

**Non-Fatal Officer Involved Shooting of James Boulton
Inglewood Police Department**

Officer Salvador Flores, #1056

Officer Michael Levin, #959

Officer Zerai Massey, #857

Officer Jason Mallek, #1041

Officer Adan Verbera, #1055

J.S.I.D. File #22-0373



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

July 2, 2024

MEMORANDUM

TO: CHIEF MARK FRONTEROTTA
Inglewood Police Department
1 Manchester Boulevard
Inglewood, California 90301

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

SUBJECT: Non-Fatal Officer Involved Shooting of James Boulton
J.S.I.D. File #22-0373
I.P.D. File #2022-58007

DATE: July 2, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 22, 2022, non-fatal shooting of James Boulton by Inglewood Police Department (IPD) Officers Zerai Massey, Michael Levin, Adan Verbera, Jason Mallek, and Salvador Flores.

We have concluded that the officers acted, reasonably believing, based on the totality of the circumstances, that deadly force was necessary to defend themselves and others against an imminent deadly threat.

The District Attorney's Command Center was notified of the shooting October 23, 2022, at 1:59 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene by IPD Detective Cilia Islas.

The following analysis is based on investigative reports, audio recordings of witness interviews, photographs, radio traffic, surveillance video, and cell phone video submitted to this office on April 25, 2024, by IPD Detective Luis Rodriguez. The officers were not equipped with body worn video cameras.

FACTUAL ANALYSIS

Summary

On October 22, 2022, at 11:31 p.m., IPD officers responded to a "shots fired" and "active shooter" call at a United States military veterans independent housing complex located in Inglewood. That complex provides housing for veterans and special needs groups. A 9-1-1 caller reported at least ten shots being fired at that location, and another caller said there was a possible "active shooter." When officers arrived, a witness reported that a man, later identified as James Boulton, fired multiple rounds at him from a black handgun.

Officers from various jurisdictions entered the complex expecting to locate an “active shooter.” They encountered Boulton in an interior courtyard of the complex. Boulton was behaving erratically, flailing his arms, pacing back-and-forth, and appeared to be having mental issues and/or he was under the influence of drugs. A black handgun was on a table next to Boulton.

Boulton refused orders to get on the ground and moved aggressively toward the officers. Officers fired less-lethal rounds at Boulton that slowed his advance but did not stop him. Boulton picked up the gun from the table, pointed it at officers, and fired. Five officers fired their service weapons at Boulton, critically wounding him.

Boulton has recovered and is now pending preliminary hearing in case number YA106978 for multiple counts of assault with a firearm and/or assault with a firearm on a peace officer, and being a felon in possession of a firearm.

No officers were injured.

An obstructed photo from cell phone video captured by a witness showing Boulton armed with a gun and firing it at officers is shown below:



Figure 1- Cell Phone Video of Boulton Firing a Gun at Officers.

CIVILIAN WITNESS STATEMENTS

Summary

More than 100 people were contacted by detectives in connection with this investigation and 27 of those people provided recorded interviews. Collectively, the witnesses stated that Boulton was behaving erratically, and officers ordered him to get on the ground. Boulton did not comply. Officers deployed less lethal means and when Boulton armed himself and moved toward officers he was shot.

██████████

██████████ saw Boulton in the courtyard of the complex. Boulton was armed with a handgun and, for unknown reasons, fired it multiple times at ██████████'s feet. ██████████ was not injured. He identified Boulton to the first responding officers and reported that Boulton shot at him. ██████████ did not witness the police shoot at Boulton, but he heard gunshots.

WITNESS OFFICER STATEMENTS

Michael Austin

Austin was on patrol and responded to a “shots heard” and “active shooter” call. When he arrived, he saw numerous residents running and pointing in the direction of Boulton and yelling, “He’s shooting at us!” He believed he was dealing with an “active shooter”. Austin and other officers saw Boulton in the courtyard and ordered him to get on the ground. Boulton did not comply and “power walked” toward the officers. Less-lethal means were deployed, which slowed Boulton but did not stop him. Boulton then produced a handgun and pointed it in the direction of officers. Austin yelled, “Gun! Gun! Gun! Gun! Gun!” Officers fired at Boulton and he went down. Austin did not fire his service weapon because he was too far away from Boulton.

Samuel Serrano

Serrano said he assisted other officers in attempting to detain Boulton. When Serrano first observed Boulton he was “pacing back-and-forth” and did not have a gun in his hand. Serrano and other officers issued commands to Boulton to get on the ground. Boulton yelled, “I’m not getting on the fucking ground!” Boulton walked very fast toward the officers. Serrano heard a 40mm launcher and a pepper-ball paint ball gun fire at Boulton. Boulton produced a handgun and the officers fired at him.

Erik Rodriguez

Rodriguez was on patrol when he received a “shots fired” call and drove to the scene. He saw Boulton in the courtyard flailing his arms. Officers gave Boulton commands but he did not comply. When Boulton walked toward officers, they deployed less-lethal means. Boulton produced a black handgun and when he raised it to chest level toward the officers, officers fired at him. Boulton went down and Rodriguez and other officers performed life saving measures.

Nicholas Scanlon

Scanlon was on patrol and responded to a “shots fired” call that was upgraded to an “active shooter” call. Scanlon drove to the location and, along with other officers, observed Boulton pacing back-and-forth and from side-to-side. He did not have anything in his hands at that point. Scanlon was armed with a pepper-ball less lethal paint ball gun. When Boulton walked aggressively toward the officers, Scanlon yelled, “Pepper ball! Pepper ball!” and fired multiple rounds at Boulton. The rounds struck Boulton and he momentarily stopped. Boulton then produced a handgun and Scanlon yelled, “Gun! Gun!” and, fearing for his life, dove for cover as officers fired at Boulton. Scanlon saw a muzzle flash coming from Boulton’s gun and believed an officer was shot.

Jose Pena

Pena said he was on patrol and responded to a “shots fired” and “active shooter” call. He and other officers saw Boulton pacing back-and-forth. Boulton appeared to be mentally ill or under the influence of drugs. Pena ordered Boulton to get on the ground but he did not comply. As Boulton walked aggressively toward the officers Pena heard, “Pepper-ball! Pepper-ball!” Pena fired a 40mm launcher at Boulton that struck Boulton in the chest but it did not stop him. He saw Boulton reach for a gun on a table and officers yelled, “Gun! Gun! Gun!” Fearing Boulton was going to shoot them, he jumped for cover behind a planter box.

Trevor Wilson

Wilson was on patrol and responded to a “shots fired” call. He arrived and saw Boulton in the courtyard. Officers gave Boulton commands but he did not comply. Less-lethal means were deployed and Boulton advanced on the officers. Boulton produced a handgun and pointed it at officers. Officers fired at Boulton and he went down.

SHOOTING OFFICER STATEMENTS

Michael Levin

Levin provided a voluntary statement.

Levin said he was on patrol when he heard a “shots fired” and “active shooter” call and drove to the location expecting to deal with an “active shooter”. Levin and other officers observed Boulton pacing in a courtyard area and not complying with officers’ orders to get on the ground. Boulton walked with a rapid gait toward the officers and Scanlon fired less lethal rounds at Boulton. Levin saw Boulton point a gun at them and believed the officers were going to get shot. Levin drew his service weapon and fired two or three rounds at Boulton.

Zerai Massey

Massey provided a voluntary statement.

Massey was on patrol and responded to a “shots fired” call that was upgraded to an “active shooter” call at a location known to have military veterans with weapons training. Massey armed himself with his AR-15 rifle, entered the complex, and was informed that Boulton had fired at another

resident. Massey and other officers saw Boulton pacing and making wild hand gestures. Massey believed Boulton was under the influence of drugs. Massey ordered Boulton to get on the ground but he did not comply. Massey heard less-lethal rounds deployed but they appeared to be ineffective because Boulton produced a handgun in his right hand. Massey saw muzzle flash from Boulton's gun pointed in the direction of the officers and believed one of the officers was going to be shot. He said his only recourse was to fire a round from his AR-15 rifle at Boulton. He believes that round struck Boulton because Boulton fell to the ground. He heard other gunshots and less lethal rounds fired simultaneously.

Salvador Flores

Flores provided a voluntary statement.

Flores said he was on patrol and responded to a "shots fired" and "active shooter" call at a location known to house military veterans with weapons training. Flores and other officers saw Boulton pacing back-and-forth. When he walked aggressively toward the officers, two officers fired less lethal rounds at Boulton, which momentarily slowed him. Boulton picked up a black gun from a picnic table and pointed it at officers. Flores yelled, "Gun! Gun!" and fired two or three rounds at Flores.

James Mallek

Mallek provided a voluntary statement.

Mallek said he was on patrol and responded to a "shots fired" and "active shooter" call at a location known to house United States military veterans. He saw Boulton in the courtyard area pacing back-and-forth. He walked aggressively toward the officers as Scanlon yelled, "Pepper-ball!" and deployed rounds at Boulton. Boulton produced a handgun and fired it at officers. Mallek, believing he or other officers were going to be killed, fired five rounds at Boulton, who went to the ground.

Adan Verbera

Verbera provided a voluntary statement.

Verbera said he was on patrol and responded to a "shots fired" and "active shooter" call. He arrived with other officers and observed Boulton in the courtyard of the location. Boulton appeared to be in an altered state and was pacing back-and-forth. Boulton did not comply with commands to get down and power walked toward the officers. Less lethal means were deployed and struck Boulton, but he did not stop. Boulton produced a gun and pointed it at Verbera, who was scared for his life. Verbera fired two rounds from his service weapon at Boulton and he went down.

Firearms Evidence

Boulton was armed with a Hi-Point 40mm semiautomatic handgun, as shown in photograph below:



Figure 2-Photo of Boulton's 40mm Hi-Point Semiautomatic Handgun.

Verbera and Massey were armed with AR-15 rifles. Verbera fired three rounds and Massey fired one round.

Mallek and Flores were armed with 9mm semiautomatic service weapons. Mallek fired five rounds and Flores fired three rounds.

Levin was armed with a .45 caliber semiautomatic service weapon and fired four rounds.

Nine .40 caliber discharged cartridge casings were recovered at the scene and matched to Boulton's gun.

Four 5.56mm casings, eight 9mm casings, and four .45 caliber casings were recovered at the scene consistent with the officers firing a total of 16 rounds at Boulton.

Boulton's Injuries

Boulton had gunshot wounds to his lower back, left upper arm, left hip, left quadriceps, and right upper chest. He was treated at Ronald Reagan Medical Center and survived his injuries. Boulton reported to his medical providers that he had been using cocaine and methamphetamines before the shooting.

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 injury 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

The evidence presented in this case shows that Boulton, who appeared to be under the influence of drugs and was behaving erratically, fired multiple gunshots, for unknown reasons, at a fellow resident in his apartment complex.

Officers responded to what they believed was an active shooter in a complex known to house military veterans with experience with weapons. They encountered Boulton who was flailing his arms and pacing back-and-forth and was near a gun on a table adjacent to him.

Officers ordered Boulton to get on the ground but he did not comply. When Boulton moved aggressively toward the officers, and in a rapidly unfolding sequence of events, the officers fired less lethal rounds at Boulton from a 40mm launcher and a pepper-ball paint gun. Those rounds appeared to strike Boulton and slow him but did not stop him.

Boulton then picked up a gun, pointed it at the officers, and fired, which is corroborated by cell phone video from a bystander. Officers fired their service weapons at Boulton, critically injuring him.

Under these circumstances, the officers, who were being fired upon by Boulton, could reasonably believe that deadly force was necessary to protect themselves and others.

CONCLUSION

For the foregoing reasons, we find that the use of deadly force by the Officers Levin, Mallek, Massey, Verbera, and Flores was reasonable under the circumstances.