., one shot at a time.

Multiple shots were also fired by Thompson whose attention was drawn to Dingman as Enriquez was issuing commands.<sup>7</sup> Thompson saw Dingman raise his right arm up and point what appeared to be a gun at Enriquez. Thereafter, Thompson heard shots fired.<sup>8</sup> Fearing for Enriquez' life, as well as for his own life, and the lives of the nearby students, faculty, employees, and other members of the public, Thompson fired six shots at Dingman. Dingman fell to the ground and Thompson heard Enriquez ordering Dingman not to reach for the gun. Dingman was lying on his back and reaching with his right hand over his body. A handgun laid on the ground approximately one to two feet to Dingman's left. Thompson then approached Dingman and kicked the gun away from him.

ECPD Chief Michael Trevis and Officer Tosh Tipson also responded to Stairwell Eight of Lot F. They were scanning the upper level when Trevis spotted Dingman on the lower level talking on his cellphone using his left hand. Dingman's right hand was inside the pocket of his jacket. Trevis then saw Dingman focus towards the parking lot on the lower level, pull out what appeared to be a Glock semiautomatic handgun with his right hand, and point it towards the parking lot. Trevis immediately heard a command, and then saw rounds hit Dingman who thereafter fell to the ground. Officers subsequently converged upon Dingman, removed a gun from his reach, handcuffed him, and rendered medical aid until paramedics arrived.

ECPD Officer Michael De Santo arrived shortly after the shooting and saw Dingman lying on the ground. De Santo began to render medical aid and talk to Dingman. During the ensuing conversation, Dingman stated that he was trying to kill himself because of a "situation at home."<sup>9</sup> He told De Santo that the gun was plastic and admitted that he planned to point it at somebody.<sup>10</sup> Inside Dingman's wallet was a folded note which stated on the outside, "The police have done nothing wrong here." The inside of the note contained the Shintani's telephone number with the following instructions: "Call this number, tell him what happened, and tell him that there is a note on my bedroom desk."

Paramedics transported Dingman to Harbor UCLA Medical Center for treatment of multiple gunshot wounds to his torso and arms, and he survived.

ECPD Officer Ruben Lopez later responded to the Shintani residence (wherein Dingman also lived) and found a letter in Dingman's bedroom which began with, "These are my final words." The letter left instructions for several envelopes on Dingman's desk addressed to various family members, the disposition of Dingman's property and his body, and what to do in the event he was in a coma. Dingman then proclaimed in the letter, "January 22, 2015 has been determined as my last day of existence," and concluded, "If there happens to be an afterlife, I hope that I'll meet everybody there. Hasta luego."

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<sup>7</sup> It should be noted that Enriquez, the only one to issue commands to Dingman before he was shot, stated that he instructed Dingman to show his hands. This can also be heard on the 9-1-1 call.

<sup>8</sup> Thompson could not discern whether the fired shots were pistol or rifle rounds.

<sup>9</sup> De Santo later discovered from Dingman's grandparents, John Shintani and Vesta Nichols-Shintani, that Dingman's mother Jennifer Nichols, and his fifteen-year-old sister [REDACTED] (along with a male adult Alejandro Tarrazas), had all been arrested in connection with the death of an acquaintance on October 10, 2014. Nichols and Tarrazas are charged with murder, and have a trial date scheduled for March 15, 2016 (YA091397). [REDACTED]

<sup>10</sup> It was later discovered that Dingman had wielded a plastic handgun (resembling a semiautomatic pistol) wrapped in black duct tape. No other guns were found in his possession.

## Video Footage

A video from a camera near Stairwell Eight first depicts, at approximately 9:21 a.m., Dingman walking southbound on the sidewalk that spans the east side of Lot F.<sup>11</sup> He is seen wearing a dark jacket, white t-shirt, blue jeans, baseball cap, sunglasses, and carrying a backpack. From his first appearance on camera to approximately 11:08 a.m., Dingman can be seen sitting on a low, cinder block wall lining the sidewalk, and walking in and out of camera range in all directions.<sup>12</sup>

At approximately 11:08 a.m., Dingman pulls an object from his left jacket pocket with his left hand and puts the object to his ear. Dingman's right hand is inside his right jacket pocket. From this time until approximately 11:18 a.m., Dingman holds the object with his left hand to his ear while pacing on the sidewalk in a north and southbound direction, and in and out of camera range. At approximately 11:16 a.m., a police officer descends almost halfway down Stairwell Eight, turns to face Dingman who continues to hold an object to his left ear, and proceeds back upstairs and out of view.

At approximately 11:18 a.m., Dingman, still holding the object to his ear, walks southbound towards the back of Stairwell Eight's stairs, and was thereafter hidden by the stairs. Approximately 18 seconds later, dust can be seen rising from Dingman's last-seen location underneath the stairs, and approximately nine seconds later, Thompson is seen appearing from underneath the stairs holding what appears to be his service weapon. Thompson's weapon is pointed downward at the area where Dingman is last seen and Thompson can be seen circling this area. An officer is then observed running down Stairwell Eight, pulling out handcuffs, and bending towards the area underneath the stairs.

In the meantime, Enriquez is seen entering the sidewalk from the parking lot area with a rifle pointed downward at the same area underneath the stairs. As the three officers are hovering over this area, a black object can be seen sliding on the ground from this location to the cinder block wall. Dingman's backpack is eventually placed immediately south of this black object by a responding officer. A review of the photographs taken at the scene reveals a plastic handgun, wrapped in black duct tape, a few inches north of the backpack. Less than 15 minutes after the shooting, paramedics are seen arriving at the location and taking over the rendering of medical aid to Dingman.

Dingman is charged in Los Angeles Superior Court case 5SY03484 with brandishing a replica gun in violation of Penal Code section 417.4, false report of a criminal offense in violation of Penal Code section 148.5(a), and possession of a less lethal weapon at a college in violation of Penal Code section 626.10(i). Dingman pleaded not guilty to all of the charges and a pretrial is scheduled for April 19, 2016.

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<sup>11</sup> The camera is positioned in a southerly direction and depicts the sidewalk as well as the front of Stairwell Eight's steps. The video displays a time counter and is not equipped with sound.

<sup>12</sup> There are instances where the video skips ahead in time as it appears that the camera is activated by motion.

## LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle*, 35 Cal.4<sup>th</sup> 987, 994 (2005) (overruled on another ground in *People v. Chun*, 45 Cal.4<sup>th</sup> 1172, 1201 (2009)); *People v. Humphrey*, 13 Cal.4<sup>th</sup> 1073, 1082 (1996); *see also*, CALCRIM No. 505. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo*, 85 Cal.App.2d 577 (1948); *see also*, *People v. Minifie*, 13 Cal.4<sup>th</sup> 1055, 1068 (1996); *People v. Clark*, 130 Cal.App.3d 371, 377 (1982); *People v. Collins*, 189 Cal.App.2d 575, 588 (1961).

If a person acted from reasonable and honest convictions he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable men would alike have been mistaken. *People v. Jackson*, 233 Cal.App.2d 639 (1965). 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*, 16 Cal.Rptr.3d 521, 540 (Ct. App. 1st Dist. 2004).

"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." *Graham v. Connor*, 490 U.S. 386, 396 (1989). "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.

The evidence examined shows that Dingman's actions placed Officers Enriquez and Thompson in reasonable and actual fear of imminent death or great bodily harm. Beginning with Dingman's call to 9-1-1, ECPD officers had a reasonable basis to believe that Dingman posed a threat to everyone in his vicinity. The call occurred before noon when classes were in session, and students, faculty, employees, and other members of the public were present. Moreover, Dingman stated that he was located in Lot F which appears to be El Camino College's largest and most populous parking facility. Multiple officers responded immediately to Lot F, in a heightened state of awareness, after Dingman demanded \$10,000, and claimed that he had a hostage and two guns.

When Enriquez and Thompson subsequently arrived to Lot F, they separated from each other in order to scan the lower level of the parking structure. Enriquez observed Dingman pacing back and forth at Stairwell Eight and commanded, "Let me see your hands!" three times. Instead of complying, however, Dingman looked in Enriquez' direction and withdrew his right hand which was previously inside his jacket pocket. Dingman lifted his right hand and pointed what

appeared to be a black semiautomatic pistol at Enriquez. Fearing for his life and the lives of those around him, Enriquez fired 14 rounds from his AR-15 at Dingman.

As Enriquez was issuing commands to Dingman, Thompson's attention also focused on Dingman. Thompson observed Dingman raise his right arm and point what appeared to be a gun at Enriquez. Thereafter, shots were fired and Thompson was unable to discern whether they were from a pistol or a rifle. Fearing for Enriquez' life, his own life, and others around him, Thompson fired six rounds at Dingman.

The fact that Enriquez and Thompson actually believed Dingman was wielding a loaded and operable firearm can be gleaned from the statement "He's got a gun!" uttered immediately before the shooting, the fact that both officers approached Dingman after the shooting with their firearms still trained upon him, Enriquez's command to Dingman not to reach for the gun, and Thompson immediately kicking Dingman's gun away from his reach.

It is clear Dingman arrived to the campus of El Camino College planning to commit suicide at the hands of police officers. From the video, Dingman can be seen sitting and walking near Stairwell Eight for almost two hours before making the 9-1-1 call. Even after he was shot and lying on the ground, Dingman continued to reach for the gun which had fallen out of his hand.

Both from Dingman's actions and words, it is clear that he intended for January 22, 2015 to be his "last day of existence." Accordingly, Enriquez and Thompson each reasonably and actually feared for their own lives, the lives of their fellow officers, and the safety of the public, when they fired at Dingman.

## **CONCLUSION**

We find that Officers Enriquez and Thompson acted in lawful self-defense and in defense of others. We are therefore closing our file and will take no further action in this matter.