

OFFICER-INVOLVED INCIDENT REPORT



Employer Agency: California Department of Corrections and
Rehabilitation-Parole Unit

Lead Agency: Sonoma County Sheriff's Department

Injured Party: Charles Martin Wyatt
Date of Incident: May 25, 2022

Report Prepared by:
SONOMA COUNTY DISTRICT ATTORNEY

TABLE OF CONTENTS

I. INTRODUCTION	3
II. SCOPE OF REVIEW.....	4
III. STANDARD OF REVIEW.....	5
IV. SUMMARY OF FACTS	5
A. INJURED PARTY’S BACKGROUND.....	5
B. SUMMARY OF INFORMATION TO DISPATCH AND DEPUTIES ON MAY 25, 2022.....	6
C. SUMMARY OF LAW ENFORCEMENT STATEMENTS.....	6
Summary of Statement of Jeffrey Gill.....	6
Summary of Statement of Michael Sweeney	7
Summary of Statement of Robert Braddock	8
D. SUMMARY OF STATEMENT FROM CHARLES MARTIN WYATT.....	10
E. SUMMARY OF FIRE AND MEDICAL PERSONNEL STATEMENTS.....	10
Summary of Statement of Douglas Mallory.....	10
Summary of Statement of Captain Andrew Peterson.....	10
F. SUMMARY OF CIVILIAN STATEMENTS.....	11
Summary of Statement of John Doe and Jane Doe	11
Summary of Statement of John Doe #2.....	11
G. EXAMINATION OF FIREARM.....	11
H. TOXICOLOGY	12
V. STATEMENT OF THE LAW.....	12
A. THE RIGHTS AND DUTIES OF A PEACE OFFICER WHEN EFFECTING A DETENTION OR AN ARREST	12
B. DISCUSSION OF THE LAW AND OF THE EVIDENCE	14
VI. CONCLUSION	16

I. INTRODUCTION

On May 25th, 2022, Charles Martin Wyatt was a resident of Santa Rosa, CA, on parole, and under the supervision of Agent Jeffery Gill, a parole agent out of the Santa Rosa Parole Office. Agent Gill had supervised Wyatt since April of 2022. As a condition of his parole, Wyatt was attending sex offender treatment pursuant to *California Penal Code* section 3008, due to Wyatt being a registrant pursuant to *Penal Code* section 290. Additionally, due to a positive drug test for cocaine on April 15, 2022, Wyatt was attending drug treatment, as a condition of his parole.

On May 18, 2022, Agent Gill was informed Wyatt had missed a sex offender treatment class. Agent Gill attempted to contact Wyatt via telephone, to advise Wyatt to report to the parole office. Wyatt did not report to the parole office as instructed by Agent Gill.

On May 25, 2022, Agent Gill sent a text to Wyatt that read, "Make sure you make your meeting today. If you fail to show up to treatment you will be arrested." Later that afternoon, Agent Gill was contacted again by a representative of the treatment program about Wyatt missing a second treatment class. Agent Gill then called Wyatt and they spoke on the phone. Wyatt responded that he was "a general in the secret service," so Gill ordered him to respond to the parole office. Wyatt told Gill to "stand down," so Gill ended the call, and decided to contact Wyatt in person at Wyatt's residence.

Agent Gill, Agent Robert Braddock, and Agent Michael Sweeney went to Wyatt's residence at 4420 Lahinch Lane in Santa Rosa, to take Wyatt into custody. Agent Gill inquired with the Santa Rosa Police Department if assistance could be provided, but no officers were available. Agent Gill sought out additional assistance due to Wyatt's prior involvement with law enforcement that included a conviction for felony *Penal Code* section 69.

The parole agents arrived at Wyatt's residence at approximately 1:35 p.m. Parole agent Braddock made the initial contact with Wyatt at the front door of Wyatt's residence. Upon the front door opening, Agents Gill and Sweeney walked towards the front door to assist Agent Braddock. The agents attempted to engage Wyatt in conversation and immediately observed Wyatt had in his possession a towel in his right hand and a box cutter in his left hand. Agent Gill ordered Wyatt to drop the box cutter, but Wyatt ignored Agent Gill's request.

Wyatt said he was "a general" and ordered the agents to exit his residence. Wyatt held up a driver's license, which he referred to as his ID number, in his left hand. Wyatt then reached across his body and opened the box cutter knife. The agents ordered Wyatt to drop the knife multiple times. Agent Braddock deployed pepper spray, which contacted Wyatt's face and chest area.

Wyatt then rushed at Agent Braddock, and Wyatt made a slashing motion with the box cutter at Agent Braddock, barely missing him. Braddock then discharged his firearm, firing three shots.

Agent Gill then stepped out of the residence and called for medical response. Agent Sweeney and Agent Gill placed handcuffs on Wyatt and began administering first aid. Medical personnel responded shortly thereafter and rendered medical aid to Wyatt.

Following the shooting of Mr. Wyatt, California Department of Corrections and Rehabilitation invoked the Sonoma County Law Enforcement Employee-Involved Critical Incident Protocol (“protocol”). The purpose of this protocol is to set forth procedures and guidelines to be used by Sonoma County law enforcement agencies in the criminal investigation of specifically defined incidents involving law enforcement employees. Under this protocol an outside law enforcement agency is designated to investigate officer-involved fatalities.

In this case members of the Sonoma County Sheriff’s Department assumed responsibility for the investigation. Members of the Sonoma County District Attorney’s Office participated in the investigation in a supporting role, in accordance with the protocol. Under the protocol the role of the Sonoma County District Attorney’s Office is to review the investigation to determine if there exists any criminal liability on the part of involved parties, including the law enforcement employee(s); to provide assistance to the investigating agency regarding legal issues; to supplement the investigation when necessary; and, when appropriate, prosecute those individuals believed to have violated the law.

Once the investigation is complete the District Attorney is required by the protocol to complete a thorough review of the investigation and prepare a report that summarizes the investigation and documents the conclusions. A copy of this report is to be submitted to the foreperson of the Sonoma County Grand Jury.

Per the protocol, the instant report includes a summary of facts surrounding the shooting of Charles Wyatt, a statement of the applicable law, legal analysis, and conclusions. This report does not and cannot include all the information contained in the hundreds of pages of reports, video and audio tapes, transcripts, photographs, and diagrams reviewed in its preparation. However, every effort has been made to include in this report a summary of all the relevant material evidence gathered by the Sonoma County Sheriff’s Department over the course of its extensive investigation of this critical incident.

II. SCOPE OF REVIEW

The purpose of the District Attorney’s investigation and review of any critical incident is to establish the presence or absence of criminal liability on the part of any involved party, including law enforcement employee(s).

The specific issue to be resolved in this case is to determine the presence or absence of any criminal liability on the part of any involved parties, including law enforcement personnel. A summary of the applicable law is included here to assist the reader in understanding this report and its conclusions.

The District Attorney does not examine issues such as compliance with the policies and procedures of any law enforcement agency, police training, or issues involving civil liability. This report should not be interpreted as expressing an opinion on those matters.

III. STANDARD OF REVIEW

The District Attorney is the chief law enforcement official of Sonoma County. The District Attorney is responsible for deciding what cases to prosecute and has the responsibility to review and approve the filing of all criminal cases in the county. The District Attorney's discretion in this regard is well defined. *The California Rules of Professional Conduct, Rule 5-110*, provides prosecutors shall not institute criminal charges when the prosecutor knows or should know that the charges are not supported by probable cause. Additional restraint on the charging authority is found in the *Uniform Crime Charging Standards*¹ a publication of the California District Attorneys Association. These standards provide the following guidelines:

The prosecutor should consider the probability of conviction by an objective fact-finder hearing the admissible evidence. The admissible evidence should be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact-finder after hearing all the evidence available to the prosecutor at the time of charging and after hearing the most plausible, reasonably foreseeable defense that could be raised under the evidence presented to the prosecutor.

In criminal cases the District Attorney has the burden of proving guilt "beyond a reasonable doubt²," the highest burden of proof found in the law. A jury of twelve must vote unanimously for guilt before a conviction may be entered. When determining whether criminal charges are appropriate the District Attorney must consider all the evidence, including evidence that supports an affirmative defense, such as a claim of "self-defense" or "defense of others."

Criminal charges are warranted only when the District Attorney determines that the evidence of guilt is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective jury fact finder after hearing all the admissible evidence, including evidence of such an affirmative defense.

IV. SUMMARY OF FACTS

A. INJURED PARTY'S BACKGROUND

Charles Martin Wyatt was born on September 18, 1972. At the time of the critical incident he was unmarried and had four children, a 29-year-old daughter, a 13-year-old daughter, a 7-year-old son, and a 1-year-old daughter. Mr. Wyatt was on parole at the time of this incident. He was

¹ California District Attorneys Association, *Uniform Crime Charging Standards* (1996) p. 12.

² Judicial Council of California Criminal Jury Instructions (2017) (CALCRIM) No. 103.

placed on parole after serving a sentence of eight years in state prison for a conviction of *Penal Code* section 273.5(a) (domestic violence) in 2014. Mr. Wyatt was required to register as a sex offender pursuant to *Penal Code* section 290 based on a conviction for violating *Penal Code* section 261(a)(4) (rape of unconscious person) in 2002.

B. SUMMARY OF INFORMATION PROVIDED TO DISPATCH

On Thursday May 25, 2022, at approximately 1:40 p.m., Santa Rosa Police dispatch received a call about a shooting involving a parole agent and a parolee. The reporting party, Parole Agent Jeffrey Gill, reported the shooting.

C. SUMMARY OF LAW ENFORCEMENT STATEMENTS

Summary of Statement of Agent Jeffrey Gill.

On May 25, 2022, Detective Ryan Patrick and Detective John Barr conducted an interview with Parole Agent Jeffrey Gill at the Santa Rosa Parole Office. Agent Gill stated he had been employed with the California Department of Corrections for nineteen years, the last sixteen of which he had worked as a parole agent. At the time of the incident Agent Gill was assigned to the Santa Rosa Parole Office. The interview was voluntary, and Agent Gill was informed he was under no obligation to provide a statement.

Agent Gill was the supervising parole agent for Charles Martin Wyatt and had supervised Mr. Wyatt since April of 2022. As a condition of his parole, Wyatt was required to attend classes pursuant to California *Penal Code* section 3008, due to Wyatt being a sex-offender registrant pursuant to *Penal Code* section 290. Additionally, Wyatt was required to attend drug treatment based on a positive test for cocaine.

On May 18, 2022, Agent Gill was informed Wyatt had missed a sex offender treatment class. As a result, Agent Gill attempted to contact Wyatt via telephone to advise Wyatt to report to the parole office. Wyatt did not report to the parole office as instructed by Agent Gill.

On May 25, 2022, Agent Gill learned that Wyatt missed a second treatment class. Upon being notified about Wyatt's second missed class, Agent Gill called Wyatt. While on the phone, Agent Gill ordered Wyatt to respond to the parole office. Wyatt responded by telling Gill to "stand down," so Gill ended the call, and decided to contact Wyatt in person at Wyatt's residence at 4420 Lahinch Lane, in Santa Rosa.

Agent Gill sought the assistance of Parole Agents Michael Sweeney and Rodger Braddock to accompany him to contact Wyatt. Agent Gill, along with Agent Braddock and Agent Sweeney proceeded to Wyatt's residence to contact Wyatt and take him into custody. Agent Gill inquired with the Santa Rosa Police Department if assistance could be provided, but no officers were available. Agent Gill sought out additional assistance due to Wyatt's prior combative behavior toward law enforcement that included a conviction for felony *Penal Code* section 69 (resisting arrest with force or threat of force).

At approximately 1:35 p.m., all three parole agents arrived at Wyatt's residence on

Lahinch Lane. Agent Braddock knocked on the front door while Agents Gill and Sweeney stayed back. When the front door was opened, Gill and Sweeney approached. When Gill initially observed Wyatt, Wyatt was holding a towel in his right hand and a box cutter in his left hand. When all agents appeared at the front door, Wyatt backed into the house away from the front door. All agents were just inside the front door and tried to deescalate the situation.

After being given multiple orders to drop the box cutter, Wyatt did not comply. Wyatt said he was “a general” and ordered the agents to exit his residence. Wyatt held up a driver’s license, which he referred to as his ID number, in his left hand, while he held the towel and box cutter in his right hand.

Wyatt then reached across his body and opened the box cutter knife with his left hand. The parole agents again ordered Wyatt multiple times to drop the knife. Wyatt refused, so the agents backed up a step toward the front door. Wyatt continued to brandish the knife, so Agent Braddock deployed pepper spray, which contacted Wyatt’s face and chest area. When the pepper spray was deployed, Wyatt was approximately twelve to fifteen feet away from Agent Braddock.

After being struck by the pepper spray, Wyatt charged at Agent Braddock and made a slashing motion with the knife. Braddock took a sidestep, and Wyatt missed Agent Braddock with the box cutter. Braddock then discharged his firearm, firing three shots. Wyatt dropped the box cutter and sat back on the floor.

Based on the manner in which Wyatt charged at Agent Braddock brandishing the box cutter knife, Agent Gill believed Wyatt was trying to kill Agent Braddock.

Summary of Statement of Michael Sweeney

On May 25, 2022, at the Santa Rosa Parole Office, Detectives John Barr and Ryan Patrick conducted an interview with Parole Agent Michael Sweeney. Agent Sweeney had been employed with the California Department of Corrections and Rehabilitation for fifteen years and ten months, which included seventeen months as a parole agent. The interview was voluntary, and Agent Sweeney was informed he had no obligation to provide a statement.

On May 25, 2022, at approximately 1:30 p.m. Agent Sweeney was advised by Agent Gill that he needed assistance with contacting a parolee. At that time, Agents Sweeney, Gill and Braddock were at the Santa Rosa Parole Office. Sweeney and Gill drove out in the same vehicle and met Agent Braddock outside of Wyatt’s residence located at 4420 Lahinch Lane.

Braddock was the first to walk up to the front door of the residence while Sweeney and Gill stayed back out of sight from the front door. Shortly after the front door was opened, Gill and Sweeney approached the front door. As Agent Gill approached the door, he drew his weapon and yelled at Wyatt to drop the knife. Agent Braddock was inside the residence, just inside the threshold, as Gill continued to shout at Wyatt. Wyatt yelled at Gill and Braddock to get out of his house and ignored the commands of the parole agents.

Braddock then deployed pepper spray at Wyatt, which appeared to cause Wyatt to step back. Sweeney was standing behind Gill and had his weapon out. Wyatt was out of his line of sight. Sweeney then saw Braddock step further into the house, and Wyatt was again out of Sweeney's line of sight.

Next, Sweeney heard two shots fired, and then heard Gill yell "secure the knife." Sweeney then entered the residence and observed Wyatt on the floor laying on his left side. Gill told Sweeney to place handcuffs on Wyatt. Sweeney first put on gloves then placed handcuffs on Wyatt. Sweeney observed two gunshot wounds in the center of Wyatt's torso, and another in his abdomen. Gill told Sweeney to roll Wyatt onto his right side to avoid placing pressure on Wyatt's left lung, to facilitate Wyatt's ability to breath.

Sweeney then applied pressure to the chest wound while Gill was on the phone with dispatch. Sweeney was provided with a towel and gauze, and he continued to apply pressure to the wound until medical personnel arrived.

Since the events happened so quickly, the house had not yet been secured. When Santa Rosa Police arrived, the house was then cleared of any other occupants. The agents then stepped outside the residence and sat at a park across the street to await the arrival of CDCR personnel.

Summary of Statement of Robert Braddock

On Thursday May 26, 2022, Detective Ryan Patrick conducted an interview with Parole Agent Robert Braddock at the Sonoma County Sheriff's Department. Braddock was informed his participation in the interview was voluntary and he was informed he was under no obligation to provide a statement.

Parole Agent Braddock had been employed with the California Department of Corrections and Rehabilitation for nine years, the last two of which he worked as a parole agent out of the Santa Rosa office. Parole Agent Braddock handled a caseload that consisted primarily of sex offenders. Agent Braddock had previously been Wyatt's supervising parole officer for a year and a half. During his time as a parole agent, Agent Braddock had met with Wyatt in person twenty to thirty times and had spoken with him over the phone on many other occasions. Braddock had been to Wyatt's residence on at least four prior occasions and was very familiar with the layout of the residence at 4420 Lahinch Lane.

On May 25, 2022, at approximately 1:00 p.m., Parole Agent Gill asked Agent Braddock to assist in contacting Charles Wyatt at Wyatt's residence. Agent Gill believed that Wyatt may have been under the influence of illegal narcotics. Agent Sweeney also was asked to assist. Agent Braddock drove in his assigned vehicle to Wyatt's address at 4420 Lahinch Lane, in Santa Rosa, and was joined shortly thereafter by Agents Gill and Sweeney, who traveled together in Agent Gill's vehicle.

On the day of the critical incident Agent Braddock was wearing a duty vest and a duty belt which included pepper spray, a 9mm Glock handgun, handcuffs, a collapsible baton, and two magazines. Agent Braddock was in possession of his badge but did not have it displayed.

He did not wear any other identifying patches or insignia.

When the agents arrived outside Wyatt's residence, they conferred, and Braddock offered to do the initial contact because Braddock had a good rapport with Wyatt. The plan was for Braddock to contact Wyatt at the front door, and for Sweeny and Gill to wait by the garage door, within earshot. They believed that if Braddock were to approach the front door alone, Wyatt would be more inclined to answer. They planned to come forward and assist, after Wyatt had answered the door.

At the front door, there was a tall glass window through which Braddock was able to see into the front room of the residence. He saw Wyatt in the kitchen. Wyatt appeared to acknowledge Braddock by nodding his head, then proceeded towards the front door and opened the door. Agent Braddock did not verbally identify himself to Wyatt, because Wyatt could see Braddock through the window, and Wyatt appeared to recognize Braddock. When Wyatt initially opened the door Wyatt was about one to two feet away.

After Wyatt opened the front door, Agent Braddock entered the residence and stood at the threshold. Wyatt asked if anyone was with Braddock. Agents Gill and Sweeney then came towards the door. Wyatt appeared to get anxious, so Agent Braddock tried to grab his arm. Wyatt's arm was slippery from what felt like sweat, and Wyatt pulled away. Wyatt then backed away and brandished the box cutter knife.

When Wyatt displayed the box cutter, Braddock drew his firearm. At this point, Agent Gill was visible in the periphery of Braddock, standing near the front door, and Sweeney was out of view. Agent Gill ordered Wyatt multiple times to drop the box cutter. Wyatt then locked eyes with Braddock, and Braddock yelled at Wyatt to, "drop the cutter!"

Wyatt responded to the orders given by Agents Gill and Braddock by saying he was a special government agent and displayed his California identification card. Again, Braddock ordered Wyatt to drop the cutter, but Wyatt ignored these commands. Agent Braddock then drew out his pepper spray and sprayed Wyatt in the face and chest area. At the time Agent Braddock dispersed the pepper spray, he also had his gun drawn, but was unsure if it was pointed at Wyatt, or at the low ready position. After being hit by the pepper spray, Wyatt turned away and retreated to the kitchen, out of sight of Agent Braddock and Agent Gill. After the deployment of the pepper spray, Agent Braddock never saw Wyatt drop the box cutter knife.

To ensure he could see Wyatt in the kitchen from a safe distance, Braddock veered out wide. As Braddock got around the corner, Wyatt had the cutter out, and was about five to ten feet away from Braddock with the cutter in his right hand. The box cutter was silver and red, with the razor blade extended-out.

Wyatt held the box cutter out at shoulder level in his right hand. He had nothing in his left hand. Braddock had his gun out. Wyatt charged at Braddock. Wyatt did not say anything prior to advancing towards Braddock. When Wyatt charged at Braddock with the cutter, he was running. Braddock believed Wyatt was trying to kill him. As Wyatt ran towards Braddock, Braddock stepped slightly towards the front door and fired three shots from his firearm.

After the shots were fired, both Braddock and Wyatt fell to the ground. Braddock then ran out front door where he regained his composure. He then re-holstered his firearm and returned inside the residence and awaited emergency personnel to respond.

D. SUMMARY OF STATEMENT FROM CHARLES MARTIN WYATT

On May 31, 2022, Detectives John Barr and Ryan Patrick interviewed Mr. Wyatt at Santa Rosa Memorial Hospital while Mr. Wyatt was being guarded by two uniformed California Department of Corrections and Rehabilitation Correctional Officers. Mr. Wyatt was in a hospital room with a tube in his nose but was awake and oriented.

After advising Mr. Wyatt of his Miranda rights, Mr. Wyatt provided a statement to Detectives Barr and Patrick. Wyatt acknowledged that parole agents went to his residence on May 25, 2022. When asked if he was familiar with Parole Agent Braddock, Mr. Wyatt nodded his head in the affirmative. Wyatt added that he used marijuana in the days leading up to the incident and that he was sitting at home on May 25 but did not threaten anyone. At this point, Wyatt stated he wanted a chance to think about the incident before speaking any further, so the interview ended.

On June 28, 2022, Detectives Barr and Patrick again met with Mr. Wyatt at Santa Rosa Memorial Hospital. Again, the detectives advised Mr. Wyatt of his Miranda rights. Mr. Wyatt said he remembered everything that occurred and had smoked marijuana prior to his contact with the parole officers. He added that during the incident he had a red box cutter that he had purchased at Mead Clarke Lumber. When asked if he remembered being told to drop the box cutter, Wyatt changed the subject and said he needed to use the bathroom. Wyatt then said he was not ready to speak about the incident and provide a statement, so the interview concluded.

E. SUMMARY OF FIRE AND MEDICAL PERSONNEL STATEMENTS

Summary of Statement by Douglas Mallory

Douglas Mallory was a paramedic with American Medical Response and had been a paramedic for eight years at the time of the incident. On May 25, 2022, Mr. Mallory responded to 4420 Lahinch Lane, and upon his arrival Santa Rosa Fire personnel had already prepared Mr. Wyatt for transport.

Mr. Mallory was briefed on the situation and advised that Mr. Wyatt had suffered three gunshot wounds, including a shot to the right side of his chest, to the right side of his abdomen, and to his right thigh. Mr. Wyatt was transported by Mr. Mallory to Santa Rosa Memorial Hospital where emergency room personnel took over medical treatment.

Summary of Statement by Captain Andrew Peterson

At the time of the incident Captain Andrew Peterson of the Santa Rosa Fire Department was assigned to Engine 11 along with Paramedic Alex Eberly and Engineer Constantine

Zhrebnenkov. On May 25, 2022, Captain Peterson responded to 4420 Lahinch Lane, and upon his arrival two parole agents were on scene. Peterson said he located Wyatt inside the residence with at least two gunshot wounds. Paramedic Eberly provided advanced life support to Wyatt until he was transported to Santa Rosa Memorial Hospital by ambulance.

F. SUMMARY OF CIVILIAN STATEMENTS

Summary of Statements by John Doe and Jane Doe

At the time of the incident Mr. and Mrs. Doe lived at 4424 Lahinch Lane. Mr. Doe said on that day he was on the back porch of his residence when he heard a loud commotion and then one gunshot. He did not hear anything after the gunshot.

Mrs. Doe stated she was upstairs in her residence when she heard one gunshot and yelling. Mrs. Doe had had interactions with Wyatt on prior occasions that caused her concern about his mental health. On May 21, 2022, while outside her residence, she saw Wyatt sitting in his car while parked in his driveway. Wyatt asked her, "Where is the hatch?" Wyatt was looking up over his head and then said, "You mean there is no way out of here?" Mrs. Doe asked Wyatt if he was feeling well, and Wyatt responded in the affirmative.

On another occasion, Mrs. Doe described an incident when she was outside her house and Wyatt pulled up in his vehicle. He told her through his open window, "I don't even know you, but I can vaporize you with my laser gun."

Summary of Statement from John Doe #2

At the time of the incident John Doe #2 lived at 4462 Kilarney Court. He informed detectives that on the day of the incident, while he was taking a nap, he heard yelling from his neighbor's residence, so he went outside onto his back patio to investigate. When he looked-up he saw three males standing on the front porch of 4420 Lahinch Lane. Next, he saw one of those individuals go into the residence while the other two remained outside. When John Doe #2 saw the three individuals, they had their guns drawn. John Doe #2 heard someone yelling repeatedly to get down on the floor, and then heard approximately four gunshots.

After he heard the gunshots, John Doe #2 called 911. He thought his neighbor was possibly being robbed, since he did not see either person wearing a uniform. After the shooting he saw one of the three individuals outside the residence wearing a badge, which he saw hanging from his neck by a chain.

G. EXAMINATION OF FIREARM

On May 25, 2022, at 5:18 P.M. Detective Matt Parlato of the Sonoma County Sheriff's Department responded to 4424 Lahinch Lane and contacted Parole Agent Braddock. At the time, Agent Braddock was in a park across the street from 4424 Lahinch Lane and was accompanied by Parole Agents Gill and Sweeney.

Detective Parlato removed the firearm from the holster secured on Parole Agent Braddock's hip. Parlato then rendered the firearm safe by removing the magazine and the live cartridge from the chamber. The firearm was a black Glock 19, nine-millimeter handgun with a serial number of BHHA174. The magazine capacity was 15 rounds. The magazine contained 12 FC nine-millimeter live cartridges.

H. TOXICOLOGY

Blood toxicology results showed Mr. Wyatt's blood contained 948 nanograms per milliliter of Benzoylcegonine. Lorazepam and Midazolam, in an amount of less than 10 nanograms per milliliter, was also detected.

V. STATEMENT OF THE LAW

Under the Fourth Amendment of the United States Constitution, persons have the right to be free from the use of excessive force by law enforcement officers. This right attaches even when an officer is engaged in making a lawful arrest.³ As will be discussed below, it is not necessary to determine whether in this case officers were "engaged in making a lawful arrest" of Charles Martin Wyatt at the time he was shot, while being taken into custody by the parole agents. Instead, the analysis is whether the force used to effectuate the detention and arrest was reasonable based on an evaluation of the totality of the circumstances. The evaluation of the totality of the circumstances is not based on the facts as they became known over time but are analyzed from the standpoint of the parole agents and what they knew at the time the detention and arrest were made.

A. THE RIGHTS AND DUTIES OF A PEACE OFFICER WHEN EFFECTING A DETENTION OR AN ARREST

1. Rights and Duties of Officers During a Detention

A police officer has the right to stop and temporarily detain someone for investigation whenever the officer has a "reasonable suspicion" some criminal activity is afoot and that the person was, is, or is about to be involved in that criminal activity.⁴ A detention is allowed so a peace officer may have a reasonable amount of time to investigate a person's possible involvement in an actual or perceived criminal act, allowing the officer to make an informed decision whether to arrest, or to release, the subject. "An investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop. Similarly, the investigative methods employed should be the least intrusive means reasonably available to verify or dispel the officer's suspicion in a short period of time."⁵ However, even though a detention is meant to be a short contact to assist in determining if a crime has occurred, an officer is not deprived of his right to defend himself should it become necessary.

³ Graham v. Connor (1989) 490 U.S. 386. "All claims that law enforcement officers have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen should be analyzed under the Fourth Amendment and its 'reasonableness' standard, rather than under a 'substantive due process approach.'" Graham, 490 U.S., at 394.

⁴ Terry v. Ohio (1968) 392 U.S. 1; People v. Walker (2012) 210 Cal.App.4th 1372, 1381.

⁵ In re Antonio B. (2008) 166 Cal.App.4th 435, 440.

“(E)ven when a police officer is careful, he is still subject to attack. (P)olice officers (are) entitled to protect themselves during a detention: ‘This is a rule of necessity to which a right even as basic as that of privacy must bow. To rule otherwise would be inhumanely to add another hazard to an already very dangerous occupation. Our zeal to fend off encroachments upon the right of privacy must be tempered by remembrance that ours is a government of laws to preserve which we require law enforcement—live ones. Without becoming a police state, we may still protect the policeman’s status.’”⁶

2. Rights And Duties During an Arrest

A peace officer may arrest a person without a warrant whenever the officer has probable cause to believe that the person to be arrested has committed a public offense in the officer’s presence or that he has committed a felony.⁷ When a peace officer has reasonable cause to believe that a person to be arrested has committed a public offense, he or she may use reasonable force and reasonable restraint to effect the arrest, to prevent escape, or to overcome resistance.⁸ If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such a person to refrain from using force or any weapon to resist such arrest.”⁹ Pursuant to *Penal Code* section 830.5(a)(1), a parole officer is considered a peace officer while engaged in the performance of their duties.

“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 the right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.” The ‘reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.’”¹⁰

The United States Supreme Court has stated, “Determining whether the force used to effect a particular seizure is reasonable under the Fourth Amendment requires a careful balancing of the nature and quality of the intrusion on the individual’s Fourth Amendment interests against the countervailing governmental interests at stake.”¹¹

This “careful balancing” includes consideration of “the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he (she) is actively resisting arrest or attempting to evade arrest by flight.”¹²

⁶ *In re Richard G.* (2009) 173 Cal.App.4th 1252, 1255.

⁷ Penal Code section 836 (in pertinent part).

⁸ Penal Code section 835, 835a

⁹ Penal Code section 834a.

¹⁰ Penal Code section 835a

¹¹ *Graham*, 490 U.S., at 396

¹² *Id.*

The Ninth Circuit Court of Appeals has also noted: “All determinations of ‘unreasonable force must embody allowances 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.’”¹³ Furthermore, the determination of reasonableness must be judged from the perspective of the reasonable officer on scene, rather than through hindsight.¹⁴

B. DISCUSSION OF THE LAW AND OF THE EVIDENCE

When law enforcement officers are called out to a continuously unfolding event, and during detention or arrest the subject dies or is injured, the analysis is conducted from the position of what an objectively reasonable officer, knowing and seeing what the officer(s) in question knows and sees at the time of the use of force. The use of force must be reasonable in that light. Law enforcement officers have no obligation to use the least amount of force to effectuate a detention or arrest, nor any obligation to retreat or desist in using force in the face of resistance.

On May 25, 2022, when Parole Agents Gill, Braddock, and Sweeney responded to the address of parolee Wyatt, they intended to arrest Wyatt. Parole agents contact parolees as part of their duty to ensure that the parolee is following his terms of parole, and if appropriate, to make an arrest for a violation. The contact on the day of this incident by Parole Agents Sweeney, Gill and Braddock was not out of the ordinary. Things quickly transitioned from a contact at the front door of Mr. Wyatt’s residence to a situation where the parole agents were concerned for their own safety, and that of their colleagues. Soon after Wyatt was contacted at the front door of his residence, he displayed the box cutter knife. The parole agents ordered him to drop the weapon numerous times. During this encounter, the agents realized they were dealing with a dangerous situation and despite their efforts to deescalate, Wyatt failed to comply.

The appropriate inquiry is whether the officers acted reasonably under the totality of the circumstances as they perceived them at the time.¹⁵ Officers are not required to use the least intrusive methods possible. Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment in the heat of battle, with lives potentially in the balance. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.¹⁶ The determination of whether the amount of force used was ‘reasonable’ is not limited to a discussion of the nature and amount of force used, or whether the force used resulted in death. The “reasonableness” inquiry requires a careful consideration of all the facts and circumstances surrounding the event.

¹³ Scott v. Henrich (9th Cir. 1994) 39 F.3d 912.

¹⁴ Graham, 490 U.S., at 396-7

¹⁵ See, e.g., Illinois v. Lafayette, 462 U.S. 640, 647, 77 L. Ed. 2d 65, 103 S. Ct. 2605 (1983); United States v. Martinez-Fuerte, 428 U.S. 543, 556-57 n.12, 49 L. Ed. 2d 1116, 96 S. Ct. 3074 (1976).

¹⁶ Henrich (9th Cir. 1994) at 915.

Within seconds of when Mr. Wyatt was contacted, he displayed a box cutter knife and was in close proximity to the parole agents. He ignored commands to drop the knife and created a situation where the parole agents were placed in a position that required them to go on the defensive. The parole agents recognized that this situation had escalated quickly, and their safety was at stake.

From the moment Mr. Wyatt was contacted at the door, he demonstrated he was not going to comply with the parole agents' commands. When Mr. Wyatt was contacted at the door it appeared he had already armed himself with the box cutter knife, and within seconds of the parole agents stepping into the threshold of the house, Mr. Wyatt displayed the knife. Mr. Wyatt was given multiple orders to comply, but these were ignored. Even after the parole agents drew their firearms and pointed them at Mr. Wyatt, he continued to ignore their commands. He then stepped further back into the residence into his kitchen which was out of the line of sight of the parole agents. Not knowing what Mr. Wyatt was doing in the kitchen, the parole agents further attempted to engage Mr. Wyatt and convince him to comply with their orders.

When their attempts proved unsuccessful, Parole Agent Braddock deployed pepper spray at Mr. Wyatt. This was the least available means of force the agents had at their disposal to deescalate the situation. The parole agents were not armed with tasers. Shortly after the deployment of the pepper spray, Mr. Wyatt charged at Parole Agent Braddock with the exposed box cutter knife and attempted to strike Agent Braddock by taking a swiping motion with the knife. Agent Braddock was able to avoid being struck by the knife by stepping to the side. At that point, Agent Braddock fired his firearm three times at Mr. Wyatt, striking Mr. Wyatt. This caused Mr. Wyatt to stop advancing towards Mr. Braddock.

The use of force by Parole Agent Braddock was reasonably necessary to ensure his own safety and the safety of Parole Agents Gill and Sweeney. Agent Braddock's split-second decision to fire his weapon at Mr. Wyatt prevented the high likelihood of him or his partners suffering a significant injury or possibly being killed.

By charging at Agent Braddock, Mr. Wyatt conveyed the message to Agent Braddock, as well as to Agents Sweeney and Gill, that he was not going to comply with their commands. The force used by Agent Gill to stop the threat posed by Mr. Wyatt did not exceed what was necessary to ensure his safety and the safety of Agents Gill and Sweeney. After multiple attempts to persuade Mr. Wyatt to comply with commands to drop the box cutter knife, Mr. Wyatt never gave any indication he would comply with the parole agents.

The decision by Parole Agent Braddock to fire his weapon at Mr. Wyatt was reasonably necessary to stop the threat Mr. Wyatt posed with the box cutter knife. In the moments prior to Agent Braddock firing his weapon, despite the commands given to Mr. Wyatt and the deployment of the pepper spray, Mr. Wyatt continued to demonstrate he was not willing to comply. Considering the aggression demonstrated by Mr. Wyatt and his lack of cooperation, the force used by Parole Agent Braddock was reasonable.

During their interaction on May 25, 2022, the parole agents attempted to resolve the situation with nonlethal force. As events unfolded, the parole agents appeared to have been mindful of their options and the potential outcomes. The events of that day escalated quickly,

and split-second decisions had to be made. Parole Agent Braddock engaged in reasonable actions and a reasonable use of force when confronted with the volatile and quickly evolving encounter with Mr. Wyatt.

VI. CONCLUSION

Although the parole agents' goal on that day was to take Mr. Wyatt into custody, Mr. Wyatt's decision to arm himself with, and brandish, a deadly weapon escalated the encounter quickly. Lethal force is that which creates a substantial risk of death or great bodily injury.¹⁷ In this case, Mr. Wyatt's behavior and weapon created a substantial risk of death or great bodily injury to each of the agents. The force used by the parole agents was reasonable, lawful, and necessary to effectuate a lawful arrest and to ensure their own safety.

Based on the law and the totality of the circumstances discussed above, Parole Agent Braddock was legally justified in the use of deadly force. Mr. Wyatt was armed and dangerous. He was uncooperative and posed a serious risk of serious harm or death to Parole Agent Braddock. Under the circumstances, Agent Braddock's use of force was reasonable and legally justified.

¹⁷ Smith v. City of Hemet, (2005) 394 F.3d 689.