

**Officer Involved Shooting of Richard Everhart
Long Beach Police Department**

Officer Shawn Loughlin, #6308

J.S.I.D. File #16-0539



JACKIE LACEY

District Attorney

Justice System Integrity Division

March 2, 2018

MEMORANDUM

TO: CHIEF ROBERT G. LUNA
Long Beach Police Department
400 West Broadway
Long Beach, California 90802

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

RE: Officer Involved Shooting of Richard Everhart
J.S.I.D. File #16-0539
L.B.P.D. File #16-67265

DATE: March 2, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 20, 2016, non-fatal shooting of Richard Everhart by Long Beach Police Department (LBPD) Officer Shawn Loughlin. It is our conclusion that Officer Loughlin acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on October 21, 2016, at 12:15 a.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports prepared by the LBPD Investigations Bureau, Detectives Malcolm Evans and Robert Gonzales. The reports include photographs, surveillance videos, and radio transmissions.

The voluntary statement of Officer Loughlin was considered in this analysis.

FACTUAL ANALYSIS

On October 20, 2016, at approximately 9:43 p.m., Officer Loughlin was dispatched to "The Colonnade" regarding a possibly intoxicated man. The call stated a man, who appeared to be intoxicated and stumbling, attempted to enter the home of the reporting party. LBPD Officers Loughlin and Michael Lord responded to the location and saw a man matching the description provided in the radio call, later identified as Richard Everhart, walking on the south side of "The Colonnade Canal."¹ Loughlin and Lord gave Everhart verbal commands to stop in order to speak with him, however he ignored their commands and continued walking. Loughlin and Lord followed Everhart until he reached a dead end. Everhart turned around, walked towards Loughlin and Lord and began cutting his own throat with a knife. Everhart continued to move

¹ The Colonnade Canal are multiple single-family residences located on a dead-end street.

towards Loughlin and Lord at a quicker pace while holding the knife. In fear for his life, and the life of Officer Lord, Loughlin fired his service weapon at Everhart.

Statement of Officer Shawn Loughlin

Loughlin told investigators he was working uniformed patrol in a marked black and white patrol vehicle when he was dispatched to The Colonnade Canal regarding a possibly intoxicated man. The caller, later identified as Brenton V., stated the man attempted to enter his home and appeared to be very intoxicated and was stumbling.

Loughlin spoke with Brenton who told him he was inside his residence when he heard someone on his front porch. He heard the door handle from the front porch that leads to the living room being manipulated, as if someone was attempting to open the door. Brenton opened the shutters, looked out, and saw a man (Everhart) he did not recognize sitting in a chair on his porch. Brenton told Everhart to get off his porch, but he just looked at him and kept sitting in the chair. Brenton yelled at Everhart to get off his porch and to leave his property. Everhart made several hand gestures as if he was trying to use sign language. Everhart stood up and slowly walked off the porch and south to the east sidewalk of The Colonnade Canal. Everhart continued to walk until he was out of Brenton's view.

Lord arrived at the location to assist with the call. Lord and Loughlin were standing by their patrol vehicles when they saw Everhart, who matched the description provided by Brenton, walking on the sidewalk. Loughlin stated Everhart was approximately four residences north of his location when he saw Everhart. Loughlin asked Everhart to, "Come over here to my car so I can speak to you." Everhart did not respond. Loughlin yelled at him to, "Come over to the front of my police vehicle so I could speak with you!" Loughlin and Lord were illuminating Everhart with their flashlights to get his attention, but Everhart continued walking.

Loughlin and Lord followed Everhart on the sidewalk. Loughlin again yelled at Everhart to, "Stop! Police! Come talk to us!" Everhart ignored the commands and continued walking to an area that was dimly lit. Everhart stopped approximately 25 feet away from Loughlin and Lord. Loughlin and Lord were standing in a well-lit area.² Loughlin and Lord illuminated Everhart with their flashlights as it was difficult to see Everhart due to the darkness. Everhart turned to face Loughlin and Lord, and Loughlin saw a knife in Everhart's right hand. Loughlin drew his service weapon and illuminated Everhart with the weapon's flashlight while yelling at him to, "Drop the knife!" Everhart had the knife in his right hand, and pulled the knife across his throat, ear to ear, two times.³

² Loughlin and Lord were both wearing their uniforms and could visually be identified as police officers.

³ Everhart did not make any statements or any noise as he cut himself.



Still from video surveillance depicting Everhart holding an object with his right hand, near his throat.

Loughlin saw Everhart bleeding from his throat. It appeared he cut his throat with the knife. Loughlin yelled at Everhart to, "Put the knife down!" Everhart took a step towards Loughlin and Lord and pulled the knife across his throat, ear to ear, a third time. Everhart slowly walked towards Loughlin and Lord. Loughlin and Lord began walking backwards to keep distance between themselves and Everhart. Loughlin told Lord he was going to draw his Taser to tase Everhart. However, Everhart began rapidly advancing towards Loughlin and Lord while they continued to retreat. Before Loughlin could holster his service weapon and draw his Taser, Everhart closed the distance between them to approximately 12 feet. Everhart held the knife clenched in his right hand, next to his right ear with his elbow bent and the blade of the knife pointed towards Loughlin and Lord.⁴ Due to Everhart's rapid advance and close proximity, Loughlin believed he could no longer safely retrieve and deploy his Taser.

⁴ Loughlin believed Everhart was going to stab him and Lord by the way he was holding the knife. Loughlin described the knife as a fixed blade, dagger style knife, approximately six inches in length.



Still of video surveillance depicting Everhart holding his right hand near his throat.



Still of video surveillance depicting Everhart advancing.

Loughlin and Lord attempted to retreat to a safe place, but were unable to find a location. As Everhart got closer, Loughlin became afraid for his and Lord's lives, held his service weapon with a two handed grip, and fired one round at Everhart. Everhart was approximately ten feet away from Loughlin and Lord when Loughlin fired. Everhart fell forward and continued to hold the knife in his right hand. Everhart, again, pulled the knife across his throat cutting a deep wound that exposed what Loughlin believed to be his trachea and started to gargle through the open wound in his throat.

Loughlin and Lord yelled at Everhart to, "Put the knife down!" Everhart was bleeding heavily from his neck. Loughlin notified communications that he was involved in a shooting and requested paramedics for Everhart. Everhart crawled towards Loughlin while still holding the knife. Loughlin and Lord backed up, keeping their distance from Everhart. Loughlin and Lord continued to yell at Everhart to drop the knife. Everhart finally dropped the knife and laid onto his side.⁵ Loughlin and Lord approached Everhart. Loughlin maintained lethal cover as Lord kicked the knife away from Everhart. Everhart was then handcuffed and searched. Several knives were recovered from Everhart's pockets and Everhart was safely placed in custody. Long Beach Fire Department arrived to render medical aid and transported Everhart to the hospital for further treatment.

Statement of Officer Michael Lord

Lord was working uniformed patrol in a marked black and white patrol vehicle when he received a radio call to respond to The Colonnade Canal. Lord responded to assist Loughlin regarding a man (Everhart) who attempted to enter a home without consent.

Lord and Loughlin were standing near the driver's side door of Loughlin's patrol vehicle when they observed Everhart walking south in The Colonnade Canal, approximately 60 feet away, north of them. Everhart continued to walk south when Loughlin told him, "Come here. I want to talk to you." Everhart looked at them, did not say anything, and continued walking. Loughlin told Everhart to walk towards them, but he ignored him and continued walking. Lord and Loughlin followed Everhart until they were approximately 40 feet away and Everhart turned left and walked east. Lord and Loughlin followed Everhart.

Everhart walked into a dimly lit area of the sidewalk. He was standing in the center of the walkway near a tree that shaded him from the street lights. Everhart faced Lord and Loughlin with his arms to his side, approximately 30 feet away. Lord removed his flashlight from his pocket, pointed it at Everhart, and turned it on. As the light shined on Everhart, he lifted his right elbow just above his head and slid his right hand across his throat from his left ear to his right ear, approximately three times. It appeared to Lord that Everhart was gesturing to him and Loughlin that he wanted to cut his or someone else's throat.⁶ Lord saw blood running down Everhart's neck and heard Loughlin yell, "He's cutting himself!"

⁵ The knife was approximately three feet away from Everhart.

⁶ Lord did not see anything in Everhart's hands at this time. Everhart did not say anything nor did he make any noises.

Everhart raised his right, closed fist in the air approximately 12 inches from the right side of his head.⁷ As Lord continued to shine his flashlight on Everhart, he could see the light shining on the blade of the knife Everhart was holding in his right hand.⁸ Lord ordered Everhart to, “Drop the knife!” Loughlin was also ordering Everhart to drop the knife, but he ignored both their orders. Lord attempted to retrieve his Taser when Everhart took his knife and slid it across his throat two to three more times. Everhart raised his knife approximately 12 inches above his head and began to stagger towards Lord and Loughlin.

Fearing for himself and Loughlin, Lord reached for his service weapon and removed it from his holster. Lord aimed his service weapon at Everhart and told him to drop the knife. Lord heard Loughlin also tell Everhart to drop the knife. Everhart continued to walk towards Lord and Loughlin when Lord heard a “pop.” Everhart fell to the ground on his stomach.⁹ Lord looked towards Loughlin and saw smoke coming from the barrel of his service weapon and heard Loughlin broadcast that he and Lord were involved in a shooting and requested paramedics.

Everhart used both hands to push his body up from the ground and began to crawl towards Lord and Loughlin on his knees with the knife still in his right hand. Everhart was approximately 20 feet away and was bleeding profusely. Blood was dripping from his clothing and running down the sidewalk. Lord and Loughlin ordered Everhart to, “Drop the knife” several times, but he refused to drop the knife and continued to slowly crawl towards Lord and Loughlin as they walked backwards to keep a safe distance. Everhart crawled approximately three to five feet before he let go of the knife and fell to the ground. Everhart was laying on his stomach with his right hand extended in front of him and his left hand tucked under his left hip. The knife was on the ground approximately two feet from his right hand. Lord told Loughlin he would approach Everhart to handcuff him. Lord holstered his service weapon and approached Everhart. As Lord approached Everhart, Lord kicked the knife away with his right foot. Lord handcuffed Everhart and searched him for additional weapons, finding two additional knives in his right pocket.

Lord turned Everhart on his side and saw a hole in the front of his throat the size of a softball. Everhart was still breathing with his eyes open. Everhart was not talking and blood was coming from his throat. Lord provided first aid to Everhart by using a flag folded in half to cover Everhart’s wound to prevent further bleeding until paramedics arrived.

Statement of Brenton L.

At approximately 11:30 p.m., Brenton L. was watching a movie inside his home with friends when he heard someone attempting to open his patio door. Brenton assumed the person was his roommate coming home. Brenton opened the shutters, looked outside and saw Everhart, who he did not recognize, sitting in a chair on his patio. Brenton asked Everhart who he was, but he did not respond.¹⁰ Brenton believed Everhart was intoxicated and stated Everhart smelled of alcohol.¹¹

⁷ Everhart’s right fist was approximately the same height as the top of his head.

⁸ Lord described the knife as a black handled fixed blade knife, approximately five inches in length.

⁹ At the time, Lord believed the “pop” was the sound of a Taser being activated by Loughlin.

¹⁰ Everhart appeared to comprehend, but was acting defiant and staring at him.

¹¹ It was later determined that Everhart did not have alcohol in his system.

Brenton told Everhart to leave his porch. Everhart did not seem to pay attention to what Brenton was saying. Brenton touched Everhart's arm to get his attention. Everhart opened his mouth, but did not say a single word. It appeared to Brenton that Everhart had a speech impairment because Everhart was trying to use sign language. Everhart eventually stumbled away and walked off the patio area.¹² Due to Everhart's behavior, Brenton called the police. Officers responded and spoke with Brenton. Approximately five minutes later, Brenton saw Everhart stumbling on the sidewalk. The officers (Lord and Loughlin) attempted to get Everhart's attention by illuminating him with their flashlights.¹³ Sometime later, Brenton heard a single gunshot. Brenton walked to his balcony and saw Everhart on the ground crawling towards Lord and Loughlin. Brenton saw one of the officers attempt to handcuff Everhart who appeared to be resisting. Brenton heard Lord and Loughlin tell Everhart to crawl to them and heard them ask for a knife. Eventually, Lord and Loughlin took Everhart into custody.

Firearms/Weapons

Officer Loughlin was armed with a Springfield Armory .45 caliber pistol, with an eight round capacity. Afterwards, the pistol was examined and contained seven live rounds, which is consistent with Loughlin firing one round.

Everhart was armed with a SOG Specialty Knife, with a blade approximately five inches in length.



Knife recovered at the location.

¹² Everhart was on the patio for approximately five minutes.

¹³ Brenton's view was from his southwest window.

Everhart sustained a large laceration that extended from beneath the left ear, around the throat, and beneath the right ear, approximately eight to ten inches in length; and a single gunshot wound to his right abdominal area.¹⁴



Photo taken of Everhart at hospital.

Everhart was charged with two counts of assault on a peace officer and one count of resisting an officer in case number NA105190. On September 14, 2017, Everhart was convicted of resisting a peace officer and sentenced to 3 years of formal probation.

LEGAL ANALYSIS

The Law

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* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *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.

“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

¹⁴ Everhart has no criminal record. He was discharged from the Marine Corps in September 2015, after spending five years in infantry. He recently visited the VA for difficulty sleeping. Everhart has no history of mental illness and no documented LBP or LA County mental health contacts.

because he might have resorted to other means to secure his safety.” *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

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

“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.” Penal Code § 835a; CALCRIM No. 2670.

The evidence examined in this investigation shows that Officers Loughlin and Lord arrived at the location, saw Everhart walking on the sidewalk and attempted to approach him. Loughlin yelled at Everhart to come over to speak with him, but Everhart did not respond. While Loughlin and Lord used their flashlights to illuminate Everhart, Loughlin yelled at Everhart again to come over, but Everhart ignored the commands and continued walking. Loughlin and Lord followed Everhart until he turned around, facing them. Loughlin saw a knife in Everhart’s right hand. Loughlin drew his service weapon and illuminated Everhart with his tactical flashlight while yelling at him to, “Drop the knife!” Everhart held the knife in his right hand, and slashed his own throat. Loughlin again yelled at Everhart to, “Put the knife down!” Everhart advanced towards Loughlin and Lord and slashed his throat again. Everhart again advanced towards Loughlin and Lord. To keep the distance between them, Loughlin and Lord started walking backwards. Everhart held the knife clenched in his right hand, and pointed it towards Loughlin and Lord.

Everhart advanced, closing the distance between him, Loughlin and Lord. Loughlin was not able to holster his service weapon and draw his Taser due to Everhart rapidly advancing towards him and Lord. Loughlin and Lord attempted to retreat to a safe place, but were unable to. As Everhart closed the distance, Loughlin, in fear for his and Lord’s lives, fired one round at Everhart. Everhart fell forward and continued to hold the knife in his right hand. Everhart pulled the knife across his throat again, cutting it deep and started to gargle through the open wound in his throat.

Loughlin and Lord yelled at Everhart to, “Put the knife down!” but Everhart continued to advance towards Loughlin and Lord by crawling. Loughlin and Lord continued to yell at Everhart to drop the knife until Everhart finally dropped the knife.

Based on the evidence presented, we determine that Everhart placed Loughlin in reasonable fear for his and Lord’s lives when he cut his own throat multiple times and then advanced towards

Loughlin and Lord while pointing the knife at them, forcing Loughlin to make a split second decision to end the threat by firing his service weapon at him.

CONCLUSION

For the foregoing reasons, we conclude that Officer Shawn Loughlin acted in lawful self-defense and defense of others when he used deadly force against Richard Everhart. We are therefore closing our file and will take no further action in this matter.