

Officer Involved Shooting of Anthony Soderberg

Los Angeles Police Department

Officer Joseph Goosby #35124

Officer Jonathan Pultz #34942

Officer Mario Rios #32123

Officer Michael Messenger #30403

Officer Robert Gallegos #30619

Officer David Keortge #30896

Officer Canaan Bodell #34688

Officer Gregory Martin #34477

Officer Billy Lee #37742

Officer Jeremy Escamilla #35680

Officer Cliff Chu #33547

Officer Juan Flores #32169

Officer Jerry Fritz #33555

J.S.I.D. File #17-0234



JACKIE LACEY

District Attorney

Justice System Integrity Division

October 5, 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 Anthony Soderberg
J.S.I.D. File #17-0234
F.I.D. File #F029-17

DATE: October 5, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 8, 2017, fatal shooting of Anthony Soderberg by Los Angeles Police Department (LAPD) Officers Joseph Goosby, Jonathan Pultz, Mario Rios, Michael Messenger, Robert Gallegos, David Keortge, Canaan Bodell, Gregory Martin, Billy Lee, Jeremy Escamilla, Cliff Chu, Juan Flores, and Jerry Fritz. It is our conclusion that Officers Goosby, Pultz, Rios, Gallegos and Messenger used reasonable force in self-defense and defense of others, that Bodell, Keortge, Chu, Flores, and Fritz used reasonable force to apprehend a dangerous fleeing felon, and there is insufficient evidence to prove beyond a reasonable doubt that the shots fired by Martin, Lee, and Escamilla were unlawful.

The District Attorney's Command Center was notified of this shooting on May 8, 2017, at approximately 2:09 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Lieutenant Damian Gutierrez.

The following analysis is based on reports, recorded interviews, videos and photographs submitted to this office by the LAPD's Force Investigation Division. The departmentally compelled statement of each of the officers who shot was considered in this analysis.

FACTUAL ANALYSIS

On May 8, 2017, at approximately 8:50 a.m., Nadia N. was in bed in her home at [REDACTED] Alethea Drive in the Tujunga area of the City of Los Angeles when she was awoken by noise in her kitchen. Nadia N. emerged from the bedroom to find Anthony Soderberg, whom she did not know and whom she had never seen, in her kitchen. Soderberg was talking to himself and "speaking weird with weird hand gestures...and mumbling something about Jesus." After seeing Soderberg in her kitchen, Nadia N. retreated to the bedroom and tried to find a Glock, .40 caliber handgun her roommate Ronnie B. had in the house. As she was looking for the gun, Soderberg yelled through the closed bedroom door and asked if he could have a cookie; Nadia N. responded

that he could have whatever he wanted. Nadia N. could not find the gun, and she called Ronnie B., who had already left the house to go to work, to ask him where it was. Ronnie B. told her to get out of the house and call the police. Nadia N. hung up with Ronnie B., climbed out of the bedroom window, and called 9-1-1 at 8:57 a.m. from the driveway of the house.

The house where Nadia N. was living is situated at the end of a private road and on top of a steep ridge. Alethea Drive leads past and below the south side of the home and terminates at the driveway to the home, which turns sharply north and east. There is a parking pad west of the home, but the doors of the home open to the north and south sides. Although there are relatively flat areas to the east and west of the home, there is a steeply sloped ravine to the immediate north of the house and a significant hill to the south of the house. There are two main buildings and two outer buildings on the property; the main house, where Nadia N. was sleeping, is on the east side of the property and a garage, which was partially converted to living space, is northwest of the main house. Beyond the garage, to the north and west, are the outbuildings.



Figure 1: The house to which officers responded was situated on a ridge at the end of a narrow road and had severe drops on two sides. The north side (direction of arrow) is immediately adjacent to a ravine.

At 9:08 a.m., LAPD Officers Rafael Arzate and Cody Baumann arrived at the home in response to Nadia N.'s call for help. When they arrived, Nadia N. told them what happened and informed them that there were several guns in the house. Officers Eriverto Montano and Jose Zavala arrived shortly after Arzate and Baumann. The officers saw Soderberg in the house and yelled at him to come outside, but when he saw the officers, Soderberg retreated from them. Montano and Baumann were looking through a window into the bedroom of the home and saw a Glock handgun on a bookshelf inside. Because the officers confirmed Soderberg was in the house and was not responding to their commands that he exit, coupled with Nadia's statement that there were several guns in the house and their observation of a handgun in plain view, Montano

requested additional officers and a supervisor. Numerous patrol officers responded to this request.¹



Figure 2: The house is positioned above and to the north of Alethea Drive and is not visible from the road.



Figure 3: The north side of the house is immediately adjacent to a steep ravine.

Ronnie B. also returned to the home. When he arrived, he told officers he had an assault rifle, a shotgun, and a Glock handgun in the home. He explained the handgun was on a dresser next to a

¹ None of the patrol officers who responded to the call for service which ultimately led to the officer involved shootings was a witness to those shootings. As, except as noted, the actions of those officers were not relevant to the later shootings, their identities and roles are not discussed in this analysis.

fully loaded magazine, and the rifle and shotgun were in the closet of the bedroom. He also told the officers there was a substantial amount of ammunition for each of the weapons in his room.

Various officers made numerous announcements to the house ordering Soderberg to exit. In addition to officers on the ground, a helicopter was deployed and the officers in the helicopter used a loudspeaker to make similar announcements every 15 minutes. Soderberg did not respond to any of the officers' commands. At approximately 10:30 a.m., Sergeant Fred Miller, the patrol supervisor at the scene, spoke with Lieutenant Ruben Lopez, the LAPD Metropolitan Division Special Weapons and Tactics Team (SWAT) Officer in Charge. After being briefed by Miller, Lopez determined that the circumstances warranted a SWAT response and started to assemble a team of SWAT members to respond to the house. When they arrived, the SWAT officers positioned armored vehicles in the driveway of the house and systematically replaced the patrol officers who had surrounded it.

Baumann stayed in a position where he could see the handgun on a bookshelf until he was relieved by SWAT officers. He told those officers about the gun; however, the SWAT officers did not maintain surveillance of the weapon.²

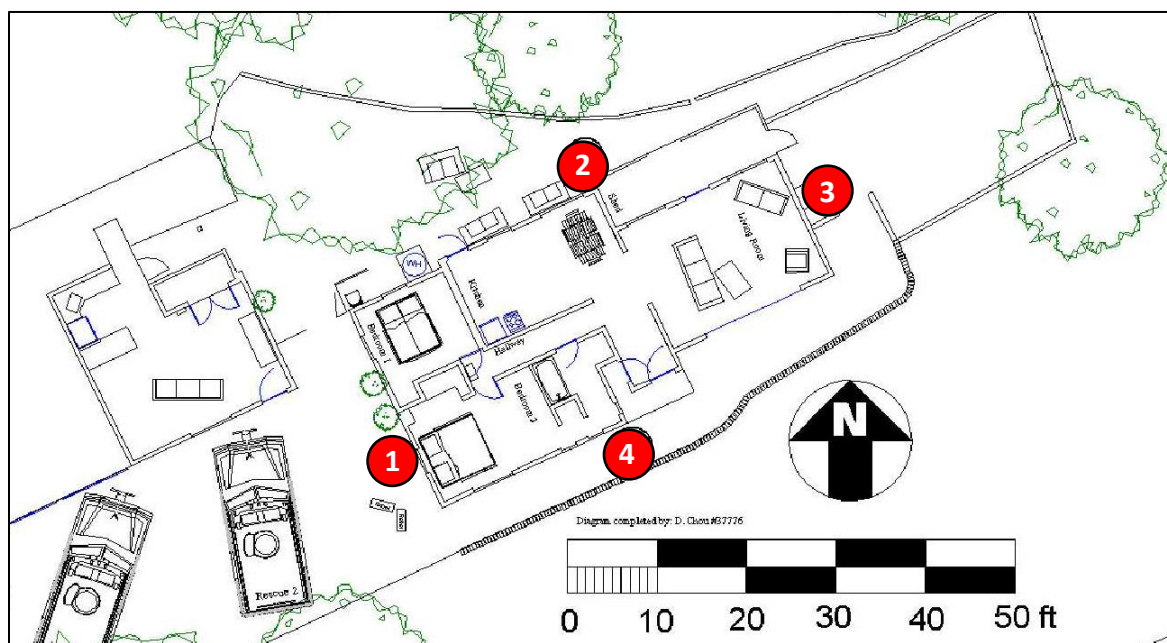


Figure 4: When SWAT surrounded the house, they identified each side numerically as depicted. For the purposes of this memorandum, side "2" is the north side.

By approximately 11:45 a.m., the SWAT team had fully surrounded the house. Because the terrain on the north side of the house made it nearly impossible to cover from the ground, LAPD command staff authorized the use of an Aerial Platform Shooter (APS) to provide coverage on that side of the home.³ APS consists of an external platform mounted to the side of a helicopter; two SWAT snipers equipped with rifles were seated on the platform. There were two APS helicopters assigned to the call, identified as "Sniper One" and "Sniper Two." In addition to the

² It appears the precise location of the handgun was not effectively conveyed to the SWAT team leader who was responsible for setting up containment of the house.

³ Officers refer to "APS" as "Aerial Platform Sniper" and "Aerial Platform Shooter" interchangeably.

helicopters, several officers were placed on Big Tujunga Canyon Road, approximately 200 yards north of the house, which was in a substantially elevated position from that road.

At approximately 12:39 p.m., as officers were preparing to contact Soderberg, Officer Benjamin Santero, who was assigned to watch the south side of the home, saw Soderberg's left leg and left arm come out of the bedroom window.⁴ Santero shouted commands at Soderberg to keep coming out with his hands up, but Soderberg reentered the house.

At 12:45 p.m., officers attempted to contact Soderberg. Lopez instructed the helicopter pilot to land to minimize the noise around the house. Officers then called Nadia N.'s phone and used a bullhorn to instruct Soderberg to pick up the phone. The phone rang and was apparently answered by Soderberg who immediately hung up. When the officer called again, the phone immediately connected to voicemail, leading the officers to believe it had been turned off.

Because Soderberg did not answer the phone, Officers Jennifer Grasso and Wilson Wong maneuvered a SWAT robot that was equipped with a speaker and a microphone to the southwest corner of the house adjacent to the driveway. Wong used the speaker on the robot to tell Soderberg the house was surrounded, the police are not going to leave and he needs to surrender peacefully. Immediately after Wong made that announcement, Soderberg yelled, "Fuck you! We're all going to die!" Moments later, at 12:59 p.m., officers heard a gunshot from inside the home.⁵ There was a pause after the gunshot, and Grasso took over attempts at communication with Soderberg. She said, "If you're okay, I need you to give me a sign that you're okay." In response, Soderberg fired another shot and said, "Fuck you bitch. I'll put a bullet in your head!" Grasso then said, "You need to put the gun down and come out right now. We're not going anywhere and we have the house surrounded." Soderberg fired more shots and said, "Fuck you! I'll kill all those SWAT officers that are out there!" At 1:00 p.m., someone announced over the radio, "*The suspect just stated, 'Fuck you, everybody dies!'*" At 1:01 p.m., officers were ordered to don gas masks and an officer announced Soderberg had fired another shot. The robot then stopped working.⁶

Most of the officers positioned around the house heard the gunshots fired by Soderberg. The officers generally described a "volley" of shots, but differed in the number of shots they heard. Four expended .40 caliber shell casings were found grouped near the doorway to the bedroom where the robot was positioned. An examination of the house after the incident revealed bullet paths which suggested Soderberg shot from inside the bedroom on the southwest corner of the house in the general direction of the SWAT robot.

In response to Soderberg's shooting, at 1:04 p.m., the SWAT officers started shooting tear gas canisters into the house. The officers used "Ferret rounds," which are shot from a 37mm launcher with a gunpowder charge, and which are designed to penetrate glass and wood paneling before breaking apart and dispersing a chemical agent. When fired, the launcher makes a sound similar to a gunshot. Over the course of the incident, officers fired dozens of rounds containing chemical agents into the house. The terrain and design of the house prevented officers from

⁴ The timing of the officers' actions is based on broadcasts made over the police radio during the incident. Most of those broadcasts were broadcast on a "duplex" channel, recorded and timestamped. Due to the mountainous terrain, some of the broadcasts were made on a "simplex" channel which was audible to other officers but not recorded.

⁵ While all the witness officers heard Soderberg's statement and shot close in time to one another, there was some discrepancy as to which happened first.

⁶ While it appears Soderberg was shooting at the robot, those shots did not disable the robot.

inserting chemical agents throughout the house, as the only access for the chemical agents they used was from the west side of the house. Officer Joseph Goosby was assigned to provide “lethal cover” to the officers who were firing gas into the house.⁷

At 1:05 p.m., as officers were shooting gas canisters into the house, Soderberg exited the north side of the house with a gun in his hand and approached the northwest corner. Officer Royce Burroughs was shooting gas canisters when he saw Soderberg’s face and the tip of a handgun emerge from the north side of the house. Officer Joseph Goosby, who was standing

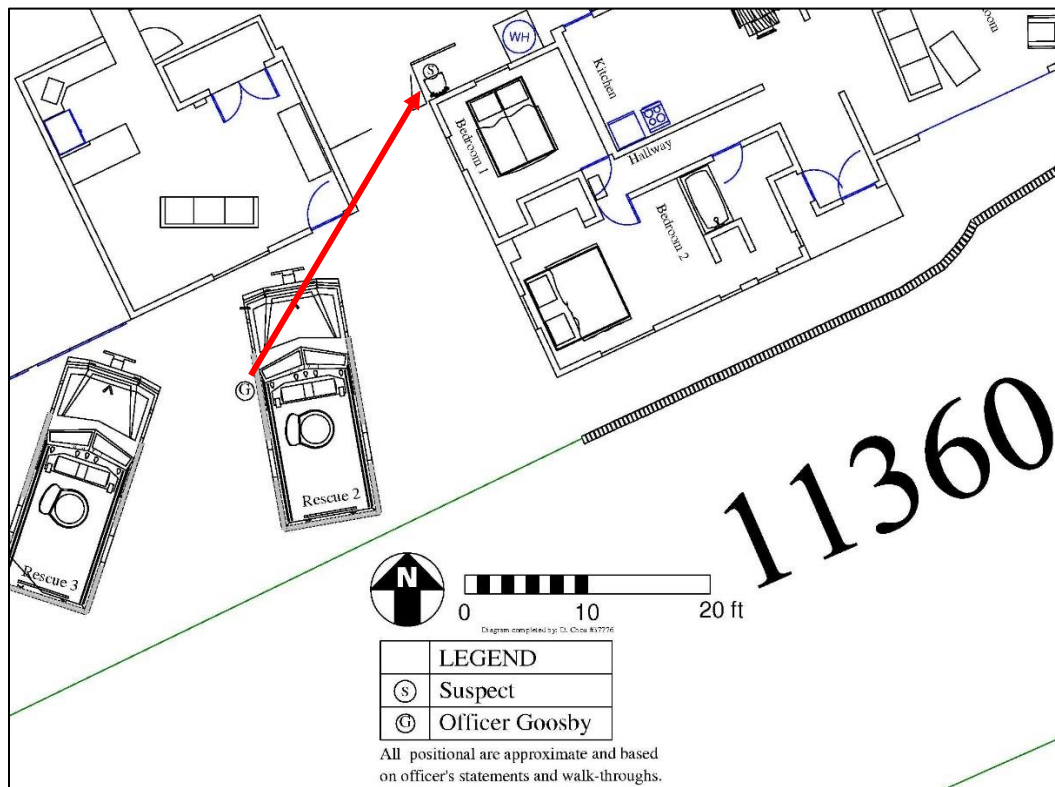


Figure 5: Goosby fired from adjacent to an armored vehicle parked in the driveway. The diagrams included in this memorandum were created by LAPD who used laser scanners to document the scene as part of the crime scene analysis; therefore, the physical layout is documented with precision. However, the positions of the involved parties at the time of the shootings are based on witness statements.

shoulder to shoulder with Burroughs, fired six shots from his departmentally issued rifle when Soderberg got to the northwest corner of the house. One of the six shots impacted the garage, and one of the shots impacted the armored vehicle Goosby was using for cover. It is impossible to determine whether any of the shots fired by Goosby struck Soderberg.

During this time period, several officers were positioned in the converted garage which is northwest of the main house. Those officers had sent small robots equipped with cameras onto the patio on the north side of the house to monitor Soderberg’s movements. Officers Thomas Chinappi and David Corbet were watching a monitor which displayed an image from one of those cameras when they saw Soderberg move to the corner of the home, staying very close to

⁷ During a SWAT operation, officers are assigned to specific roles. In any given situation, only certain officers are assigned to use their firearm to shoot in response to a threat. This “lethal cover” allows other officers to complete tasks while being protected by the cover officer.

the north wall. Chinappi and Corbet both believed Soderberg fired the handgun at Goosby.⁸ At approximately 1:08 p.m., after Goosby shot at Soderberg, Soderberg retreated to the kitchen doorway, knelt, and shot at least three times at the helicopter which was circling overhead, before retreating into the house.⁹ Three .40 caliber casings were found on the patio to the right of the kitchen door where Soderberg was seen shooting.¹⁰



Figure 6: SWAT members used the covered area on the right of the photograph (circled in red) to give themselves concealment and cover. Soderberg was adjacent to the white plastic chair (circled in yellow) when Goosby shot.

At 1:09 p.m., someone announced over the radio, *“It’s unknown if he’s hit. He’s obviously still up and moving and he’s armed with a pistol. He’s taken multiple shots at containment.”* After Soderberg retreated into the house, officers implemented a more aggressive plan to shoot chemical agents into the house. They did this by firing multiple Ferret rounds into the house and they supplemented those munitions with “517 gas,” which is a more potent chemical agent. Those munitions were inserted into the west side of the house adjacent to the driveway. Soderberg did not respond to those munitions and was not seen for approximately 40 minutes.¹¹ Since Soderberg was not responding to the Ferret rounds, officers fired 517 rounds into the south side of the house. Those rounds were fired at approximately 1:42 p.m.

At 1:46 p.m., after the 517 rounds were fired into the building, one of the team leaders announced over the radio that the more potent gas elicited no response from Soderberg before he updated the officers as to the situation: *“So, suspect hasn’t been seen for about thirty minutes*

⁸ There is no physical evidence that Soderberg shot at Goosby. However, several officers described hearing gunshots which they attributed to Soderberg’s handgun.

⁹ All witness officers reported hearing a broadcast over the radio reporting Soderberg had taken a “brace kneel” shooting stance and fired shots at the helicopter. That broadcast was not recorded with other radio traffic; however, at 1:08 p.m., someone from the helicopter flying overhead broadcast, *“Hey guys, I copy the brace kneel, we’re going to widen [the orbit] out on this one.”*

¹⁰ Ronnie B. told investigators that his Glock handgun was loaded with ten rounds. The handgun was recovered in the living room of the house with one round in the magazine and one round in the chamber, while seven spent cartridge casings were located. Investigators were not able to account for the apparently missing round.

¹¹ Corbet told investigators Soderberg exited the house and fired at the helicopter “at least five times, five separate incidents.” There is no evidence to support this assertion.



Figure 8: Pultz and Rios view of Soderberg was partially obstructed by the narrow walkway. (LAPD photo intended to illustrate shooter's position.) Two of the bullets fired by the officers struck the wall of the walkway and one impact is circled in red.

house.¹² Corbet was told Soderberg was crawling toward the east, but Soderberg was outside of the view of the camera he was watching, and Corbet was not able to see Soderberg when he looked out onto the patio.

As Soderberg entered the patio, Officers Michael Messenger and Robert Gallegos were on the shooting platform attached to Sniper 1 flying in tight orbits over the house while equipped with departmentally issued rifles. Officer Sean Malachi was the co-pilot of Sniper 1. He saw Soderberg “running eastbound” on the patio, but his view was somewhat blocked by the trees around the house. Malachi heard and saw Gallegos shooting and saw Soderberg fall almost as soon as Gallegos started shooting. Although Malachi’s attention was split between the instruments of the helicopter and his observations of Soderberg, he saw smoke coming from the area near Soderberg which made it appear Soderberg was shooting at the helicopter. Gallegos fired 14 rounds in two volleys and Messenger fired one round at Soderberg before he crawled into the space on the house’s northeast corner. A nearby resident filmed Sniper 1 as Gallegos and Messenger shot from the helicopter as it circled at a very low altitude just above the house. Two volleys of shots originating from the helicopter can be heard on the recording.¹³ Video captured by media helicopters shows Gallegos continued to shoot as Soderberg was crawling into the unfinished space.

¹² He does not say explicitly in his interview, but it appears Chinappi transitioned from viewing Soderberg on the monitor to viewing him over the shoulders of Rios and Pultz at some point near the time Rios and Pultz shot Soderberg.

¹³ The non-shooter witnesses describe the shooting by Pultz and Rios as a separate shooting prior to the shooting by Messenger and Gallegos. The evidence suggests all four officers fired nearly simultaneously, but that Messenger and Gallegos continued shooting after Pultz and Rios stopped.



Figure 9: Video taken by a KTLA helicopter shows Soderberg raising his right hand toward the helicopter as he crawls into the unfinished room. A moment later, dust rises from the ground in a manner consistent with Gallegos' second volley of shots.

Once Soderberg crawled into the unfinished space, he first stood, then kneeled in the southwest corner of that room. While in that position, he was not readily visible to officers. At 1:52 p.m., Malachi broadcast Soderberg's position as standing in the shed and then as seated with his back against the wall.

Corbet and Chinappi then positioned a robot with a camera at the entry to the room where Soderberg had retreated. At 1:56 p.m., an officer broadcast, "*Suspect is down in that converted structure. He's down and he's got something in his hand.*" Corbet told investigators that Soderberg was "laying with his hands underneath him; and I see his eyes blinking, his legs moving. We were constantly communicating with him: 'And if you're injured or you're hurt, we're here to help. Come out. But you have to crawl out, you have to show us that you're willing.' Nothing. No talking, no moving, other than his – like his foot would twitch or he'd move his leg – his hands never came out from underneath him when I was on the [robot] when he was positioned in this room." Shortly after Corbet made his observations, the robot he was using expended its battery and stopped working.

At 1:58 p.m., Wong broadcast the following update over the radio: "*After that last exchange of gunfire, the suspect is down. We see him. He's leaning up against the wall with something in his hand. That robot that we're using is going to go down real quick, so we're waiting on additional robots to get up here...and see if we can get eyes on him.*"

After Corbet's robot stopped working, Matthew Killman sent another robot to Soderberg's location. Killman was able to drive the robot into the room with Soderberg and found him on his left side with his head facing west. Killman was unable to see Soderberg's hands: "He's got his left arm...and left hand are [sic] out of my sight. And his right hand – right elbow I can partially pick up, but I can't pick up his hand." Sergeant Steven Weaver, one of the SWAT supervisors, joined Killman and Wilson Wong, the SWAT team leader in charge of tactics, to look at the monitor so he could see what Soderberg was doing. He saw Soderberg moving around and

described Soderberg's position: "His right hand is out, and his left hand is up underneath him and he's kind of laying kind of on his left."¹⁴

Because Soderberg was not responding to the police presence, the SWAT officers devised a plan to drop a "Stinger" grenade into the space where Soderberg was lying.¹⁵ Weaver explained his plan: "I'm concerned with that left hand that we can't see; he's already showed a propensity for violence, shooting at us multiple times, shot at the airship. So there's no way I'm going to send guys [in] there." Weaver watched on the monitor when the Stinger was deployed. He saw Soderberg "just kind of shook it off, kind of moved his hands up towards his face and kind of just continued to lay there." Wong told investigators he thought Soderberg was "lying in wait and he was just waiting for an officer to approach him for a one on one confrontation," so he sent another team of officers through the house to deploy another Stinger into the space where Soderberg was lying from a different direction.

While the tactical plan was being devised, Wong and Weaver continued to watch Soderberg via the robot camera. At 2:33 p.m. Wong broadcast over the radio, *"Right now our suspect is still moving, he's still lying on top of an object in his right hand and the last deployment of the Stinger...gave us head movement from the suspect."* At 2:34 p.m., Lopez asked if Wong would be comfortable sending a police dog into the room to pull Soderberg away from the gun. Wong responded, saying he wanted to try a second Stinger along with "hot gas" before sending in a dog; he finished by broadcasting, *"As far as we know he still has that gun in that bottom hand."*

At 2:36 p.m., a team of officers entered the house. The officers broke a window which looked into the area Soderberg was lying, and at 2:39 p.m., they dropped in a Stinger grenade and tear gas simultaneously, and backed out of the room. When the devices were deployed, an officer watching the robot camera made the following announcement over the radio: *"He's moving around, he's looking toward the window, he's up, on his butt, sitting against the wall, he's going to scoot out. Alright, he's in the corner, sitting up, the gas is effecting him. He's screaming, trying to get away from the gas."* A few seconds later, the officer broadcast, *"He's on his feet! He's on his feet! He's on..."* Soderberg then exited the unfinished room and came onto the patio.

When Soderberg exited the room, Officers David Keortge and Canaan Bodell were positioned in the converted garage and assigned to provide lethal cover if Soderberg presented a lethal threat to them or other officers. Wong, who was standing immediately behind Keortge and Bodell, told investigators Soderberg "was basically knees bent, his body was facing towards our direction and he was – he was more in, like, a crouched, bent-over position as he came out of the opening and at that point is when the engagement occurred with Officer Keortge and Officer Bodell; and then I looked over and saw the suspect rolling...his right hand was tucked into his chest area or stomach and chest area, and then I saw the roll and he immediately just fell off into the ravine."

Keortge fired one round from his departmentally issued rifle. Bodell fired two rounds from his departmentally issued rifle. Both officers fired before Soderberg rolled into the ravine.

¹⁴ At 2:15 p.m., someone announced over the police radio that he had a *"visual on one hand but not the other."*

¹⁵ The manufacturer describes an "ALSG101 Hornets Nest Sting Grenade" as a grenade that ejects approximately 70 .45 caliber rubber balls along with a chemical irritant when it explodes. It is marketed as a "diversionary device."

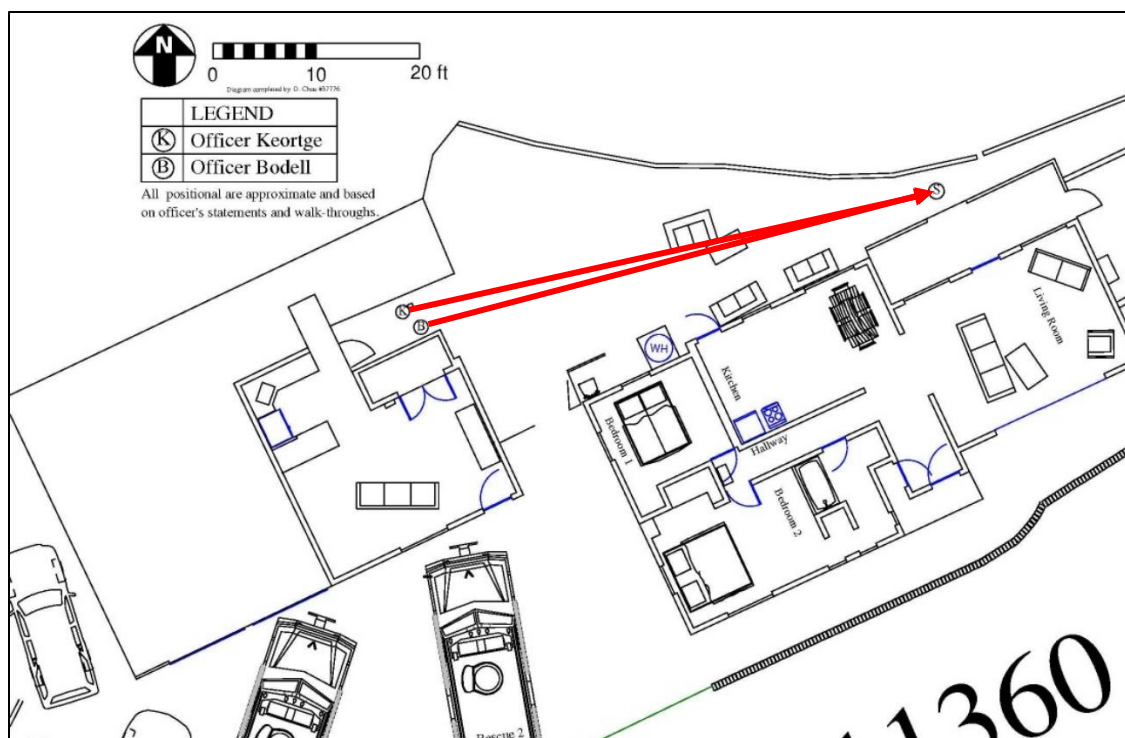


Figure 10: Keortge and Bodell shot at Soderberg from the mouth of the covered walkway before he rolled off the patio.



Figure 11: Keortge and Bodell fired on Soderberg when he emerged from an unfinished room after the second Stinger grenade exploded. (LAPD photo intended to illustrate shooter's position.)

Video of the incident, taken by a KTLA news helicopter, shows Soderberg roll out of the alcove and remain on the patio for a few seconds before he rolls into the ravine. The image is sufficiently blurry that Soderberg's precise actions are unclear. However, it does show

Soderberg crawling out of the unfinished room and away from Keortge and Bodell, whose view was partially obstructed by a chain-link gate and construction debris.



Figure 12: Still from KTLA video before Soderberg exits the unfinished room.



Figure 13: Still of video from a media helicopter. After tear gas was inserted, Soderberg rolled out of the unfinished room and into the ravine.

At 2:40 p.m., approximately eight seconds after one of the officers broadcast Soderberg was standing, the same officer announced, “*He’s in the ravine! He’s in the ravine!*” Video of the incident depicts Soderberg roll off the ledge of the concrete patio, grab onto exposed irrigation



Figure 14: Soderberg slid down the steep slope in a controlled manner for several moments before he was shot again and tumbled down the ravine uncontrollably.

pipe to slow his decent, and then slide down the ravine on his buttocks.¹⁶ As he's sliding down the ravine, Officers Cliff Chu, Juan Flores, and Jerry Fritz were positioned on Big Tujunga Canyon Road. All three officers fired at Soderberg from a distance of nearly 200 yards with their departmentally issued assault rifles, one of which was equipped with "one time" magnification, while the others were not equipped with scopes or other magnification. The video appears to capture one of these shots striking Soderberg, as he can be seen sliding in a controlled manner before he momentarily grabs his chest, then falls uncontrollably down the ravine. Fritz fired three rounds while Flores and Chu each fired two rounds. Approximately 14 seconds after the announcement that Soderberg was in the ravine, the helicopter pilot announced, *"I see him now, he's about ten yards down from the rear fence on his face."*

Officer Jose Martinez was standing on Big Tujunga Canyon Road with the shooting officers. He told investigators they had discussed, because of the violent attacks on other officers on the ground and in the helicopter, the need to prevent Soderberg from escaping. They also discussed that it would be nearly impossible to safely contain Soderberg if he was able to hide in the heavy brush north of the house. He was watching the house with his binoculars when he heard gunshots and saw Soderberg come over the wall and start sliding down the ravine before he heard gunshots being fired by Chu, Flores, and Fritz.

While Soderberg was in the unfinished room, Officers Enrique Anzaldo, Gregory Martin, Billy Lee, and Jeremy Escamilla, were positioned on the east side of the house, to contain Soderberg if he tried to exit toward the east. When Soderberg came out of the unfinished room, the officers were not able to see him, but heard gunfire from that area. Anzaldo explained, "I

¹⁶ The video is not continuous. It shows Soderberg as he exits the unfinished space, but it ends before Soderberg comes to rest on the hill.

heard a discharge of a larger caliber weapon, like consistent [with] a rifle, in addition to a smaller caliber weapon...I thought I heard two quick pops.”

Approximately 14 seconds after the helicopter pilot announced Soderberg was ten yards down from the house, Lopez asked for an update of Soderberg’s position, and the pilot broadcast, *“He’s 20 yards down. He’s still looking around, still conscious, I can’t see either one of his hands.”* Approximately 22 seconds later, Lopez broadcast, *“We are not going to let him into the community.”*

When the officers on the east side of the house heard over the radio that Soderberg was in the ravine, they ran to an elevated position to the northeast of the house to try to see where Soderberg went. Soderberg came to rest approximately 25 yards to the north and below the house, and he remained in that position when those officers observed him from their elevated position. Upon seeing Soderberg, Martin fired one time, Lee and Escamilla each fired three times. All three officers who shot from the northeast corner of the home were armed with departmentally issued assault rifles.

Approximately 50 seconds after Lopez said, *“We are not going to let him get out in the community,”* Anzaldo announced over the radio, *“We see him. He’s down; he’s face down. It looks like his hands are moving – hang on – the suspect is still moving, he’s on his stomach...”* At 2:42 p.m., approximately two minutes after the helicopter pilot announced Soderberg was ten yards down from the house and face down, shots can be heard over the radio and Anzaldo announces, *“All three of my [designated cover officers] here – the suspect started to move and we put him down. I believe he’s down now.”*

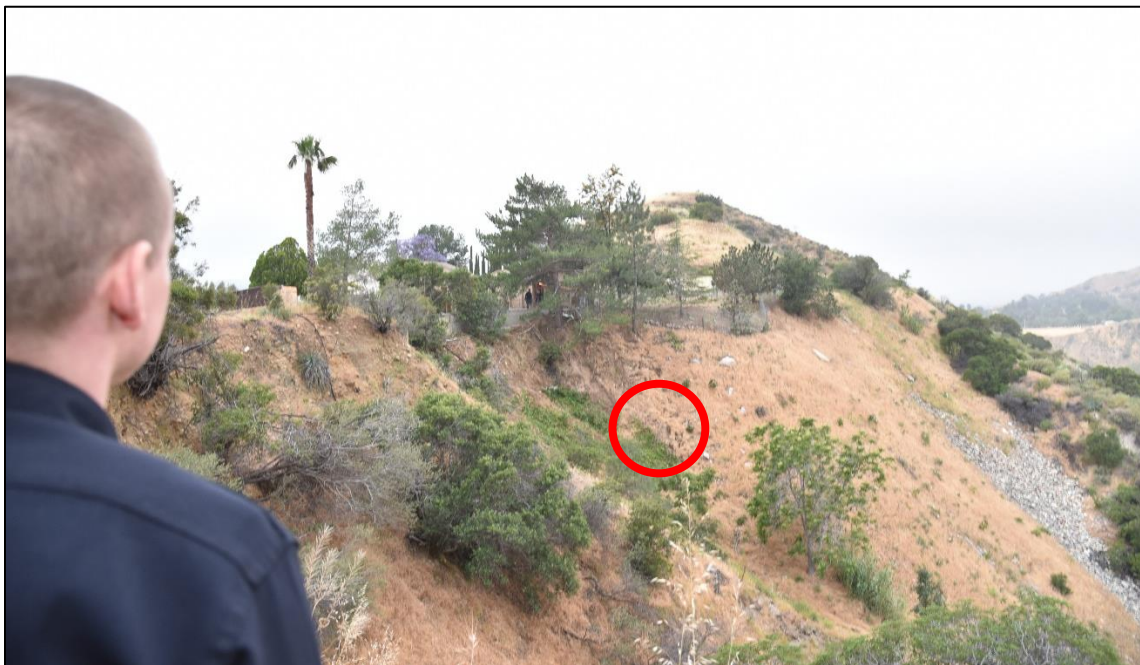


Figure 15: Soderberg was lying face down with his head facing downhill when Martin, Lee, and Escamilla shot Soderberg. They were approximately 56 yards from Soderberg when they shot. His general position when they shot is circled in red.

Anzaldo described what happened to investigators. By the time Anzaldo saw Soderberg, Soderberg was “rolling down uncontrollable [sic]...he ends up facing southwest...he lands in an interesting position. He lands with his knees – his knees are on the ground and his body is –

almost like in a – in your bowing praying position of some people on their knees and he’s faced...favoring the right side.”¹⁷ Anzaldo continued, “I can only assume that he has a weapon in his hand and I cannot see his...right arm. At that point, I simply say, ‘He’s moving!’ and no sooner do I say ‘he’s moving’ when the three individuals that are lined up in front of me...discharge their [rifles].” Anzaldo was asked to provide more description of Soderberg’s movements immediately prior to the last shooting. He stated, “[his right arm] is tucked under and he’s moving slowly...but he’s – he’s turning and I guess that would be...in a counterclockwise downward position and that’s the ever so slight movement that I see...going right in the direction of the officers.”

In addition to the officers on the ground, Sniper Two was in the air over the house when Soderberg emerged from the house. Officer Issac Moreno was assigned as the shooter on the helicopter. Moreno told investigators what he saw: “What I observe is the suspect exit and then I see his – punch out – I believe it’s his right hand towards the one-two corner. Now, at the time, I did feel he was pointing a possible handgun or some sort of object towards the [officers near that corner], but I did not engage” because I was ordered only to provide “overwatch” unless Soderberg went down the ravine.¹⁸ He then saw Soderberg “jump over the edge” and “tumble down the hillside.” By the time the helicopter re-centered over Soderberg, Moreno saw that he was face down, facing the top of the hill: “When we came directly over him, for a quick second it appeared to me he was looking towards the [garage] in a prone position, and I quickly thought that he may be trying to maybe shoot at the officer – SWAT officers – on top, but after just kind of seeing the situation and trying to analyze and seeing what’s occurring and I did see our containment moving up on him, then I felt, [he was down].”

Once Soderberg came to rest on the hillside, officers fired several 40mm “less lethal” rounds at him to see if he would respond. They then sent a police dog to grab on to Soderberg’s arm and turn him over so they could see his hands. Two paramedics who are assigned to SWAT were summoned and pronounced Soderberg’s death.¹⁹

Investigators interviewed several neighbors after the incident. Several described seeing someone matching the description of Soderberg talking to himself and digging through trashcans before the police arrived. Neighbors heard lots of police commands over a period of several hours along with the sound of many gunshots. Notably, one neighbor told detectives that the “acoustics here are weird because of the hill – you can hear a lot more stuff than a flatter area.”

Investigators also spoke with Soderberg’s mother. She and her son had been homeless for an extended period and she told investigators her son believed that law enforcement officers had put a “chip” in his brain. Outreach workers in the area confirmed Soderberg was homeless and that he abandoned a shelter bed on April 11, 2017, after decompensating mentally. The workers described him as constantly “fighting the devil” and “hearing voices.”

¹⁷ Anzaldo’s assertion that Soderberg was lying with his head uphill is at odds with the statements of other witnesses. Also, as explained infra, the bullet path analysis done by the medical examiner suggests Soderberg was facing downhill when Martin, Lee, and Escamilla shot him.

¹⁸ This statement is inconsistent with video of Soderberg’s exit, which shows Soderberg crawling away from the officers.

¹⁹ The paramedics confirmed that Soderberg’s body was positioned with his head downhill and his feet uphill when they arrived. This was Soderberg’s position after the police dog moved his body.

Autopsy

Deputy Medical Examiner Dr. Vadmis Poukins conducted an autopsy on Soderberg. He documented 17 separate gunshot wounds.²⁰

Two gunshot wounds, one to his left thigh and one to his left back, had a severely downward wound path consistent with shots fired by Gallegos from the APS. These wounds were not fatal.

Four gunshot wounds, one on his front left torso and three in his back were virtually graze wounds, as they had very shallow penetration, and were not fatal. The wound to his front left torso was inflicted from Soderberg's right side and moved up and to the left. The other wounds first impacted his back. It is impossible to determine when, or by whom, these wounds were inflicted. They were not fatal.

Two gunshot wounds were inflicted on Soderberg's right arm. It is impossible to tell when, or by whom, these non-fatal wounds were inflicted.

One bullet impacted the center of Soderberg's chest, penetrated his aorta and heart, and exited his back. This wound was independently, and rapidly, fatal. The direction and immediate lethality of this wound is consistent with it being inflicted by Fritz, Flores, or Chu after Soderberg rolled into the ravine. The video of Soderberg sliding down the ravine, briefly clutching at his chest and then falling uncontrollably supports this conclusion.

Four bullets impacted the right side of Soderberg's back and traveled back to front and right to left. These wounds are independently, although not rapidly, fatal. The position of the wounds and direction of the wound paths are consistent with the shots fired by Martin, Lee, and Escamilla after Soderberg came to a rest in the ravine. Presuming that conclusion to be true, they are also consistent with Soderberg being face down, with his head and right side somewhat downhill.

Blood tests conducted by the coroner indicate Soderberg had methamphetamine in his system when he died.

Physical Evidence

Each of the shooter's weapons was test fired and the resulting cartridge casings were compared to casings recovered at the scene. Those comparisons, in conjunction with an analysis of how many cartridges remained in the officer's firearm, form the basis for the description of how many rounds each officer fired as discussed above.

A Glock, .40 caliber, semiautomatic handgun was located on a couch in the house. This couch would not have been accessible by Soderberg after he entered the unfinished room. Seven .40 caliber cartridge casings, three on the patio and four in the house, were located and matched to the recovered handgun. One live round was in the chamber of the weapon, and another was in the magazine.

²⁰ Dr. Poukins noted one of the wounds was non-specific, but assumed to be a gunshot wound based on the circumstances of Soderberg's death. Another wound, although classified separately, was likely caused by the re-entry of a bullet that had passed through another part of Soderberg's body.



Figure 16: Ronnie B's handgun was located on a couch in the house.

Shooters' Compelled Statements

Each of the officers who fired his weapon provided a statement to investigators after the shooting. Those statements were compelled.²¹ The interviews were conducted by Detectives Heather Gahry, James Goossen, Paul Bowser, and Kevin Burke

Officer Joseph Goosby

Goosby was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Goosby was positioned on the west side of the house and was designated to provide lethal cover for the other officers on that side. [REDACTED]

[REDACTED]

[REDACTED]

²¹ The LAPD orders officers who are involved in an officer involved shooting incident to submit to questioning concerning the performance of their official duties, and ordered them to do so in the present case. A police officer, like any individual, possesses a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against himself. Uniformed Sanitation v. City of New York (1968) 392 U.S. 280, 284-285. Because the LAPD ordered each of the officers who shot to answer questions which might expose them to criminal liability, the officers' participation in the interviews was compelled. The effect of this legal compulsion is that neither the officer's statements nor any material derived from them may be used against him in a criminal proceeding. 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 the officer's police personnel file, the statements are confidential and may not be disclosed absent an evidentiary showing and court order. Penal Code section 832.7.

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Officer Jonathan Pultz

Pultz was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Pultz was positioned in the converted garage which was west of the house. Pultz was with Chinappi while gas was being fired into the house. [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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[REDACTED]

Officer Mario Rios

Rios was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Rios was positioned in the converted garage on the west side of the house. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Officer Robert Gallegos

Gallegos was interviewed by Detectives Bowser and Burke on May 9, 2017. His statement was compelled.

Gallegos was assigned as a designated shooter on Sniper One. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Officer Michael Messenger

Messenger was interviewed by Detectives Bowser and Burke on May 9, 2017. His statement was compelled.

Messenger was assigned as a shooter on Sniper One and sat next to, and toward the rear of the helicopter from, Gallegos.

[REDACTED]

Officer David Keortge

Keortge was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Keortge was initially assigned to help contain the west side of the house. He was eventually moved to the covered walkway of the attached garage, which is where he was positioned when the second Stinger grenade was deployed. [REDACTED]

[REDACTED]

_____t

Officer Canaan Bodell

Bodell was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Bodell was initially positioned in the hatch of the Bearcat which was positioned in the driveway of the house. [REDACTED]

[REDACTED]²⁴ Bodell assisted in shooting gas into the house before being moved to the converted garage after Soderberg had retreated into the unfinished room.

[REDACTED]

²³ While, as noted *supra*, the video is blurred, it shows Soderberg exit the room and immediately roll over some construction debris and away from Keortge and Bodell. [REDACTED]

24 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Officer Jerry Fritz

Fritz was interviewed by Detectives Bowser and Burke on May 9, 2017. His statement was compelled.

Fritz is assigned to the LAPD Metropolitan Division as a Canine Handler. He was assigned to cover the north side of the house at the bottom of the ravine on Big Tujunga Canyon Road along with Flores and Chu.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25

Flores was interviewed by Detectives Bowser and Burke on May 9, 2017. The interview was compelled.

25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Officer Cliff Chu

Chu was interviewed by Detectives Bowser and Burke on May 9, 2017. The interview was compelled.

Chu is assigned to the LAPD Metropolitan Division as a Canine Handler. He was assigned to cover the north side of the house at the bottom of the ravine on Big Tujunga Canyon Road along with Fritz and Flores. He was the last officer to arrive at that position, arriving just before Gallegos and Messenger shot from the helicopter.

[illegible]

Officer Gregory Martin

Martin was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Martin arrived after shots had been fired and was initially assigned to assist in covering the south side of the house. He was then moved to the east side of the house and instructed that he was going to move northeast to flank Soderberg if Soderberg fled into the ravine.

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Officer Billy Lee

Lee was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Lee was one of the first SWAT officers on the scene. He was assigned to cover the east side of the house, and remained there throughout the incident. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

26 [REDACTED]

[REDACTED]

[REDACTED]

Officer Jeremy Escamilla

Escamilla was interviewed by Detectives Gahry and Goossen on May 9, 2017. His statement was compelled.

Escamilla arrived at the incident after several officer involved shootings had already occurred. He was initially assigned to cover the south side of the house, and was then moved to the east side of the house along with several other officers, under the command of Anzaldo. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury on himself or those acting with him.” *Id.* at 1146; *quoting* People v. Bond (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a “lawful excuse” which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* 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. 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. 505, 3470. Actual danger is not necessary to justify the use of deadly force in self-defense; if the person’s beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505, 3470. The prosecution has the burden of proving beyond a reasonable doubt that the killer did not act in self-defense. *Id.*

In this case, Soderberg, a homeless man who was apparently under the influence of methamphetamine and suffering from serious mental health issues, entered the home of Nadia N., a woman he did not know. Although he was not violent toward her, he spoke incomprehensibly and she fled her home through a bedroom window, leaving Soderberg alone in the main living area of the home.

The responding officers attempted to alert Soderberg to their presence and order him out of the home, but he did not respond. Because he was unknown to Nadia N. or to any of her neighbors, officers had no information they could use to negotiate with him, nor any effective way of assessing or managing his mental health condition. The officers' response was further complicated by the knowledge that there were several firearms with ammunition in the home and no good way to see the entrances and exits of the house from a safe position. All those factors culminated in the response of the LAPD SWAT team.

Once SWAT arrived and surrounded the house, they observed Soderberg start to exit through a window before retreating upon seeing a police officer. The officers then attempted to open some sort of dialogue with him using Nadia N.'s cellular phone and then a robot with a speaker and a microphone. Soderberg responded by arming himself with a handgun, shooting four rounds at or near the direction of the robot and shouting, "Fuck you! We're all going to die!", "Fuck you bitch. I'll put a bullet in your head!", and, "Fuck you. I'll kill all those SWAT officers that are out there!"

Officers responded by inserting dozens of rounds of chemical agents into the house. Nearly all the witnesses misinterpreted gas rounds as gunshots and mistook gunshots fired by officers as gunshots fired by Soderberg. It appears the extreme topography, the fact that multiple helicopters were overhead, with one circling at extremely low altitude, the narrow passageways through which the officers were firing, coupled with the gas masks the officers were wearing, made it impossible to accurately assess the number of gunshots being fired and by whom. It is against that backdrop that we must assess the subsequent officer involved shootings.

First Shooting – Goosby

As part of the plan to insert chemical agents into the house, Goosby was assigned to provide lethal cover for the officers who were deploying the gas. He was positioned behind a Bearcat armored vehicle when officers were alerted that Soderberg was out of the house and armed with a handgun. Burroughs, who was standing immediately next to Goosby looked over and saw a gun and part of Soderberg in a narrow opening between the buildings. At that moment, Goosby fired six rounds at Soderberg. It is impossible to know whether Soderberg was struck by any of those rounds.

Goosby shot at Soderberg at approximately 1:05 p.m., five minutes after Soderberg shot at the SWAT robot and yelled, "I'll kill all those SWAT officers that are out there!" and one minute after officers started firing chemical agents into the house. Under those circumstances, Soderberg was clearly an imminent threat to Goosby and the other officers arrayed around the house. Therefore, when Goosby shot, he was acting lawfully in self-defense and defense-of-others.

Second Shooting – Pultz and Rios

The second officer involved shooting, involving Pultz and Rios, occurred at 1:48 p.m. while the officers were positioned at the end of a narrow hallway with a very limited view of the house where Soderberg was hiding (See Figures 6 and 8). Because of the limited view, the officers were reliant on Corbet and Chinappi to alert them to Soderberg's movements. Corbet was only able to voice, "Suspect out!" over the radio when Soderberg emerged and explained that he only had time to yell out, "Here he comes...he's got his hand in his waist!" before Pultz and Rios

opened fire. The limited view and rapidly evolving situation faced by the officers is graphically illustrated by the fact that two of the six rounds fired by the officers impacted the wall of the passageway in which they were standing.

When Pultz and Rios opened fire, they knew only that Soderberg had yelled, “Everybody dies!” before he fired several rounds from within the house, had apparently shot at the officers who were positioned in the front of the house, and had fired several shots at the police helicopter. Soderberg made no attempt to communicate with any of the officers and the officers did not have any information about him. When Soderberg emerged from the house, Pultz and Rios were alerted to that fact by Corbet, who was only able to say, “Here he comes!”

Given the information Pultz and Rios had, coupled with the very narrow window of opportunity, both physical and temporal, in which they had to make a decision, the officers’ decision to fire at Soderberg when he emerged from the house was a reasonable, and therefore lawful, act of self-defense and defense-of-others.

The fact that it was later determined Soderberg was unarmed when he exited the house does not change this result, because it was reasonable for Pultz and Rios to believe Soderberg was actually armed. Soderberg gave no indication he was no longer armed, and, by quickly exiting the house without warning and moving in the officers’ direction, he did not provide officers with another reasonable alternative but to respond with deadly force under the circumstances.²⁷

Third Shooting – Gallegos and Messenger²⁸

Unlike Pultz and Rios, Gallegos and Messenger were not privy to any communication between SWAT members who were not utilizing the radio. Therefore, the last piece of information they received from the ground was a summary broadcast made just two minutes before Pultz and Rios opened fire: “*So, suspect hasn’t been seen for about thirty minutes since he came out and engaged us. We also engaged him from the one side. Very small piece of him that was open for our lethal engagement, but he was seen afterwards taking a brace kneel, so likely that he was not hit, or if he was hit, he was just winged.*” Within two minutes, Malachi saw Soderberg running on the patio, away from Pultz and Rios, heard Gallegos shooting, and saw smoke rising from the same area.

Video of the APS shooting suggests Gallegos fired two volleys of shots at Soderberg over the course of two helicopter orbits. Gallegos and Messenger were, at the time they shot during the first orbit of the helicopter, in a similar position to Pultz and Rios when those officers shot: Soderberg exited the house quickly and without warning and the only information they had about Soderberg was that he was shooting at the helicopter and other officers. Therefore, when he appeared on the patio, it was reasonable for the officers to believe he still presented an imminent, deadly threat and the decision to use deadly force was lawful.

²⁷ [REDACTED]

[REDACTED] the statements of the officers were compelled and may not be used against them. Therefore, they do not affect the legal analysis.

²⁸ This shooting is explained separately because Gallegos and Messenger had a substantially different view, and therefore different information, than Pultz and Rios. However, as explained *infra*, all four officers likely fired at, or near, the same time.

The second volley of shots was captured on video. That evidence shows Soderberg halfway into the unfinished room, but pointing his right hand in the direction of the helicopter, when those shots were fired. That movement, coupled with the other information known to the officers, provided a reasonable basis to believe Soderberg continued to present an imminent deadly threat when the helicopter orbited over him a second time.

For the same reasons discussed above, the fact that Soderberg was not actually armed is immaterial for this analysis because a mistaken belief that he was armed is reasonable under the circumstances.²⁹

Fourth Shooting – Keortge and Bodell

After Soderberg entered the unfinished room on the northeast corner of the house at 1:48 p.m., Keortge and Bodell took up positions in the covered passageway in an attempt to monitor any movements he might make. They were in that position when they heard other officers state, over the radio, “*Right now our suspect is still moving, he’s still lying on top of an object in his right hand.*” and “*As far as we know he still has that gun in that bottom hand.*” After the second Stinger exploded Soderberg got up and left the room, while a police observer relayed Soderberg’s reactions over the radio.

As Soderberg exited, Wong explained “he was more in, like, a crouched, bent-over position as he came out of the opening and at that point is when the engagement occurred with Officer Keortge and Officer Bodell.” Wong was unable to give any more details as to what, if any, threat Soderberg presented when he exited. Indeed, video of the incident depicts Soderberg rolling away from the officers, and never clearly shows him making any movements in their direction.

However, despite the relative lack of evidence Soderberg presented an imminent and deadly threat, the shooting of Soderberg was still lawful under Section 196, known as the “fleeing felon” rule. The totality of the facts and circumstances known to the officers at the moment they opened fire gave them probable cause to believe Soderberg had committed attempted murder of a police officer – a forcible and atrocious crime – and that he was still armed while he was trying to flee. Those facts, in conjunction with Soderberg’s apparent ability to escape down the ravine, would lead a reasonable person to believe it was necessary to use deadly force to take Soderberg into custody. Therefore, the shooting by Keortge and Bodell was lawful.³⁰

Fifth Shooting – Fritz, Flores, Chu

When Soderberg exited the unfinished room after the second Stinger exploded, Fritz, Flores, and Chu were approximately 200 yards away attempting to contain the north side of the house. Martinez, who was standing with them, heard gunshots from the house and then saw Soderberg

²⁹ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] his statement was compelled and is therefore inadmissible against him in a criminal prosecution, so it does not affect the legal conclusion.

³⁰ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

come into the ravine. Video of the event shows Soderberg volitionally going into the ravine and volitionally sliding down the ravine and away from the house before apparently being struck by a bullet. That bullet must have been fired by Fritz, Flores, or Chu.

When these officers shot, it was reasonable for them to believe Soderberg was armed and had just shot at SWAT officers arrayed around the house. They also reasonably believed it would be nearly impossible to safely find and detain Soderberg if he were to get into the heavy brush north of the house. Based on all the facts and circumstances presented to them, the officers did not need to wait to shoot until another person was imminently in harm's way. All the information the officers had – including that Soderberg was armed, had shot at police officers, refused to cooperate or communicate with the officers, and was about to escape into an area where it would be extremely difficult to apprehend him – gave them probable cause to believe Soderberg posed a threat of death or great bodily injury to the officers or others in the community. Given those facts, a reasonable person in the officers' position would believe it was necessary to use deadly force to apprehend Soderberg. Therefore, the shots fired by Fritz, Flores, and Chu were lawful.

As was the case in the other shootings, this legal conclusion is not impacted by the fact that Soderberg was unarmed. All the information known to the shooting officers at the time they shot supported a reasonable belief that Soderberg had just engaged other officers with a weapon and was armed as he slid down the ravine. Because the officers' mistaken belief was reasonable, the legal conclusion is unaffected.

Sixth Shooting – Martin, Lee, Escamilla

Once Soderberg rolled off the porch and into the ravine, a team of SWAT officers, including Martin, Lee, and Escamilla, moved from their position on the east side of the house to one which overlooked the ravine. Approximately one minute and 48 seconds after it was announced that Soderberg had gone into the ravine, Anzaldo announced that his team had "eyes on him" from their position. Twenty-five seconds later, shots can be heard as Anzaldo is describing what he is seeing and he announces, *"the suspect started to move and we put him down."*

Taken together, the evidence suggests Soderberg was fatally wounded and lying face down in the ravine with his head downhill and away from Martin, Lee, and Escamilla when they shot. Anzaldo later described Soderberg lying face down with his knees under him in a "praying position" when he saw "slight" movement and the officers opened fire.

Although Martin, Lee, and Escamilla were empowered to use deadly force to detain Soderberg, they may only use such force when it is "necessary" for that detention; a police officer may not kill a suspect when the suspect no longer poses a threat to them or the community. In this case, the officers shot Soderberg from a distance of approximately 56 yards when he had been face down on the ground for nearly two minutes. Even though, as explained above, it was reasonable to believe Soderberg had been a threat to the community when he went into the ravine, officers have a duty to protect the lives of citizens unless it is necessary to use deadly force. In this instance the officers had sufficient time and space to safely analyze the situation with which they were confronted without shooting. In fact, Moreno, who was assigned as the shooter in Sniper Two, explained why he did not shoot at Soderberg when he was in the ravine, "I quickly thought that he may be trying to maybe shoot at the...officers on top, but after just kind of seeing the situation and trying to analyze and seeing what's occurring [I saw he was down]."

However, despite the fact that deadly force was not necessary to take Soderberg into custody at the time it was used, there is insufficient evidence to prove beyond a reasonable doubt that the officers are criminally liable for the shots they fired. Approximately two minutes before they shot, Soderberg had been struck by a bullet that pierced his heart and aorta. The injuries caused by that bullet were catastrophic, and Soderberg would not have survived for more than approximately one minute after they were inflicted. Although the wounds believed to be caused by Martin, Lee, and Escamilla would have been fatal, it is likely Soderberg was deceased when they were inflicted. Therefore, even if the People could prove the officers shot unlawfully, they did not cause the death of Soderberg and cannot be charged for his killing.

CONCLUSION

We conclude that Officers Goosby, Pultz, Rios, Gallegos, and Messenger used lawful and reasonable force in self-defense, defense of others. We further conclude that Officers Fritz, Flores, Chu, Keortge, and Bodell used lawful force in the apprehension of Soderberg, who they reasonably believed had unlawfully entered a home, made threats to murder police officers, attempted to murder police officers, was armed, and was attempting to escape arrest. We finally conclude there is insufficient evidence to prove beyond a reasonable doubt that Officers Martin, Lee, and Escamilla committed a crime when they shot Soderberg. We are closing our file and will take no further action in this matter.