

Officer Involved Shooting of Eric Anderson

Azusa Police Department

Officer Dennis Tremblay #1106

J.S.I.D. File #17-0029



JACKIE LACEY

District Attorney

Justice System Integrity Division

December 30, 2019

MEMORANDUM

TO: CHIEF MICHAEL BERTELSEN
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Eric Anderson
J.S.I.D. File #17-0029
L.A.S.D. File #017-00007-3199-013

DATE: December 30, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 15, 2017, fatal shooting of Eric Anderson by Azusa Police Department (APD) Officer Dennis Tremblay. We have determined that Officer Tremblay acted in lawful self-defense.

The District Attorney's Command Center was notified of this shooting on January 16, 2017, at approximately 12:31 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene.

The following analysis is based on reports, recorded interviews, and photographs submitted to this office by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau. A voluntary statement by Tremblay was also considered as part of this analysis.

FACTUAL ANALYSIS

On Sunday, January 15, 2017, at 11:01 p.m., Azusa Police Department (APD) officers responded to a call of a man armed with a gun, in the City of Azusa. During an ensuing encounter, APD Officer Dennis Tremblay fired several rounds, fatally wounding Anderson.

Shareen A.

Shareen A. stated that her husband, Eric Anderson, had been diagnosed with anxiety and depression, and had been abusing alcohol and prescription medications for several years leading

up to January 15. In the preceding week, Anderson had gone to the emergency room on Thursday and Saturday for vomiting and uncontrollable anxiety.

In the early afternoon hours of Sunday, January 15, Anderson became upset when Shareen A. told him that he needed to address longstanding health issues. Later that night, at approximately 10:45 p.m., Shareen A. awoke in her upstairs bedroom to the sound of her dogs barking. She went downstairs and found Anderson standing at the open front door looking outside. When she approached him from behind, he turned around suddenly with a “panicked” and “wild” look, and said to her, “You have to get back upstairs; people are after me!” Anderson explained that he had gone for a walk to clear his head and two people “accosted” him with guns, possibly injuring him. Shareen A. examined him and observed no sign of injury, but noticed he was sweating profusely and smelled of alcohol. He ripped his shirt off and threw it to the floor and began pulling at her arm in a “frantic” and “manic” manner.

Anderson further explained that he was armed and had exchanged gunfire with unknown persons and was now home looking for a second gun to protect himself.¹ Shareen A. told him she wanted to call the police but he responded, “No, we can’t!” He was very paranoid and continually peered out the front door, saying, “Those people are still out there. They drew guns and fired at me.” He then led her upstairs and began frantically looking for his second gun. Anderson located a medium-sized handgun and, despite Shareen A.’s pleas, took the firearm and went downstairs. He was in such “an erratic state” that he caused her great fear; in his panic he slipped down the stairs as he descended. Shareen A. tried to call Anderson’s sister and then called 9-1-1. Hearing her conversation, Anderson became upset and said, “I told you not to call 9-1-1!”

As Shareen A. talked with the operator, Anderson went outside and out of her sight. Shareen A. ran up the street looking for him, but instead, encountered APD Officer Samantha Sloniker. Shareen A. explained the circumstances to Sloniker, and then called Anderson’s sister on speakerphone for additional information.

Anderson’s sister explained that she called Anderson earlier after receiving an abruptly ended call from Shareen A. Anderson told her that two men accosted him. Without specifying details, he said, “They’re going to shoot me,” and expressed that he was afraid to go outside because “the cops are going to kill me.” Anderson then said he needed to go, said “goodbye,” and ended the call.

After the phone call with Anderson’s sister, Shareen A. heard a male voice shout, “Put the gun down!” followed by five to six gunshots. She did not hear Anderson say anything in response to the commands and was unable to see what had happened before and during the gunshots.² A short time later, someone told her that her husband had been shot by police officers.

Shareen A. told investigators that she had not heard any gunshots prior to waking up that night, and she did not hear any gunshots immediately prior to the officer-involved shooting. Shareen

¹ Shareen A. informed investigators that Anderson had two handguns and a shotgun which he kept in various locations in the house, without a safe.

² Shareen A. was unable to see clearly because she was not wearing her corrective lenses.

A. had never seen Anderson behave as he did that night and told investigators that what she observed “was not my husband.” She was certain he was not suicidal because of his religious beliefs.

Officer Samantha Sloniker

At approximately 11:00 p.m., on January 15, 2017, Sloniker responded to a radio call describing two separate reports of gunshots fired near the intersection of Windsong Court and Ranch Road in the City of Azusa. Sloniker responded and did not observe any evidence of a shooting. A short time later, while responding to an unrelated call, Sloniker heard a broadcast of a man with a gun on Windsong Court.

Sloniker responded and was met in the street by Shareen A. who was crying and frenzied. Shareen A. said her husband was “manic” and not acting like himself, claiming that someone accosted and shot at him. During the conversation, Sloniker heard shouting to the south on Ranch Road and observed a man, later identified as Anderson, wearing black pants and standing in the street facing her. Sloniker ran toward the man and simultaneously saw Officers Rocky Wenrick and Dennis Tremblay running in the same direction. One of the officers told Anderson to get on the ground but he responded, “No.” Sergeant John Madaloni, who had already engaged Anderson, told him to “get down” three times.

As they approached, Sloniker drew her sidearm, and Wenrick and Tremblay were armed with M4 patrol rifles. Anderson, who had been facing them initially, turned away to face Madaloni who had illuminated him with a flashlight from the south. Anderson had his hands raised and Sloniker could see a handgun in his right hand. Sloniker and Wenrick retreated behind a patrol vehicle for officer safety, at a distance of approximately 15-20 yards from Anderson. Sloniker saw Tremblay a few feet away from her with no protective cover.

Anderson turned back to face north, toward Wenrick, Tremblay, and Sloniker. As he turned, he positioned the gun with his right hand upward toward his chin. A moment later he brought the gun downward, pointing the barrel in the direction of the officers. Tremblay fired approximately four to five rounds at Anderson, who “cringed” and fell to the ground, dropping the handgun. Anderson stood again and one of the officers ordered him not to reach for the gun; however, Anderson bent over and picked up the gun. As he lifted it just a few inches off the ground, Sloniker heard three to four additional rounds being fired. Anderson fell backward onto the street and the gun fell a few feet away from him. Officers secured the weapon and performed CPR until paramedics arrived.

Officer Rocky Wenrick

Wenrick and Tremblay were handling a call for service when they heard a radio broadcast at approximately 11:00 p.m. regarding shots fired. Approximately fifteen minutes later they heard a follow up call regarding a man with a gun on Windsong Court. Wenrick and Tremblay responded to the location in separate vehicles. Wenrick arrived and saw Sloniker talking with a woman, whom he learned was the wife of the armed man. Wenrick retrieved his ballistic helmet and M4 rifle and began to assist with containment of the area. His attention was drawn to yelling

down the street, where he saw Anderson standing in the street wearing pants but no shirt. Madaloni and Anderson were exchanging words but Wenrick could not discern what was being said. Anderson had his arms partially raised.

Wenrick then heard Madaloni giving verbal commands to Anderson, at which time Tremblay said, "He has a gun." Wenrick observed what appeared to be a handgun in Anderson's right hand, held upward toward his chin. Anderson was not complying with commands to surrender and to lay the gun down. After several seconds Anderson lowered the gun from his chin and pointed it at Tremblay. Wenrick immediately heard a volley of gunshots.³

In response to the gunfire, Anderson dropped the gun and crouched as if to avoid being struck. He immediately picked the gun up from the ground and again pointed it at Tremblay. Tremblay fired several additional rounds and Anderson fell to the ground. Wenrick and Tremblay approached Anderson and Tremblay kicked the handgun away from him.⁴

Sergeant John Madaloni

Madaloni was aware of a radio call of shots fired on Windsong Court, which was handled by Sloniker at approximately 11:00 p.m. Sometime later, he heard a second call from the same location of a domestic disturbance involving a man armed with a black handgun.

Madaloni was the first to arrive at the intersection of Windsong Court and Ranch Road. He saw Anderson, shirtless, step out onto Ranch Road near Madaloni's position. Anderson raised his hands "approximately 90 degrees" and Madaloni could see a black object in his right hand. Madaloni illuminated Anderson with his flashlight and verified the object was a handgun. Anderson looked toward Madaloni when he illuminated him, at which time Madaloni ordered him to get on the ground. Anderson said he could not, and then became "emotional." Madaloni again ordered him to get on the ground and told him they could "talk about this." Anderson responded, "I can't." From the interaction, Madaloni concluded Anderson was "not rational."

At that time, Madaloni saw and heard Tremblay, Wenrick and Sloniker running southbound toward Anderson with flashlights illuminated. Anderson pivoted toward the arriving officers and Madaloni repositioned to avoid potential crossfire. After Madaloni obtained cover behind his vehicle he heard four to five gunshots. Several seconds later he heard a second volley of approximately three to four gunshots and then saw Anderson down on the ground. Madaloni approached and saw a black handgun and a loose live round next to Anderson.

Officer Dennis Tremblay

Tremblay was working uniformed patrol in a marked APD police vehicle on the evening of January 15. He responded with Wenrick to Windsong Court in response to radio calls of a man who was armed with a gun, and who had been drinking. Tremblay arrived on scene and saw Sloniker speaking to a woman, who he came to learn was the wife of the armed suspect. After

³ Wenrick refrained from firing his weapon because he noted cars and a condominium complex behind Anderson, who was approximately 20 yards away.

⁴ An assisting officer cleared Anderson's gun by releasing the magazine and ejecting a live round from the chamber.

obtaining information from Sloniker that the suspect possessed a shotgun and handguns, Tremblay retrieved his ballistic helmet and department-issued M4 rifle.

Tremblay heard yelling to the south of his location and saw Anderson standing in the middle of Ranch Road, facing southeast and yelling back and forth with Madaloni who was further south. Tremblay heard Madaloni say repeatedly, "Police! Drop the gun!" but did not hear if Anderson responded because he was facing away from Tremblay. Tremblay clearly saw a handgun in Anderson's right hand, which, moments later, Anderson pointed upward toward his own chin. Anderson moved the gun downward again and then pointed it in Madaloni's general direction. Tremblay could not see Madaloni at that time.

A few seconds later, Anderson turned toward Tremblay in a slow, deliberate manner, holding the handgun with the muzzle pointed at Tremblay. In fear for his life, Tremblay fired three to five rounds and Anderson dropped the handgun onto the street. Anderson made eye contact with Tremblay and then moved to pick up the gun. Tremblay yelled, "Don't do it! Don't touch it!" and "Don't make me do it!" but Anderson retrieved the gun and began to raise it. Tremblay, again in fear for his life, fired a second volley of several rounds from his rifle at Anderson until he fell to the ground. Tremblay approached Anderson with other officers and kicked away the gun that had fallen near Anderson.

Officer Michael Wise

APD Officer Michael Wise responded to a radio broadcast of a person with a gun. As he began running toward the location he heard someone shout, "Police!" and "Drop the gun!" before hearing an initial volley of four to five gunshots. As he continued running toward the location he again heard the shouting of the commands, "Police! Get on the ground!" and "Drop the gun!" before hearing a second volley of four to five gunshots.

Autopsy

An autopsy performed by the Los Angeles County Department of Medical Examiner-Coroner revealed a single gunshot wound entering the right side of Anderson's body near his armpit area under his right arm. The bullet entered the chest cavity on the right side and traveled laterally, right to left, striking both lungs and the aorta, resulting in massive blood loss and bilateral lung collapse. The bullet was recovered from the left interior wall of the chest.

The medical examiner's report indicated the presence of the antidepressant Nortriptyline and the narcotic analgesic Hydrocodone in Anderson's blood. The report further noted that the mixture of the medications with alcohol has the potential to cause severe reactions and behaviors, including agitation, hostility, aggression, and/or other irrational behaviors. Anderson's blood-alcohol concentration (BAC) was measured at 0.174%, more than twice the legal limit for operating a motor vehicle.

Crime Scene and Ballistics Evidence

The LASD investigated the officer involved shooting incident and documented the crime scene. The rifle used by Tremblay during the incident was recovered and determined to be a Colt Model M4 .223 caliber rifle. In the area of the shooting, nine expended .223 caliber cartridge cases were located and tested, and were determined to have been fired from Tremblay's rifle. Several bullet holes, bullet strike marks, and a bullet fragment consistent with Tremblay's weapon were noted in cars parked to the southwest of Anderson.

Criminalists recovered a Glock .40 caliber semiautomatic handgun adjacent to where Anderson had fallen. It held a magazine containing seven live .40 caliber cartridges. A separate live .40 caliber cartridge was found immediately adjacent to the gun, and another live .40 caliber cartridge was found near Anderson's final resting position.



Figure 1. Photograph depicting the location of the recovered handgun in relation to Anderson after it was kicked away by Tremblay.



Figure 2. The handgun used by Anderson, with live rounds. The photograph depicts the handgun after it was rendered safe by an APD officer.

A loaded STAR .380 caliber semiautomatic handgun was found on a coffee table in the living room of Anderson’s residence. A loaded Beretta 32 Tomcat semiautomatic handgun, chambered in .32 Auto, was recovered from a sofa in the same room.⁵ Four expended cartridge cases, head-stamped “GFL 7.65 MM”⁶ were recovered from the grass parkway area near Windsong Court and Ranch Road. The four expended cartridge casings were determined to have been fired from the Beretta handgun. The M4 rifle and three handguns were tested and all were determined to be functional.

LEGAL ANALYSIS

In civil actions alleging Fourth Amendment violations by police officers, the courts have employed an objective standard of reasonableness in evaluating a police officer’s use of deadly force. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight.... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about

⁵ The Beretta contained one cartridge in the chamber and two cartridges in the attached magazine. The safety mechanism of the handgun was disengaged.

⁶ The 7.65 mm round is the European equivalent to the American .32 Auto round. The two rounds are dimensionally identical.

the amount of force that is necessary in a particular situation.” Graham v. Connor (1989) 490 U.S. 386, 396-397.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs the standard of a reasonable person acting as a police officer. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146 (holding that California law “follows the objective ‘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.”)

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575. Rather, the right to employ deadly force in self-defense or in the defense of another exists if the person claiming the right actually and reasonably believed that he or another was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal.4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use that amount of 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 imminent injury. CALCRIM No. 505.

Tremblay initially heard a broadcast of a man with a gun on a public street. During his response he received further information that the suspect had been drinking, was currently armed, and owned a shotgun and multiple handguns. Tremblay arrived at the scene and made visual contact with Anderson when he heard Madaloni yelling several times to him, “Police! Drop the gun!”

As Tremblay began to approach Anderson, who was facing away from him, Tremblay clearly saw a handgun in his right hand. At that point, Tremblay communicated to Wenrick, “He has a gun.” The statements of five officers establish that multiple commands were given to “drop the gun” and “get on the ground,” all of which were ignored by Anderson. Madaloni described Anderson’s noncompliant behavior in the situation as “not rational.”

After a short time, Tremblay saw Anderson lower the muzzle of the gun from an upward position, down toward the general direction of Madaloni. However, because Tremblay could not see Madaloni at that moment, Tremblay refrained from using deadly force. Moments later, however, Sloniker, Wenrick and Tremblay saw Anderson turn and point the muzzle of the firearm in their direction, specifically at Tremblay, who had no cover from potential gunfire. Tremblay fired three to five rounds in Anderson’s direction.

Tremblay was unsure if any of the rounds struck Anderson, but after Anderson “cringed” or crouched, he began to reach for the gun that had dropped to the street. Tremblay yelled, “Don’t do it! Don’t touch it!” and “Don’t make me do it!” to clearly communicate his intention to use deadly force if Anderson continued to threaten harm with the handgun. Despite Tremblay’s

clear warnings, Anderson picked up the handgun and began lifting it toward Tremblay; by Wenrick's account, Anderson was able to point it at Tremblay a second time. At that time, Tremblay fired a second volley of rounds, which caused Anderson to fall backward.

The officers' observations of Anderson's behavior were consistent with Shareen A.'s description of his behavior as "manic" and "erratic." Anderson believed he had engaged in an exchange of gunfire with unknown persons who had accosted him earlier, and stated, "Those people are after me" and are "going to shoot me," adding, "The cops are going to kill me." He exhibited paranoid behavior consistent with the combination of alcohol and his medications.

During the encounter with officers, Anderson pointed the loaded handgun upward toward his chin, and then in Madaloni's direction, posing a danger to himself and to others. As he continued to disregard multiple warnings to surrender his weapon, he turned and pointed the muzzle in the direction of other officers, including Tremblay. Tremblay reasonably concluded that he and his fellow officers were in imminent and grave danger and Tremblay responded by firing his weapon.

Notwithstanding the first volley of rounds fired, Tremblay saw Anderson rise up and reach for the weapon again, despite Tremblay's clearly communicated intention to use deadly force. Such undeterred action gave Tremblay objectively reasonable cause to believe he was in imminent danger of death or great bodily injury and justified his response to employ deadly force a second time.

CONCLUSION

Based on all the available evidence and the foregoing analysis, we find that Tremblay acted in lawful self-defense. We are closing our file and will take no further action in this matter.